

105TH CONGRESS  
1ST SESSION

# H. R. 2837

To reform the naturalization process, to clarify the procedures for investigating the criminal background of individuals submitting applications in connection with certain benefits under the Immigration and Nationality Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 1997

Mr. SMITH of Texas (for himself, Mr. GOODLATTE, Mr. BRYANT, Mr. BILBRAY, and Mr. DEAL of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To reform the naturalization process, to clarify the procedures for investigating the criminal background of individuals submitting applications in connection with certain benefits under the Immigration and Nationality Act, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Naturalization Reform  
5       Act of 1997”.

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1 **SEC. 2. BAR TO NATURALIZATION FOR ALIENS DEPORT-**  
 2 **ABLE FOR CRIMES.**

3 (a) IN GENERAL.—Section 316(a) of the Immigra-  
 4 tion and Nationality Act (8 U.S.C. 1427(a)) is amended—

5 (1) in paragraph (2), by striking “and” at the  
 6 end;

7 (2) in paragraph (3), by striking “States.” and  
 8 inserting “States, and”; and

9 (3) by adding at the end the following:

10 “(4) on the date of the application, is not deportable  
 11 under paragraph (1) (other than subparagraph (A)), (2),  
 12 (3), or (6) of section 237(a), subparagraph (A), (B), or  
 13 (D) of paragraph (4) of such section, or paragraph (1)(A)  
 14 of such section (but only to the extent that such paragraph  
 15 relates to inadmissibility under paragraph (2), (6), (8), or  
 16 (9) of section 212(a), subparagraph (A), (B), or (E) of  
 17 section 212(a)(3), or subparagraph (A), (C), (D), or (E)  
 18 of section 212(a)(10)).”.

19 (b) EFFECTIVE DATE.—The amendments made by  
 20 subsection (a) shall take effect on October 1, 1998, and  
 21 shall apply to applications for naturalization submitted on  
 22 or after such date.

23 **SEC. 3. EXTENSION TO 10 YEARS OF GOOD MORAL CHAR-**  
 24 **ACTER PERIOD FOR NATURALIZATION.**

25 (a) IN GENERAL.—Section 316(a)(3) of the Immi-  
 26 gration and Nationality Act (8 U.S.C. 1427(a)(3)) is

1 amended by striking “during all the periods referred to  
 2 in this subsection” and inserting “during the ten years  
 3 immediately preceding the date of filing of the applica-  
 4 tion”.

5 (b) EFFECTIVE DATE.—The amendment made by  
 6 subsection (a) shall take effect on October 1, 1998, and  
 7 shall apply to applications for naturalization submitted on  
 8 or after such date.

9 **SEC. 4. INVESTIGATION OF CRIMINAL BACKGROUND OF**  
 10 **CERTAIN ALIENS AND PERSONS SPONSORING**  
 11 **ALIENS FOR ENTRY.**

12 (a) IN GENERAL.—Title I of the Immigration and  
 13 Nationality Act (8 U.S.C. 1101 et seq.) is amended by  
 14 adding at the end the following:

15 “INVESTIGATION OF CRIMINAL BACKGROUND OF AN  
 16 ALIEN APPLYING FOR CERTAIN BENEFITS AND CER-  
 17 TAIN PETITIONERS FOR CLASSIFICATION OF AN  
 18 ALIEN

19 “SEC. 106. (a) IN GENERAL.—With respect to a per-  
 20 son described in a subparagraph of subsection (c)(1) who  
 21 is petitioning, or applying to, the Attorney General to  
 22 grant the benefit or take the action described in such sub-  
 23 paragraph (and with respect to an individual described in  
 24 subparagraph (E) of such subsection whose residence is  
 25 the home of such a person), the Attorney General may  
 26 not grant the benefit or take the action, unless, during

1 the pendency of the person’s petition or application, the  
2 following has been completed:

3 “(1) An employee of the Service, or a Federal,  
4 State, or local criminal law enforcement agency,  
5 after verifying the person’s identity, has prepared a  
6 complete and legible set of fingerprints of the per-  
7 son.

8 “(2) The Commissioner has requested the Di-  
9 rector of the Federal Bureau of Investigation to con-  
10 duct a criminal history background check on the  
11 person for the appropriate purpose described in sub-  
12 section (c)(2), and the Commissioner has submitted  
13 the fingerprints to the Director, along with any sup-  
14plementary information required by the Director to  
15 complete the check.

