

108TH CONGRESS  
1ST SESSION

# H. R. 3522

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, and employment fraud, to temporarily suspend processing of certain visas and immigration benefits, to reform the legal immigration system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2003

Mr. BARRETT of South Carolina (for himself, Mr. MILLER of Florida, and Mr. GOODE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, and employment fraud, to temporarily suspend processing of certain visas and immigration benefits, to reform the legal immigration system, 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; REFERENCES; TABLE OF CON-**  
 4 **TENTS; SEVERABILITY.**

5 (a) SHORT TITLE.—This Act may be cited as—

6 (1) the “Securing America’s Future through  
 7 Enforcement Reform Act of 2003”; or

8 (2) the “SAFER Act”.

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

16 (c) TABLE OF CONTENTS.—The table of contents for  
 17 this Act is as follows:

Sec. 1. Short title; references; table of contents; severability.

Sec. 2. Congressional findings.

**TITLE I—SECURING THE BORDER**

Subtitle A—Prevention and Punishment of Criminal Smuggling, Transporting,  
 and Harboring of Aliens

Sec. 101. Increased personnel for investigating alien smuggling.

Sec. 102. Increased criminal sentences and fines for alien smuggling.

Sec. 103. Change to sentencing guidelines.

Sec. 104. Enhanced penalties for persons committing offenses while armed.

Sec. 105. Discontinuing grant of visas to nationals of countries not cooperating  
 in combatting alien smuggling.

Subtitle B—Border Personnel and Strategy

Sec. 111. Increase in full-time border patrol agents.

- Sec. 112. Report on number of border patrol agents needed to secure northern border.
- Sec. 113. Use of Army and Air Force to secure the border.
- Sec. 114. Use of border property to secure the border.
- Sec. 115. Report on border strategy.

## TITLE II—SCREENING ALIENS SEEKING ADMISSION

- Sec. 201. Increase in full-time inspectors.
- Sec. 202. Visa waiver program.
- Sec. 203. Consular officer interviews of all visa applicants.
- Sec. 204. Recodification and reform of grounds of inadmissibility.
- Sec. 205. Protections for United States specialty workers.
- Sec. 206. Antifraud fee.

## TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

- Sec. 301. Entry-exit system.
- Sec. 302. Collection of information regarding foreign students.
- Sec. 303. Alien registration.
- Sec. 304. Visa term compliance bonds.
- Sec. 305. Release of aliens in removal proceedings.
- Sec. 306. Detention of aliens delivered by bondsmen.

## TITLE IV—REMOVING ALIEN TERRORISTS, CRIMINALS, AND HUMAN RIGHTS VIOLATORS

### Subtitle A—Removing Alien Terrorists

- Sec. 401. Deportability of alien terrorists, national security threats, and serious foreign crimes.
- Sec. 402. Administrative removal of alien terrorists.
- Sec. 403. Asylum petitions by members of terrorist organizations.
- Sec. 404. Expatriation of terrorists.

### Subtitle B—Removing Alien Criminals

- Sec. 411. Definition of criminal conviction.
- Sec. 412. Removing murderers, rapists, sexual abusers of children, and drunk drivers.
- Sec. 413. Detention and release of criminal aliens pending removal decision.

### Subtitle C—Removing Alien Human Rights Violators

- Sec. 421. Serious human rights violator defined.
- Sec. 422. Deportability of serious human rights violators.
- Sec. 423. Arrest and detention of serious human rights violators pending removal and criminal prosecution decisions.
- Sec. 424. Exception to restriction on removal for serious human rights violators and terrorists.
- Sec. 425. Initiation of removal proceedings against serious human rights violators by complaint.
- Sec. 426. Bars to refugee status and asylum for serious human rights violators.
- Sec. 427. Bar to adjustment of status for serious human rights violators.
- Sec. 428. Bar to finding of good moral character for serious human rights violators.
- Sec. 429. Bar to cancellation of removal for serious human rights violators.

- Sec. 430. Bar to adjustment of status with respect to certain special immigrants.
- Sec. 431. Criminal penalties for reentry of removed serious human rights violators.
- Sec. 432. Aiding or assisting serious human rights violators to enter the United States.
- Sec. 433. Revision of regulations with respect to the involuntary return of persons in danger of subjection to torture.
- Sec. 434. Funding for detention and removal assistance provided by State and local law enforcement agencies.
- Sec. 435. Effective date.

## TITLE V—ENHANCING ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY ACT IN THE INTERIOR

### Subtitle A—Document Security

- Sec. 501. Secure travel documents.
- Sec. 502. Social security cards.
- Sec. 503. Consular identification documents.

### Subtitle B—Employment Eligibility Verification

- Sec. 511. Employment eligibility verification process and elimination of examination of documentation requirement.
- Sec. 512. Employment eligibility verification system.
- Sec. 513. Notification by Commissioner of failure to correct social security information.
- Sec. 514. Protection for individuals reporting immigration law violations.

### Subtitle C—Miscellaneous

- Sec. 521. Increased investigative personnel.
- Sec. 522. Expedited exclusion.
- Sec. 523. Adjustment of status for certain aliens.
- Sec. 524. Termination of continuous presence for purposes of cancellation of removal upon commission of offense rendering alien inadmissible or deportable.
- Sec. 525. Reentry of removed aliens.
- Sec. 526. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence, and misrepresentation or concealment of facts.
- Sec. 527. Communication between government agencies and the Department of Homeland Security.
- Sec. 528. Exception to removal for certain aliens.
- Sec. 529. Detention facilities.
- Sec. 530. Voluntary departure.
- Sec. 531. Cancellation of removal.
- Sec. 532. Expedited removal of criminal aliens.
- Sec. 533. Subject to jurisdiction defined.
- Sec. 534. Claims for services performed by unauthorized aliens.
- Sec. 535. Restrictions on warrantless entry.

## TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY AND ABUSIVE TACTICS BY ALIENS IN REMOVAL PROCEEDINGS

- Sec. 601. Frivolous applications.

- Sec. 602. Continuances; change of venue.
- Sec. 603. Burden of proof in asylum proceedings.
- Sec. 604. Review of convention against torture grants and denials.
- Sec. 605. Time limit for decisions in administrative appeals.
- Sec. 606. Review of asylum claims.
- Sec. 607. Judicial review.

#### TITLE VII—EMERGENCY IMMIGRATION WORKLOAD REDUCTION

- Sec. 701. Congressional finding.
- Sec. 702. Temporary suspension of visa waiver program.
- Sec. 703. Temporary suspension of adjustment of status applications.
- Sec. 704. Temporary suspension of renewals of temporary protected status.
- Sec. 705. Curtailment of visas for countries denying or delaying repatriation of nationals.
- Sec. 706. Waiver of suspensions.
- Sec. 707. Termination of temporary suspensions.
- Sec. 708. Effective date.

#### TITLE VIII—REFORMING LEGAL IMMIGRATION

##### Subtitle A—Promotion of Citizenship

- Sec. 801. Changes in naturalization requirements.
- Sec. 802. Oath of Renunciation and Allegiance.

##### Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

- Sec. 811. Treatment of nationals of State sponsors of terrorism.

##### Subtitle C—Legal Immigration Reform

- Sec. 821. Extended family preference categories.
- Sec. 822. Employment third preference category.
- Sec. 823. Elimination of diversity immigrant program.
- Sec. 824. Refugee admissions.
- Sec. 825. Aliens subject to direct numerical limitations.
- Sec. 826. Education of family-sponsored immigrants.
- Sec. 827. Sponsorship levels.
- Sec. 828. Repeal of section 245(i).

#### TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Temporary protected status.
- Sec. 902. Good moral character.
- Sec. 903. Removal for aliens who make misrepresentations to procure benefits.
- Sec. 904. Designations of foreign terrorist organizations.
- Sec. 905. Foreign students.
- Sec. 906. Pay grade GS–15 available for trial attorneys.
- Sec. 907. Proof of identity of aliens seeking relief.
- Sec. 908. Following to join defined.
- Sec. 909. Information on foreign crimes.

- 1 (d) SEVERABILITY.—If any provision of this Act, or
- 2 the application of such a provision to any person or cir-

1 cumstance, is held to be unconstitutional, the remainder  
2 of this Act, and the application of the provisions of this  
3 Act to any other person or circumstance, shall not be af-  
4 fected by such holding.

5 **SEC. 2. CONGRESSIONAL FINDINGS.**

6 The Congress finds as follows:

7 (1) Alien terrorists are not a distinct national  
8 security problem that is somehow separable from the  
9 interrelated problems of alien trafficking, alien crim-  
10 inality, and illegal immigration driven by economic  
11 factors.

12 (2) An effective counter-terrorism effort must  
13 assume that terrorists will take advantage of our  
14 permeable borders and the ability of illegal aliens to  
15 operate in the United States without any systematic  
16 effort to locate and remove them.

17 (3) The capability to routinely and reliably de-  
18 tect and locate non-citizens present in the United  
19 States, and accurately identify their immigration  
20 status, is the first essential line of defense against  
21 alien terrorist operations on United States territory.

22 (4) A comprehensive strategy of interior en-  
23 forcement that includes an automated work author-  
24 ization verification system, penalties for employers  
25 who knowingly hire illegal aliens, and prompt re-

1        moval of aliens found working without authorization  
2        is the only effective way to identify and control the  
3        large illegal alien population in the United States.

4            (5) Suppression of illegal immigration through  
5        effective alien registration and document security  
6        programs is the most practical and effective means  
7        to protect the civic freedoms treasured by U.S. citi-  
8        zens during periods of terrorist-related national se-  
9        curity threats.

10            **TITLE I—SECURING THE**  
11            **BORDER**  
12        **Subtitle A—Prevention and Pun-**  
13        **ishment of Criminal Smuggling,**  
14        **Transporting, and Harboring of**  
15        **Aliens**

16        **SEC. 101. INCREASED PERSONNEL FOR INVESTIGATING**  
17            **ALIEN SMUGGLING.**

18            (a) IN GENERAL.—The Secretary of Homeland Secu-  
19        rity, in each of the fiscal years 2004 through 2011, shall  
20        increase the number of positions for full-time, active-duty  
21        investigators or other enforcement personnel within the  
22        Department of Homeland Security who are assigned to  
23        combat alien smuggling by not less than 50 positions  
24        above the number of such positions for which funds were  
25        allotted for the preceding fiscal year.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—In addition to funds other-  
3 wise available for such purpose, there are authorized  
4 to be appropriated to the Department of Homeland  
5 Security such sums as may be necessary in each of  
6 the fiscal years 2004 through 2011 to carry out sub-  
7 section (a), and to cover the operating expenses of  
8 the department in conducting undercover investiga-  
9 tions of alien smuggling activities and in prosecuting  
10 violations of section 274(a)(1)(A) of the Immigra-  
11 tion and Nationality Act (8 U.S.C. 1324(a)(1)(A))  
12 (relating to alien smuggling), resulting from the in-  
13 crease in personnel under subsection (a).

14 (2) AVAILABILITY OF FUNDS.—Amounts appro-  
15 priated pursuant to paragraph (1) are authorized to  
16 remain available until expended.

17 (c) ALIEN SMUGGLING DEFINED.—In this section,  
18 the term “alien smuggling” means any act prohibited by  
19 section 274(a) of the Immigration and Nationality Act (8  
20 U.S.C. 1324(a)) or section 274A(a) of such Act (8 U.S.C.  
21 1324a(a)).

22 **SEC. 102. INCREASED CRIMINAL SENTENCES AND FINES**  
23 **FOR ALIEN SMUGGLING.**

24 (a) IN GENERAL.—Subject to subsection (b), pursu-  
25 ant to its authority under section 994(p) of title 28,



1 United States Code, the United States Sentencing Com-  
2 mission shall promulgate sentencing guidelines or amend  
3 existing sentencing guidelines for smuggling, transporting,  
4 harboring, or inducing aliens under sections 274(a)(1)(A)  
5 of the Immigration and Nationality Act (8 U.S.C.  
6 1324(a)(1)(A)) so as to—

7 (1) triple the minimum term of imprisonment  
8 under that section for offenses involving the smug-  
9 gling, transporting, harboring, or inducing of—

10 (A) 1 to 5 aliens from 10 months to 30  
11 months;

12 (B) 6 to 24 aliens from 18 months to 54  
13 months;

14 (C) 25 to 100 aliens from 27 months to 81  
15 months; and

16 (D) 101 aliens or more from 37 months to  
17 111 months;

18 (2) increase the minimum level of fines for each  
19 of the offenses described in subparagraphs (A)  
20 through (D) of paragraph (1) to the greater of  
21 \$25,000 per alien or 3 times the amount the defend-  
22 ant received or expected to receive as compensation  
23 for the illegal activity;

24 (3) increase by at least 2 offense levels above  
25 the applicable enhancement in effect on the date of

1 the enactment of this Act the sentencing enhance-  
2 ments for intentionally or recklessly creating a sub-  
3 stantial risk of serious bodily injury or causing bod-  
4 ily injury, serious injury, or permanent or life  
5 threatening injury;

6 (4) for actions causing death, increase the of-  
7 fense level to be equivalent to that for involuntary  
8 manslaughter under section 1112 of title 18, United  
9 States Code; and

10 (5) for corporations or other business entities  
11 that knowingly benefit from such offenses, increase  
12 the minimum level of fines for each of the offenses  
13 described in subparagraphs (A) through (D) of para-  
14 graph (1) to \$50,000 per alien employed directly, or  
15 indirectly through contract, by the corporation or  
16 entity.

17 (b) EXCEPTION.—Subsection (a) shall not apply to  
18 an offense that involved the smuggling, transporting, or  
19 harboring only of the defendant’s spouse or child (or both  
20 the defendant’s spouse and child).

21 (c) DEADLINE.—The United States Sentencing Com-  
22 mission shall carry out subsection (a) not later than the  
23 date that is 6 months after the date of the enactment of  
24 this Act.

1 **SEC. 103. CHANGE TO SENTENCING GUIDELINES.**

2 In the exercise of its authority under section 994 of  
3 title 28, United States Code, the United States Sentencing  
4 Commission shall amend the Federal sentencing guidelines  
5 to provide that plea bargaining and other prosecutorial  
6 policies, and differences in those policies among different  
7 districts, are not a ground for imposing a sentence outside  
8 the applicable guidelines range for a violation of immigra-  
9 tion law.

10 **SEC. 104. ENHANCED PENALTIES FOR PERSONS COMMIT-**  
11 **TING OFFENSES WHILE ARMED.**

12 (a) IN GENERAL.—Section 924(c)(1) of title 18,  
13 United States Code, is amended—

14 (1) in subparagraph (A)—

15 (A) by inserting after “device)” the fol-  
16 lowing: “or any violation of section  
17 274(a)(1)(A) of the Immigration and Nation-  
18 ality Act”; and

19 (B) by striking “or drug trafficking  
20 crime—” and inserting “, drug trafficking  
21 crime, or violation of section 274(a)(1)(A) of  
22 the Immigration and Nationality Act—”; and

23 (2) in subparagraph (D)(ii), by striking “or  
24 drug trafficking crime” and inserting “, drug traf-  
25 ficking crime, or violation of section 274(a)(1)(A) of  
26 the Immigration and Nationality Act”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 subsection (a) shall take effect on the date of the enact-  
 3 ment of this Act, and shall apply to offenses committed  
 4 after such date.

5 **SEC. 105. DISCONTINUING GRANT OF VISAS TO NATIONALS**  
 6 **OF COUNTRIES NOT COOPERATING IN COM-**  
 7 **BATting ALIEN SMUGGLING.**

8 If the Secretary of Homeland Security determines  
 9 that the government of a foreign country has not cooper-  
 10 ated fully with the United States, or has not taken ade-  
 11 quate steps on its own, to combat the smuggling of aliens  
 12 into the United States from territory controlled by the  
 13 state, the Secretary shall order consular officers in the  
 14 country to discontinue granting immigrant or non-  
 15 immigrant visas, or both, to citizens, subjects, nationals,  
 16 and residents of the country until the Secretary deter-  
 17 mines that the country has begun to cooperate fully, or  
 18 has taken adequate steps, to combat such smuggling.

19 **Subtitle B—Border Personnel and**  
 20 **Strategy**

21 **SEC. 111. INCREASE IN FULL-TIME BORDER PATROL**  
 22 **AGENTS.**

23 The Secretary of Homeland Security, in each of fiscal  
 24 years 2004 through 2011, shall increase by not less than  
 25 1,000 the number of positions for full-time active-duty

1 border patrol agents within the Department of Homeland  
2 Security above the number of positions for which funds  
3 were allotted for the preceding fiscal year.

4 **SEC. 112. REPORT ON NUMBER OF BORDER PATROL**  
5 **AGENTS NEEDED TO SECURE NORTHERN**  
6 **BORDER.**

7 (a) REPORT.—Not later than 1 year after the date  
8 of the enactment of this Act, the Comptroller General of  
9 the United States shall submit a report to the Committees  
10 on the Judiciary of the House of Representatives and the  
11 Senate on the number of border patrol agents needed to  
12 secure the northern border of the United States.

13 (b) COOPERATION.—The Attorney General, the Sec-  
14 retary of State, the Secretary of Defense, and the Sec-  
15 retary of Homeland Security shall cooperate with the  
16 Comptroller General of the United States in carrying out  
17 this section.

18 **SEC. 113. USE OF ARMY AND AIR FORCE TO SECURE THE**  
19 **BORDER.**

20 Section 1385 of title 18, United States Code, is  
21 amended by inserting after “execute the laws” the fol-  
22 lowing: “other than at or near a border of the United  
23 States in order to prevent aliens, terrorists, and drug  
24 smugglers from entering the United States”.

1 **SEC. 114. USE OF BORDER PROPERTY TO SECURE THE BOR-**  
2 **DER.**

3 Section 102(c) of the Illegal Immigration Reform and  
4 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103  
5 note) is amended by striking “this section.” and inserting  
6 “this section and to secure the borders of the United  
7 States against aliens, terrorists, and drug smugglers.”.

8 **SEC. 115. REPORT ON BORDER STRATEGY.**

9 (a) EVALUATION OF STRATEGY.—The Comptroller  
10 General of the United States shall track, monitor, and  
11 evaluate the Secretary of Homeland Security’s strategy to  
12 deter illegal entry in the United States to determine the  
13 efficacy of such strategy.

14 (b) COOPERATION.—The Attorney General, the Sec-  
15 retary of State, the Secretary of Defense, and the Sec-  
16 retary of Homeland Security shall cooperate with the  
17 Comptroller General of the United States in carrying out  
18 subsection (a).

19 (c) REPORT.—Not later than one year after the date  
20 of the enactment of this Act, and every year thereafter  
21 for the succeeding 5 years, the Comptroller General of the  
22 United States shall submit a report to the Committees on  
23 the Judiciary of the House of Representatives and of the  
24 Senate on the results of the activities undertaken under  
25 subsection (a) during the previous year. Each such report  
26 shall include an analysis of the degree to which the Sec-

1 retary of Homeland Security’s strategy has been effective  
 2 in reducing illegal entry. Each such report shall include  
 3 a collection and systematic analysis of data, including  
 4 workload indicators, related to activities to deter illegal  
 5 entry and recommendations to improve and increase bor-  
 6 der security at the border and ports of entry.

## 7 **TITLE II—SCREENING ALIENS** 8 **SEEKING ADMISSION**

### 9 **SEC. 201. INCREASE IN FULL-TIME INSPECTORS.**

10 (a) IN GENERAL.—The Secretary of Homeland Secu-  
 11 rity, in each of fiscal years 2004 through 2011, shall in-  
 12 crease by not less than 250 the number of positions for  
 13 full-time inspectors within the Department of Homeland  
 14 Security above the number of positions for which funds  
 15 were allotted for the preceding fiscal year.

16 (b) REPEAL.—Section 101(a)(1) of the Enhanced  
 17 Border Security and Visa Entry Reform Act of 2002  
 18 (Public Law 107–173) is repealed.

