

105TH CONGRESS  
1ST SESSION

# S. 103

To amend the Immigration and Nationality Act to provide additional measures for the control of illegal immigration.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1997

Mr. KENNEDY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to provide additional measures for the control of illegal immigration.

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; AMENDMENTS TO INA; TABLE OF**  
4 **CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the  
6 “United States Worker Protection and Illegal Immigrant  
7 Deterrence Act of 1997”.

8 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-  
9 ITY ACT.—Except as otherwise specifically provided when-  
10 ever in this Act an amendment or repeal is expressed as

1 the amendment or repeal of a section or other provision,  
 2 the reference shall be considered to be made to that sec-  
 3 tion or provision in the Immigration and Nationality Act.

4 (c) TABLE OF CONTENTS.—The table of contents of  
 5 this Act is as follows:

Sec. 1. Short title; amendments to INA; table of contents.

#### TITLE I—ENFORCEMENT

Sec. 101. Increased personnel levels for immigration-related workplace enforce-  
 ment.

Sec. 102. Earmark of appropriations for INS workplace inspectors.

#### TITLE II—EMPLOYER SANCTIONS PENALTIES AND AUTHORITIES

Sec. 201. Enhanced civil penalties if labor standards violations are present.

Sec. 202. Increased penalties for violations of immigration-related employment  
 laws.

Sec. 203. Retention of employer sanctions fines for law enforcement purposes.

Sec. 204. Task force to improve public education regarding unlawful employ-  
 ment of aliens and unfair immigration-related employment  
 practices.

Sec. 205. Subpoena authority for cases of unlawful employment of aliens or  
 document fraud.

#### TITLE III—PRESIDENTIAL PLAN FOR EMPLOYMENT VERIFICATION

Sec. 301. Definitions.

Sec. 302. Establishment of plan.

Sec. 303. Objectives.

Sec. 304. System requirements.

Sec. 305. Remedies and penalties for unlawful disclosure.

Sec. 306. Employer safeguards.

Sec. 307. Restriction on use of documents.

Sec. 308. Protection from liability for actions taken on the basis of information  
 provided by the verification system.

Sec. 309. Application of the Federal Tort Claims Act.

Sec. 310. Statutory construction.

#### TITLE IV—UNFAIR IMMIGRATION-RELATED EMPLOYMENT PRACTICES

Sec. 401. Requiring certain remedies in unfair immigration-related discrimina-  
 tion orders.

Sec. 402. Treatment of certain documentary practices as lawful employment  
 practices.

Sec. 403. Effective date.

#### TITLE V—PROTECTIONS FOR BATTERED IMMIGRANTS

Sec. 501. Waiver of section 245(i).

Sec. 502. Exemption from summary exclusion.

Sec. 503. Attorney General waiver of continuous presence requirement.

Sec. 504. Continued eligibility for immigrant status where abuser is removed.

Sec. 505. Fraudulent document waiver for battered aliens.

# **TITLE I—ENFORCEMENT**

## **SEC. 101. INCREASED PERSONNEL LEVELS FOR IMMIGRATION-RELATED WORKPLACE ENFORCEMENT.**

### **(a) INVESTIGATORS.—**

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Labor is authorized to hire in the Wage and Hour Division of the Department of Labor during the period beginning October 1, 1997, and ending September 30, 1998, not more than 150 full-time active-duty investigators and staff to enforce laws applying sanctions against employers who violate Federal wage and hour laws.

(2) ADDITIONAL AUTHORITY AVAILABLE.—The authority of paragraph (1) to hire the personnel described in that paragraph is in addition to the authority made available during fiscal year 1997 to hire such personnel.

(b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—Individuals employed under subsection (a) shall be assigned to investigate violations of both wage and hour laws and those immigration-related laws that are administered by the Secretary of Labor in areas of the United States where the Attorney General has notified the Secretary of Labor

1 that there are high concentrations of aliens present in vio-  
2 lation of law.

3 (c) PREFERENCE FOR BILINGUAL WAGE AND HOUR  
4 INSPECTORS.—In hiring new wage and hour inspectors  
5 pursuant to this section, the Secretary of Labor shall give  
6 priority to the employment of multilingual candidates who  
7 are proficient in both English and such other language  
8 or languages as may be spoken in the region in which such  
9 inspectors are likely to be deployed.