16 “(3) The Director of the Federal Bureau of In-  
17 vestigation, using the fingerprints and information  
18 provided by the Commissioner, has conducted the  
19 check, and has provided the Commissioner with a re-  
20sponse describing the person’s criminal history, as  
21 reflected in records maintained by the Federal Bu-  
22reau of Investigation.

23 “(4) The Commissioner has conducted an inves-  
24 tigation of the person’s criminal history, including  
25 all criminal offenses listed in the Director’s re-

1 sponse, all criminal offenses listed in informational  
2 databases maintained by the Service, and all other  
3 criminal offenses of which the Commissioner has  
4 knowledge, for the appropriate purpose described in  
5 subsection (c)(2).

6 “(5) In a case where the investigation under  
7 paragraph (4) of an applicant for naturalization re-  
8 veals criminal history that bears upon the appli-  
9 cant’s eligibility for naturalization, and the employee  
10 designated under section 335 to conduct the exam-  
11 ination under such section has determined that the  
12 application should be granted, such determination  
13 has been reviewed by at least one Service officer  
14 whose duties include performing such reviews.

15 “(b) EXCEPTION.—Notwithstanding subsection (a),  
16 when the Attorney General certifies to the Director of the  
17 Federal Bureau of Investigation that a person described  
18 in subsection (c)(1) is physically unable to provide legible  
19 fingerprints—

20 “(1) the requirement that the Commissioner  
21 submit fingerprints to the Director shall not apply;  
22 and

23 “(2) the Director shall conduct a criminal his-  
24 tory background check based on the person’s name  
25 and any other method of positive identification other

1       than fingerprints used by the Federal Bureau of In-  
2       vestigation for criminal history background checks.

3       “(c) PERSONS SUBJECT TO, AND PURPOSES FOR,  
4 BACKGROUND CHECKS.—

5               “(1) PERSONS AND PETITIONS DESCRIBED.—

6       The persons (and applications and petitions) de-  
7       scribed in this paragraph are as follows:

8               “(A) An alien 14 through 79 years of age  
9       applying for adjustment of status to that of an  
10      alien lawfully admitted for permanent residence.

11              “(B) An alien 14 through 75 years of age  
12      applying for naturalization as a citizen of the  
13      United States.

14              “(C) An alien 14 years of age or older ap-  
15      plying for asylum, or treatment as a spouse or  
16      child accompanying an asylee.

17              “(D) An alien 14 years of age or older ap-  
18      plying for temporary protected status under  
19      section 244.

20              “(E) A person who has filed a petition to  
21      accord a child defined in section 101(b)(1)(F)  
22      classification as an immediate relative under  
23      section 201(b)(2)(A)(i), and any additional indi-  
24      vidual, over the age of 18, whose principal or  
25      only residence is the home of such person.

1           “(F) A person who has submitted a guar-  
2           antee of legal custody and financial responsibil-  
3           ity under paragraphs (2)(B) and (4) of section  
4           204(f) in connection with a petition to accord  
5           an alien, who is the subject of the guarantee,  
6           classification under section 201(b), 203(a)(1),  
7           or 203(a)(3).

8           “(2) PURPOSES FOR CHECKS DESCRIBED.—

9           “(A) ALIENS APPLYING FOR BENEFITS.—

10          With respect to the aliens, and the applications,  
11          described in subparagraphs (A) through (D) of  
12          paragraph (1), the requirements of subsection  
13          (a) shall be applied (subject to subsection (b))  
14          for the purpose of determining whether the  
15          alien has a criminal history that bears upon the  
16          alien’s eligibility for the benefit for which the  
17          alien applied.

18          “(B) ORPHAN PETITIONS.—With respect  
19          to a person described in paragraph (1)(E), the  
20          requirements of subsection (a) shall be applied  
21          (subject to subsection (b)) for the purpose of  
22          determining whether the person has a criminal  
23          history that bears upon whether proper care  
24          will be furnished the child described in such  
25          paragraph.

“(C) AMERASIAN PETITIONS.—With re-  
spect to a person described in paragraph  
(1)(F), the requirements of subsection (a) shall  
be applied (subject to subsection (b)) for the  
purpose of determining whether the person is of  
good moral character.

7       “(d) FEE.—The Attorney General may charge a per-  
8   son described in subsection (c)(1) a fee to cover the actual  
9   cost of the criminal background check process under this  
10   section.