### 19 **SEC. 202. VISA WAIVER PROGRAM.**

20 (a) PASSPORT REQUIREMENTS.—Section 217(a)(3)  
 21 (8 U.S.C. 1187(a)(3)) is amended to read as follows:

22 “(3) MACHINE-READABLE, TAMPER-RESISTANT  
 23 PASSPORT WITH BIOMETRIC IDENTIFIERS.—On and  
 24 after October 1, 2005, the alien at the time of appli-

1 cation for admission is in possession of a valid unex-  
2 pired machine-readable passport that—

3 “(A) satisfies the internationally accepted  
4 standard for machine readability;

5 “(B) is tamper-resistant; and

6 “(C) incorporates biometric and document  
7 authentication identifiers that comply with ap-  
8 plicable biometric and document identifying  
9 standards established by the International Civil  
10 Aviation Organization.”.

11 (b) REPEAL.—Section 303(c) of the Enhanced Bor-  
12 der Security and Visa Entry Reform Act of 2002 (Public  
13 Law 107–173) is repealed.

14 (c) EFFECTIVE DATE.—The amendments made by  
15 this section shall take effect on October 1, 2005.

16 **SEC. 203. CONSULAR OFFICER INTERVIEWS OF ALL VISA**  
17 **APPLICANTS.**

18 (a) IN GENERAL.—Section 221 (8 U.S.C. 1201) is  
19 amended by adding at the end the following:

20 “(j) Prior to the issuance of an immigrant or non-  
21 immigrant visa to any alien, the consular officer shall re-  
22 quire such alien to submit to an in-person interview in ac-  
23 cordance with such regulations as may be prescribed.”.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
25 are authorized to be appropriated to carry out the amend-



1 ment made by subsection (a) such sums as may be nec-  
2 essary for fiscal years 2004 through 2011.

3 (c) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall apply to visas issued after October 1,  
5 2003.

6 **SEC. 204. RECODIFICATION AND REFORM OF GROUNDS OF**  
7 **INADMISSIBILITY.**

8 (a) TRANSFER AND REDESIGNATION.—Section 212  
9 (8 U.S.C. 1182) is amended—

10 (1) by transferring subsection (e) to the end of  
11 section 222 (8 U.S.C. 1202) and redesignating it as  
12 subsection (h);

13 (2) by transferring subsections (j), (m), (n),  
14 and (q) to the end of section 214 (8 U.S.C. 1202)  
15 and redesignating them as subsections (s), (t), (u),  
16 and (v), respectively; and

17 (3) by amending the remainder of such section  
18 to read as follows:

19 “GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE  
20 VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF  
21 INADMISSIBILITY

22 “SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR  
23 VISAS OR ADMISSION.—Except as otherwise provided in  
24 this Act, aliens who are inadmissible under the following  
25 paragraphs are ineligible to receive visas and ineligible to  
26 be admitted to the United States:

1 “(1) HEALTH-RELATED GROUNDS.—

2 “(A) IN GENERAL.—Any alien—

3 “(i) who is determined (in accordance  
4 with regulations prescribed by the Sec-  
5 retary of Health and Human Services) to  
6 have a communicable disease of public  
7 health significance, which shall include in-  
8 fection with the etiologic agent for ac-  
9 quired immune deficiency syndrome;

10 “(ii) except as provided in subpara-  
11 graph (C), who seeks admission as an im-  
12 migrant, or who seeks adjustment of status  
13 to the status of an alien lawfully admitted  
14 for permanent residence, and who has  
15 failed to present documentation of having  
16 received vaccination against vaccine-pre-  
17 ventable diseases, which shall include at  
18 least the following diseases: mumps, mea-  
19 sles, rubella, polio, tetanus and diphtheria  
20 toxoids, pertussis, influenza type B and  
21 hepatitis B, and any other vaccinations  
22 against vaccine-preventable diseases rec-  
23 ommended by the Advisory Committee for  
24 Immunization Practices;

1 “(iii) who is determined (in accord-  
2 ance with regulations prescribed by the  
3 Secretary of Health and Human Services  
4 in consultation with the Secretary of  
5 Homeland Security)—

6 “(I) to have a physical or mental  
7 disorder and behavior associated with  
8 the disorder that may pose, or has  
9 posed, a threat to the property, safety,  
10 or welfare of the alien or others; or

11 “(II) to have had a physical or  
12 mental disorder and a history of be-  
13 havior associated with the disorder,  
14 which behavior has posed a threat to  
15 the property, safety, or welfare of the  
16 alien or others and which behavior is  
17 likely to recur or to lead to other  
18 harmful behavior; or

19 “(iv) who is determined (in accord-  
20 ance with regulations prescribed by the  
21 Secretary of Health and Human Services)  
22 to be a drug abuser or addict,  
23 is inadmissible.

1           “(B) WAIVER AUTHORIZED.—For provi-  
2           sion authorizing waiver of certain clauses of  
3           subparagraph (A), see subsection (e).

4           “(C) EXCEPTION FROM IMMUNIZATION RE-  
5           QUIREMENT FOR ADOPTED CHILDREN 10 YEARS  
6           OF AGE OR YOUNGER.—Clause (ii) of subpara-  
7           graph (A) shall not apply to a child who—

8                   “(i) is 10 years of age or younger;

9                   “(ii) is described in section  
10                  101(b)(1)(F); and

11                  “(iii) is seeking an immigrant visa as  
12                  an immediate relative under section  
13                  201(b),

14           if, prior to the admission of the child, an adop-  
15           tive parent or prospective adoptive parent of the  
16           child, who has sponsored the child for admis-  
17           sion as an immediate relative, has executed an  
18           affidavit stating that the parent is aware of the  
19           provisions of subparagraph (A)(ii) and will en-  
20           sure that, within 30 days of the child’s admis-  
21           sion, or at the earliest time that is medically  
22           appropriate, the child will receive the vaccina-  
23           tions identified in such subparagraph.

24           “(2) CRIMINAL AND RELATED GROUNDS.—

25                  “(A) CONVICTION OF CERTAIN CRIMES.—

1 “(i) IN GENERAL.—Except as pro-  
2 vided in clause (ii), any alien convicted of,  
3 or who admits having committed, or who  
4 admits committing acts which constitute  
5 the essential elements of—

6 “(I) a crime involving moral tur-  
7 pitude (other than a purely political  
8 offense) or an attempt or conspiracy  
9 to commit such a crime; or

10 “(II) a violation of (or a con-  
11 spiracy or attempt to violate) any law  
12 or regulation of a State, the United  
13 States, or a foreign country relating  
14 to a controlled substance (as defined  
15 in section 102 of the Controlled Sub-  
16 stances Act (21 U.S.C. 802)),  
17 is inadmissible.

18 “(ii) EXCEPTION.—Clause (i)(I) shall  
19 not apply to an alien who committed only  
20 one crime if—

21 “(I) the crime was committed  
22 when the alien was under 18 years of  
23 age, and the crime was committed  
24 (and the alien released from any con-  
25 finement to a prison or correctional

1 institution imposed for the crime)  
2 more than 5 years before the date of  
3 application for a visa or other docu-  
4 mentation and the date of application  
5 for admission to the United States; or

6 “(II) the maximum penalty pos-  
7 sible for the crime of which the alien  
8 was convicted (or which the alien ad-  
9 mits having committed or of which the  
10 acts that the alien admits having com-  
11 mitted constituted the essential ele-  
12 ments) did not exceed imprisonment  
13 for one year and, if the alien was con-  
14 victed of such crime, the alien was not  
15 sentenced to a term of imprisonment  
16 in excess of 6 months (regardless of  
17 the extent to which the sentence was  
18 ultimately executed).

19 “(B) MULTIPLE CRIMINAL CONVIC-  
20 TIONS.—Any alien convicted of 2 or more of-  
21 fenses (other than purely political offenses), re-  
22 gardless of whether the conviction was in a sin-  
23 gle trial or whether the offenses arose from a  
24 single scheme of misconduct and regardless of  
25 whether the offenses involved moral turpitude,

1           for which the aggregate sentences to confine-  
2           ment were 5 years or more is inadmissible.

3                   “(C) CONTROLLED SUBSTANCE TRAF-  
4           FICKERS.—Any alien who the consular officer  
5           or the Secretary of Homeland Security knows  
6           or has reason to believe—

7                   “(i) is or has been an illicit trafficker  
8           in any controlled substance or in any listed  
9           chemical (as defined in section 102 of the  
10          Controlled Substances Act (21 U.S.C.  
11          802)), or is or has been a knowing aider,  
12          abettor, assistant, conspirator, or colluder  
13          with others in the illicit trafficking in any  
14          such controlled or listed substance or  
15          chemical, or endeavored to do so; or

16                   “(ii) is the spouse, son, or daughter of  
17          an alien inadmissible under clause (i), has,  
18          within the previous 5 years, obtained any  
19          financial or other benefit from the illicit  
20          activity of that alien, and knew or reason-  
21          ably should have known that the financial  
22          or other benefit was the product of such il-  
23          licit activity,

24          is inadmissible.

1                   “(D)   PROSTITUTION    AND    COMMER-  
2                   CIALIZED VICE.—Any alien who—

3                   “(i) is coming to the United States  
4                   solely, principally, or incidentally to engage  
5                   in prostitution, or has engaged in prostitu-  
6                   tion within 10 years of the date of applica-  
7                   tion for a visa, admission, or adjustment of  
8                   status;

9                   “(ii) directly or indirectly procures or  
10                  attempts to procure, or (within 10 years of  
11                  the date of application for a visa, entry, or  
12                  adjustment of status) procured or at-  
13                  tempted to procure or to import, pros-  
14                  titutes or persons for the purpose of pros-  
15                  titution, or receives or (within such 10-  
16                  year period) received, in whole or in part,  
17                  the proceeds of prostitution; or

18                  “(iii) is coming to the United States  
19                  to engage in any other unlawful commer-  
20                  cialized vice, whether or not related to  
21                  prostitution,

22                  is inadmissible.

23                  “(E) CERTAIN ALIENS INVOLVED IN SERI-  
24                  OUS CRIMINAL ACTIVITY WHO HAVE ASSERTED  
25                  IMMUNITY FROM PROSECUTION.—Any alien—



1 “(i) who has committed in the United  
2 States at any time a serious criminal of-  
3 fense (as defined in section 101(h));

4 “(ii) for whom immunity from crimi-  
5 nal jurisdiction was exercised with respect  
6 to that offense;

7 “(iii) who as a consequence of the of-  
8 fense and exercise of immunity has de-  
9 parted from the United States; and

10 “(iv) who has not subsequently sub-  
11 mitted fully to the jurisdiction of the court  
12 in the United States having jurisdiction  
13 with respect to that offense,

14 is inadmissible.

15 “(F) WAIVER AUTHORIZED.—For provi-  
16 sion authorizing waiver of certain subpara-  
17 graphs of this paragraph, see subsection (f).

18 “(G) SERIOUS HUMAN RIGHTS ABUSERS.—  
19 Any serious human rights violator is inadmis-  
20 sible as defined in section 101(a) (8 U.S.C.  
21 1101(a)) as amended.

22 “(H) SIGNIFICANT TRAFFICKERS IN PER-  
23 SONS.—

24 “(i) IN GENERAL.—Any alien who is  
25 listed in a report submitted pursuant to

1 section 111(b) of the Trafficking Victims  
2 Protection Act of 2000, or who the con-  
3 sular officer or the Secretary of Homeland  
4 Security knows or has reason to believe is  
5 or has been a knowing aider, abettor, as-  
6 sistant, conspirator, or colluder with such  
7 a trafficker in severe forms of trafficking  
8 in persons, as defined in section 103 of  
9 such Act, is inadmissible.

10 “(ii) BENEFICIARIES OF TRAF-  
11 FICKING.—Except as provided in clause  
12 (iii), any alien who the consular officer or  
13 the Secretary of Homeland Security knows  
14 or has reason to believe is the spouse, son,  
15 or daughter of an alien inadmissible under  
16 clause (i), has, within the previous 5 years,  
17 obtained any financial or other benefit  
18 from the illicit activity of that alien, and  
19 knew or reasonably should have known  
20 that the financial or other benefit was the  
21 product of such illicit activity, is inadmis-  
22 sible.

23 “(iii) EXCEPTION FOR CERTAIN SONS  
24 AND DAUGHTERS.—Clause (ii) shall not  
25 apply to a son or daughter who was a child

1 at the time he or she received the benefit  
2 described in such clause.

3 “(I) MONEY LAUNDERING.—Any alien—

4 “(i) who a consular officer, the Attor-  
5 ney General, or the Secretary of Homeland  
6 Security knows, or has reason to believe,  
7 has engaged, is engaging, or seeks to enter  
8 the United States to engage, in an offense  
9 which is described in section 1956 or 1957  
10 of title 18, United States Code (relating to  
11 laundering of monetary instruments); or

12 “(ii) who a consular officer, the Attor-  
13 ney General, or the Secretary of Homeland  
14 Security knows is, or has been, a knowing  
15 aider, abettor, assistant, conspirator, or  
16 colluder with others in an offense which is  
17 described in such section,

18 is inadmissible.

19 “(J) AGGRAVATED FELONY.—

20 “(i) IN GENERAL.—Any alien con-  
21 victed of an aggravated felony is inadmis-  
22 sible.

23 “(ii) WAIVER AUTHORIZED.—Clause  
24 (i) shall not apply in the case of an alien  
25 with respect to a criminal conviction if the

1 alien subsequent to the criminal conviction  
2 has been granted a full and unconditional  
3 pardon by the President of the United  
4 States or by the Governor of any State.

5 “(K) CERTAIN FIREARM OFFENSES.—Any  
6 alien who is convicted under any law of pur-  
7 chasing, selling, offering for sale, exchanging,  
8 using, owning, possessing, or carrying, or of at-  
9 tempting or conspiring to purchase, sell, offer  
10 for sale, exchange, use, own, possess, or carry,  
11 any weapon, part, or accessory which is a fire-  
12 arm or destructive device (as defined in section  
13 921(a) of title 18, United States Code) in viola-  
14 tion of any law is inadmissible.

15 “(3) SECURITY AND RELATED GROUNDS.—

16 “(A) IN GENERAL.—Any alien who a con-  
17 sular officer, the Attorney General, or the Sec-  
18 retary of Homeland Security knows, or has rea-  
19 sonable ground to believe, seeks to enter the  
20 United States to engage solely, principally, or  
21 incidentally in—

22 “(i) any activity—

23 “(I) to violate any law of the  
24 United States relating to espionage or  
25 sabotage; or

1 “(II) to violate or evade any law  
2 prohibiting the export from the  
3 United States of goods, technology, or  
4 sensitive information;

5 “(ii) any other unlawful activity, in-  
6 cluding participation in a criminal enter-  
7 prise, conspiracy, or scheme; or

8 “(iii) any activity a purpose of which  
9 is the opposition to, or the control or over-  
10 throw of, the Government of the United  
11 States by force, violence, or other unlawful  
12 means,

13 is inadmissible.

14 “(B) TERRORIST ACTIVITIES.—

15 “(i) IN GENERAL.—Any alien who—

16 “(I) has engaged in a terrorist  
17 activity;

18 “(II) a consular officer, the At-  
19 torney General, or the Secretary of  
20 Homeland Security knows, or has rea-  
21 sonable ground to believe, is engaged  
22 in or is likely to engage after entry in  
23 any terrorist activity (as defined in  
24 clause (iv));

1 “(III) has, under circumstances  
2 indicating an intention to cause death  
3 or serious bodily harm, incited ter-  
4 rorist activity;

5 “(IV) is a representative (as de-  
6 fined in clause (v)) of—

7 “(aa) a terrorist organiza-  
8 tion; or

9 “(bb) a political, social, or  
10 other group that endorses or es-  
11 pouses terrorist activity;

12 “(V) is a member of a terrorist  
13 organization;

14 “(VI) endorses or espouses ter-  
15 rorist activity or persuades others to  
16 endorse or espouse terrorist activity or  
17 support a terrorist organization;

18 “(VII) had information about an  
19 activity that the alien knew, or should  
20 have known, was a terrorist activity  
21 (before or after such activity occurred  
22 or while it was ongoing), knew, or  
23 should have known, that such infor-  
24 mation was not public information,

1 and failed to report such information  
2 to a governmental authority; or

3 “(VIII) is the spouse or child of  
4 an alien who is inadmissible under  
5 this subparagraph, if the activity  
6 causing the alien to be found inadmis-  
7 sible occurred within the last 5 years,  
8 is inadmissible. An alien who is an officer,  
9 official, representative, or spokesman of  
10 the Palestine Liberation Organization is  
11 considered, for purposes of this Act, to be  
12 engaged in a terrorist activity.

13 “(ii) EXCEPTION.—Subclause (VII) of  
14 clause (i) does not apply to a spouse or  
15 child—

16 “(I) who did not know or should  
17 not reasonably have known of the ac-  
18 tivity causing the alien to be found in-  
19 admissible under this subparagraph;  
20 or

21 “(II) whom the consular officer,  
22 the Attorney General, or the Secretary  
23 of Homeland Security has reasonable  
24 grounds to believe has renounced the

1 activity causing the alien to be found  
2 inadmissible under this subparagraph.

3 “(iii) **TERRORIST ACTIVITY DE-**  
4 **FINED.**—As used in this subparagraph, the  
5 term ‘terrorist activity’ means any activity  
6 which is unlawful under the laws of the  
7 place where it is committed (or which, if it  
8 had been or were to be committed in the  
9 United States, would be unlawful under  
10 the laws of the United States or any State)  
11 and which involves any of the following:

12 “(I) The hijacking or sabotage of  
13 any conveyance (including an aircraft,  
14 vessel, or vehicle).

15 “(II) The seizing or detaining,  
16 and threatening to kill, injure, or con-  
17 tinue to detain, another individual in  
18 order to compel a third person (in-  
19 cluding a governmental organization)  
20 to do or abstain from doing any act as  
21 an explicit or implicit condition for  
22 the release of the individual seized or  
23 detained.

24 “(III) A violent attack upon an  
25 internationally protected person (as



1 defined in section 1116(b)(4) of title  
2 18, United States Code) or upon the  
3 liberty of such a person.

4 “(IV) An assassination.

5 “(V) The use of any—

6 “(aa) biological agent, chem-  
7 ical agent, or nuclear weapon or  
8 device; or

9 “(bb) explosive, firearm, or  
10 other weapon or dangerous device  
11 (other than for mere personal  
12 monetary gain),

13 with intent to endanger, directly or in-  
14 directly, the safety of one or more in-  
15 dividuals or to cause substantial dam-  
16 age to property.

17 “(VI) A threat, attempt, or con-  
18 spiracy to do any of the foregoing.

19 “(iv) ENGAGE IN TERRORIST ACTIVITY  
20 DEFINED.—As used in this subparagraph,  
21 the term ‘engage in terrorist activity’  
22 means, in an individual capacity or as a  
23 member of an organization—

24 “(I) to commit or to incite to  
25 commit, under circumstances indi-

1 cating an intention to cause death or  
2 serious bodily injury, a terrorist activ-  
3 ity;

4 “(II) to prepare or plan a ter-  
5 rorist activity;

6 “(III) to gather information on  
7 potential targets for terrorist activity;

8 “(IV) to solicit funds or other  
9 things of value for—

10 “(aa) a terrorist activity;

11 “(bb) a terrorist organiza-  
12 tion described in clause (vi)(I) or  
13 (vi)(II); or

14 “(cc) a terrorist organiza-  
15 tion described in clause (vi)(III),  
16 unless the solicitor can dem-  
17 onstrate by clear and convincing  
18 evidence that he did not know,  
19 and should not reasonably have  
20 known, that the organization was  
21 a terrorist organization;

22 “(V) to solicit any individual—

23 “(aa) to engage in conduct  
24 otherwise described in this  
25 clause;

1                   “(bb) for membership in a  
2                   terrorist organization described  
3                   in clause (vi)(I) or (vi)(II); or

4                   “(cc) for membership in a  
5                   terrorist organization described  
6                   in clause (vi)(III), unless the so-  
7                   licitor can demonstrate by clear  
8                   and convincing evidence that he  
9                   did not know, and should not  
10                  reasonably have known, that the  
11                  organization was a terrorist orga-  
12                  nization; or

13                  “(VI) to commit an act that the  
14                  actor knows, or reasonably should  
15                  know, affords material support, in-  
16                  cluding a safe house, transportation,  
17                  communications, funds, transfer of  
18                  funds or other material financial ben-  
19                  efit, false documentation or identifica-  
20                  tion, weapons (including chemical, bi-  
21                  ological, or radiological weapons), ex-  
22                  plosives, or training—

23                  “(aa) for the commission of  
24                  a terrorist activity;

1                   “(bb) to any individual who  
2                   the actor knows, or reasonably  
3                   should know, has committed or  
4                   plans to commit a terrorist activ-  
5                   ity; or

6                   “(cc) to a terrorist organiza-  
7                   tion described in subclauses (I)  
8                   through (III) of clause (vi).