10 **SEC. 102. EARMARK OF APPROPRIATIONS FOR INS WORK-**  
11 **PLACE INSPECTORS.**

12 Of the funds made available to the Immigration and  
13 Naturalization Service for fiscal years 1998 and 1999, not  
14 less than \$36,076,000 shall be available only for each such  
15 fiscal year sufficient to pay the salaries and expenses of  
16 300 full-time equivalent active-duty investigators, as au-  
17 thorized by section 131 of the Illegal Immigration Reform  
18 and Immigration Responsibility Act of 1996 (as contained  
19 in Public Law 104–208).

1 **TITLE II—EMPLOYER SANC-**  
 2 **TIONS PENALTIES AND AU-**  
 3 **THORITIES**

4 **SEC. 201. ENHANCED CIVIL PENALTIES IF LABOR STAND-**  
 5 **ARDS VIOLATIONS ARE PRESENT.**

6 (a) IN GENERAL.—Section 274A(e)(4) (8 U.S.C.  
 7 1324a(e)(4)) is amended—

8 (1) by redesignating clauses (i), (ii), and (iii) of  
 9 subparagraph (A) as subclauses (I), (II), and (III),  
 10 respectively;

11 (2) by redesignating clauses (i), (ii), and (iii) of  
 12 subparagraph (B) as subclauses (I), (II), and (III),  
 13 respectively;

14 (3) by redesignating subparagraphs (A) and  
 15 (B) as clauses (i) and (ii), respectively;

16 (4) by striking “With” and inserting “(A) Ex-  
 17 cept as provided in subparagraph (B), with”; and

18 (5) by adding at the end the following:

19 “(B) ENFORCEMENT OF CERTAIN LABOR  
 20 LAWS.—

21 “(i) CIVIL PENALTIES.—The adminis-  
 22 trative law judge may require payment of  
 23 a civil money penalty in an amount up to  
 24 two times the amount of the penalty pre-  
 25 scribed by this subsection in any case in

1 which the Secretary of Labor or a court of  
 2 competent jurisdiction determines that the  
 3 employer has committed a willful violation  
 4 or repeated violations of any of the follow-  
 5 ing statutes:

6 “(I) The Fair Labor Standards  
 7 Act (29 U.S.C. 201 et seq.).

8 “(II) The Migrant and Seasonal  
 9 Agricultural Worker Protection Act  
 10 (29 U.S.C. 1801 et seq.).

11 “(III) The Family and Medical  
 12 Leave Act (29 U.S.C. 2601 et seq.).

13 “(ii) ADMINISTRATION.—The Sec-  
 14 retary of Labor and the Attorney General  
 15 shall consult regarding the administration  
 16 of this paragraph.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
 18 this section shall apply with respect to offenses occurring  
 19 on or after the date of the enactment of this Act.

20 **SEC. 202. INCREASED PENALTIES FOR VIOLATIONS OF IM-**  
 21 **MIGRATION-RELATED EMPLOYMENT LAWS.**

22 (a) INCREASED CIVIL MONEY PENALTIES FOR HIR-  
 23 ING, RECRUITING, AND REFERRAL VIOLATIONS.—Section  
 24 274A(e)(4)(A) (8 U.S.C. 1324a(e)(4)(A)) is amended—

1 (1) in clause (i), by striking “\$250” and  
 2 “\$2,000” and inserting “\$1,000” and “\$3,000”,  
 3 respectively;

4 (2) in clause (ii) by striking “\$2,000” and  
 5 “\$5,000” and inserting “\$3,000” and “\$8,000”, re-  
 6 spectively; and

7 (3) in clause (iii), by striking “\$3,000” and  
 8 “\$10,000” and inserting “\$8,000” and “\$25,000”,  
 9 respectively.

10 (b) INCREASED CIVIL MONEY PENALTIES FOR PA-  
 11 PERWORK VIOLATIONS.—Section 274A(e)(5) (8 U.S.C.  
 12 1324a(e)(5)) is amended by striking “\$100” and  
 13 “\$1,000” and inserting “\$200” and “\$5,000”,  
 14 respectively.

15 (c) INCREASED CRIMINAL PENALTIES FOR PATTERN  
 16 OR PRACTICE VIOLATIONS.—Section 274A(f)(1) (8 U.S.C.  
 17 1324a(f)(1)) is amended by striking “\$3,000” and “six  
 18 months” and inserting “\$7,000” and “two years”, respec-  
 19 tively.