11           “(e) CONSTRUCTION.—This section shall not be con-  
12   strued to affect or impair the ability of the Attorney Gen-  
13   eral to require a criminal history background check as a  
14   condition for obtaining any benefit under this Act (includ-  
15   ing a classification under section 204) that is not de-  
16   scribed in subsection (c)(1).”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 105 the following:

“Sec. 106. Investigation of criminal background of an alien applying for certain benefits and certain petitioners for classification of an alien.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, and shall apply to applications for a benefit under the Immigration and Nationality Act (including petitions to accord a classi-



1 fication under section 204 of such Act) submitted on or  
2 after such date.

3 **SEC. 5. INTERVIEW FOR ADJUSTMENT OF STATUS.**

4 (a) IN GENERAL.—The Immigration and Nationality  
5 Act is amended by inserting after section 245A the follow-  
6 ing:

7 “INTERVIEW FOR ADJUSTMENT OF STATUS TO THAT OF  
8 PERSON ADMITTED FOR PERMANENT RESIDENCE

9 “SEC. 245B. Before the status of an alien may be  
10 adjusted by the Attorney General to that of an alien law-  
11 fully admitted for permanent residence, the alien shall ap-  
12 pear before an employee of the Service, who shall conduct  
13 a personal interview of the alien for the purpose of verify-  
14 ing that the alien is eligible for such adjustment.”.

15 (b) CLERICAL AMENDMENT.—The table of contents  
16 of the Immigration and Nationality Act is amended by in-  
17 serting after the item relating to section 245A the follow-  
18 ing:

“Sec. 245B. Interview for adjustment of status to that of person admitted for  
permanent residence.”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect on October 1, 1998, and shall  
21 apply to applications for adjustment of status submitted  
22 on or after such date.

1 **SEC. 6. INTERVIEW FOR NATURALIZATION.**

2 (a) IN GENERAL.—Section 332 of the Immigration  
3 and Nationality Act (8 U.S.C. 1443) is amended by add-  
4 ing at the end the following:

5 “(i) The examination under subsection (a) shall in-  
6 clude a personal interview of the applicant, conducted by  
7 an employee of the Service who—

8 “(1) shall require the applicant to demonstrate  
9 the ability to speak and understand words in ordi-  
10 nary usage in the English language, in accordance  
11 with section 312(a)(1), unless the applicant is ex-  
12 empt from the requirements of such section pursu-  
13 ant to section 312(b);

14 “(2) shall require the applicant to describe any  
15 criminal law violations, other than minor traffic vio-  
16 lations, for which the applicant has ever been ar-  
17 rested, charged, convicted, fined, or imprisoned, or  
18 which the applicant has committed but for which the  
19 applicant has not been arrested, charged, convicted,  
20 fined, or imprisoned; and

21 “(3) shall verify each statement or representa-  
22 tion made by the applicant in the written application  
23 for naturalization, and in any documents submitted  
24 in support of the application, and shall examine the  
25 applicant to determine whether the applicant has  
26 willfully made any false statements or misrepresen-

1 tations, or committed any fraud, for the purpose of  
2 obtaining United States citizenship.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 subsection (a) shall take effect on October 1, 1998, and  
5 shall apply to applications for naturalization submitted on  
6 or after such date.

7 **SEC. 7. CITIZENSHIP TESTING BY OUTSIDE TESTING ENTI-**  
8 **TIES.**

9 (a) **IN GENERAL.**—

10 (1) **TESTING BY PERSONS OTHER THAN ATTOR-**  
11 **NEY GENERAL.**—Section 312 of the Immigration  
12 and Nationality Act (8 U.S.C. 1423) is amended by  
13 adding at the end the following:

14 “(c)(1) An applicant for naturalization may satisfy  
15 the reading and writing requirements of subsection (a)(1),  
16 and the knowledge and understanding requirements of  
17 subsection (a)(2), by passing a test approved by the Attor-  
18 ney General and administered by a person, other than the  
19 Attorney General, who, not later than the date of the en-  
20 actment of the Naturalization Reform Act of 1997, is au-  
21 thorized by the Attorney General to administer such a  
22 test.