9                   “(v) REPRESENTATIVE DEFINED.—As  
10                  used in this subparagraph, the term ‘rep-  
11                  resentative’ includes an officer, official, or  
12                  spokesman of an organization, and any  
13                  person who directs, counsels, commands,  
14                  or induces an organization or its members  
15                  to engage in terrorist activity.

16                  “(vi) TERRORIST ORGANIZATION DE-  
17                  FINED.—As used in this section, the term  
18                  ‘terrorist organization’ means an organiza-  
19                  tion—

20                         “(I) designated under section  
21                         219;

22                         “(II) otherwise designated, upon  
23                         publication in the Federal Register, by  
24                         the Secretary of State in consultation  
25                         with or upon the request of the Attor-

1           ney General or the Secretary of  
2           Homeland Security, as a terrorist or-  
3           ganization, after finding that the or-  
4           ganization engages in the activities  
5           described in subclauses (I) through  
6           (VI) of clause (iv), or that the organi-  
7           zation provides material support to  
8           further terrorist activity; or

9                   “(III) that is a group of two or  
10           more individuals, whether organized  
11           or not, which engages in, or has a  
12           subgroup which engages in, the activi-  
13           ties described in subclauses (I)  
14           through (VI) of clause (iv).

15                   “(C) FOREIGN POLICY.—An alien whose  
16           entry or proposed activities in the United States  
17           the Secretary of State has reasonable ground to  
18           believe would have potentially serious adverse  
19           foreign policy consequences for the United  
20           States is inadmissible.

21                   “(D) IMMIGRANT MEMBERSHIP IN TOTALI-  
22           TARIAN PARTY.—

23                   “(i) IN GENERAL.—Any immigrant  
24           who is or has been a member of or affili-  
25           ated with the Communist or any other to-

1           talitarian party (or subdivision or affiliate  
2           thereof), domestic or foreign, is inadmis-  
3           sible.

4           “(ii) EXCEPTION FOR INVOLUNTARY  
5           MEMBERSHIP.—Clause (i) shall not apply  
6           to an alien because of membership or affili-  
7           ation if the alien establishes to the satis-  
8           faction of the consular officer when apply-  
9           ing for a visa (or to the satisfaction of the  
10          Secretary of Homeland Security when ap-  
11          plying for admission) that the membership  
12          or affiliation is or was involuntary, or is or  
13          was solely when under 16 years of age, by  
14          operation of law, or for purposes of obtain-  
15          ing employment, food rations, or other es-  
16          sentials of living and necessary for such  
17          purposes.

18          “(iii) EXCEPTION FOR PAST MEMBER-  
19          SHIP.—Clause (i) shall not apply to an  
20          alien because of membership or affiliation  
21          if the alien establishes to the satisfaction  
22          of the consular officer when applying for a  
23          visa (or to the satisfaction of the Secretary  
24          of Homeland Security when applying for  
25          admission) that—

1 “(I) the membership or affiliation  
2 terminated at least—

3 “(aa) 2 years before the  
4 date of such application; or

5 “(bb) 5 years before the  
6 date of such application, in the  
7 case of an alien whose member-  
8 ship or affiliation was with the  
9 party controlling the government  
10 of a foreign state that is a totali-  
11 tarian dictatorship as of such  
12 date; and

13 “(II) the alien is not a threat to  
14 the security of the United States.

15 “(E) PARTICIPANTS IN NAZI PERSECU-  
16 TIONS.—Any alien who, during the period be-  
17 ginning on March 23, 1933, and ending on May  
18 8, 1945, under the direction of, or in associa-  
19 tion with—

20 “(i) the Nazi government of Germany;

21 “(ii) any government in any area oc-  
22 cupied by the military forces of the Nazi  
23 government of Germany;

1                   “(iii) any government established with  
2                   the assistance or cooperation of the Nazi  
3                   government of Germany; or

4                   “(iv) any government which was an  
5                   ally of the Nazi government of Germany,  
6                   ordered, incited, assisted, or otherwise partici-  
7                   pated in the persecution of any person because  
8                   of race, religion, national origin, or political  
9                   opinion, is inadmissible.

10                  “(F) ASSOCIATION WITH TERRORIST ORGA-  
11                  NIZATIONS.—Any alien who the Secretary of  
12                  Homeland Security or the Attorney General de-  
13                  termines has been associated with a terrorist  
14                  organization and intends while in the United  
15                  States to engage solely, principally, or inciden-  
16                  tally in activities that could endanger the wel-  
17                  fare, safety, or security of the United States is  
18                  inadmissible.

19                  “(G) NATIONAL SECURITY CON-  
20                  SEQUENCES.—An alien whose entry or proposed  
21                  activities in the United States the Attorney  
22                  General or the Secretary of Homeland Security  
23                  has reasonable grounds to believe would have  
24                  potentially serious adverse consequences for the



1 national security of the United States is inad-  
2 missible.

3 “(H) SERIOUS FOREIGN CRIMES.—An  
4 alien whom the Secretary of Homeland Security  
5 or the Attorney General has reason to believe is  
6 charged with or has committed a serious crimi-  
7 nal offense (other than a purely political of-  
8 fense) in a country other than the United  
9 States is inadmissible.

10 “(4) PUBLIC CHARGE.—

11 “(A) IN GENERAL.—Any alien who, in the  
12 opinion of the consular officer or the Secretary  
13 of Homeland Security at the time of application  
14 for a visa, or in the opinion of the Secretary of  
15 Homeland Security at the time of application  
16 for admission or adjustment of status, is likely  
17 at any time to become a public charge is inad-  
18 missible.

19 “(B) FACTORS TO BE TAKEN INTO AC-  
20 COUNT.—

21 “(i) IN GENERAL.—In determining  
22 whether an alien is inadmissible under this  
23 paragraph, the consular officer or the Sec-  
24 retary of Homeland Security shall at a  
25 minimum consider the alien’s—

1 “(I) age;

2 “(II) health;

3 “(III) family status;

4 “(IV) assets, resources, and fi-  
5 nancial status; and

6 “(V) education and skills.

7 “(ii) AFFIDAVIT OF SUPPORT.—In ad-  
8 dition to the factors under clause (i), the  
9 consular officer or the Secretary of Home-  
10 land Security may also consider any affi-  
11 davit of support under section 213A for  
12 purposes of exclusion under this para-  
13 graph.

14 “(C) FAMILY-SPONSORED IMMIGRANTS.—  
15 Any alien who seeks admission or adjustment of  
16 status under a visa number issued under sec-  
17 tion 201(b)(2) or 203(a) is inadmissible under  
18 this paragraph unless—

19 “(i) the alien has obtained—

20 “(I) status as a spouse or a child  
21 of a United States citizen pursuant to  
22 clause (ii), (iii), or (iv) of section  
23 204(a)(1)(A); or

1 “(II) classification pursuant to  
2 clause (ii) or (iii) of section  
3 204(a)(1)(B); or

4 “(ii) the person petitioning for the  
5 alien’s admission (including any additional  
6 sponsor required under section 213A(f))  
7 has executed an affidavit of support de-  
8 scribed in section 213A with respect to  
9 such alien.

10 “(D) CERTAIN EMPLOYMENT-BASED IMMI-  
11 GRANTS.—Any alien who seeks admission or ad-  
12 justment of status under a visa number issued  
13 under section 203(b) by virtue of a classifica-  
14 tion petition filed by a relative of the alien (or  
15 by an entity in which such relative has a signifi-  
16 cant ownership interest) is inadmissible under  
17 this paragraph unless such relative has exe-  
18 cuted an affidavit of support described in sec-  
19 tion 213A with respect to such alien.

20 “(5) LABOR CERTIFICATION AND QUALIFICA-  
21 TIONS FOR CERTAIN IMMIGRANTS.—

22 “(A) LABOR CERTIFICATION.—

23 “(i) IN GENERAL.—Any alien who  
24 seeks to enter the United States for the  
25 purpose of performing skilled or unskilled

1 labor is inadmissible, unless the Secretary  
2 of Labor has determined and certified to  
3 the Secretary of State and the Secretary of  
4 Homeland Security that—

5 “(I) there are not sufficient  
6 workers who are able, willing, quali-  
7 fied (or equally qualified in the case of  
8 an alien described in clause (ii)) and  
9 available at the time of application for  
10 a visa and admission to the United  
11 States and at the place where the  
12 alien is to perform such skilled or un-  
13 skilled labor; and

14 “(II) the employment of such  
15 alien will not adversely affect the  
16 wages and working conditions of  
17 workers in the United States similarly  
18 employed, nor displace a United  
19 States citizen currently employed by  
20 the entity requesting labor certifi-  
21 cation.

22 “(ii) CERTAIN ALIENS SUBJECT TO  
23 SPECIAL RULE.—For purposes of clause  
24 (i)(I), an alien described in this clause is  
25 an alien who—

1 “(I) is a member of the teaching  
2 profession; or

3 “(II) has exceptional ability in  
4 the sciences or the arts.

5 “(iii) PROFESSIONAL ATHLETES.—

6 “(I) IN GENERAL.—A certifi-  
7 cation made under clause (i) with re-  
8 spect to a professional athlete shall  
9 remain valid with respect to the ath-  
10 lete after the athlete changes em-  
11 ployer, if the new employer is a team  
12 in the same sport as the team which  
13 employed the athlete when the athlete  
14 first applied for the certification.

15 “(II) DEFINITION.—For pur-  
16 poses of subclause (I), the term ‘pro-  
17 fessional athlete’ means an individual  
18 who is employed as an athlete by—

19 “(aa) a team that is a mem-  
20 ber of an association of 6 or  
21 more professional sports teams  
22 whose total combined revenues  
23 exceed \$10,000,000 per year, if  
24 the association governs the con-  
25 duct of its members and regu-

1                   lates the contests and exhibitions  
2                   in which its member teams regu-  
3                   larly engage; or

4                   “(bb) any minor league  
5                   team that is affiliated with such  
6                   an association.

7                   “(B) UNQUALIFIED PHYSICIANS.—An  
8                   alien who is a graduate of a medical school not  
9                   accredited by a body or bodies approved for the  
10                  purpose by the Secretary of Education (regard-  
11                  less of whether such school of medicine is in the  
12                  United States) and who is coming to the United  
13                  States principally to perform services as a  
14                  member of the medical profession is inadmis-  
15                  sible, unless the alien (i) has passed parts I and  
16                  II of the National Board of Medical Examiners  
17                  Examination (or an equivalent examination as  
18                  determined by the Secretary of Health and  
19                  Human Services) and (ii) is competent in oral  
20                  and written English. For purposes of the pre-  
21                  vious sentence, an alien who is a graduate of  
22                  a medical school shall be considered to have  
23                  passed parts I and II of the National Board  
24                  of Medical Examiners if the alien was fully and  
25                  permanently licensed to practice medicine in a

1 State on January 9, 1978, and was practicing  
2 medicine in a State on that date.

3 “(C) UNCERTIFIED FOREIGN HEALTH-  
4 CARE WORKERS.—Subject to subsection (j), any  
5 alien who seeks to enter the United States for  
6 the purpose of performing labor as a health-  
7 care worker, other than a physician, is inadmis-  
8 sible unless the alien presents to the consular  
9 officer, or, in the case of an adjustment of sta-  
10 tus, the Secretary of Homeland Security, a cer-  
11 tificate from the Commission on Graduates of  
12 Foreign Nursing Schools, or a certificate from  
13 an equivalent independent credentialing organi-  
14 zation approved by the Secretary of Homeland  
15 Security in consultation with the Secretary of  
16 Health and Human Services, verifying that—

17 “(i) the alien’s education, training, li-  
18 cense, and experience—

19 “(I) meet all applicable statutory  
20 and regulatory requirements for entry  
21 into the United States under the clas-  
22 sification specified in the application;

23 “(II) are comparable with that  
24 required for an American health-care  
25 worker of the same type; and

1                   “(III) are authentic and, in the  
2                   case of a license, unencumbered;

3                   “(ii) the alien has the level of com-  
4                   petence in oral and written English consid-  
5                   ered by the Secretary of Health and  
6                   Human Services, in consultation with the  
7                   Secretary of Education, to be appropriate  
8                   for health care work of the kind in which  
9                   the alien will be engaged, as shown by an  
10                  appropriate score on one or more nation-  
11                  ally recognized, commercially available,  
12                  standardized assessments of the applicant’s  
13                  ability to speak and write; and

14                  “(iii) if a majority of States licensing  
15                  the profession in which the alien intends to  
16                  work recognize a test predicting the suc-  
17                  cess on the profession’s licensing or certifi-  
18                  cation examination, the alien has passed  
19                  such a test or has passed such an examina-  
20                  tion.

21                  For purposes of clause (ii), determination of the  
22                  standardized tests required and of the minimum  
23                  scores that are appropriate are within the sole  
24                  discretion of the Secretary of Health and



1 Human Services and are not subject to further  
2 administrative or judicial review.

3 “(D) APPLICATION OF GROUNDS.—The  
4 grounds for inadmissibility of aliens under sub-  
5 paragraphs (A) and (B) shall apply to immi-  
6 grants seeking admission or adjustment of sta-  
7 tus under paragraph (2) or (3) of section  
8 203(b).

9 “(6) ILLEGAL ENTRANTS AND IMMIGRATION  
10 VIOLATORS.—

11 “(A) ALIENS PRESENT WITHOUT ADMIS-  
12 SION OR PAROLE.—

13 “(i) IN GENERAL.—An alien present  
14 in the United States without being admit-  
15 ted or paroled, or who arrives in the  
16 United States at any time or place other  
17 than as designated by the Secretary of  
18 Homeland Security is inadmissible.

19 “(ii) EXCEPTION FOR CERTAIN BAT-  
20 TERED WOMEN AND CHILDREN.—Clause  
21 (i) shall not apply to an alien who dem-  
22 onstrates that—

23 “(I) the alien qualifies for immi-  
24 grant status under subparagraph

1 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of  
2 section 204(a)(1);

3 “(II)(aa) the alien has been bat-  
4 tered or subjected to extreme cruelty  
5 by a spouse or parent, or by a mem-  
6 ber of the spouse’s or parent’s family  
7 residing in the same household as the  
8 alien and the spouse or parent con-  
9 sented or acquiesced in such battery  
10 or cruelty, or

11 “(bb) the alien’s child has been  
12 battered or subjected to extreme cru-  
13 elty by a spouse or parent of the alien  
14 (without the active participation of  
15 the alien in the battery or cruelty) or  
16 by a member of the spouse’s or par-  
17 ent’s family residing in the same  
18 household as the alien when the  
19 spouse or parent consented to or ac-  
20 quiesced in such battery or cruelty  
21 and the alien did not actively partici-  
22 pate in such battery or cruelty; and

23 “(III) there was a substantial  
24 connection between the battery or cru-  
25 elty described in subclause (I) or (II)

1                   and the alien’s unlawful entry into the  
2                   United States.

3                   “(B) FAILURE TO ATTEND REMOVAL PRO-  
4                   CEEDING.—Any alien who without reasonable  
5                   cause fails or refuses to attend or remain in at-  
6                   tendance at a proceeding to determine the  
7                   alien’s inadmissibility or deportability and who  
8                   seeks admission to the United States within 5  
9                   years of such alien’s subsequent departure or  
10                  removal is inadmissible.

11                  “(C) MISREPRESENTATION.—

12                   “(i) IN GENERAL.—Any alien who, by  
13                   fraud or willfully misrepresenting a mate-  
14                   rial fact, seeks to procure (or has sought  
15                   to procure or has procured) a visa, other  
16                   documentation, or admission into the  
17                   United States or other benefit provided  
18                   under this Act for himself, herself, or any  
19                   other alien, is inadmissible.

20                   “(ii) FALSELY CLAIMING CITIZEN-  
21                   SHIP.—

22                   “(I) IN GENERAL.—Any alien  
23                   who falsely represents, or has falsely  
24                   represented, himself or herself to be a  
25                   citizen of the United States for any

1 purpose or benefit under this Act (in-  
2 cluding section 274A) or any other  
3 Federal or State law is inadmissible.

4 “(II) EXCEPTION.—In the case  
5 of an alien making a representation  
6 described in subclause (I), if each nat-  
7 ural parent of the alien (or, in the  
8 case of an adopted alien, each adop-  
9 tive parent of the alien) is or was a  
10 citizen (whether by birth or natu-  
11 ralization), the alien permanently re-  
12 sided in the United States prior to at-  
13 taining the age of 16, and the alien  
14 reasonably believed at the time of  
15 making such representation that he or  
16 she was a citizen, the alien shall not  
17 be considered to be inadmissible under  
18 any provision of this subsection based  
19 on such representation.

20 “(D) STOWAWAYS.—Any alien who is a  
21 stowaway is inadmissible.

22 “(E) SMUGGLERS.—

23 “(i) IN GENERAL.—Any alien who at  
24 any time knowingly has encouraged, in-  
25 duced, assisted, abetted, or aided any other

1 alien to enter or to try to enter the United  
2 States in violation of law is inadmissible.

3 “(ii) SPECIAL RULE IN THE CASE OF  
4 FAMILY REUNIFICATION.—Clause (i) shall  
5 not apply in the case of an alien who is an  
6 eligible immigrant (as defined in section  
7 301(b)(1) of the Immigration Act of  
8 1990), was physically present in the  
9 United States on May 5, 1988, and is  
10 seeking admission as an immediate relative  
11 or under section 203(a)(2) (including  
12 under section 112 of the Immigration Act  
13 of 1990) or benefits under section 301(a)  
14 of the Immigration Act of 1990 if the  
15 alien, before May 5, 1988, has encouraged,  
16 induced, assisted, abetted, or aided only  
17 the alien’s spouse, parent, son, or daughter  
18 (and no other individual) to enter the  
19 United States in violation of law.

20 “(iii) WAIVER AUTHORIZED.—For  
21 provision authorizing waiver of clause (i),  
22 see subsection (c)(6).

23 “(F) SUBJECT OF CIVIL PENALTY.—An  
24 alien who is the subject of a final order for vio-  
25 lation of section 274C is inadmissible.

1           “(G) STUDENT VISA ABUSERS.—An alien  
2           who obtains the status of a nonimmigrant  
3           under section 101(a)(15)(F)(i) and who violates  
4           a term or condition of such status under section  
5           214(l) is inadmissible until the alien has been  
6           outside the United States for a continuous pe-  
7           riod of 5 years after the date of the violation.

8           “(H) CHANGE OF ADDRESS.—An alien  
9           who has failed to comply with section 262 is in-  
10          admissible, unless the alien establishes to the  
11          satisfaction of the Secretary of Homeland Secu-  
12          rity that such failure was reasonably excusable  
13          or was not willful.

14          “(7) DOCUMENTATION REQUIREMENTS.—

15               “(A) IMMIGRANTS.—

16                   “(i) IN GENERAL.—Except as other-  
17                   wise specifically provided in this Act, any  
18                   immigrant at the time of application for  
19                   admission—

20                           “(I) who is not in possession of a  
21                           valid unexpired immigrant visa, re-  
22                           entry permit, border crossing identi-  
23                           fication card, or other valid entry doc-  
24                           ument required by this Act, and a  
25                           valid unexpired passport, or other

1           suitable travel document, or document  
2           of identity and nationality if such doc-  
3           ument is required under the regula-  
4           tions issued by the Secretary of  
5           Homeland Security under section  
6           211(a); or

7                   “(II) whose visa has been issued  
8           without compliance with the provi-  
9           sions of section 203,  
10          is inadmissible.

11                   “(ii) WAIVER AUTHORIZED.—For pro-  
12          vision authorizing waiver of clause (i), see  
13          subsection (g).

14                   “(B) NONIMMIGRANTS.—

15                   “(i)    IN    GENERAL.—Any    non-  
16          immigrant who—

17                   “(I) is not in possession of a  
18          passport valid for a minimum of six  
19          months from the date of the expira-  
20          tion of the initial period of the alien’s  
21          admission or contemplated initial pe-  
22          riod of stay authorizing the alien to  
23          return to the country from which the  
24          alien came or to proceed to and enter

1                   some other country during such pe-  
2                   riod; or

3                   “(II) is not in possession of a  
4                   valid nonimmigrant visa or border  
5                   crossing identification card at the  
6                   time of application for admission,  
7                   is inadmissible.