20 (d) INCREASED CIVIL PENALTIES FOR UNFAIR IMMI-  
 21 GRATION-RELATED EMPLOYMENT PRACTICES.—Section  
 22 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended—

23 (1) in clause (iv)(I), by striking “\$250” and  
 24 “\$2,000” and inserting “\$1,000” and “\$3,000”,  
 25 respectively;

1 (2) in clause (iv)(II), by striking “\$2,000” and  
 2 “\$5,000” and inserting “\$3,000” and “\$8,000”,  
 3 respectively;

4 (3) in clause (iv)(III), by striking “\$3,000” and  
 5 “\$10,000” and inserting “\$8,000” and “\$25,000”,  
 6 respectively; and

7 (4) in clause (iv)(IV), by striking “\$100” and  
 8 “\$1,000” and inserting “\$200” and “\$5,000”,  
 9 respectively.

10 **SEC. 203. RETENTION OF EMPLOYER SANCTIONS FINES**  
 11 **FOR LAW ENFORCEMENT PURPOSES.**

12 Section 286(a) (8 U.S.C. 1356(a)) is amended—

13 (1) by striking “(a)” and inserting “(a)(1)”;  
 14 and

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

16 “(2) All moneys received during each fiscal year in  
 17 payment of penalties under section 274A of this Act in  
 18 excess of \$5,000,000 shall be credited to the Immigration  
 19 and Naturalization Service Salaries and Expenses appro-  
 20 priations account that funds activities and related ex-  
 21 penses associated with enforcement of that section and  
 22 shall remain available until expended.”.



1 **SEC. 204. TASK FORCE TO IMPROVE PUBLIC EDUCATION**  
2 **REGARDING UNLAWFUL EMPLOYMENT OF**  
3 **ALIENS AND UNFAIR IMMIGRATION-RELATED**  
4 **EMPLOYMENT PRACTICES.**

5 (a) ESTABLISHMENT.—The Attorney General shall  
6 establish a task force within the Department of Justice  
7 charged with the responsibility of—

8 (1) providing advice and guidance to employers  
9 and employees relating to unlawful employment of  
10 aliens under section 274A of the Immigration and  
11 Nationality Act and unfair immigration-related em-  
12 ployment practices under 274B of such Act; and

13 (2) assisting employers in complying with those  
14 laws.

15 (b) COMPOSITION.—The members of the task force  
16 shall be designated by the Attorney General from among  
17 officers or employees of the Immigration and Naturaliza-  
18 tion Service or other components of the Department of  
19 Justice.

20 (c) ANNUAL REPORT.—The task force shall report  
21 annually to the Attorney General on its operations.

22 **SEC. 205. SUBPOENA AUTHORITY FOR CASES OF UNLAW-**  
23 **FUL EMPLOYMENT OF ALIENS OR DOCUMENT**  
24 **FRAUD.**

25 (a) SECRETARY OF LABOR SUBPOENA AUTHOR-  
26 ITY.—

1           (1) IN GENERAL.—Chapter 9 of title II of the  
2       Immigration and Nationality Act is amended by  
3       adding at the end the following new section:

4           “SECRETARY OF LABOR SUBPOENA AUTHORITY

5       “SEC. 296. The Secretary of Labor may issue sub-  
6       poenas requiring the attendance and testimony of wit-  
7       nesses or the production of any records, books, papers,  
8       or documents in connection with any investigation or hear-  
9       ing conducted in the enforcement of any immigration pro-  
10      gram for which the Secretary of Labor has been delegated  
11      enforcement authority under this Act. In such hearing, the  
12      Secretary of Labor may administer oaths, examine wit-  
13      nesses, and receive evidence. For the purpose of any such  
14      hearing or investigation, the authority contained in sec-  
15      tions 9 and 10 of the Federal Trade Commission Act (15  
16      U.S.C. 49, 50), relating to the attendance of witnesses and  
17      the production of books, papers, and documents, shall be  
18      available to the Secretary of Labor.”.

19           (2) CONFORMING AMENDMENT.—The table of  
20      contents of the Immigration and Nationality Act is  
21      amended by inserting after the item relating to sec-  
22      tion 295 the following new item:

“Sec. 296. Secretary of Labor subpoena authority.”.

1 **TITLE III—PRESIDENTIAL PLAN**  
 2 **FOR EMPLOYMENT VERIFICA-**  
 3 **TION**

4 **SEC. 301. DEFINITIONS.**

5 As used in this title:

6 (1) **FEDERAL PUBLIC BENEFIT.**—The term  
 7 “Federal public benefit” has the meaning given the  
 8 term in section 401(c) of the Personal Responsibility  
 9 and Work Opportunity Reconciliation Act of 1996.

