

108TH CONGRESS
1ST SESSION

H. R. 200

To revise various provisions of the Immigration and Nationality Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. GUTIERREZ introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To revise various provisions of the Immigration and
Nationality Act.

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; REFERENCES TO IMMIGRATION**
4 **AND NATIONALITY ACT.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “U.S. Employee, Family Unity, and Legalization Act”.

7 (b) REFERENCES TO IMMIGRATION AND NATION-
8 ALITY ACT.—Except as otherwise expressly provided,
9 whenever in this Act an amendment or repeal is expressed
10 in terms of an amendment to, or repeal of, a section or
11 other provision, the reference shall be considered to be

1 made to a section or other provision of the Immigration
2 and Nationality Act.

3 **SEC. 2. CHANGE OF ENTRY DATE INTO THE UNITED STATES**
4 **FOR PURPOSES OF A RECORD OF ADMISSION**
5 **FOR PERMANENT RESIDENCE FOR CERTAIN**
6 **ALIENS.**

7 (a) IN GENERAL.—Section 249 (8 U.S.C. 1259) is
8 amended—

9 (1) in the section heading, by striking “JANU-
10 ARY 1, 1972” and inserting “JANUARY 1, 1998”; and

11 (2) in subsection (a), by striking “January 1,
12 1972;” and inserting “January 1, 1998;”.

13 (b) CLERICAL AMENDMENT.—The table of sections
14 is amended in the item relating to section 249 by striking
15 “who entered the United States prior to January 1,
16 1972”.

17 (c) EXTENSION OF DATE OF REGISTRY.—

18 (1) PERIOD BEGINNING JANUARY 1, 2005.—Be-
19 ginning on January 1, 2005, section 249 (8 U.S.C.
20 1259) is amended by striking “January 1, 1998”
21 each place it appears and inserting “January 1,
22 1999”.

23 (2) PERIOD BEGINNING JANUARY 1, 2006.—Be-
24 ginning on January 1, 2006, section 249 is amended

1 by striking “January 1, 1999” each place it appears
2 and inserting “January 1, 2000”.

3 (3) PERIOD BEGINNING JANUARY 1, 2007.—Be-
4 ginning on January 1, 2001, section 249 is amended
5 by striking “January 1, 2000” each place it appears
6 and inserting “January 1, 2001”.

7 (4) PERIOD BEGINNING JANUARY 1, 2008.—Be-
8 ginning on January 1, 2008, section 249 is amended
9 by striking “January 1, 2001” each place it appears
10 and inserting “January 1, 2002”.

11 (5) PERIOD BEGINNING JANUARY 1, 2009.—Be-
12 ginning on January 1, 2009, section 249 is amended
13 by striking “January 1, 2002” each place it appears
14 and inserting “January 1, 2003”.

15 (d) VIOLATIONS INCIDENTAL TO UNDOCUMENTED
16 STATUS AND CONFIDENTIALITY OF INFORMATION.—Sec-
17 tion 249 is further amended—

18 (1) by redesignating subsections (a), (b), (c),
19 and (d) as paragraphs (1), (2), (3), and (4), respec-
20 tively;

21 (2) by inserting “(a)” after “249.”; and

22 (3) by adding at the end the following new sub-
23 sections:

24 “(b) VIOLATIONS INCIDENTAL TO UNDOCUMENTED
25 STATUS.—

1 “(1) IMPACT OF VIOLATIONS INCIDENTAL TO
2 LEGAL STATUS.—

3 “(A) Violations of the provisions listed in
4 subparagraph (B) shall not adversely affect an
5 application for an immigration benefit or status
6 under this Act.

7 “(B) The provisions referred to in sub-
8 paragraph (A) are section 274C of the Immi-
9 gration and Nationality Act, sections 1001 and
10 1546 of title 18, United States Code, and sec-
11 tions 408(a)(6) and 408(a)(7) of title 42,
12 United States Code.

13 “(2) APPLICABILITY OF GROUND OF INADMIS-
14 SIBILITY.—The grounds of inadmissibility specified
15 in paragraph (6)(F) of section 212(a) shall not
16 apply to an application for an immigration benefit or
17 status under this Act.