8                   “(ii) GENERAL WAIVER AUTHOR-  
9                   IZED.—For provision authorizing waiver of  
10                  clause (i), see subsection (c)(2).

11               “(8) INELIGIBLE FOR CITIZENSHIP.—

12               “(A) IN GENERAL.—Any immigrant who is  
13               permanently ineligible to citizenship is inadmis-  
14               sible.

15               “(B) DRAFT EVADERS.—Any person who  
16               has departed from or who has remained outside  
17               the United States to avoid or evade training or  
18               service in the armed forces in time of war or a  
19               period declared by the President to be a na-  
20               tional emergency is inadmissible, except that  
21               this subparagraph shall not apply to an alien  
22               who at the time of such departure was a non-  
23               immigrant and who is seeking to reenter the  
24               United States as a nonimmigrant.

25               “(9) ALIENS PREVIOUSLY REMOVED.—



1           “(A) CERTAIN ALIENS PREVIOUSLY RE-  
2           MOVED.—

3           “(i) ARRIVING ALIENS.—Any alien  
4           who has been ordered removed under sec-  
5           tion 235(b)(1) or at the end of proceedings  
6           under section 240 initiated upon the  
7           alien’s arrival in the United States and  
8           who again seeks admission within 5 years  
9           of the date of such removal (or within 20  
10          years in the case of a second or subsequent  
11          removal or at any time in the case of an  
12          alien convicted of an aggravated felony) is  
13          inadmissible.

14          “(ii) OTHER ALIENS.—Any alien not  
15          described in clause (i) who—

16                 “(I) has been ordered removed  
17                 under section 240 or any other provi-  
18                 sion of law; or

19                 “(II) departed the United States  
20                 while an order of removal was out-  
21                 standing,

22                 and who seeks admission within 10 years  
23                 of the date of such alien’s departure or re-  
24                 moval (or within 20 years of such date in  
25                 the case of a second or subsequent removal

1 or at any time in the case of an alien con-  
2 victed of an aggravated felony) is inadmis-  
3 sible.

4 “(B) ALIENS UNLAWFULLY PRESENT.—

5 “(i) IN GENERAL.—Any alien (other  
6 than an alien lawfully admitted for perma-  
7 nent residence) who—

8 “(I) was unlawfully present in  
9 the United States for a period of more  
10 than 180 days but less than 1 year,  
11 voluntarily departed the United States  
12 (whether or not pursuant to section  
13 244(e)) prior to the commencement of  
14 proceedings under section 235(b)(1)  
15 or section 240, and again seeks ad-  
16 mission within 3 years of the date of  
17 such alien’s departure or removal; or

18 “(II) has been unlawfully present  
19 in the United States for one year or  
20 more, and who again seeks admission  
21 within 10 years of the date of such  
22 alien’s departure or removal from the  
23 United States,

24 is inadmissible.

1           “(ii) CONSTRUCTION OF UNLAWFUL  
2 PRESENCE.—For purposes of this para-  
3 graph, an alien is deemed to be unlawfully  
4 present in the United States if the alien is  
5 present in the United States after the expi-  
6 ration of the period of stay authorized by  
7 the Secretary of Homeland Security or is  
8 present in the United States without being  
9 admitted or paroled.

10           “(iii) EXCEPTIONS.—

11           “(I) MINORS.—No period of time  
12 in which an alien is under 18 years of  
13 age shall be taken into account in de-  
14 termining the period of unlawful pres-  
15 ence in the United States under  
16 clause (i).

17           “(II) ASYLEES.—No period of  
18 time in which an alien has a bona fide  
19 application for asylum pending under  
20 section 208 shall be taken into ac-  
21 count in determining the period of un-  
22 lawful presence in the United States  
23 under clause (i) unless the alien dur-  
24 ing such period was employed without  
25 authorization in the United States.

1           “(III) FAMILY UNITY.—No pe-  
2           riod of time in which the alien is a  
3           beneficiary of family unity protection  
4           pursuant to section 301 of the Immi-  
5           gration Act of 1990 shall be taken  
6           into account in determining the period  
7           of unlawful presence in the United  
8           States under clause (i).

9           “(IV) BATTERED WOMEN AND  
10          CHILDREN.—Clause (i) shall not apply  
11          to an alien who would be described in  
12          paragraph (6)(A)(ii) if ‘violation of  
13          the terms of the alien’s nonimmigrant  
14          visa’ were substituted for ‘unlawful  
15          entry into the United States’ in sub-  
16          clause (III) of that paragraph.

17          “(iv) TOLLING FOR GOOD CAUSE.—In  
18          the case of an alien who—

19               “(I) has been lawfully admitted  
20               or paroled into the United States;

21               “(II) has filed a nonfrivolous ap-  
22               plication for a change or extension of  
23               status before the date of expiration of  
24               the period of stay authorized by the  
25               Secretary of Homeland Security; and

1                   “(III) has not been employed  
2                   without authorization in the United  
3                   States before or during the pendency  
4                   of such application,  
5                   the calculation of the period of time speci-  
6                   fied in clause (i)(I) shall be tolled during  
7                   the pendency of such application, but not  
8                   to exceed 120 days.

9                   “(C) ALIENS UNLAWFULLY PRESENT  
10                  AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

11                  “(i) IN GENERAL.—Any alien who—

12                         “(I) has been unlawfully present  
13                         in the United States for an aggregate  
14                         period of more than 1 year; or

15                         “(II) has been ordered removed  
16                         under section 235(b)(1), section 240,  
17                         or any other provision of law,

18                         and who enters or attempts to reenter the  
19                         United States without being admitted is  
20                         inadmissible.

21                         “(ii) EXCEPTION.—Clause (i) shall  
22                         not apply to an alien seeking admission  
23                         more than 10 years after the date of the  
24                         alien’s last departure from the United  
25                         States if, prior to the alien’s reembar-

1 kation at a place outside the United States  
2 or attempt to be readmitted from a foreign  
3 contiguous territory, the Secretary of  
4 Homeland Security has consented to the  
5 alien's reapplying for admission. The Sec-  
6 retary of Homeland Security in the Sec-  
7 retary's discretion may waive the provi-  
8 sions of section 212(a)(9)(C)(i) in the case  
9 of an alien to whom the Secretary has  
10 granted classification under clause (iii),  
11 (iv), or (v) of section 204(a)(1)(A), or clas-  
12 sification under clause (ii), (iii), or (iv) of  
13 section 204(a)(1)(B), in any case in which  
14 there is a direct connection between—

15 “(I) the alien's having been bat-  
16 tered or subjected to extreme cruelty;  
17 and

18 “(II) the alien's—

19 “(aa) removal;

20 “(bb) departure from the  
21 United States;

22 “(cc) reentry or reentries  
23 into the United States; or

24 “(dd) attempted reentry into  
25 the United States.

1 “(10) MISCELLANEOUS.—

2 “(A) PRACTICING POLYGAMISTS.—Any im-  
3 migrant who is coming to the United States to  
4 practice polygamy is inadmissible.

5 “(B) GUARDIAN REQUIRED TO ACCOMPANY  
6 HELPLESS ALIEN.—Any alien—

7 “(i) who is accompanying another  
8 alien who is inadmissible and who is cer-  
9 tified to be helpless from sickness, mental  
10 or physical disability, or infancy pursuant  
11 to section 232(c); and

12 “(ii) whose protection or guardianship  
13 is determined to be required by the alien  
14 described in clause (i),  
15 is inadmissible.

16 “(C) INTERNATIONAL CHILD ABDUC-  
17 TION.—

18 “(i) IN GENERAL.—Except as pro-  
19 vided in clause (ii), any alien who, after  
20 entry of an order by a court in the United  
21 States granting custody to a person of a  
22 United States citizen child who detains or  
23 retains the child, or withholds custody of  
24 the child, outside the United States from  
25 the person granted custody by that order,

1 is inadmissible until the child is surren-  
2 dered to the person granted custody by  
3 that order.

4 “(ii) ALIENS SUPPORTING ABDUCTORS  
5 AND RELATIVES OF ABDUCTORS.—Any  
6 alien who—

7 “(I) is known by the Secretary of  
8 State to have intentionally assisted an  
9 alien in the conduct described in  
10 clause (i);

11 “(II) is known by the Secretary  
12 of State to be intentionally providing  
13 material support or safe haven to an  
14 alien described in clause (i); or

15 “(III) is a spouse (other than the  
16 spouse who is the parent of the ab-  
17 ducted child), child (other than the  
18 abducted child), parent, sibling, or  
19 agent of an alien described in clause  
20 (i), if such person has been designated  
21 by the Secretary of State at the Sec-  
22 retary’s sole and unreviewable discre-  
23 tion, is inadmissible until the child de-  
24 scribed in clause (i) is surrendered to  
25 the person granted custody by the



1 order described in that clause, and  
2 such person and child are permitted  
3 to return to the United States or such  
4 person's place of residence.

5 “(iii) EXCEPTIONS.—Clauses (i) and  
6 (ii) shall not apply—

7 “(I) to a government official of  
8 the United States who is acting within  
9 the scope of his or her official duties;

10 “(II) to a government official of  
11 any foreign government if the official  
12 has been designated by the Secretary  
13 of State at the Secretary's sole and  
14 unreviewable discretion; or

15 “(III) so long as the child is lo-  
16 cated in a foreign state that is a party  
17 to the Convention on the Civil Aspects  
18 of International Child Abduction,  
19 done at The Hague on October 25,  
20 1980.

21 “(D) UNLAWFUL VOTERS.—

22 “(i) IN GENERAL.—Any alien who has  
23 voted in violation of any Federal, State, or  
24 local constitutional provision, statute, ordi-  
25 nance, or regulation is inadmissible.

1           “(ii) EXCEPTION.—In the case of an  
2           alien who voted in a Federal, State, or  
3           local election (including an initiative, re-  
4           call, or referendum) in violation of a lawful  
5           restriction of voting to citizens, if each nat-  
6           ural parent of the alien (or, in the case of  
7           an adopted alien, each adoptive parent of  
8           the alien) is or was a citizen (whether by  
9           birth or naturalization), the alien perma-  
10          nently resided in the United States prior to  
11          attaining the age of 16, and the alien rea-  
12          sonably believed at the time of such viola-  
13          tion that he or she was a citizen, the alien  
14          shall not be considered to be inadmissible  
15          under any provision of this subsection  
16          based on such violation.

17          “(E) FORMER CITIZENS WHO RENOUNCED  
18          CITIZENSHIP.—Any alien who is a former cit-  
19          izen of the United States who officially re-  
20          nounced United States citizenship is inadmis-  
21          sible.

22          “(b) NOTICES OF DENIALS.—

23               “(1) IN GENERAL.— Subject to paragraphs (2)  
24               and (3), if an alien’s application for a visa, for ad-  
25               mission to the United States, or for adjustment of

1 status is denied by an immigration or consular offi-  
2 cer because the officer determines the alien to be in-  
3 admissible under subsection (a), the officer shall  
4 provide the alien with a timely written notice that—

5 “(A) states the determination; and

6 “(B) lists the specific provision or provi-  
7 sions of law under which the alien is excludable  
8 or ineligible for entry or adjustment of status.

9 “(2) WAIVER.—The Secretary of State or the  
10 Secretary of Homeland Security may waive the re-  
11 quirements of paragraph (1) with respect to a par-  
12 ticular alien or any class or classes of inadmissible  
13 aliens.

14 “(3) INAPPLICABILITY.—Paragraph (1) does  
15 not apply to any alien inadmissible under paragraph  
16 (2) or (3) of subsection (a).

17 “(c) SPECIAL RULES.—

18 “(1) ‘S’ NONIMMIGRANTS.—The Secretary of  
19 Homeland Security shall determine whether a  
20 ground for inadmissibility exists with respect to a  
21 nonimmigrant described in section 101(a)(15)(S).  
22 The Secretary, in the Secretary’s discretion, may  
23 waive the application of subsection (a) (other than  
24 paragraph (3)(E)) in the case of a nonimmigrant de-  
25 scribed in section 101(a)(15)(S), if the Attorney

1 General considers it to be in the national interest to  
2 do so. Nothing in this section shall be regarded as  
3 prohibiting the Secretary from instituting removal  
4 proceedings against an alien admitted as a non-  
5 immigrant under section 101(a)(15)(S) for conduct  
6 committed after the alien's admission into the  
7 United States, or for conduct or a condition that  
8 was not disclosed to the Secretary prior to the  
9 alien's admission as a nonimmigrant under section  
10 101(a)(15)(S).

11 “(2) DOCUMENTARY REQUIREMENTS FOR NON-  
12 IMMIGRANTS.—Either or both of the requirements of  
13 subsection (a)(7)(B)(i) may be waived by the Sec-  
14 retary of Homeland Security and the Secretary of  
15 State acting jointly—

16 “(A) on the basis of unforeseen emergency  
17 in individual cases; or

18 “(B) in the case of aliens proceeding in im-  
19 mediate and continuous transit through the  
20 United States under contracts authorized in  
21 section 238(c).

22 “(3) PAROLE.—

23 “(A) IN GENERAL.—The Secretary of  
24 Homeland Security may, except as provided in  
25 subparagraph (B) or in section 214(f), in the

1 discretion of the Secretary, parole into the  
2 United States a Cuban or Iraqi national or, in  
3 the case of nationals of other countries, tempo-  
4 rarily under such conditions as the Secretary  
5 may prescribe only on a case-by-case basis for  
6 urgent humanitarian reasons or significant law  
7 enforcement reasons any alien applying for ad-  
8 mission to the United States, but such parole  
9 shall not be regarded as an admission of the  
10 alien and when the purposes of such parole  
11 shall, in the opinion of the Secretary, have been  
12 served the alien shall forthwith return or be re-  
13 turned to the custody from which the alien was  
14 paroled and thereafter the case shall continue  
15 to be dealt with in the same manner as that of  
16 any other applicant for admission to the United  
17 States. Parole on a temporary basis cannot ex-  
18 ceed 120 days, unless for a significant law en-  
19 forcement reason. The Secretary may not pa-  
20 role into the United States an alien for urgent  
21 humanitarian reasons if the alien is inadmis-  
22 sible under paragraph (2), (3), or (9) of sub-  
23 section (a).

24 “(B) REFUGEES.—The Secretary of  
25 Homeland Security may not parole into the

1 United States an alien who is a refugee unless  
2 the Secretary determines that compelling rea-  
3 sons in the public interest with respect to that  
4 particular alien require that the alien be pa-  
5 roled into the United States rather than be ad-  
6 mitted as a refugee under section 207.

7 “(4) ALIENS ENTERING FROM GUAM, PUERTO  
8 RICO, OR THE VIRGIN ISLANDS.—The provisions of  
9 subsection (a) (other than paragraph (7)) shall be  
10 applicable to any alien who shall leave Guam, Puerto  
11 Rico, or the Virgin Islands of the United States, and  
12 who seeks to enter the continental United States or  
13 any other place under the jurisdiction of the United  
14 States. Any alien described in this paragraph, who  
15 is denied admission to the United States, shall be  
16 immediately removed in the manner provided by sec-  
17 tion 241(c) of this Act.

18 “(5) FOREIGN GOVERNMENT OFFICIALS.—  
19 Upon a basis of reciprocity accredited officials of  
20 foreign governments, their immediate families, at-  
21 tendants, servants, and personal employees may be  
22 admitted in immediate and continuous transit  
23 through the United States without regard to the  
24 provisions of this section except paragraphs (3)(A),

1       (3)(B), (3)(C), and (7)(B) of subsection (a) of this  
2       section.

3           “(6) SMUGGLERS.—The Secretary may, in the  
4       discretion of the Secretary for urgent humanitarian  
5       reasons, waive application of subsection (a)(6)(E)(i)  
6       in the case of any alien lawfully admitted for perma-  
7       nent residence who temporarily proceeded abroad  
8       voluntarily and not under an order of removal, and  
9       who is otherwise admissible to the United States as  
10      a returning resident under section 211(b) if the  
11      alien has encouraged, induced, assisted, abetted, or  
12      aided only an individual who at the time of such ac-  
13      tion was the alien’s spouse, parent, son, or daughter  
14      (and no other individual) to enter the United States  
15      in violation of law.

16           “(7) ‘T’ NONIMMIGRANTS.—

17           “(A) DETERMINATION.—The Secretary of  
18       Homeland Security shall determine whether a  
19       ground for inadmissibility exists with respect to  
20       a nonimmigrant described in section  
21       101(a)(15)(T).

22           “(B) WAIVER.—In addition to any other  
23       waiver that may be available under this section,  
24       in the case of a nonimmigrant described in sec-  
25       tion 101(a)(15)(T), if the Secretary of Home-

land Security considers it to be in the national interest to do so, the Secretary, in the Secretary's discretion, may waive the application of—

“(i) paragraphs (1) and (4) of subsection (a); and

“(ii) any other provision of such subsection (excluding paragraphs (2), (3), (8), (9)(A), (10)(C), (10)(D), and (10)(E)) if the activities rendering the alien inadmissible under the provision were caused by the victimization described in section 101(a)(15)(T)(i)(I).

“(8) ‘U’ NONIMMIGRANTS.—

“(A) DETERMINATION.—The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(U).

“(B) WAIVER.—In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(U), if the Secretary of Homeland Security considers it to be in the national interest to do so, the Secretary, in the Sec-



1           retary’s discretion, may waive the application  
2           of—

3                   “(i) paragraphs (1) and (4) of sub-  
4                   section (a); and

5                   “(ii) any other provision of such sub-  
6                   section (excluding paragraphs (2), (3), (8),  
7                   (9)(A), (10)(C), (10)(D), and (10)(E)) if  
8                   the activities rendering the alien inadmis-  
9                   sible under the provision were caused by  
10                  the criminal activity described in section  
11                  101(a)(15)(U)(iii).

12          “(d) SUSPENSION OF ENTRY.—Whenever the Presi-  
13          dent finds that the entry of any aliens or of any class of  
14          aliens into the United States would be detrimental to the  
15          interests of the United States, the President may by proc-  
16          lamation, and for such period as the President shall deem  
17          necessary, suspend the entry of all aliens or any class of  
18          aliens as immigrants or nonimmigrants, or impose on the  
19          entry of aliens any restrictions the President may deem  
20          to be appropriate. Whenever the Secretary of Homeland  
21          Security finds that a commercial airline has failed to com-  
22          ply with regulations of the Secretary relating to require-  
23          ments of airlines for the detection of fraudulent documents  
24          used by passengers traveling to the United States (includ-  
25          ing the training of personnel in such detection), the Sec-

1   retary may suspend the entry of some or all aliens trans-  
2   ported to the United States by such airline.

3       “(e) WAIVERS OF HEALTH-RELATED GROUNDS.—

4           “(1) IN GENERAL.—The Secretary of Homeland  
5   Security may waive the application of—

6           “(A) subsection (a)(1)(A)(i) in the case of  
7   any alien who—

8           “(i) is the spouse or the unmarried  
9   son or daughter, or the minor unmarried  
10   lawfully adopted child, of a United States  
11   citizen, or of an alien lawfully admitted for  
12   permanent residence, or of an alien who  
13   has been issued an immigrant visa;

14          “(ii) has a son or daughter who is a  
15   United States citizen, or an alien lawfully  
16   admitted for permanent residence, or an  
17   alien who has been issued an immigrant  
18   visa; or

19          “(iii) qualifies for classification under  
20   clause (iii) or (iv) of section 204(a)(1)(A)  
21   or classification under clause (ii) or (iii) of  
22   section 204(a)(1)(B);

23   in accordance with such terms, conditions, and  
24   controls, if any, including the giving of bond, as  
25   the Secretary of Homeland Security, in the dis-

1           cretion of such Secretary after consultation  
2           with the Secretary of Health and Human Serv-  
3           ices, may by regulation prescribe;

4           “(B) subsection (a)(1)(A)(ii) in the case of  
5           any alien—

6           “(i) who receives vaccination against  
7           the vaccine-preventable disease or diseases  
8           for which the alien has failed to present  
9           documentation of previous vaccination;

10          “(ii) for whom a civil surgeon, medical  
11          officer, or panel physician (as those terms  
12          are defined by section 34.2 of title 42,  
13          Code of Federal Regulations) certifies, ac-  
14          cording to such regulations as the Sec-  
15          retary of Health and Human Services may  
16          prescribe, that such vaccination would not  
17          be medically appropriate; or

18          “(iii) under such circumstances as the  
19          Secretary of Homeland Security provides  
20          by regulation, with respect to whom the re-  
21          quirement of such a vaccination would be  
22          contrary to the alien’s religious beliefs or  
23          moral convictions; or

24          “(C) subsection (a)(1)(A)(iii) in the case of  
25          any alien, in accordance with such terms, condi-

1           tions, and controls, if any, including the giving  
2           of bond, as the Secretary of Homeland Secu-  
3           rity, in the discretion of such Secretary after  
4           consultation with the Secretary of Health and  
5           Human Services, may by regulation prescribe.