10 (2) **STATE OR LOCAL PUBLIC BENEFIT.**—The  
 11 term “State or local public benefit” has the meaning  
 12 given the term in section 411(c) of the Personal Re-  
 13 sponsibility and Work Opportunity Reconciliation  
 14 Act of 1996.

15 (3) **SYSTEM.**—The term “system” means the  
 16 system for confirmation of eligibility for employment  
 17 and benefits that is described in this title.

18 **SEC. 302. ESTABLISHMENT OF PLAN.**

19 (a) **DEVELOPMENT OF PLAN; REPORT TO CON-**  
 20 **GRESS.**—Not later than 90 days after the end of the third  
 21 year in which the pilot programs required by subtitle A  
 22 of title IV of the Illegal Immigration Reform and Immi-  
 23 grant Responsibility Act of 1996 (as contained in Public  
 24 Law 104–208) are in effect, the President shall—

1           (1) develop and recommend to the Congress a  
2           plan for the establishment of a data system or alter-  
3           native system (in this part referred to as the “sys-  
4           tem”), subject to sections 302 and 303, to confirm  
5           eligibility for employment in the United States, and  
6           immigration status in the United States for pur-  
7           poses of eligibility for any Federal public benefit;

8           (2) submit to the Congress a report setting  
9           forth—

10                (A) a description of such recommended  
11           plan;

12                (B) data on and analyses of the alter-  
13           natives considered in developing the plan de-  
14           scribed in paragraph (1), including analyses of  
15           data from any demonstration project conducted,  
16           including the pilot programs conducted under  
17           subtitle A of title IV of the IIRIRA of 1996;  
18           and

19                (C) data on and analysis of the system de-  
20           scribed in paragraph (1), including estimates  
21           of—

22                       (i) the proposed use of the system, on  
23                       an industry-sector by industry-sector basis;

24                       (ii) the public assistance programs  
25                       and government benefits for which use of

1 the system is cost-effective and otherwise  
2 appropriate;

3 (iii) the cost of the system;

4 (iv) the financial and administrative  
5 cost to employers;

6 (v) the reduction of undocumented  
7 workers in the United States labor force  
8 resulting from the system;

9 (vi) any unlawful discrimination  
10 caused by or facilitated by use of the  
11 system;

12 (vii) any privacy intrusions caused by  
13 misuse or abuse of system;

14 (viii) the accuracy rate of the system;

15 (ix) the overall costs and benefits that  
16 would result from implementation of the  
17 system; and

18 (x) evidence, including the results of  
19 pilot programs or demonstration projects,  
20 that the plan meets the requirements of  
21 section 303.

22 (b) EFFECTIVE DATE.—The plan described in sub-  
23 section (a) shall take effect on the date of enactment of  
24 a bill or joint resolution approving the plan.

1 **SEC. 303. OBJECTIVES.**

2 The plan described in section 301(a) shall have the  
3 following objectives:

4 (1) To substantially reduce illegal immigration  
5 and unauthorized employment of aliens.

6 (2) To increase employer compliance, especially  
7 in industry sectors known to employ undocumented  
8 workers, with laws governing employment of aliens.

9 (3) To protect individuals from national origin  
10 or citizenship-based unlawful discrimination and  
11 from loss of privacy caused by use, misuse, or abuse  
12 of personal information.

13 (4) To minimize the burden on business of ver-  
14 ification of eligibility for employment in the United  
15 States, including the cost of the system to  
16 employers.

17 (5) To ensure that those who are ineligible for  
18 public assistance or other government benefits are  
19 denied or terminated, and that those eligible for  
20 public assistance or other government benefits  
21 shall—

22 (A) be provided a reasonable opportunity  
23 to submit evidence indicating a satisfactory im-  
24 migration status; and

1 (B) not have eligibility for public assist-  
2 ance or other government benefits denied, re-  
3 duced, terminated, or unreasonably delayed on  
4 the basis of the individual's immigration status  
5 until such a reasonable opportunity has been  
6 provided.

7 **SEC. 304. SYSTEM REQUIREMENTS.**

8 (a) IN GENERAL.—A confirmation system may not  
9 be implemented under this title unless the system meets  
10 the following requirements:

11 (1) RELIABLE DETERMINATIONS.—The system  
12 must be capable of reliably determining with respect  
13 to an individual whether—

14 (A) the person with the identity claimed by  
15 the individual is authorized to work in the Unit-  
16 ed States or has the immigration status being  
17 claimed; and

18 (B) the individual is claiming the identity  
19 of another person.