18 “(c) CONFIDENTIALITY OF INFORMATION.—

19 “(1) Neither the Attorney General, nor any
20 other official or employee of the Department of Jus-
21 tice, or any bureau or agency thereof, may—

22 “(A) use the information furnished pursu-
23 ant to an application filed under this section for
24 any purpose other than to make a determina-

1 tion on the application or for enforcement of
2 subsection (d);

3 “(B) make any publication whereby the in-
4 formation furnished by any particular individual
5 can be identified; or

6 “(C) permit anyone other than the sworn
7 officers and employees of the Department or
8 bureau or agency or, with respect to applica-
9 tions filed with a designated entity, that des-
10 ignated entity, to examine individual applica-
11 tions.

12 “(2) Anyone who uses, publishes, or permits in-
13 formation to be examined in violation of paragraph
14 (1) shall be fined in accordance with title 18, United
15 States Code, or imprisoned not more than five years,
16 or both.

17 “(d) PENALTIES FOR FALSE STATEMENTS IN APPLI-
18 CATIONS.—Whoever files an application for adjustment of
19 status under this section and knowingly and willfully fal-
20 sifies, misrepresents, conceals, or covers up a material fact
21 or makes any false, fictitious, or fraudulent statements or
22 representations, or makes or uses any false writing or doc-
23 ument knowing the same to contain any false, fictitious,
24 or fraudulent statement or entry, shall be fined in accord-

1 ance with title 18, United States Code, or imprisoned not
 2 more than five years, or both.”.

3 (e) CORRECTION OF SOCIAL SECURITY RECORDS.—
 4 Section 208(d)(1) of the Social Security Act (42 U.S.C.
 5 408(d)(1)) is amended—

6 (1) in subparagraph (B), by inserting after
 7 clause (ii) the following new clause:

8 “(iii) pursuant to the “U.S. Em-
 9 ployee, Family Unity, and Legalization
 10 Act, or”; and

11 (2) in subparagraph (C), by striking “60 days
 12 after the date of enactment of the Omnibus Budget
 13 Reconciliation Act of 1990,” and inserting “the date
 14 the alien obtains lawful permanent resident status or
 15 within 60 days after the alien obtains such status.”.

16 **SEC. 3. ELIMINATION OF RETROACTIVE APPLICATION OF**
 17 **CERTAIN PROVISIONS OF THE IMMIGRATION**
 18 **AND NATIONALITY ACT.**

19 (a) CANCELLATION OF REMOVAL.—Section 240A (8
 20 U.S.C. 1229b) is amended by adding at the end the fol-
 21 lowing new subsection:

22 “(f) APPLICATION OF LAW.—Notwithstanding any
 23 other provision of this section, an alien who committed an
 24 offense that was a ground for deportation or exclusion
 25 prior to April 1, 1997, shall have the law in effect at the

1 time of the offense apply with respect to any application
2 for relief from deportation or exclusion on that ground.
3 For purposes of determining eligibility for such relief, such
4 alien shall be credited with any periods of residency in the
5 United States that the alien has accrued without regard
6 to whether or not the residency occurred after the commis-
7 sion of the offense or service of a notice to appear under
8 section 239(a).”.

9 (b) APPLICATION OF AGGRAVATED FELONY DEFINI-
10 TION.—The last sentence of section 101(a)(43) (8 U.S.C.
11 1101(a)(43)) is amended to read as follows: “The term
12 shall not apply to any offense that was not covered by
13 the term on the date on which the offense occurred.”.

14 (c) GROUNDS OF DEPORTABILITY.—Section 237 (8
15 U.S.C. 1227) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(d) Notwithstanding any other provision of this sec-
18 tion, an alien is not deportable or removable by reason
19 of committing any offense that was not a ground of de-
20 portability on the date the offense occurred.”.

21 (d) GROUNDS OF INADMISSIBILITY.—Section 212 (8
22 U.S.C. 1182) is amended—

23 (1) by redesignating the subsection (p) added
24 by section 1505(f) of Public Law 106–386 (114
25 Stat. 1526) as a subsection (s); and

1 (2) by adding at the end the following new sub-
2 section:

3 “(t)(1) Notwithstanding any other provision of this
4 section, an alien is not inadmissible by reason of commit-
5 ting any offense that was not a ground of inadmissibility
6 on the date the offense occurred.

7 “(2) Any alien who applied for admission to the
8 United States or adjustment of status to that of an alien
9 lawfully admitted for permanent residence prior to April
10 1, 1997, and was inadmissible under subsection (a)(6)(C),
11 shall be eligible for the relief available (including any waiv-
12 er of inadmissibility) at the time the application was
13 filed.”.