6           “(2) CERTIFICATE OF INSURANCE.—A waiver  
7           shall not be granted under this subsection unless the  
8           applicant has presented to the Secretary of Home-  
9           land Security a valid certificate of insurance cov-  
10          ering all medical and hospital expenses that might  
11          be incurred during the period such alien has been  
12          admitted to the United States.

13          “(f) WAIVERS OF CRIMINAL AND RELATED  
14          GROUND.—The Secretary of Homeland Security may, in  
15          the discretion of the Secretary, waive the application of  
16          subparagraphs (A)(i)(I), (B), (D), and (E) of subsection  
17          (a)(2) and subparagraph (A)(i)(II) of such subsection in-  
18          sofar as it relates to a single offense of simple possession  
19          of 30 grams or less of marijuana if—

20                 “(1)(A) in the case of any immigrant, it is es-  
21          tablished to the satisfaction of the Secretary of  
22          Homeland Security that—

23                         “(i) the alien is inadmissible only under  
24                         subparagraph (D)(i) or (D)(ii) of such sub-  
25                         section or the activities for which the alien is

1 inadmissible occurred more than 15 years be-  
2 fore the date of the alien's application for a  
3 visa, admission, or adjustment of status;

4 “(ii) the admission to the United States of  
5 such alien would not be contrary to the national  
6 welfare, safety, or security of the United States;  
7 and

8 “(iii) the alien has been rehabilitated; or

9 “(B) in the case of an immigrant who is the  
10 spouse, parent, son, or daughter of a citizen of the  
11 United States or an alien lawfully admitted for per-  
12 manent residence, if it is established to the satisfac-  
13 tion of the Secretary that the alien's denial of ad-  
14 mission would result in exceptional and extremely  
15 unusual hardship to the United States citizen or  
16 lawfully resident spouse, parent, son, or daughter of  
17 such alien; and

18 “(2) the Secretary, in the discretion of the Sec-  
19 retary, and pursuant to such terms, conditions, and  
20 procedures as the Secretary may by regulations pre-  
21 scribe, has consented to the alien's applying or re-  
22 applying for a visa, for admission to the United  
23 States, or adjustment of status.

24 No waiver shall be provided under this subsection in the  
25 case of an alien who has been convicted of (or who has

1 admitted committing acts that constitute) murder or  
2 criminal acts involving torture, or an attempt or con-  
3 spiracy to commit murder or a criminal act involving tor-  
4 ture. No waiver shall be granted under this subsection in  
5 the case of an alien who has previously been admitted to  
6 the United States as an alien lawfully admitted for perma-  
7 nent residence if either since the date of such admission  
8 the alien has been convicted of an aggravated felony or  
9 the alien has not lawfully resided continuously in the  
10 United States for a period of not less than 7 years imme-  
11 diately preceding the date of initiation of proceedings to  
12 remove the alien from the United States. No waiver shall  
13 be granted under this subsection in the case of any alien  
14 who is present in the United States after the expiration  
15 of the period of stay authorized by the Secretary of Home-  
16 land Security or is present in the United States without  
17 being admitted or paroled if either the alien has been con-  
18 victed of an aggravated felony committed in the United  
19 States or the alien has not resided continuously in the  
20 United States for a period of not less than 7 years imme-  
21 diately preceding the date of initiation of proceedings to  
22 remove the alien from the United States. No court shall  
23 have jurisdiction to review a decision of the Secretary of  
24 Homeland Security to grant or deny a waiver under this  
25 subsection.

1       “(g) ALIENS HAVING IMMIGRANT VISAS.—Any alien,  
2 inadmissible to the United States under paragraph (5)(A)  
3 or (7)(A)(i) of subsection (a), who is in possession of an  
4 immigrant visa may, if otherwise admissible, be admitted  
5 in the discretion of the Secretary of Homeland if the Sec-  
6 retary is satisfied that inadmissibility was not known to,  
7 and could not have been ascertained by the exercise of rea-  
8 sonable diligence by, the immigrant before the time of de-  
9 parture of the vessel or aircraft from the last port outside  
10 the United States and outside foreign contiguous territory  
11 or, in the case of an immigrant coming from foreign con-  
12 tiguous territory, before the time of the immigrant’s appli-  
13 cation for admission.

14       “(h) WAIVER OF DOCUMENTATION REQUIREMENTS  
15 FOR NONIMMIGRANTS.—

16           “(1) IN GENERAL.—The requirement of sub-  
17 section (a)(7)(B)(i) may be waived by the Secretary  
18 of Homeland Security, the Secretary of State, and  
19 the Secretary of the Interior, acting jointly, in the  
20 case of an alien applying for admission as a non-  
21 immigrant visitor for business or pleasure and solely  
22 for entry into and stay on Guam for a period not to  
23 exceed fifteen days, if the Secretary of Homeland  
24 Security, the Secretary of State and the Secretary of

1 the Interior, after consultation with the Governor of  
2 Guam, jointly determine that—

3 “(A) an adequate arrival and departure  
4 control system has been developed on Guam;  
5 and

6 “(B) such a waiver does not represent a  
7 threat to the welfare, safety, or security of the  
8 United States or its territories and common-  
9 wealths.

10 “(2) LIMITATION.—An alien may not be pro-  
11 vided a waiver under this subsection unless the alien  
12 has waived any right—

13 “(A) to review or appeal under this Act of  
14 an immigration officer’s determination as to the  
15 admissibility of the alien at the port of entry  
16 into Guam; or

17 “(B) to contest, other than on the basis of  
18 an application for asylum, any action for re-  
19 moval of the alien.

20 “(i) CONDITIONS ON RECEIPT OF IMMIGRANT VISAS  
21 FOLLOWING DEPARTURE.—An alien who has been phys-  
22 ically present in the United States shall not be eligible to  
23 receive an immigrant visa within ninety days following de-  
24 parture therefrom unless—



1           “(1) the alien was maintaining a lawful non-  
2           immigrant status at the time of such departure; or

3           “(2) the alien is the spouse or unmarried child  
4           of an individual who obtained temporary or perma-  
5           nent resident status under section 210 or 245A of  
6           the Immigration and Nationality Act or section 202  
7           of the Immigration Reform and Control Act of 1986  
8           at any date, who—

9           “(A) as of May 5, 1988, was the unmar-  
10          ried child or spouse of the individual who ob-  
11          tained temporary or permanent resident status  
12          under section 210 or 245A of the Immigration  
13          and Nationality Act or section 202 of the Immi-  
14          gration Reform and Control Act of 1986;

15          “(B) entered the United States before May  
16          5, 1988, resided in the United States on May  
17          5, 1988, and is not a lawful permanent resi-  
18          dent; and

19          “(C) applied for benefits under section  
20          301(a) of the Immigration Act of 1990.

21          “(j) UNCERTIFIED FOREIGN HEALTH-CARE WORK-  
22          ERS.—Subsection (a)(5)(C) shall not apply to an alien  
23          who seeks to enter the United States for the purpose of  
24          performing labor as a nurse who presents to the consular  
25          officer (or in the case of an adjustment of status, the Sec-

1   retary of Homeland Security) a certified statement from  
2   the Commission on Graduates of Foreign Nursing Schools  
3   (or an equivalent independent credentialing organization  
4   approved for the certification of nurses under subsection  
5   (a)(5)(C) by the Secretary of Homeland Security in con-  
6   sultation with the Secretary of Health and Human Serv-  
7   ices) that—

8           “(1) the alien has a valid and unrestricted li-  
9           cense as a nurse in a State where the alien intends  
10          to be employed and such State verifies that the for-  
11          eign licenses of alien nurses are authentic and  
12          unencumbered;

13          “(2) the alien has passed the National Council  
14          Licensure Examination (NCLEX);

15          “(3) the alien is a graduate of a nursing pro-  
16          gram—

17                  “(A) in which the language of instruction  
18                  was English;

19                  “(B) located in a country—

20                          “(i) designated by such commission  
21                          not later than 30 days after the date of the  
22                          enactment of the Nursing Relief for Dis-  
23                          advantaged Areas Act of 1999, based on  
24                          such commission’s assessment that the  
25                          quality of nursing education in that coun-

1 try, and the English language proficiency  
2 of those who complete such programs in  
3 that country, justify the country's designa-  
4 tion; or

5 “(ii) designated on the basis of such  
6 an assessment by unanimous agreement of  
7 such commission and any equivalent  
8 credentialing organizations which have  
9 been approved under subsection (a)(5)(C)  
10 for the certification of nurses under this  
11 subsection; and

12 “(C)(i) which was in operation on or before  
13 the date of the enactment of the Nursing Relief  
14 for Disadvantaged Areas Act of 1999; or

15 “(ii) has been approved by unanimous  
16 agreement of such commission and any equiva-  
17 lent credentialing organizations which have  
18 been approved under subsection (a)(5)(C) for  
19 the certification of nurses under this subsection.

20 “(k) PUBLIC CHARGE GROUND FOR FAMILY-SPON-  
21 SORED IMMIGRANTS.—In determining whether an alien  
22 described in subsection (a)(4)(C)(i) is inadmissible under  
23 subsection (a)(4) or ineligible to receive an immigrant visa  
24 or otherwise to adjust to the status of permanent resident  
25 by reason of subsection (a)(4), the consular officer or the

1 Secretary of Homeland Security shall not consider any  
2 benefits the alien may have received that were authorized  
3 under section 501 of the Illegal Immigration Reform and  
4 Immigrant Responsibility Act of 1996 (8 U.S.C.  
5 1641(c)).”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) The following provisions of the Immigration  
8 and Nationality Act are amended by striking  
9 “212(e)” and inserting “222(h)”:

10 (A) Paragraphs (1), (2)(A), and (3) of sec-  
11 tion 214(l).

12 (B) Paragraphs (2) and (3)(B) of section  
13 240A(c).

14 (C) Section 245A(a)(2)(C).

15 (D) Section 248(3).

16 (2) Section 214 (8 U.S.C. 1202) is amended—

17 (A) by redesignating subsection (p) (as  
18 added by the Departments of Commerce, Jus-  
19 tice, and State, the Judiciary, and Related  
20 Agencies Appropriations Act, 2001, as enacted  
21 into law by Public Law 106–553) as subsection  
22 (r);

23 (B) by redesignating the second subsection  
24 (o) (as added by the Departments of Com-  
25 merce, Justice, and State, the Judiciary, and

1           Related Agencies Appropriations Act, 2001, as  
2           enacted into law by Public Law 106–553) as  
3           subsection (q);

4           (C) by redesignating the first subsection  
5           (o) as subsection (p);

6           (D) by redesignating subsection (n) as sub-  
7           section (o); and

8           (E) by redesignating the second subsection  
9           (m) as subsection (n).

10          (3) Section 101(a) is amended—

11           (A) in paragraph (13)(B), by striking  
12           “212(d)(5)” and inserting “212(c)(3)”;

13           (B) in paragraph (13)(C)(v), by striking  
14           “212(h)” and inserting “212(f)”;

15           (C) in paragraph (15)(H)—

16           (i) by striking “212(j)(2)” and insert-  
17           ing “214(s)(2)”;

18           (ii) by striking “212(n)(1)” and in-  
19           serting “214(u)(1)”;

20           (iii) by striking “212(m)(1)” and in-  
21           serting “214(t)(1)”;

22           (iv) by striking “212(m)(2)” and in-  
23           serting “214(t)(2)”;

24           (v) by striking “212(m)(6)” and in-  
25           serting “214(t)(6)”;

1 (D) in paragraph (15)(J), by striking  
2 “212(j)” and inserting “214(s)”;

3 (E) in paragraph (15)(K), by striking “(p)  
4 of section 214” and inserting “(r) of section  
5 214”;

6 (F) in paragraph (15)(T)(i), by striking  
7 “214(n)” and inserting “214(o)”;

8 (G) in paragraph (15)(U)(i), by striking  
9 “214(o)” and inserting “214(p)”;

10 (H) in paragraph (15)(V), by striking  
11 “214(o)” and inserting “214(q)”.

12 (4) Section 201(c)(4) is amended by striking  
13 “212(d)(5)” and inserting “212(c)(3)”.

14 (5) Section 214(a)(1) is amended by striking  
15 “212(l)” and inserting “212(h)”.

16 (6) Section 214(e)(5) is amended—

17 (A) by striking “212(m)” both places it  
18 appears and inserting “214(t)”;

19 (B) by striking “212(n)” and inserting  
20 “214(u)”.

21 (7) Section 214(f)(2)(A) is amended by striking  
22 “212(d)(5)” and inserting “212(c)(3)”.

23 (8) Section 216(f) is amended by striking “sub-  
24 section (h) or (i) of section 212” and inserting “sec-  
25 tion 212(f)”.

1           (9) Section 237(a)(1)(C)(ii) is amended by  
2 striking “212(g)” and inserting “212(e)”.

3           (10) Section 240A(b)(4) is amended by striking  
4 “212(d)(5)” and inserting “212(c)(3)”.

5           (11) Section 242(a)(2)(B)(i) is amended by  
6 striking “212(h), 212(i),” and inserting “212(f),”.

7           (12) Section 245(c) is amended—

8                 (A) by striking “212(d)(4)(C)” and insert-  
9 ing “212(c)(2)(C)”;

10                (B) by striking “212(l)” and inserting  
11 “212(h)”.

12           (13) Section 248 is amended by striking “(or  
13 whose inadmissibility under such section is waived  
14 under section 212(a)(9)(B)(v))” in the matter pre-  
15 ceding paragraph (1).

16           (14) Section 248(4) is amended by striking  
17 “212(l)” and inserting “212(h)”.

18           (15) Section 252(a) is amended by striking  
19 “212(d)(3), section 212(d)(5),” and inserting  
20 “212(c)(3),”.

21           (16) Paragraphs (2) and (3) of section 254(a)  
22 are each amended by striking “212(d)(5)” and in-  
23 serting “212(c)(3)”.

24           (17) Section 286(s)(6) is amended—

1 (A) by striking “212(n)(1)” each place it  
 2 appears and inserting “214(u)(1)”; and

3 (B) by striking “212(n)(2)” both places it  
 4 appears and inserting “214(u)(2)”.

5 (c) EFFECTIVE DATE.—The amendments made by  
 6 this section shall take effect of the date of the enactment  
 7 of this Act and shall apply to acts undertaken, and condi-  
 8 tions existing, before, on, or after such date.

9 **SEC. 205. PROTECTION OF U.S. SPECIALTY WORKERS.**

10 Section 214(u) of the Immigration and Nationality  
 11 Act (8 U.S.C. 1184(u)), as so redesignated by this Act,  
 12 is further amended as follows:

13 (1) Paragraph (1)(E) is amended—

14 (A) by striking “(E)(i) In the case of an  
 15 application described in clause (ii),” and insert-  
 16 ing “(E)”; and

17 (B) by striking clause (ii).

18 (2) Paragraph (1)(F) is amended by striking  
 19 “In the case of an application described in subpara-  
 20 graph (E)(ii), the” and inserting “The”.

21 (3) Paragraph (1)(G) is amended—

22 (A) by striking “(G)(i) In the case of an  
 23 application described in subparagraph (E)(ii),  
 24 subject to clause (ii),” and inserting “(G)”; and

25 (B) by striking clause (ii);



1           (4) Paragraph (1) is amended in the matter fol-  
2       lowing subparagraph (G)—

3           (A) by amending the 5th sentence to read  
4       as follows: “The Secretary of Labor shall review  
5       such an application for completeness and accu-  
6       racy.”; and

7           (B) in the 6th sentence, by striking “obvi-  
8       ously”.

9           (5) Paragraph (2)(C)(i) is amended by striking  
10      “paragraph (1)(B), (1)(E), or (1)(F), a substantial  
11      failure to meet a condition of paragraph (1)(C),  
12      (1)(D), or (1)(G)(i)(I),” and inserting “paragraph  
13      (1),”.

14          (6) Paragraph (2)(E) is amended to read as  
15      follows: “If an employer places an H-1B non-  
16      immigrant with a second employer whom the em-  
17      ployer knows or had reason to know has ever dis-  
18      placed a United States worker during a period de-  
19      scribed in paragraph (1)(F), such displacement shall  
20      be considered to be a failure to meet a condition  
21      specified in an application submitted under para-  
22      graph (1).”.

23          (7) Paragraphs (3) and (5) are repealed.

24   **SEC. 206. ANTIFRAUD FEE.**

25      (a) IMPOSITION OF FEE.—

1           (1) IN GENERAL.—Chapter 9 of title II of the  
 2           Immigration and Nationality Act (8 U.S.C. 1351 et  
 3           seq.) is amended by inserting after section 281 the  
 4           following:

5                               “ANTIFRAUD FEE

6           “SEC. 281A. (a) IN GENERAL.—In addition to any  
 7           other fees authorized by law, the Secretary of Homeland  
 8           Security shall impose an antifraud fee on a petitioner fil-  
 9           ing a petition for classification under section 204, or a  
 10          petition for an alien’s status as a nonimmigrant under sec-  
 11          tion 101(a)(15) (excluding status under subparagraph  
 12          (A), (B), (G), or (S) of such section).

13          “(b) AMOUNT.—The amount of the fee shall be \$100  
 14          for each such petition.

15          “(c) DISPOSITION.—Fees collected under this section  
 16          shall be deposited in the Treasury in accordance with sec-  
 17          tion 286(v).”.

18               (2) CLERICAL AMENDMENT.—The table of con-  
 19          tents of the Immigration and Nationality Act is  
 20          amended by inserting after the item relating to sec-  
 21          tion 281 the following:

          “281A. Antifraud fee.”.

22           (b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—  
 23          Section 286 (8 U.S.C. 1356) is amended by adding at the  
 24          end the following:

25           “(v) ANTIFRAUD ACCOUNT.—

1           “(1) IN GENERAL.—There is established in the  
2           general fund of the Treasury a separate account  
3           which shall be known as the ‘Antifraud Account’.  
4           Notwithstanding any other provision of law, there  
5           shall be deposited as offsetting receipts into the ac-  
6           count all fees collected under section 281A.

7           “(2) USE OF FEES TO COMBAT FRAUD.—

8           “(A) SECRETARY OF HOMELAND SECU-  
9           RITY.—

10           “(i) PROGRAMS TO ELIMINATE  
11           FRAUD.—20 percent of amounts deposited  
12           into the Antifraud Account shall remain  
13           available to the Secretary of Homeland Se-  
14           curity until expended for programs and ac-  
15           tivities to eliminate fraud by petitioners  
16           and beneficiaries with respect to immigrant  
17           visa petitions under section 204 or status  
18           under section 101(a)(15) (excluding status  
19           under subparagraph (A), (B), (G), or (S)  
20           of such section).

21           “(ii) REMOVAL OF ALIENS.—20 per-  
22           cent of amounts deposited into the Anti-  
23           fraud Account shall remain available to the  
24           Secretary of Homeland Security until ex-  
25           pended for the removal of aliens who are

1 deportable under section 237(a)(1)(A) by  
2 reason of having been found to be within  
3 the class of aliens inadmissible under sec-  
4 tion 212(a)(6)(C).

5 “(B) SECRETARY OF STATE.—40 percent  
6 of the amounts deposited into the Antifraud Ac-  
7 count shall remain available to the Secretary of  
8 State until expended for programs and activities  
9 to eliminate fraud by petitioners and bene-  
10 ficiaries described in subparagraph (A).

11 “(C) JOINT PROGRAMS.—20 percent of  
12 amounts deposited into the Antifraud Account  
13 shall remain available to the Secretary of  
14 Homeland Security and the Secretary of State  
15 until expended for programs and activities con-  
16 ducted by them jointly to eliminate fraud by pe-  
17 titioners and beneficiaries described in subpara-  
18 graph (A).”.