20 (2) RESTRICTIONS ON USE OF INFORMATION.—  
21 Any information obtained in connection with use of  
22 the system must not be made available to Govern-  
23 ment agencies, employers, or other persons except to  
24 the extent necessary—

(A) to confirm, by an individual who is authorized to conduct the employment verification process, that an employee is not an unauthorized alien (as defined in section 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)));

(B) to enforce the Immigration and Nationality Act or section 371, 911, 982, 1001, 1015, 1028, 1542, 1546, or 1621 of, or chapter 96 of, title 18, United States Code; or

(C) to confirm the individual's immigration status for purposes of determining eligibility for Federal public benefits.

(3) FORM AND EXAMINATION OF DOCUMENTS.—Any document (other than a document used under section 274A of the Immigration and Nationality Act) required by the system must be presented to or examined by either an employer or an administrator of public assistance or other government benefits, as the case may be, and—

(A) must be in a form that is resistant to counterfeiting and to tampering; and

(B) must not be required by any Government entity or agency as a national identification card or to be carried or presented except—



1 (i) to carry out the purposes of para-  
 2 graph (2); or

3 (ii) if the document was designed for  
 4 another purpose (such as a certificate of  
 5 alien registration, an alien registration re-  
 6 ceipt card, a license to drive a motor vehi-  
 7 cle, a certificate of birth, or a social secu-  
 8 rity account number card issued by the So-  
 9 cial Security Administration), as required  
 10 under law for such other purpose.

11 (4) COMPLETE, ACCURATE, CONFIRMABLE, AND  
 12 TIMELY.—The system must ensure that information  
 13 is complete, accurate, confirmable, and timely. Cor-  
 14 rections or additions to the system records of an in-  
 15 dividual provided by the individual, the Social Secu-  
 16 rity Administration, or the Immigration and Natu-  
 17 ralization Service, or other relevant Federal agency,  
 18 must be checked for accuracy, processed, and en-  
 19 tered into the system within 10 business days after  
 20 the agency's acquisition of the correction or addi-  
 21 tional information.

22 (5) SPEED OF CONFIRMATION.—The system  
 23 must be capable of accurately confirming electroni-  
 24 cally within 5 business days, whether a person has  
 25 the required immigration status in the United States

1 and is legally authorized for employment in the  
2 United States in a substantial percentage of cases  
3 (with the objective of not less than 99 percent).

4 (6) ADMINISTRATIVE, TECHNICAL, AND PHYS-  
5 ICAL SAFEGUARDS.—In order to ensure the integ-  
6 rity, confidentiality, and security of system informa-  
7 tion, the system and those who use the system must  
8 maintain appropriate administrative, technical, and  
9 physical safeguards, such as—

10 (A) safeguards to prevent unauthorized  
11 disclosure of personal information, including  
12 passwords, cryptography, and other tech-  
13 nologies;

14 (B) audit trails to monitor system use; or

15 (C) procedures giving an individual the  
16 right to request records containing personal in-  
17 formation about the individual held by agencies  
18 and used in the system, for the purpose of ex-  
19 amination, copying, correction, or amendment,  
20 and a method that ensures notice to individuals  
21 of these procedures.

22 (7) SAFEGUARDS AGAINST DISCRIMINATION.—

23 There must be reasonable safeguards against the

1 system’s resulting in unlawful discriminatory prac-  
 2 tices based on national origin or citizenship status,  
 3 including—

4 (A) the selective or unauthorized use of the  
 5 system to confirm eligibility;

6 (B) the use of the system prior to an offer  
 7 of employment;

8 (C) the exclusion of certain individuals  
 9 from consideration for employment as a result  
 10 of a perceived likelihood that additional con-  
 11 firmation will be required, beyond what is re-  
 12 quired for most job applicants; or

13 (D) denial reduction, termination, or un-  
 14 reasonable delay of public assistance to an indi-  
 15 vidual as a result of the perceived likelihood  
 16 that such additional confirmation will be re-  
 17 quired.

18 (b) DEFINITION.—As used in this section, the term  
 19 “business day” means any day other than Saturday, Sun-  
 20 day, or any day on which the appropriate Federal agency  
 21 is closed.