14 (e) PROSPECTIVE EFFECTIVE DATES.—

15 (1) ILLEGAL IMMIGRATION REFORM AND IMMI-
16 GRANT RESPONSIBILITY ACT.—Notwithstanding any
17 other provision of law, the Illegal Immigration Re-
18 form and Immigrant Responsibility Act of 1996, and
19 the amendments made by that Act, shall apply only
20 to persons seeking admission, or who became remov-
21 able, on or after April 1, 1997, as the case may be.

22 (2) ANTITERRORISM AND EFFECTIVE DEATH
23 PENALTY ACT OF 1996.—Notwithstanding any other
24 provision of law, title IV of the Antiterrorism and
25 Effective Death Penalty Act of 1996, and the

1 amendments made by that title, shall only apply to
 2 persons seeking admission, or who become remov-
 3 able, on or after April 24, 1996.

4 (3) REINSTATEMENT OF REMOVAL ORDERS.—
 5 Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is repealed,
 6 and such repeal shall apply to all proceedings pend-
 7 ing at any stage as of the date of enactment of this
 8 Act and to all cases brought on or after such date.

9 **SEC. 4. RESTORATION OF PROPORTIONALITY TO GROUNDS**
 10 **OF REMOVAL.**

11 (a) DEFINITION OF CRIMES INVOLVING MORAL TUR-
 12 PITUDE.—Section 237(a)(2)(A)(i) (8 U.S.C.
 13 1227(a)(2)(A)(i)) is amended to read as follows:

14 “(i) CRIMES OF MORAL TURPITUDE.—Any
 15 alien who is convicted of a crime involving
 16 moral turpitude committed within five years
 17 after the date of admissions (or 10 years in the
 18 case of an alien provided lawful permanent resi-
 19 dence status under section 245(j)) for which the
 20 alien is confined in a prison or correctional in-
 21 stitution for more than one year, is deport-
 22 able.”.

23 (b) DEFINITION OF AGGRAVATED FELONY.—Section
 24 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

1 (1) in subparagraphs (F), (G), (J), (R), and
2 (S), by striking “one year” each place it appears
3 and inserting “five years”;

4 (2) by amending subparagraph (N) (8 U.S.C.
5 1101(a)(43)(N)) to read as follows:

6 “(N) an offense described in section 274(a)(1)
7 (relating to alien smuggling) for the purpose of com-
8 mercial advantage.”;

9 (3) in subparagraph (P)(ii) (8 U.S.C.
10 1101(a)(43)(P)(ii)), by striking “child” and insert-
11 ing “son or daughter”;

12 (4) in subparagraph (T), by striking “2 years’ ”
13 and inserting “5 years’ ”; and

14 (5) by adding at the end of section 101(a)(43)
15 the following: “No crime shall be deemed to be an
16 aggravated felony if the underlying conviction is a
17 misdemeanor or if the sentence imposed is not in ex-
18 cess of one year.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to convictions entered before, on,
21 or after the date of enactment of this Act.

22 (d) CONVICTION DEFINED.—Section 101(a)(48)(A)
23 (8 U.S.C. 1101(a)(48)(A)) is amended—

24 (1) by redesignating clauses (i) and (ii) as sub-
25 clauses (I) and (II), respectively;

1 (2) by striking “(48)(A) The term” and insert-
2 ing “(48)(A)(i) Except as provided in clause (ii), the
3 term”; and

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

5 “(ii) For purposes of determinations under this Act,
6 the term ‘conviction’ does not include any Federal, State,
7 or foreign guilty plea or other record of guilt or conviction
8 that has been expunged, dismissed, canceled, vacated, dis-
9 charged or otherwise removed, or any Federal, State, or
10 foreign deferred adjudication, adjudication of guilt with-
11 held, order of probation without entry of judgment, or
12 similar disposition.”.

13 (e) DEFINITION OF TERM OF IMPRISONMENT.—Sec-
14 tion 101(a)(48)(B) (8 U.S.C. 1101(a)(48)(B)) is amended
15 to read as follows:

16 “(B) Any reference to a term of imprisonment or a
17 sentence with respect to an offense is deemed to include
18 the period of incarceration or confinement ordered by a
19 court of law excluding any period of the suspension of the
20 imposition or execution of that imprisonment or sentence
21 in whole or in part.”.