19 (c) EFFECTIVE DATE.—The amendments made by  
20 this section shall take effect 6 months after the date of  
21 the enactment of this Act.

1 **TITLE III—TRACKING ALIENS**  
 2 **PRESENT IN THE UNITED**  
 3 **STATES**

4 **SEC. 301. ENTRY-EXIT SYSTEM.**

5 (a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—

6 Section 110(b)(1) of the Illegal Immigration Reform and  
 7 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221  
 8 note) is amended to read as follows:

9 “(1) provides access to, and integrates, arrival  
 10 and departure data of all aliens who arrive and de-  
 11 part at ports of entry, in an electronic format and  
 12 in a database of the Department of Homeland Secu-  
 13 rity or the Department of State (including those cre-  
 14 ated or used at ports of entry and at consular of-  
 15 fices);”.

16 (b) CONSTRUCTION.—Section 110(c) of the Illegal  
 17 Immigration Reform and Immigrant Responsibility Act of  
 18 1996 (8 U.S.C. 1221 note) is amended to read as follows:

19 “(c) CONSTRUCTION.—Nothing in this section shall  
 20 be construed to reduce or curtail any authority of the Sec-  
 21 retary of Homeland Security or the Secretary of State  
 22 under any other provision of law.”.

23 (c) DEADLINES.—Section 110(d) of the Illegal Immi-  
 24 gration Reform and Immigrant Responsibility Act of 1996  
 25 (8 U.S.C. 1221 note) is amended—

1           (1) in paragraph (1), by striking “December  
2       31” and inserting “October 26”;

3           (2) by amending paragraph (2) to read as fol-  
4       lows:

5           “(2) LAND BORDER PORTS OF ENTRY.—Not  
6       later than October 26, 2004, the Secretary of Home-  
7       land Security shall implement the integrated entry  
8       and exit data system using the data described in  
9       paragraph (1) and available alien arrival and depart-  
10      ture data described in subsection (b)(1) pertaining  
11      to aliens arriving in, or departing from, the United  
12      States at all land border ports of entry. Such imple-  
13      mentation shall include ensuring that such data,  
14      when collected or created by an immigration officer  
15      at a port of entry, are entered into the system and  
16      can be accessed by immigration officers at airports,  
17      seaports, and other land border ports of entry.”; and  
18      (3) by striking paragraph (3).

19      (d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—  
20      Section 110(f)(1) of the Illegal Immigration Reform and  
21      Immigrant Responsibility Act of 1996 (8 U.S.C. 1221  
22      note) is amended by adding at the end the following:

23      “The Secretary of Homeland Security shall ensure  
24      that any officer or employee of the Department of  
25      Homeland Security or the Department of State hav-

1       ing need to access the data contained in the inte-  
2       grated entry and exit data system for any lawful  
3       purpose under the Immigration and Nationality Act  
4       has such access, including access for purposes of  
5       representation of the Department of Homeland Se-  
6       curity in removal proceedings under section 240 of  
7       such Act and adjudication of applications for bene-  
8       fits under such Act.”.

9       (e) WAIVER AVAILABLE.—If the President deter-  
10      mines in writing, with respect to a fiscal or calendar year,  
11      that a waiver of one or more of the amendments made  
12      by this section is desirable and would not threaten the na-  
13      tional security of the United States, the President may  
14      waive the effectiveness of such amendment or amendments  
15      with respect to such year.

16      **SEC. 302. COLLECTION OF INFORMATION REGARDING FOR-**  
17                                   **EIGN STUDENTS.**

18       (a) COURSE OF STUDY.—Section 641(c)(1)(C) of the  
19      Illegal Immigration Reform and Immigrant Responsibility  
20      Act of 1996 (8 U.S.C. 1372(c)(1)(C)) is amended by in-  
21      serting after “including” the following: “each course of  
22      study the student has taken and is taking at the institu-  
23      tion and”.

24       (b) IMPLEMENTATION OF PROGRAM TO COLLECT IN-  
25      FORMATION RELATING TO NONIMMIGRANT FOREIGN STU-

1 DENTS AND OTHER EXCHANGE PROGRAM PARTICI-  
 2 PANTS.—Section 641(d)(2) of the Illegal Immigration Re-  
 3 form and Immigrant Responsibility Act of 1996 (8 U.S.C.  
 4 1372(d)(2)) is amended to read as follows:

5           “(2) EFFECT OF FAILURE TO PROVIDE INFOR-  
 6 MATION.—During any period on or after the date of  
 7 the enactment of the Securing America’s Future  
 8 through Enforcement Reform Act of 2003, if an ap-  
 9 proved institution of higher education or a des-  
 10 ignated exchange visitor program fails to provide the  
 11 information described in subsection (c) through the  
 12 program described in subsection (a), all approvals  
 13 described in subparagraph (A) of paragraph (1), and  
 14 all grants of authority described in subparagraph  
 15 (B) of such paragraph, with respect to such institu-  
 16 tion or exchange visitor program shall be revoked.”.

17 **SEC. 303. ALIEN REGISTRATION.**

18       (a) IN GENERAL.—Section 262 (8 U.S.C. 1302) is  
 19 amended to read as follows:

20       “REGISTRATION OF ALIENS IN THE UNITED STATES

21       “SEC. 262. (a) INITIAL REGISTRATION.—

22           “(1) IN GENERAL.—It shall be the duty of  
 23 every alien now or hereafter in the United States,  
 24 who (1) is fourteen years of age or older, (2) has not  
 25 been registered and fingerprinted under section



1       221(b) of this Act or section 30 or 31 of the Alien  
2       Registration Act, 1940, and (3) remains in the  
3       United States for thirty days or longer, to apply for  
4       registration and to be fingerprinted before the expi-  
5       ration of such thirty days.

6               “(2) MINORS.—It shall be the duty of every  
7       parent or legal guardian of any alien now or here-  
8       after in the United States, who (1) is less than four-  
9       teen years of age, (2) has not been registered under  
10      section 221(b) of this Act or section 30 or 31 of the  
11      Alien Registration Act, 1940, and (3) remains in the  
12      United States for thirty days or longer, to apply for  
13      the registration of such alien before the expiration of  
14      such thirty days. Whenever any alien attains his  
15      fourteenth birthday in the United States he shall,  
16      within thirty days thereafter, apply in person for  
17      registration and to be fingerprinted.

18      “(b) SUBSEQUENT REGISTRATIONS.—

19              “(1) PERMANENT RESIDENTS.—In addition to  
20      any other registration otherwise required under this  
21      Act or any other Act, each alien lawfully admitted  
22      for permanent residence shall annually register with  
23      the Secretary of Homeland Security, regardless of  
24      whether there has been any change in the alien’s ad-  
25      dress. This requirement shall commence on the first

1 anniversary of the date on which the alien acquired  
2 the status of an alien lawfully admitted for perma-  
3 nent residence that occurs after the enactment of  
4 the Securing America's Future through Enforcement  
5 Reform Act of 2003.

6 “(2) OTHER ALIENS.—In addition to any other  
7 registration otherwise required under this Act or any  
8 other Act, every alien in the United States, other  
9 than an alien described in paragraph (1), shall reg-  
10 ister with the Secretary of Homeland Security at the  
11 expiration of each 3-month period during which the  
12 alien remains in the United States, regardless of  
13 whether there has been any change in the alien's ad-  
14 dress. This requirement shall commence on the 60th  
15 day after the alien enters the United States.

16 “(3) MINORS.—In the case of an alien who is  
17 less than fourteen years of age, a parent or legal  
18 guardian of the alien may carry out this subsection  
19 on behalf of the alien.

20 “(c) CHANGE OF ADDRESS.—

21 “(1) IN GENERAL.—Each alien required to be  
22 registered under this title who is within the United  
23 States shall notify the Secretary of Homeland Secu-  
24 rity in writing of each change of address and new  
25 address within ten days from the date of such

1 change and furnish with such notice such additional  
2 information as the Secretary may require by regula-  
3 tion.

4 “(2) CERTAIN FOREIGN STATES.—

5 “(A) IN GENERAL.—The Secretary of  
6 Homeland Security may, in the discretion of the  
7 Secretary, upon ten days notice, require the na-  
8 tives of any one or more foreign states, or any  
9 class or group thereof, who are within the  
10 United States and who are required to be reg-  
11 istered under this title, to notify the Secretary  
12 of their current addresses and furnish such ad-  
13 ditional information as the Secretary may re-  
14 quire.

15 “(B) NOTICE FOR MINORS.—In the case of  
16 an alien for whom a parent or legal guardian is  
17 required to apply for registration, the notice re-  
18 quired by this section shall be given to such  
19 parent or legal guardian.

20 “(3) MINORS.—In the case of an alien who is  
21 less than fourteen years of age, a parent or legal  
22 guardian of the alien may carry out this subsection  
23 on behalf of the alien.

24 “(d) EXCEPTION.—Subsections (b) and (c) shall not  
25 apply to an alien lawfully admitted for permanent resi-

1 dence, and the alien's spouse and children, if the alien is  
2 a member of the armed forces of the United States serving  
3 on active duty (as defined in section 101(d) of title 10,  
4 United States Code).

5 “(e) FORMS.—The Secretary of Homeland Security  
6 shall prepare forms for registrations and change of ad-  
7 dress notifications required under this section. Such forms  
8 shall contain inquiries to obtain the following information:

9 “(1) Full name and aliases.

10 “(2) Current address.

11 “(3) Date of birth.

12 “(4) Visa category.

13 “(5) Date of entry into the United States.

14 “(6) Termination date of authorization to re-  
15 main in the United States, if any.

16 “(7) Signature.

17 “(8) Biometric feature of the alien.

18 “(9) Any additional information that the Sec-  
19 retary of Homeland Security determines to be nec-  
20 essary.

21 “(f) INFORMATION TECHNOLOGY SYSTEM.—The  
22 Secretary of Homeland Security shall establish and oper-  
23 ate an information technology system for the electronic  
24 collection, compilation, and maintenance of the informa-  
25 tion submitted under this section. Such system shall per-

1 mit any alien address in the United States that has been  
2 registered with the Secretary, and the date of such reg-  
3 istration, to be accessed by any officer or employee of the  
4 Department of Homeland Security having need for such  
5 access for any lawful purpose under the Immigration and  
6 Nationality Act.”.

7 (b) REPEAL.—Section 265 (8 U.S.C. 1305) is re-  
8 pealed and the table of contents is amended by striking  
9 the item relating to such section.

10 (c) CONFORMING AMENDMENTS.—

11 (1) REMOVAL FOR FAILURE TO COMPLY.—Sec-  
12 tion 237(a)(3)(A) (8 U.S.C. 1227(a)(3)(A)) is  
13 amended by striking “265” and inserting “262”.

14 (2) REGISTRATION OF SPECIAL GROUPS.—Sec-  
15 tion 263(b) (8 U.S.C. 1303(b)) is amended by in-  
16 serting “(excluding subsection (c) of such section)”  
17 after “262”.

18 (3) FORMS AND PROCEDURE.—Section 264(a)  
19 (8 U.S.C. 1304(a)) is amended by striking “of this  
20 title, and the Attorney General is authorized and di-  
21 rected to prepare forms for the registration and  
22 fingerprinting of aliens under section 262 of this  
23 title.” and inserting a period.

1           (4) PENALTIES.—Section 266 (8 U.S.C. 1306)  
2       is amended by striking “265” each place such term  
3       appears and inserting “262”.

4       (d) REPORT.—Not later than 3 years after the date  
5       of the enactment of this Act, the Secretary of Homeland  
6       Security shall submit a report to the Committees on the  
7       Judiciary of the House of Representatives and the Senate  
8       on the implementation of section 262 of the Immigration  
9       and Nationality Act, as amended by this section, and the  
10      results of such implementation.

11      (e) EFFECTIVE DATE.—The amendments made by  
12      this section shall take effect on the date of the enactment  
13      of this Act.

14      **SEC. 304. VISA TERM COMPLIANCE BONDS.**

15      (a) DEFINITIONS.—For purposes of this section:

16           (1) VISA TERM COMPLIANCE BOND.—The term  
17       “visa term compliance bond” means a written  
18       suretyship undertaking entered into by an alien indi-  
19       vidual seeking admission to the United States of  
20       America on a nonimmigrant visa whose performance  
21       is guaranteed by a bail agent.

22           (2) SURETYSHIP UNDERTAKING.—The term  
23       “suretyship undertaking” means a written agree-  
24       ment, executed by a bail agent, which binds all par-  
25       ties to its certain terms and conditions and which

1 provides obligations for the visa applicant while  
2 under the bond and penalties for forfeiture to ensure  
3 the obligations of the principal under the agreement.

4 (3) BAIL AGENT.—The term “bail agent”  
5 means any individual properly licensed, approved,  
6 and appointed by power of attorney to execute or  
7 countersign bail bonds in connection with judicial  
8 proceedings and who receives a premium.

9 (4) SURETY.—The term “surety” means an en-  
10 tity, as defined by, and that is in compliance with,  
11 sections 9304 through 9308 of title 31, United  
12 States Code, that agrees—

13 (A) to guarantee the performance, where  
14 appropriate, of the principal under a visa term  
15 compliance bond;

16 (B) to perform as required in the event of  
17 a forfeiture; and

18 (C) to pay over the principal (penal) sum  
19 of the bond for failure to perform.

20 (b) ISSUANCE OF BOND.—A consular officer may re-  
21 quire an applicant for a nonimmigrant visa, as a condition  
22 for granting such application, to obtain a visa term com-  
23 pliance bond.

24 (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-  
25 CELLATION OF BONDS.—

1           (1) VALIDITY.—A visa term compliance bond  
2     undertaking is valid if it—

3           (A) states the full, correct, and proper  
4     name of the alien principal;

5           (B) states the amount of the bond;

6           (C) is guaranteed by a surety and  
7     countersigned by an attorney-in-fact who is  
8     properly appointed;

9           (D) is an original signed document;

10          (E) is filed with the Secretary of Home-  
11     land Security along with the original application  
12     for a visa; and

13          (F) is not executed by electronic means.

14          (2) EXPIRATION.—A visa term compliance bond  
15     undertaking shall expire at the earliest of—

16          (A) 1 year from the date of issue;

17          (B) at the expiration, cancellation, or sur-  
18     render of the visa; or

19          (C) immediately upon nonpayment of the  
20     premium.

21          (3) RENEWAL.—The bond may be renewed—

22          (A) annually with payment of proper pre-  
23     mium at the option of the bail agent or surety;  
24     and



1 (B) provided there has been no breach of  
2 conditions, default, claim, or forfeiture of the  
3 bond.

4 (4) CANCELLATION.—The bond shall be can-  
5 celed and the surety and bail agent exonerated—

6 (A) for nonrenewal;

7 (B) if the surety or bail agent provides  
8 reasonable evidence that there was misrepresen-  
9 tation or fraud in the application for the bond;

10 (C) upon termination of the visa;

11 (D) upon death, incarceration of the prin-  
12 cipal, or the inability of the surety to produce  
13 the principal for medical reasons;

14 (E) if the principal is detained in any city,  
15 State, country, or political subdivision thereof;

16 (F) if the principal departs from the  
17 United States of America for any reason with-  
18 out permission of the Secretary of Homeland  
19 Security and the surety or bail agent; or

20 (G) if the principal is surrendered by the  
21 surety.

22 (5) EFFECT OF EXPIRATION OR CANCELLA-  
23 TION.—When a visa term compliance bond expires  
24 without being immediately renewed, or is canceled,

1 the nonimmigrant status of the alien shall be re-  
2 voked immediately.

3 (6) SURRENDER OF PRINCIPAL; FORFEITURE  
4 OF BOND PREMIUM.—

5 (A) SURRENDER.—At any time before a  
6 breach of any of the conditions of the bond, the  
7 surety or bail agent may surrender the prin-  
8 cipal, or the principal may surrender, to any of-  
9 fice or facility of the Department of Homeland  
10 Security charged with immigration enforcement  
11 or border protection.

12 (B) FORFEITURE OF BOND PREMIUM.—A  
13 principal may be surrendered without the re-  
14 turn of any bond premium if the visa holder—

15 (i) changes address without notifying  
16 the surety or bail agent and the Secretary  
17 of Homeland Security in writing at least  
18 60 days prior to such change;

19 (ii) changes schools, jobs, or occupa-  
20 tions without written permission of the  
21 surety, bail agent, and the Secretary;

22 (iii) conceals himself or herself;

23 (iv) fails to report to the Secretary as  
24 required at least annually; or

1 (v) violates the contract with the bail  
2 agent or surety, commits any act that may  
3 lead to a breach of the bond, or otherwise  
4 violates any other obligation or condition  
5 of the visa established by the Secretary.

6 (7) CERTIFIED COPY OF UNDERTAKING OR  
7 WARRANT TO ACCOMPANY SURRENDER.—

8 (A) IN GENERAL.—A person desiring to  
9 make a surrender of the visa holder—

10 (i) shall have the right to petition any  
11 Federal court for an arrest warrant for the  
12 arrest of the visa holder;

13 (ii) shall forthwith be provided a cer-  
14 tified copy of the arrest warrant and the  
15 undertaking; and

16 (iii) shall have the right to pursue, ap-  
17 prehend, detain, and deliver the visa hold-  
18 er, together with the certified copy of the  
19 arrest warrant and the undertaking, to any  
20 official or facility of the Department of  
21 Homeland Security charged with immigra-  
22 tion enforcement or border protection or  
23 any detention facility authorized to hold  
24 Federal detainees.

1 (B) EFFECTS OF DELIVERY.—Upon deliv-  
2 ery of a person under subparagraph (A)(iii)—

3 (i) the official to whom the delivery is  
4 made shall detain the visa holder in cus-  
5 tody and issue a written certificate of sur-  
6 render; and

7 (ii) the court issuing the warrant de-  
8 scribed in subparagraph (A)(i) and the  
9 Secretary of Homeland Security shall im-  
10 mediately exonerate the surety and bail  
11 agent from any further liability on the  
12 bond.

13 (8) FORM OF BOND.—A visa term compliance  
14 bond shall in all cases state the following and be se-  
15 cured by a surety:

16 (A) BREACH OF BOND; PROCEDURE, FOR-  
17 FEITURE, NOTICE.—

18 (i) If a visa holder violates any condi-  
19 tions of the visa or the visa bond the Sec-  
20 retary of Homeland Security shall—

21 (I) order the visa canceled;

22 (II) immediately obtain a war-  
23 rant for the visa holder's arrest;

24 (III) order the bail agent and  
25 surety to take the visa holder into

1 custody and surrender the visa holder  
2 to the Secretary; and

3 (IV) mail notice to the bail agent  
4 and surety via certified mail return  
5 receipt at each of the addresses in the  
6 bond.

7 (ii) A bail agent or surety shall have  
8 full and complete access to any and all in-  
9 formation, electronic or otherwise, in the  
10 care, custody, and control of the United  
11 States Government or any State or local  
12 government or any subsidiary or police  
13 agency thereof regarding the visa holder  
14 needed to comply with section 304 of the  
15 Securing America's Future through En-  
16 forcement Reform Act of 2003 that the  
17 court issuing the warrant believes is crucial  
18 in locating the visa holder.

19 (iii) If the visa holder is later ar-  
20 rested, detained, or otherwise located out-  
21 side the United States and the outlying  
22 possessions of the United States (as de-  
23 fined in section 101(a) of the Immigration  
24 and Nationality Act), the Secretary of  
25 Homeland Security shall—

1 (I) order that the bail agent and  
2 surety are completely exonerated, and  
3 the bond canceled and terminated;  
4 and

5 (II) if the Secretary has issued  
6 an order under clause (i), the surety  
7 may request, by written, properly filed  
8 motion, reinstatement of the bond.  
9 This subclause may not be construed  
10 to prevent the Secretary from revok-  
11 ing or resetting a higher bond.