22 **SEC. 305. REMEDIES AND PENALTIES FOR UNLAWFUL**  
 23 **DISCLOSURE.**

24 (a) CIVIL REMEDIES.—

1           (1) RIGHT OF INFORMATIONAL PRIVACY.—The  
2       Congress declares that any person who provides to  
3       an employer the information required by this section  
4       or section 274A of the Immigration and Nationality  
5       Act (8 U.S.C. 1324a) has a privacy expectation that  
6       the information will only be used for compliance with  
7       this Act or other applicable Federal, State, or local  
8       law.

9           (2) CIVIL ACTIONS.—An employer, or other per-  
10      son or entity, who knowingly and willfully discloses  
11      the information that an employee is required to pro-  
12      vide by this title or section 274A of the Immigration  
13      and Nationality Act (8 U.S.C. 1324a) for any pur-  
14      pose not authorized by this Act or other applicable  
15      Federal, State, or local law shall be liable to the em-  
16      ployee for actual damages. Jurisdiction and venue  
17      over actions brought under this paragraph shall be  
18      as provided by title 28 of the United States Code.

19      (b) CRIMINAL PENALTIES.—Any employer, or other  
20      person or entity, who willfully and knowingly obtains,  
21      uses, or discloses information required pursuant to this  
22      title or section 274A of the Immigration and Nationality  
23      Act (8 U.S.C. 1324a) for any purpose not authorized by  
24      this Act or other applicable Federal, State, or local law  
25      shall be fined not more than \$5,000, notwithstanding the

1 provisions of any Federal law relating to fine levels, im-  
 2 prisoned for not more than 6 months, or both.

3 (c) PRIVACY ACT.—

4 (1) IN GENERAL.—Any person who is a United  
 5 States citizen, United States national, lawful perma-  
 6 nent resident, or other employment-authorized alien,  
 7 and who is subject to confirmation of work author-  
 8 ization or lawful presence in the United States for  
 9 purposes of benefits eligibility under this title, shall  
 10 be considered an individual under section 552(a)(2)  
 11 of title 5, United States Code, with respect to  
 12 records covered by this title.

13 (2) DEFINITION.—For purposes of this sub-  
 14 section, the term “record” means an item, collection,  
 15 or grouping of information about an individual  
 16 which—

17 (A) is created, maintained, or used by a  
 18 Federal agency for the purpose of determin-  
 19 ing—

20 (i) the individual’s authorization to  
 21 work; or

22 (ii) immigration status in the United  
 23 States for purposes of eligibility to receive  
 24 Federal, State or local benefits in the  
 25 United States; and

1 (B) contains the individuals's name or  
2 identifying number, symbol, or any other identi-  
3 fier assigned to the individual.

4 **SEC. 306. BENEFIT OF REBUTTABLE PRESUMPTION.**

5 A person or other entity has established a rebuttable  
6 presumption that the person or entity has not violated sec-  
7 tion 274A(a)(1)(A) of the Immigration and Nationality  
8 Act with respect to the hiring (or recruitment or referral)  
9 of an individual for employment in the United States if  
10 the person or entity—

11 (1) obtains confirmation of identity and employ-  
12 ment eligibility in compliance with the applicable  
13 terms and conditions of the system with respect to  
14 the hiring (or recruitment or referral) of the individ-  
15 ual; and

16 (2) has complied with all procedures required  
17 by the system.

18 **SEC. 307. RESTRICTION ON USE OF DOCUMENTS.**

19 If the Attorney General determines that any docu-  
20 ment described in section 274A(b)(1) of the Immigration  
21 and Nationality Act as establishing employment authoriza-  
22 tion or identity does not reliably establish such authoriza-  
23 tion or identity or, to an unacceptable degree, is being  
24 used fraudulently or is being requested for purposes not

1 authorized by this Act, the Attorney General may, by reg-  
2 ulation, prohibit or place conditions on the use of the doc-  
3 ument for purposes of the system or the verification sys-  
4 tem established in section 274A(b) of the Immigration and  
5 Nationality Act.

6 **SEC. 308. PROTECTION FROM LIABILITY FOR ACTIONS**  
7 **TAKEN ON THE BASIS OF INFORMATION PRO-**  
8 **VIDED BY THE CONFIRMATION SYSTEM.**

9 No person shall be civilly or criminally liable under  
10 section 274A of the Immigration and Nationality Act for  
11 any action adverse to an individual if such action was  
12 taken in good faith reliance on information relating to  
13 such individual provided through the system.