23 “(2) The Attorney General shall revoke the author-  
24 ization granted to a person to administer tests referred  
25 to in paragraph (1), unless—

1           “(A) the person has not subcontracted, fran-  
2           chised, or otherwise delegated the person’s testing  
3           authority to any other person; and

4           “(B) at any time after the person has been au-  
5           thorized by the Attorney General to administer such  
6           tests and has administered them for at least 6  
7           months during the period beginning on the date of  
8           the enactment of the Naturalization Reform Act of  
9           1997, the person and the Attorney General are able  
10          to demonstrate that—

11                 “(i) in not less than 5 of the 6 preceding  
12                 months, the Attorney General has conducted  
13                 unannounced inspections of at least 10 percent  
14                 of the testing sites operated by the person in  
15                 each such month;

16                 “(ii) during each such site inspection, the  
17                 Attorney General has checked the integrity and  
18                 security of the testing process and has memori-  
19                 alized the findings from the inspection in a  
20                 written report and, after the inspection, has  
21                 provided copies of the report to the person; and

22                 “(iii) after reviewing each such inspection  
23                 report, the Attorney General—

24                         “(I) has determined and certified that  
25                         the person continues to maintain the over-

1 all integrity and security of the person's  
2 testing program, and has remedied any se-  
3 rious flaws discovered by the inspections;  
4 and

5 “(II) has provided a copy of the cer-  
6 tification to the person.

7 “(3) The Attorney General shall require an applicant  
8 for naturalization who has passed a test administered  
9 under this subsection to retake and repass such a test in  
10 circumstances where the Attorney General has reasonable  
11 grounds to believe that the administration of the test was  
12 impaired by fraud, misrepresentation, or other misconduct  
13 or negligence that jeopardizes the reliability of the test re-  
14 sults.”.

15 (2) EFFECTIVE DATE.—The amendment made  
16 by paragraph (1) shall take effect on October 1,  
17 1998, and shall apply to applications for naturaliza-  
18 tion submitted on or after such date.

19 (b) STUDY ON INTEGRITY OF TESTING PROCESS.—

20 (1) REPORT.—Not later than the date that is  
21 6 months after the date of the enactment of this  
22 Act, the Comptroller General of the United States  
23 shall prepare and transmit to the Committee on the  
24 Judiciary of the House of Representatives and the

1 Committee on the Judiciary of the Senate the report  
2 described in paragraph (2).

3 (2) CONTENTS.—The report referred to in  
4 paragraph (1) shall describe the results of a com-  
5 prehensive study conducted by the Comptroller Gen-  
6 eral of the United States to determine the extent to  
7 which tests administered by persons other than the  
8 Attorney General, by which an applicant for natu-  
9 ralization may satisfy the reading and writing re-  
10 quirements of subsection (a)(1), and the knowledge  
11 and understanding requirements of subsection  
12 (a)(2), of section 312 of the Immigration and Na-  
13 tionality Act, are impaired by fraud, misrepresenta-  
14 tion, or other misconduct or negligence that jeopard-  
15 izes the reliability of the test results.

16 **SEC. 8. REQUIREMENTS WITH RESPECT TO RESIDENT**  
17 **ALIEN CARDS.**

18 (a) CIVIL PENALTY FOR FAILURE TO REPORT LOSS,  
19 THEFT, OR DESTRUCTION OF RESIDENT ALIEN CARD.—

20 (1) IN GENERAL.—The Immigration and Na-  
21 tionality Act is amended by inserting after section  
22 274D the following:

23 “CIVIL PENALTY FOR FAILURE TO REPORT LOSS, THEFT,  
24 OR DESTRUCTION OF RESIDENT ALIEN CARD

25 “SEC. 274E. Any alien who has been issued by the  
26 Attorney General an alien registration receipt card indi-

1 cating the alien’s status as an alien lawfully admitted for  
 2 permanent residence, and who fails to report to the Attor-  
 3 ney General the loss, theft, or destruction of the card by  
 4 the date that is 7 days after the date the alien discovers  
 5 such loss, theft, or destruction, shall pay a civil penalty  
 6 to the Commissioner of \$50 per violation.”.

7 (2) CLERICAL AMENDMENT.—The table of con-  
 8 tents of the Immigration and Nationality Act is  
 9 amended by inserting after the item relating to sec-  
 10 tion 274D the following new item:

“Sec. 274E. Civil penalty for failure to report loss, theft, or destruction of resi-  
 dent alien card.”.

11 (3) EFFECTIVE DATE.—The amendments made  
 12 by this subsection shall take effect on October 1,  
 13 1998, and shall apply to alien registration receipt  
 14 cards that are lost, stolen, or destroyed on or after  
 15 such date.