12 (iv) The bail agent or surety must—

13 (I) produce the visa bond holder;  
14 or

15 (II)(aa) prove within 180 days  
16 that producing the bond holder was  
17 prevented—

18 (aaa) by the bond holder's  
19 illness or death;

20 (bbb) because the bond hold-  
21 er is detained in custody in any  
22 city, State, country, or political  
23 subdivision thereof;

24 (ccc) because the bond hold-  
25 er has left the United States or

1 its outlying possessions (as de-  
2 fined in section 101(a) of the Im-  
3 migration and Nationality Act (8  
4 U.S.C. 1101(a)); or

5 (ddd) because required no-  
6 tice was not given to the bail  
7 agent or surety; and

8 (bb) prove within 180 days that  
9 the inability to produce the bond hold-  
10 er was not with the consent or conniv-  
11 ance of the bail agent or sureties.

12 (v) If the bail agent or surety does  
13 not comply with the terms of this bond  
14 within 60 days after the mailing of the no-  
15 tice required under subparagraph  
16 (A)(i)(IV), a portion of the face value of  
17 the bond shall be assessed as a penalty  
18 against the surety.

19 (vi) If compliance occurs more than  
20 60 days but no more than 90 days after  
21 the mailing of the notice, the amount as-  
22 sessed shall be one-third of the face value  
23 of the bond.

24 (vii) If compliance occurs more than  
25 90 days, but no more than 180 days, after

1 the mailing of the notice, the amount as-  
2 sessed shall be two-thirds of the face value  
3 of the bond.

4 (viii) If compliance does not occur  
5 within 180 days after the mailing of the  
6 notice, the amount assessed shall be 100  
7 percent of the face value of the bond.

8 (ix) All penalty fees shall be paid by  
9 the surety within 45 days after the end of  
10 such 180-day period.

11 (B) The Secretary of Homeland Security  
12 may waive the penalty fees or extend the period  
13 for payment or both, if—

14 (i) a written request is filed with the  
15 Secretary; and

16 (ii) the bail agent or surety provides  
17 evidence satisfactory to the Secretary that  
18 diligent efforts were made to effect compli-  
19 ance of the visa holder.

20 (C) COMPLIANCE; EXONERATION; LIMITA-  
21 TION OF LIABILITY.—

22 (i) COMPLIANCE.—The bail agent or  
23 surety shall have the absolute right to lo-  
24 cate, apprehend, arrest, detain, and sur-  
25 render any visa holder, wherever he or she



1                   may be found, who violates any of the  
2                   terms and conditions of the visa or bond.

3                   (ii) EXONERATION.—Upon satisfying  
4                   any of the requirements of the bond, the  
5                   surety shall be completely exonerated.

6                   (iii) LIMITATION OF LIABILITY.—The  
7                   total liability on any undertaking shall not  
8                   exceed the face amount of the bond.

9   **SEC. 305. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

10       (a) IN GENERAL.—Section 236(a)(2) is amended to  
11   read as follows:

12               “(2) subject to section 241(a)(8), may release  
13       the alien on bond of at least \$10,000, with security  
14       approved by, and containing conditions prescribed  
15       by, the Secretary of Homeland Security, but the  
16       Secretary shall not release the alien on or to his own  
17       recognizance unless an order of an immigration  
18       judge expressly finds that the alien is not a flight  
19       risk and is not a threat to the United States; and”.

20       (b) EFFECTIVE DATE.—The amendment made by  
21   subsection (a) shall take effect on the date of the enact-  
22   ment of this Act.

1 **SEC. 306. DETENTION OF ALIENS DELIVERED BY BONDS-**  
2 **MEN.**

3 (a) IN GENERAL.—Section 241(a) (8 U.S.C.  
4 1231(a)) is amended by adding at the end the following:

5 “(8) EFFECT OF PRODUCTION OF ALIEN BY  
6 BONDSMAN.—Notwithstanding any other provision  
7 of law, the Secretary of Homeland Security shall  
8 take into custody any alien subject to a final order  
9 of removal, and cancel any bond previously posted  
10 for the alien, if the alien is produced within the pre-  
11 scribed time limit by the obligor on the bond. The  
12 obligor on the bond shall be deemed to have substan-  
13 tially performed all conditions imposed by the terms  
14 of the bond, and shall be released from liability on  
15 the bond, if the alien is produced within such time  
16 limit.”.

17 (b) EFFECTIVE DATE.—The amendment made by  
18 subsection (a) shall take effect on the date of the enact-  
19 ment of this Act and shall apply to all immigration bonds  
20 posted before, on, or after such date.

1 **TITLE IV—REMOVING ALIEN**  
2 **TERRORISTS, CRIMINALS,**  
3 **AND HUMAN RIGHTS VIOLA-**  
4 **TORS**

5 **Subtitle A—Removing Alien**  
6 **Terrorists**

7 **SEC. 401. DEPORTABILITY OF TERRORISTS, NATIONAL SE-**  
8 **CURITY THREATS, AND SERIOUS FOREIGN**  
9 **CRIMES.**

10 (a) IN GENERAL.—Section 237(a)(4) (8 U.S.C.  
11 1227(a)(4)) is amended—

12 (1) by amending subparagraph (B) to read as  
13 follows:

14 “(B) TERRORIST ACTIVITIES.—Any alien  
15 who would be considered inadmissible pursuant  
16 to section 212(a)(3)(B) is deportable.”; and

17 (2) by inserting after subparagraph (D) the fol-  
18 lowing:

19 “(E) NATIONAL SECURITY CON-  
20 SEQUENCES.—An alien described in section  
21 212(a)(3)(G) is deportable.

22 “(F) SERIOUS FOREIGN CRIMES.—An alien  
23 described in section 212(a)(3)(H) is deport-  
24 able.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall take effect on the date of the enact-  
3 ment of this Act and shall apply to conduct occurring be-  
4 fore, on, or after such date.

5 **SEC. 402. ADMINISTRATIVE REMOVAL OF ALIEN TERROR-**  
6 **ISTS.**

7 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is  
8 amended—

9 (1) in the section heading, by striking “ALIENS  
10 CONVICTED OF COMMITTING AGGRAVATED FELO-  
11 NIES” and inserting “CERTAIN ALIENS”;

12 (2) in the heading of subsection (a), by insert-  
13 ing “INSTITUTIONAL” before “REMOVAL”;

14 (3) in subsection (a)(1), by striking “241” each  
15 place it appears and inserting “237”;

16 (4) by amending the heading of subsection (b)  
17 to read as follows:

18 “(b) PROCEEDINGS FOR THE ADMINISTRATIVE RE-  
19 MOVAL OF ALIENS.—”;

20 (5) by amending subsection (b)(1) to read as  
21 follows:

22 “(1) The Secretary of Homeland Security  
23 may—

24 “(A) in the case of an alien described in  
25 paragraph (2), determine the deportability of

1           such alien under section 237(a)(2)(A)(iii) (re-  
 2           lating to conviction of an aggravated felony); or

3           “(B) in the case of an alien certified under  
 4           paragraph (2)(C), determine the deportability  
 5           of such alien under any provision of section  
 6           237,

7           and issue an order of removal pursuant to the proce-  
 8           dures set forth in this subsection or section 240.”;

9           (6) in subsection (b)(2)—

10           (A) in subparagraph (A), by striking “or”  
 11           at the end;

12           (B) in subparagraph (B), by striking the  
 13           period at the end and inserting “; or”; and

14           (C) by adding at the end the following:

15           “(C) has been certified by the Secretary of  
 16           Homeland Security, pursuant to paragraph (6),  
 17           which certification is not reviewable except as  
 18           provided in subsection (b)(7).”;

19           (7) by adding at the end of subsection (b) the  
 20           following:

21           “(6) CERTIFICATION.—The Secretary of Home-  
 22           land Security may certify an alien under this para-  
 23           graph if the Secretary has reasonable grounds to be-  
 24           lieve that the alien—

1           “(A) is described in section  
2           212(a)(3)(A)(i),                   212(a)(3)(A)(iii),  
3           212(a)(3)(B),                   237(a)(4)(A)(i),  
4           237(a)(4)(A)(iii), or 237(a)(4)(B); or

5           “(B) is engaged in any other activity that  
6           endangers the national security of the United  
7           States.

8           “(7) NONDELEGATION.—The Secretary may  
9           delegate the authority provided under paragraph (6)  
10          only to the Deputy Secretary. The Deputy Secretary  
11          may not delegate such authority.

12          “(8) JUDICIAL REVIEW.—Notwithstanding any  
13          other provision of law, judicial review of an order  
14          under paragraph (2)(C) shall be available only by a  
15          filing in the United States Court of Appeals for the  
16          District of Columbia.”;

17          (8) by striking the first subsection (c) and in-  
18          serting the following:

19          “(c) PRESUMPTION OF REMOVABILITY.—An alien  
20          convicted of an aggravated felony, or certified pursuant  
21          to section 238(b)(2)(C), shall be conclusively presumed to  
22          be removable from the United States.”; and

23          (9) by redesignating the second subsection (c)  
24          (redesignated as such by section 671(b)(13) of the

1       Illegal Immigration Reform and Immigrant Respon-  
2       sibility Act of 1996) as subsection (d).

3       (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act and shall apply to aliens in removal proceedings  
6 on or after such date.

7       **SEC. 403. ASYLUM PETITIONS BY MEMBERS OF TERRORIST**  
8                                   **ORGANIZATIONS.**

9       Paragraph (1) of section 208(b) (8 U.S.C. 1158(b))  
10 is amended by adding at the end the following: “In any  
11 case in which there may be more than one motive for per-  
12 secution, the alien bears the burden of showing that such  
13 persecution was or would be inflicted solely on account of  
14 race, religion, nationality, membership in a particular so-  
15 cial group, or political opinion.”.

16       **SEC. 404. EXPATRIATION OF TERRORISTS.**

17       (a) IN GENERAL.—Section 349 of the Immigration  
18 and Nationality Act (8 U.S.C. 1481) is amended—

19               (1) by amending subsection (a)(3) to read as  
20 follows:

21               “(3)(A) entering, or serving in, the armed  
22 forces of a foreign state if—

23                       “(i) such armed forces are engaged in hos-  
24                       tilities against the United States; or

1           “(ii) such person serves as a commissioned  
2           or non-commissioned officer; or

3           “(B) in the case of a naturalized American cit-  
4           izen, joining or serving in, or providing material sup-  
5           port (as defined in section 2339A of title 18, United  
6           States Code) to a terrorist organization designated  
7           under section 212(a)(3) or 219 or designated under  
8           the International Emergency Powers Act, if the or-  
9           ganization is engaged in hostilities against the  
10          United States, its people, or its national security in-  
11          terests.”; and

12          (2) by adding at the end of subsection (b):  
13          “The voluntary commission or performance of an act  
14          described in subsection (a)(3)(A)(i) or (B) shall be  
15          prima facie evidence that the act was done with the  
16          intention of relinquishing United States nation-  
17          ality.”.

18          (b) EFFECTIVE DATE.—The amendments made by  
19          subsection (a) shall take effect on the date of the enact-  
20          ment of this Act and shall apply to determinations pending  
21          on or after such date with respect to which a final admin-  
22          istrative decision has not been rendered as of such date.



1           **Subtitle B—Removing Alien**  
2                           **Criminals**

3   **SEC. 411. DEFINITION OF CRIMINAL CONVICTION.**

4           (a) IN GENERAL.—Subparagraph (B) of section  
5   101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding  
6   at the end the following: “Any conviction entered by a  
7   court shall remain valid for immigration purposes notwith-  
8   standing a vacation of that conviction, unless the convic-  
9   tion is vacated on direct appeal wherein the court deter-  
10   mines that vacation is warranted on the merits, or on  
11   grounds relating to a violation of a fundamental statutory  
12   or constitutional right in the underlying criminal pro-  
13   ceedings.”.

14          (b) EFFECTIVE DATE.—The amendment made by  
15   this section shall take effect on the date of the enactment  
16   of this Act and shall apply to determinations pending on  
17   or after such date with respect to which a final administra-  
18   tive decision has not been rendered as of such date.

19   **SEC. 412. REMOVING MURDERERS, RAPISTS, SEXUAL ABUS-**  
20                           **ERS OF CHILDREN, AND DRUNK DRIVERS.**

21          (a) REMOVING MURDERERS, RAPISTS, AND SEXUAL  
22   ABUSERS OF CHILDREN.—Subparagraph (A) of section  
23   101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by insert-  
24   ing before the semicolon at the end the following: “, re-  
25   gardless of the term of imprisonment, and regardless of

1 whether the offenses are deemed to be misdemeanors or  
2 felonies under State or Federal law,”.

3 (b) REMOVING DRUNK DRIVERS.—Section  
4 101(a)(43)(F) is amended by inserting “, including a third  
5 drunk driving conviction, regardless of the States in which  
6 the convictions occurred, and regardless of whether the of-  
7 fenses are deemed to be misdemeanors or felonies under  
8 State or Federal law,” after “offense)”.

9 (c) EFFECTIVE DATE.—The amendment made by the  
10 section shall take effect on the date of the enactment of  
11 this Act and shall apply to convictions entered on or after  
12 such date.

13 **SEC. 413. DETENTION AND RELEASE OF CRIMINAL ALIENS**  
14 **PENDING REMOVAL DECISION.**

15 (a) ARREST AND DETENTION.—

16 (1) IN GENERAL.—Section 236(c)(1) (8 U.S.C.  
17 1226(c)(1)) is amended—

18 (A) by striking the matter preceding sub-  
19 paragraph (A) and inserting the following:

20 “(1) ARREST AND DETENTION.—On a warrant  
21 issued by the Secretary of Homeland Security, an  
22 alien shall be arrested and detained pending a deci-  
23 sion on whether the alien is to be removed from the  
24 United States if the Secretary alleges that the  
25 alien—”;

1 (B) in subparagraph (D), by striking the  
2 comma at the end and inserting a period; and

3 (C) by striking the matter following sub-  
4 paragraph (D) and adding at the end the fol-  
5 lowing:

6 “Nothing in this paragraph shall be construed as re-  
7 quiring the Secretary to arrest or detain an alien  
8 who is sentenced to a term of imprisonment until  
9 the alien is released from imprisonment, but parole,  
10 supervised release, probation, or possibility of arrest  
11 or further imprisonment is not a reason for the Sec-  
12 retary to defer arrest and detention under this para-  
13 graph.”.

14 (2) EFFECTIVE DATE.—The amendments made  
15 by paragraph (1) shall apply to aliens who are in  
16 proceedings under the Immigration and Nationality  
17 Act on or after the date of the enactment of this Act  
18 if those proceedings have not resulted in a final ad-  
19 ministrative order before such date.

20 (b) RELEASE.—

21 (1) IN GENERAL.—Section 236(c)(2) (8 U.S.C.  
22 1226(c)(2)) is amended—

23 (A) by inserting after the first sentence the  
24 following:

1 “To satisfy this burden, the alien is required to  
2 present documentary evidence or witness testimony  
3 from a third party, where such evidence is reason-  
4 ably available. No finder of fact may determine that  
5 such evidence is not reasonably available solely be-  
6 cause the alien is detained.”; and

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

8 “The Secretary of Homeland Security may release  
9 an alien under this paragraph only on bond of at  
10 least \$5,000 with security approved by, and con-  
11 taining conditions prescribed by, the Secretary.”.

12 (2) CONDITION ON RELEASE.—Section 236(a)  
13 (8 U.S.C. 1226(a)) is amended by adding at the end  
14 the following:

15 “In order to be released, the alien has the burden of prov-  
16 ing that the alien is neither a danger to the community  
17 nor a flight risk. To satisfy this burden, the alien is re-  
18 quired to present documentary evidence or witness testi-  
19 mony from a third party, where such evidence is reason-  
20 ably available. No finder of fact may determine that such  
21 evidence is not reasonably available solely because the  
22 alien is detained.”.

23 (3) EFFECTIVE DATE.—The amendments made  
24 by this subsection shall apply to releases occurring  
25 on or after the date of the enactment of this Act.

1           **Subtitle C—Removing Alien**  
2           **Human Rights Violators**

3   **SEC. 421. SERIOUS HUMAN RIGHTS VIOLATOR DEFINED.**

4           Section 101(a) (8 U.S.C. 1101(a)) is amended by  
5 adding at the end the following:

6           “(51)(A) The term ‘serious human rights violator’  
7 means any alien who—

8                   “(i) ordered, incited, assisted, or otherwise par-  
9           ticipated in the persecution of any person on account  
10          of race, religion, nationality, membership in a par-  
11          ticular social group, or political opinion;

12                   “(ii) while serving as a foreign government offi-  
13          cial, was responsible for, or directly carried out, par-  
14          ticularly severe violations of religious freedom (as  
15          defined in section 3 of the International Religious  
16          Freedom Act of 1998 (22 U.S.C. 6402));

17                   “(iii) during an armed conflict, ordered, incited,  
18          assisted, or otherwise participated in a war crime (as  
19          defined in section 2441(c) of title 18, United States  
20          Code);

21                   “(iv) ordered, incited, assisted, otherwise par-  
22          ticipated in, attempted to commit, or conspired to  
23          commit conduct that would constitute genocide (as  
24          defined in section 1091(a) of title 18, United States

1 Code), if the conduct were committed in the United  
2 States or by a United States national;

3 “(v) ordered, incited, assisted, or otherwise par-  
4 ticipated in any act of torture (as defined in the  
5 United Nations Convention Against Torture and  
6 Other Forms of Cruel, Inhuman or Degrading  
7 Treatment or Punishment, done at New York on  
8 December 10, 1984, subject to any reservations, un-  
9 derstandings, declarations, and provisos contained in  
10 the United States Senate resolution of ratification of  
11 the Convention); or

12 “(vi) committed, ordered, incited, assisted, oth-  
13 erwise participated in, or was responsible for any of  
14 the following acts, when undertaken in whole or in  
15 significant part for a political, religious, or discrimi-  
16 natory purpose:

17 “(I) Murder or other homicide.

18 “(II) Kidnapping.

19 “(III) Disappearance.

20 “(IV) Rape.

21 “(V) Torture or mutilation.

22 “(VI) Prolonged, arbitrary detention.

23 “(VII) Enslavement.

24 “(VIII) Forced prostitution, impregnation,  
25 sterilization, or abortion.

1 “(IX) Genocide.

2 “(X) Extermination.

3 “(XI) Recruitment of persons under the  
4 age of 15 for use in armed conflict.

5 “(B) Subparagraph (A) shall not apply to an alien  
6 who demonstrates by clear and convincing evidence that  
7 the conduct was committed under extreme duress. For  
8 purposes of the preceding sentence, ‘extreme duress’  
9 means duress created by a threat of imminent death or  
10 rape of the alien, or a spouse, child, or parent of the  
11 alien.”.

12 **SEC. 422. DEPORTABILITY OF SERIOUS HUMAN RIGHTS**  
13 **VIOLATORS.**

14 (a) IN GENERAL.—Section 237(a) (8 U.S.C.  
15 1227(a)) is amended by adding at the end the following:

16 “(8) SERIOUS HUMAN RIGHTS VIOLATORS.—  
17 Any serious human rights violator is deportable.”.

18 (b) CONFORMING AMENDMENT.—Section  
19 237(a)(4)(D) (8 U.S.C. 1227(a)(4)(D)) is amended to  
20 read as follows:

21 “(D) ASSISTED IN NAZI PERSECUTION.—  
22 Any alien described in section 212(a)(3)(E) is  
23 deportable.”.

1 **SEC. 423. ARREST AND DETENTION OF SERIOUS HUMAN**  
2 **RIGHTS VIOLATORS PENDING REMOVAL AND**  
3 **CRIMINAL PROSECUTION DECISIONS.**

4 (a) CUSTODY.—Section 236(c)(1)(D) (8 U.S.C.  
5 1226(c)(1)(D)) is amended by striking “section  
6 237(a)(4)(B),” and inserting “paragraph (4)(B) or (8) of  
7 section 237(a)”.

8 (b) NOTICE TO CRIMINAL DIVISION.—Section 236(c)  
9 (8 U.S.C. 1226(c)) is amended by adding at the end the  
10 following:

11 “(3) NOTICE TO CRIMINAL DIVISION.—The Sec-  
12 retary of Homeland Security shall ensure that the  
13 Assistant Attorney General for the Criminal Division  
14 of the Department of Justice—

15 “(A) is notified when an alien is arrested  
16 and detained under paragraph (1) by reason of  
17 inadmissibility under section 212(a)(2)(G) or  
18 deportability under section 237(a)(8);

19 “(B) is provided the information that was  
20 the basis for the application of such paragraph;  
21 and

22 “(C) makes a determination whether the  
23 alien should be arrested and prosecuted in the  
24 United States for a criminal offense.