22 (f) CONFORMING AMENDMENTS.—

23 (1) GROUND OF INADMISSIBILITY.—Section
24 212(a)(6)(E) (8 U.S.C. 1182(a)(6)(E)) is amend-
25 ed—

1 (A) in clause (i), by inserting “and for
2 commercial advantage” after “knowingly”;

3 (B) by striking clause (ii); and

4 (C) by redesignating clause (iii) as clause
5 (ii).

6 (2) GROUND OF DEPORTABILITY.—Section
7 237(a)(1)(E) (8 U.S.C. 1227(a)(1)(E)) is amend-
8 ed—

9 (A) in clause (i), by inserting “and for
10 commercial advantage” after “knowingly”;

11 (B) by striking clause (ii); and

12 (C) by redesignating clause (iii) as clause
13 (ii).

14 **SEC. 5. ELIMINATION OF PROHIBITION ON ADMISSION FOR**
15 **ALIENS WHO HAVE BEEN UNLAWFULLY**
16 **PRESENT IN THE UNITED STATES.**

17 (a) IN GENERAL.—Section 212(a)(9) (8 U.S.C.
18 1182(a)(9)) is amended—

19 (1) by striking subparagraph (B); and

20 (2) by redesignating subparagraph (C) as sub-
21 paragraph (B).

22 (b) CONFORMING AMENDMENTS.—Section 248 (8
23 U.S.C. 1258) is amended by striking “and who is not in-
24 admissible under section 212(a)(9)(B)(i) (or whose inad-

1 missibility under such section is waived under section
 2 212(a)(9)(B)(v))”.

3 **SEC. 6. VISA FOR CERTAIN SPOUSES AND CHILDREN OF**
 4 **CITIZENS AND PERMANENT RESIDENTS TEM-**
 5 **PORARILY WAITING FOR VISA NUMBERS.**

6 (a) IN GENERAL.—Section 101(a)(15)(V) (8 U.S.C.
 7 1101(a)(15)(V)) is amended to read as follows:

8 “(V) subject to section 214(o), an alien (other
 9 than one coming for the purpose of study or of per-
 10 forming skilled or unskilled labor or as a representa-
 11 tive of foreign press, radio, film, or other foreign in-
 12 formation media coming to engage in such vocation)
 13 who is the beneficiary of a petition approved
 14 under—

15 “(i) section 204 (excluding the provisions
 16 of such section referred to in clause (ii)) for
 17 classification by reason of a relationship de-
 18 scribed in section 203(a)(2)(A) with an alien
 19 lawfully admitted for permanent residence, who
 20 is awaiting the availability of an immigrant visa
 21 based upon such approval, and who seeks to
 22 enter the United States to achieve family unity
 23 by joining the permanent resident alien in the
 24 United States; or

1 “(ii) clause (iii), (iv), or (v) of section
2 204(a)(1)(A) or clause (ii), (iii), or (iv) of sec-
3 tion 204(a)(1)(B) and who is awaiting the
4 availability of an immigrant visa based upon
5 such approval.”.

6 (b) CONFORMING AMENDMENTS.—Section 214 (8
7 U.S.C. 1184) is amended—

8 (1) by redesignating the subsections (o) and (p)
9 added by sections 1102(b) and 1103(b), respectively,
10 of the Departments of Commerce, Justice, and
11 State, the Judiciary, and Related Agencies Appro-
12 priations Act, 2001, as enacted into law by section
13 1(a)(2) of Public Law 106–553 as subsections (p)
14 and (q); and

15 (2) in subsection (p) (as so redesignated)—

16 (A) in paragraph (1)(B)(i), by striking
17 “under section 203(a)(2)(A)” each place such
18 term appears;

19 (B) by striking paragraph (2) and redesign-
20 ating paragraph (3) as paragraph (2); and

21 (C) in paragraph (2)(C) (as so redesign-
22 ated), by striking “(6)(A), (7), and (9)(B)”
23 and inserting “(6)(A) and (7)”.

1 **SEC. 7. TASK FORCE ON IMMIGRANT EXPLOITATION.**

2 There shall be established a national task force on
3 the exploitation of and trafficking in immigrants. The task
4 force shall consist of Federal and State law enforcement
5 officers appointed by the Secretary of Labor and the Sec-
6 retary of State. The Secretary of Labor shall be the Chair
7 of the task force. The purpose of the task force shall be
8 to create a coordinated and aggressive national and State
9 policy to end the exploitation of and trafficking in immi-
10 grants. The task force shall develop and recommend to
11 the President coordinated Federal and State law enforce-
12 ment efforts for the elimination of employment abuses
13 against immigrant workers.

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