16 (b) SURRENDER OF RESIDENT ALIEN CARD UPON  
 17 NATURALIZATION.—

18 (1) IN GENERAL.—Section 338 of the Immigra-  
 19 tion and Nationality Act (8 U.S.C. 1449) is amend-  
 20 ed—

21 (A) by inserting “(a)” before “A person”;

22 and

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

1       “(b)(1) Notwithstanding subsection (a), the Attorney  
2 General may not deliver a certificate of naturalization to  
3 any person to whom the Attorney General previously had  
4 issued an alien registration receipt card indicating the per-  
5 son’s status as an alien lawfully admitted for permanent  
6 residence, unless—

7               “(A) the person has surrendered the card to the  
8 Attorney General; or

9               “(B) the person has submitted an affidavit to  
10 the Attorney General stating that the card was lost,  
11 stolen, or destroyed, and describing any facts known  
12 to the alien with respect to the circumstances of  
13 such loss, theft, or destruction, and a period of not  
14 less than 30 days has elapsed since such submission,  
15 during which period the Attorney General may con-  
16 duct an investigation of such loss, theft, or destruc-  
17 tion.

18       “(2) The Attorney General may charge a person de-  
19 scribed in paragraph (1)(B) a fee to cover the cost of an  
20 investigation described in such paragraph.”.

21               (2) EFFECTIVE DATE.—The amendments made  
22 by this subsection shall take effect on October 1,  
23 1998, and shall apply to certificates of naturaliza-  
24 tion delivered on or after such date.



1 **SEC. 9. REVOCATION OF NATURALIZATION.**

2 (a) CLARIFICATION OF MATERIALITY REQUIRE-  
3 MENT.—Section 340(a) of the Immigration and National-  
4 ity Act (8 U.S.C. 1451(a)) is amended—

5 (1) by striking “(a)” and inserting “(a)(1)”;  
6 and

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

8 “(2) For purposes of this section, a fact with respect  
9 to a naturalized person may not be considered immaterial  
10 solely because the fact, had it been known to the Attorney  
11 General before the person was naturalized, would not, by  
12 itself, have required the Attorney General to deny the per-  
13 son’s application for naturalization.”.

14 (b) REBUTTABLE PRESUMPTION OF WILLFUL-  
15 NESS.—Section 340 of the Immigration and Nationality  
16 Act (8 U.S.C. 1451) is amended—

17 (1) by redesignating subsections (d) through (h)  
18 as subsections (e) through (i), respectively; and

19 (2) by inserting after subsection (c) the follow-  
20 ing:

21 “(d) In any proceeding under this section in which  
22 the United States proves that an order admitting a person  
23 to citizenship was procured by the person’s concealment  
24 or misrepresentation of a material fact, such proof shall  
25 be considered prima facie evidence that the person acted  
26 willfully with respect to the concealment or misrepresenta-

tion, and, in the absence of countervailing evidence, such proof shall be sufficient to authorize the revocation and setting aside of the order and the cancellation of the certificate of naturalization.”.

(c) LIMITATION ON ADMINISTRATIVE REVOCATIONS.—Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451), as amended by subsection (b), is further amended—

(1) in subsection (i), by striking “Nothing” and inserting “Subject to subsection (j), nothing”; and

(2) by inserting after subsection (i) the following:

“(j) The Attorney General shall commence any proceeding administratively to correct, reopen, alter, modify, or vacate an order naturalizing a person not later than 5 years after the effective date of the order.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998, and shall apply to any order naturalizing a person with an effective date that is on or after October 1, 1998.

**SEC. 10. QUALITY ASSURANCE AND IMPROVED OVERSIGHT FOR NATURALIZATION.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall establish a process (including internal audit proce-

1 dures, other audit procedures, or both) to review the ongoing compliance with all laws, policies, and procedures affecting naturalization by each office of the Immigration and Naturalization Service that has duties with respect to naturalization.

6 (b) REPORTS.—Not later than 30 days after the termination of each of fiscal years 1998, 1999, 2000, and 2001, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives concerning the compliance by the Commissioner of Immigration and Naturalization and the Immigration and Naturalization Service with all laws, policies, and procedures affecting naturalization during such terminated fiscal year.

16 (c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, and shall cease to be effective upon the submission, under subsection (b), of the report with respect to fiscal year 2001.

○