14 **SEC. 309. APPLICATION OF THE FEDERAL TORT CLAIMS**  
15 **ACT.**

16 Any individual claiming dismissal from employment  
17 or denial of employment by reason of an error in the oper-  
18 ation of the confirmation system may seek settlement of  
19 the claim by the appropriate Federal agency or may insti-  
20 tute a legal action against the Federal Government under  
21 chapter 271 of title 28, United States Code, for money  
22 damages in accordance with the procedures set forth  
23 under that chapter.

1 **SEC. 310. STATUTORY CONSTRUCTION.**

2 The provisions of this title supersede the provisions  
3 of section 274A of the Immigration and Nationality Act  
4 to the extent of any inconsistency therewith.

5 **TITLE IV—UNFAIR IMMIGRA-**  
6 **TION-RELATED EMPLOYMENT**  
7 **PRACTICES**

8 **SEC. 401. REQUIRING CERTAIN REMEDIES IN UNFAIR**  
9 **IMMIGRATION-RELATED DISCRIMINATION**  
10 **ORDERS.**

11 Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is  
12 amended—

13 (1) in subparagraph (B)—

14 (A) by striking “CONTENTS OF ORDER”  
15 and inserting “DISCRETIONARY CONTENTS OF  
16 ORDER”;

17 (B) by striking clauses (ii) and (vi); and

18 (C) by redesignating clauses (iii), (iv), (v),  
19 (vii), and (viii) as clauses (ii), (iii), (iv), (v), and  
20 (vi), respectively;

21 (2) in subparagraph (C), by striking “subpara-  
22 graph (B)(iii)” and inserting “subparagraph  
23 (C)(ii)”;

24 (3) by redesignating subparagraphs (B)  
25 through (D) as subparagraphs (C) through (E), re-  
26 spectively; and



1 (4) by inserting after subparagraph (A) the fol-  
 2 lowing new subparagraph:

3 “(B) MANDATORY CONTENTS OF  
 4 ORDER.—Such an order shall require the per-  
 5 son or entity—

6 “(i) to retain for the period referred  
 7 to in clause (i) and only for purposes con-  
 8 sistent with section 274A(b)(5), the name  
 9 and address of each individual who applies,  
 10 in person or in writing, for hiring for an  
 11 existing position, or for recruiting or refer-  
 12 ring for a fee, for employment in the Unit-  
 13 ed States; and

14 “(ii) to educate all personnel involved  
 15 in hiring and complying with this section  
 16 or section 274A about the requirements of  
 17 this section or such section and to certify  
 18 the fact of such education.”.

19 **SEC. 402. TREATMENT OF CERTAIN DOCUMENTARY PRAC-**  
 20 **TICES AS LAWFUL EMPLOYMENT PRACTICES.**

21 Section 274B(a)(6) (8 U.S.C. 1324b(a)(6)) is  
 22 amended—

23 (1) by striking “PRACTICES.—For purposes of  
 24 paragraph (1), a” and inserting “PRACTICES.—

1                   “(A) IN GENERAL.—Subject to subpara-  
2                   graphs (B) and (C), a”;

3                   (2) by striking “if made for the purpose or with  
4                   the intent of discriminating against an individual in  
5                   violation of paragraph (1)” and inserting “relating  
6                   to the hiring of individuals”; and

7                   (3) by adding at the end the following new sub-  
8                   paragraph:

9                   “(B) EXCEPTION.—A person or other  
10                  entity—

11                  “(i) may request a document proving  
12                  a renewal of employment authorization  
13                  when an individual has previously submit-  
14                  ted a time-limited document to satisfy the  
15                  requirements of section 274A(b)(1); or

16                  “(ii) having reason to believe that an  
17                  individual presenting a document that rea-  
18                  sonably appears on its face to be genuine  
19                  is nonetheless an unauthorized alien (I)  
20                  may inform the individual of the question  
21                  about the document’s validity and of such  
22                  person or other entity’s intention to verify  
23                  the validity of such document, and (II)  
24                  may, upon receiving confirmation that the

1 individual is unauthorized to work, dismiss  
2 the individual.

3 “(C) STATUTORY CONSTRUCTION.—Noth-  
4 ing in subparagraph (B) prohibits an individual  
5 from offering alternative documents that satisfy  
6 the requirements of section 274A(b)(1).’”.

7 **SEC. 403. EFFECTIVE DATE.**

8 The amendments made by section 401 shall apply to  
9 orders issued on or after the first day of the first month  
10 beginning at least 90 days after the date of the enactment  
11 of this Act.

12 **TITLE V—PROTECTIONS FOR**  
13 **BATTERED IMMIGRANTS**

14 **SEC. 501. WAIVER OF SECTION 245(i).**

15 Section 245(i) (8 U.S.C. 1255(i)) is amended—

16 (1) in the second sentence of paragraph (1), by  
17 striking “The” and inserting “Except as provided in  
18 paragraphs (4) and (5), the”; and

19 (2) by adding at the end the following new  
20 paragraph:

21 “(4)(A) The Attorney General may waive the fee  
22 specified in this subsection with respect to an alien—

23 “(i) if the alien or the alien’s child—

24 “(I) has been battered or subjected to ex-  
25 treme cruelty by a spouse, parent, or member

1 of the spouse or parent’s family residing in the  
 2 same household as the alien; and

3 “(II) the spouse or parent consented to or  
 4 acquiesced to such battery or cruelty; and

5 “(ii) if the Attorney General determines that  
 6 such waiver would enhance the safety of the alien or  
 7 the alien’s child.

8 “(B) An alien for whom the Attorney General waived  
 9 the fee specified in this subsection shall not be considered  
 10 a public charge under section 212(a)(4) or 237(a)(5) sole-  
 11 ly because of such waiver.

12 “(5)(A) In lieu of a waiver under paragraph (4), the  
 13 Attorney General may permit an alien described in para-  
 14 graph (4)(A)(i) to pay the fee specified in this subsection  
 15 at the time of the alien’s interview or in installments—

16 “(i) if the Attorney General determines that the  
 17 alien’s finances are sufficient; and

18 “(ii) if the Attorney General determines that  
 19 such delayed payment would enhance the safety of  
 20 the alien or the alien’s child.

21 “(B) An alien for whom the Attorney General delayed  
 22 payment of the fee specified in this subsection shall not  
 23 be considered a public charge under section 212(a)(4)  
 24 solely because of such waiver.”.

1 **SEC. 502. EXEMPTION FROM SUMMARY EXCLUSION.**

2 Section 235(b)(1) (8 U.S.C. 1225(b)(1)) is amended  
3 by adding at the end the following new subparagraph:

4 “(G) EXCEPTION FOR BATTERED  
5 ALIENS.—Subparagraph (A) shall not apply to  
6 any alien who has been battered or subjected to  
7 extreme cruelty, or whose child has been bat-  
8 tered or subjected to extreme cruelty, and who  
9 is eligible to file a petition under subparagraph  
10 (A) (iii) and (iv) or (B) (ii) and (iii) of section  
11 204(a)(1) or under paragraph (2) of section  
12 240A(b) based on the requirements of para-  
13 graph (2) of that section.”.

14 **SEC. 503. ATTORNEY GENERAL WAIVER OF CONTINUOUS**  
15 **PRESENCE REQUIREMENT.**

16 Section 240A(d)(2) is amended by inserting before  
17 the period at the end the following: “, except that the At-  
18 torney General may extend the time periods described in  
19 this paragraph in the case of aliens who are otherwise eli-  
20 gible for relief under subsection (b)(2).”.

21 **SEC. 504. CONTINUED ELIGIBILITY FOR IMMIGRANT**  
22 **STATUS WHERE ABUSER IS REMOVED.**

23 Section 204(a)(1)(B) (8 U.S.C. 1154(a)(1)(B)) is  
24 amended by adding at the end the following new clause:

25 “(iv) An alien who has resided in the United  
26 States with the alien’s permanent resident spouse or

1 parent who has committed a crime described in sec-  
 2 tion 237(a)(2)(E) or violated a protection order de-  
 3 scribed in that section may file a petition with the  
 4 Attorney General under this subparagraph for classi-  
 5 fication of the alien under such section notwith-  
 6 standing that the alien who committed the crime or  
 7 violated the protection order has been removed, or is  
 8 subject to removal, from the United States under  
 9 section 237(a), if the alien filing the petition is—

10 “(I) the victim of the crime committed or  
 11 is the individual protected by the protection  
 12 order;

13 “(II) a person of good moral character;  
 14 and

15 “(III) eligible for classification under sec-  
 16 tion 203(a)(2)(A).”.

17 **SEC. 505. FRAUDULENT DOCUMENT WAIVER FOR**  
 18 **BATTERED ALIENS.**

19 Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended  
 20 by inserting before the period at the end the following:  
 21 “, or if the alien is eligible to file a petition under subpara-  
 22 graph (A) (iii) and (iv) or (B) (ii) and (iii) of section  
 23 204(a)(1) or under paragraph (2) of section 240A(b)

1 based on the requirements of paragraph (2) of that sec-  
2 tion”.

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