25 “(4) REPORTS.—Beginning 6 months after the  
26 date of the enactment of the Securing America’s Fu-



1       ture through Enforcement Reform Act of 2003, and  
2       every 12 months thereafter, the Secretary of Home-  
3       land Security and the Attorney General shall submit  
4       to the Committees on the Judiciary of the United  
5       States House of Representatives and of the Senate  
6       a report containing the following:

7               “(A) The number of removal proceedings  
8       initiated against aliens under sections  
9       212(a)(2)(G) and 237(a)(8) during the report-  
10      ing period.

11              “(B) The number of removal proceedings  
12      under sections 212(a)(2)(G) and 237(a)(8)  
13      pending at the conclusion of the reporting pe-  
14      riod.

15              “(C) The number of aliens removed under  
16      sections 212(a)(2)(G) and 237(a)(8) during the  
17      reporting period.

18              “(D) The number of notifications under  
19      paragraph (3)(A) made during the reporting pe-  
20      riod.

21              “(E) The number of criminal prosecutions  
22      initiated during the reporting period based on  
23      information provided under paragraph (3).

24              “(F) The number of criminal prosecutions  
25      pending at the conclusion of the reporting pe-

1           riod that were initiated based on information  
2           provided under paragraph (3).

3           “(G) The number of criminal prosecutions  
4           initiated based on information provided under  
5           paragraph (3) that resulted in a conviction dur-  
6           ing the reporting period.”.

7   **SEC. 424. EXCEPTION TO RESTRICTION ON REMOVAL FOR**  
8                   **SERIOUS HUMAN RIGHTS VIOLATORS AND**  
9                   **TERRORISTS.**

10       Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is  
11   amended—

12           (1) in the matter preceding clause (i), by strik-  
13       ing “section 237(a)(4)(D)” and inserting “subpara-  
14       graph (B) or (D) of section 237(a)(4)”; and

15           (2) by amending clause (i) to read as follows:

16                   “(i) the alien is a serious human  
17                   rights violator;”.

18   **SEC. 425. INITIATION OF REMOVAL PROCEEDINGS AGAINST**  
19                   **SERIOUS HUMAN RIGHTS VIOLATORS BY**  
20                   **COMPLAINT.**

21       Section 239 (8 U.S.C. 1229) is amended by adding  
22   at the end the following:

23       “(e) COMPLAINTS RESPECTING SERIOUS HUMAN  
24   RIGHTS VIOLATORS.—

1           “(1) ESTABLISHMENT OF PROCESS.—The Sec-  
2       retary of Homeland Security shall establish a proc-  
3       ess for the receipt, investigation, and disposition of  
4       complaints alleging that an alien present in the  
5       United States is a serious human rights violator and  
6       identifying that alien.

7           “(2) PERSONS ENTITLED TO FILE COM-  
8       PLAINTS.—Any individual may file a complaint  
9       under paragraph (1).

10          “(3) FORM AND CONTENT OF COMPLAINT.—A  
11       complaint under paragraph (1) shall be in the form  
12       of a written statement, executed under oath or as  
13       permitted under penalty of perjury under section  
14       1746 of title 28, United States Code, and shall con-  
15       tain such information as the Secretary of Homeland  
16       Security may require. Complaints shall be filed with  
17       an office designated for that purpose by the Sec-  
18       retary.

19          “(4) NOTICE SERVED ON SUBJECT OF COM-  
20       PLAINT.—The Secretary shall serve notice, by cer-  
21       tified mail and within 14 days of the filing of a com-  
22       plaint under paragraph (1), on each alien identified  
23       in the complaint as a serious human rights violator.  
24       The alien shall answer the complaint within 10 days  
25       of receiving it.

1           “(5) INVESTIGATION AND ACTION.—The Sec-  
 2       retary shall conduct an investigation of each com-  
 3       plaint that satisfies the requirements of this sub-  
 4       section. Not later than 180 days after the date of fil-  
 5       ing of such a complaint, the Secretary, with respect  
 6       to each alien identified in the complaint as a serious  
 7       human rights violator—

8           “(A) shall initiate removal proceedings  
 9       against the alien; or

10          “(B) shall issue to the complainant a writ-  
 11       ten determination that, in the opinion of the  
 12       Secretary, the alien is not a serious human  
 13       rights violator.

14          “(6) CONSTRUCTION.—Nothing in this sub-  
 15       section shall be construed to limit the discretion of  
 16       consular officers under section 291 to determine eli-  
 17       gibility for a visa or document required for entry or  
 18       to limit the discretion of any immigration officer  
 19       otherwise to initiate removal proceedings under this  
 20       Act.”.

21 **SEC. 426. BARS TO REFUGEE STATUS AND ASYLUM FOR SE-**  
 22 **RIOUS HUMAN RIGHTS VIOLATORS.**

23       (a) REFUGEE DEFINED.—Section 101(a)(42) (8  
 24 U.S.C. 1101(a)(42)) is amended by striking the second  
 25 sentence and inserting “The term ‘refugee’ does not in-

1 clude any person who is a serious human rights violator  
 2 as defined in section 101(a)(51)(A).”.

3 (b) NO WAIVER OF GROUND OF INADMISSIBILITY  
 4 FOR REFUGE SEEKERS.—Section 207(c)(3) (8 U.S.C.  
 5 1157(c)(3)) is amended by inserting “or (2)(G)” after  
 6 “(2)(C)”.

7 (c) EXCEPTIONS TO GRANTING ASYLUM.—Section  
 8 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)) is amended to  
 9 read as follows:

10 “(i) the alien is a serious human  
 11 rights violator;”.

12 (d) EXTENSION TO SPOUSES AND CHILDREN OF EX-  
 13 CEPTIONS TO GRANTING ASYLUM.—Section 208(b)(3) of  
 14 the Immigration and Nationality Act (8 U.S.C.  
 15 1158(b)(3)) is amended by striking “such alien.” and in-  
 16 serting “such alien, unless the Secretary of Homeland Se-  
 17 curity determines that one of the exceptions in clauses (i)  
 18 through (v) of paragraph (2)(A) applies to the spouse or  
 19 child.”.

20 **SEC. 427. BAR TO ADJUSTMENT OF STATUS FOR SERIOUS**  
 21 **HUMAN RIGHTS VIOLATORS.**

22 Section 209(c) (8 U.S.C. 1159(c)) is amended by in-  
 23 serting “or (2)(G)” after “(2)(C)”.

1 **SEC. 428. BAR TO FINDING OF GOOD MORAL CHARACTER**  
2 **FOR SERIOUS HUMAN RIGHTS VIOLATORS.**

3 Section 101(f) (8 U.S.C. 1101(f)) is amended by in-  
4 serting after paragraph (1) the following:

5 “(2) a serious human rights violator;”.

6 **SEC. 429. BAR TO CANCELLATION OF REMOVAL FOR SERI-**  
7 **OUS HUMAN RIGHTS VIOLATORS.**

8 Section 240A(c)(4) (8 U.S.C. 2339b(c)(4)) is amend-  
9 ed—

10 (1) by striking “section 212(a)(3)” and insert-  
11 ing “paragraph (2)(G) or (3) of section 212(a)”;  
12 and

13 (2) by striking “section 237(a)(4).” and insert-  
14 ing “paragraph (4) or (8) of section 237(a).”.

15 **SEC. 430. BAR TO ADJUSTMENT OF STATUS WITH RESPECT**  
16 **TO CERTAIN SPECIAL IMMIGRANTS.**

17 Section 245(h)(2)(B) (8 U.S.C. 1255(h)(2)(B)) is  
18 amended by inserting “(2)(G),” before “(3)(A)”.

19 **SEC. 431. CRIMINAL PENALTIES FOR REENTRY OF RE-**  
20 **MOVED SERIOUS HUMAN RIGHTS VIOLATORS.**

21 Section 276(b) (8 U.S.C. 1326(b)) is amended—

22 (1) in paragraph (3), by striking “sentence. or”  
23 and inserting “sentence;”;

24 (2) in paragraph (4), by striking the period at  
25 the end and inserting “; or”; and

1           (3) by inserting after paragraph (4) the fol-  
2       lowing:

3           “(5) who was removed from the United States  
4       pursuant to section 212(a)(2)(G) or 237(a)(8), and  
5       who thereafter, without the permission of the Sec-  
6       retary of Homeland Security, enters, attempts to  
7       enter, or is at any time found in, the United States  
8       shall be fined under title 18, United States Code,  
9       imprisoned not more than 10 years, or both.”.

10 **SEC. 432. AIDING OR ASSISTING SERIOUS HUMAN RIGHTS**  
11 **VIOLATORS TO ENTER THE UNITED STATES.**

12       Section 277 (8 U.S.C. 1327) is amended by striking  
13 “felony)” and inserting “felony or is a serious human  
14 rights violator)”.

15 **SEC. 433. REVISION OF REGULATIONS WITH RESPECT TO**  
16 **THE INVOLUNTARY RETURN OF PERSONS IN**  
17 **DANGER OF SUBJECTION TO TORTURE.**

18       (a) REGULATIONS.—

19           (1) REVISION DEADLINE.—Not later than 120  
20       days after the date of the enactment of this Act, the  
21       Secretary of Homeland Security shall revise the reg-  
22       ulations prescribed by the Secretary to implement  
23       the United Nations Convention Against Torture and  
24       Other Forms of Cruel, Inhuman or Degrading

1 Treatment or Punishment, done at New York on  
2 December 10, 1984.

3 (2) EXCLUSION OF CERTAIN ALIENS.—The re-  
4 vision shall exclude from the protection of such regu-  
5 lations aliens described in section 241(b)(3)(B) of  
6 the Immigration and Nationality Act (8 U.S.C.  
7 1231(b)(3)(B)) (as amended by section 424 of this  
8 Act), including rendering such aliens ineligible for  
9 withholding or deferral of removal under the Con-  
10 vention.

11 (3) BURDEN OF PROOF.—The revision shall  
12 also ensure that the burden of proof is on the appli-  
13 cant for withholding or deferral of removal under the  
14 Convention to establish by clear and convincing evi-  
15 dence that he or she would be tortured if removed  
16 to the proposed country of removal.

17 (b) JUDICIAL REVIEW.—Notwithstanding any other  
18 provision of law, no court shall have jurisdiction to review  
19 the regulations adopted to implement this section, and  
20 nothing in this section shall be construed as providing any  
21 court jurisdiction to consider or review claims raised under  
22 the Convention or this section, except as part of the review  
23 of a final order of removal pursuant to section 242 of the  
24 Immigration and Nationality Act (8 U.S.C. 1252).



1 **SEC. 434. FUNDING FOR DETENTION AND REMOVAL ASSIST-**  
2 **ANCE PROVIDED BY STATE AND LOCAL LAW**  
3 **ENFORCEMENT AGENCIES.**

4 (a) The Secretary of Homeland Security shall reim-  
5 burse verifiable claims submitted by a law enforcement  
6 agency of a State, or any political subdivision of a State,  
7 that were lawfully incurred for the emergency medical  
8 care, housing, and care in a secure facility, and the trans-  
9 portation into Federal custody at a location designated by  
10 the Secretary, of any alien detained as inadmissible under  
11 section 212(a) of the Immigration and Nationality Act (8  
12 U.S.C. 1182(a)) or deportable under section 237(a) of  
13 such Act (8 U.S.C. 1227(a)), if—

14 (1) transfer to Federal custody has occurred;

15 (2)(A) a determination is subsequently made  
16 under section 240(c)(1) of the Immigration and Na-  
17 tionality Act (8 U.S.C. 1229a(c)(1)) that such alien  
18 is removable; or

19 (B) a determination is made that the alien has  
20 permanently departed the United States; and

21 (3) reimbursement for all costs excepting trans-  
22 portation costs is made according to per diem rates  
23 established by the Secretary.

24 (b) Per diem rates described in subparagraph (a)(3)  
25 shall be determined after public notice and comment.

1 (c) In addition to funds otherwise available for such  
 2 purpose, there are authorized to be appropriated to the  
 3 Department of Homeland Security such sums as may be  
 4 necessary to carry out subsection (a).

5 **SEC. 435. EFFECTIVE DATE.**

6 This subtitle, and the amendments made by this sub-  
 7 title, shall take effect on the date of the enactment of this  
 8 Act and shall apply to violations occurring before (except  
 9 for section 434 of this Act), on, or after such date.

10 **TITLE V—ENHANCING ENFORCE-**  
 11 **MENT OF THE IMMIGRATION**  
 12 **AND NATIONALITY ACT IN**  
 13 **THE INTERIOR**

14 **Subtitle A—Document Security**

15 **SEC. 501. SECURE TRAVEL DOCUMENTS.**

16 (a) IN GENERAL.—Section 215 (8 U.S.C. 1185) is  
 17 amended—

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

19 “(g)(1) The use by any person of any travel or identi-  
 20 fication document designated as insecure by the Secretary  
 21 of Homeland Security (hereafter ‘the Secretary’) for entry  
 22 into or departure from the United States at any land, sea  
 23 or air port of entry, is prohibited.

24 “(2) The use by any alien of any travel or identifica-  
 25 tion document designated as insecure by the Secretary to

1 identify such aliens for purposes of transportation of per-  
2 sons by public or private conveyance in interstate com-  
3 merce is prohibited.

4 “(3) The Secretary may waive the prohibition in  
5 paragraph (1) for citizens and legal permanent residents  
6 of the United States whose identity has been verified by  
7 a designation or endorsement of such status on the identi-  
8 fication document by a state or federal government agen-  
9 cy.”; and

10 (2) in subsection (c), by adding at the end the  
11 following: “The term ‘insecure travel or identifica-  
12 tion document’ as used in this section means a driv-  
13 ers license or identification card issued by a state or  
14 any political subdivision thereof, or by a consular  
15 representative or agent of a foreign government in  
16 the United States, which appears on a list estab-  
17 lished and maintained by the Secretary of docu-  
18 ments which the Secretary has determined may be  
19 issued to an alien who, on the date of issuance of  
20 such document, is unlawfully present in the United  
21 States after the expiration of the period of stay au-  
22 thorized by the Secretary or is present in the United  
23 States without being admitted or paroled.”.

24 (b) EFFECTIVE DATES.—

1           (1) The Secretary shall issue the list of insecure  
2 documents described in section 215(c) of the Immi-  
3 gration and Nationality Act, as amended by sub-  
4 section (a), not later than 60 days after the date of  
5 the enactment of this Act. Such list shall be updated  
6 semiannually thereafter, or upon application by any  
7 State or foreign government that has demonstrated  
8 to the satisfaction of the Secretary that a travel or  
9 identification document issued by such government  
10 is no longer insecure.

11           (2) Section 215(g)(1) of such Act, as so amend-  
12 ed, shall take effect 60 days after issuance of such  
13 list of insecure documents by the Secretary.

14           (3) Section 215(g)(2) of such Act, as so amend-  
15 ed, shall take effect 90 days after the date of the en-  
16 actment of this Act.

17 **SEC. 502. SOCIAL SECURITY CARDS.**

18           (a) IMPROVEMENTS TO CARD.—

19           (1) IN GENERAL.—For purposes of carrying out  
20 section 274A of the Immigration and Nationality  
21 Act, the Commissioner of Social Security (in this  
22 section referred to as the “Commissioner”) shall  
23 make such improvements to the physical design,  
24 technical specifications, and materials of the social  
25 security account number card as are necessary to

1 ensure that it is a genuine official document and  
2 that it offers the best possible security against coun-  
3 terfeiting, forgery, alteration, and misuse.

4 (2) PERFORMANCE STANDARDS.—In making  
5 the improvements required in paragraph (1), the  
6 Commissioner shall—

7 (A) make the card as secure against coun-  
8 terfeiting as the 100 dollar Federal Reserve  
9 note, with a rate of counterfeit detection com-  
10 parable to the 100 dollar Federal Reserve note;  
11 and

12 (B) make the card as secure against fraud-  
13 ulent use as a United States passport.

14 (3) DEFINITION.—In this section, the term “se-  
15 cured social security account number card” means a  
16 social security account number card issued in ac-  
17 cordance with the requirements of this paragraph.

18 (4) EFFECTIVE DATE.—All social security ac-  
19 count number cards issued after January 1, 2006,  
20 whether new or replacement, shall be secured social  
21 security account number cards.

22 (b) NOT A NATIONAL IDENTIFICATION CARD.—  
23 Cards issued pursuant to this section shall not be required  
24 to be carried upon one’s person, and nothing in this sec-

tion shall be construed as authorizing the establishment of a national identification card.

(c) EDUCATION CAMPAIGN.—The Secretary of Homeland Security, in consultation with the Commissioner of Social Security, shall conduct a comprehensive campaign to educate employers about the security features of the secured social security card and how to detect counterfeit or fraudulently used social security account number cards.

(d) ANNUAL REPORTS.—The Commissioner of Social Security shall submit to Congress by July 1 of each year a report on—

(1) the progress and status of developing a secured social security account number card under this section;

(2) the incidence of counterfeit production and fraudulent use of social security account number cards; and

(3) the steps being taken to detect and prevent such counterfeiting and fraud.

(e) GAO ANNUAL AUDITS.—The Comptroller General of the United States shall perform an annual audit, the results of which are to be presented to the Congress by January 1 of each of the 5 years following the date of the enactment of the Securing America's Future

1 through Enforcement Reform Act of 2003, on the per-  
2 formance of the Social Security Administration in meeting  
3 the requirements in paragraph (1).

4 (f) EXPENSES.—No costs incurred in developing and  
5 issuing cards under this section that are above the costs  
6 that would have been incurred for cards issued in the ab-  
7 sence of this section shall be paid for out of any trust  
8 fund established under the Social Security Act. There are  
9 authorized to be appropriated such sums as may be nec-  
10 essary to carry out this section.

11 **SEC. 503. CONSULAR IDENTIFICATION DOCUMENTS.**

12 (a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOC-  
13 UMENTS.—

14 (1) IN GENERAL.—No agency, commission, en-  
15 tity, or agent of the executive or legislative branches  
16 of the federal government may accept, acknowledge,  
17 recognize, or rely on for purposes of personal identi-  
18 fication any identification document issued by a for-  
19 eign government, unless otherwise mandated by Fed-  
20 eral law.

21 (A) For purposes of this section, an agent  
22 shall include:

23 (i) a Federal contractor or grantee;

1 (ii) a financial institution that is a  
2 member of the Federal Reserve System,  
3 described in 12 U.S.C. 321; or

4 (iii) an institution exempted from  
5 Federal income taxation described in 26  
6 U.S.C. 501.

7 (2) EXCEPTIONS.—

8 (A) A person who is not a citizen of the  
9 United States may present for personal identi-  
10 fication purposes an official identification docu-  
11 ment issued by a foreign government, or other  
12 foreign identification document recognized by  
13 treaty, if—

14 (i) such noncitizen also simultaneously  
15 presents valid verifiable documentation of  
16 lawful presence in the United States issued  
17 by an agency of the Federal Government;

18 (ii) reporting a violation of law; or

19 (iii) such use is expressly permitted by  
20 Federal law.

21 (B) The provisions of paragraph (1) shall  
22 not apply to inspections of alien applicants for  
23 admission to the United States, nor to  
24 verification of personal identification outside  
25 the United States.



1           (3) LISTING OF ACCEPTABLE DOCUMENTS.—

2           The United States Department of Homeland Secu-  
3           rity shall issue, maintain in printed and electronic  
4           media, and disseminate to the public at no cost an  
5           updated listing, compiled in consultation with the  
6           United States Department of State, and including  
7           sample facsimiles, of all acceptable federal docu-  
8           ments that satisfy the requirements of paragraph  
9           (2)(A). Such listing may, at the discretion of the  
10          Secretary of Homeland Security, include a similar  
11          listing of documents establishing employment au-  
12          thorization or identity under section 274A(b) of the  
13          Immigration and Nationality Act (8 U.S.C.  
14          1324a(b)).

15          (b) Section 274C of the Immigration and Nationality  
16          Act (8 U.S.C. 1324c) is amended—

17                 (1) in subsection (a)—

18                         (A) by redesignating paragraph (6) as  
19                         paragraph (7); and

20                         (B) by inserting after paragraph (5) the  
21                         following:

22                         “(6) to use to establish personal identity, before  
23                         any agent of the Federal Government, or before any  
24                         agency of the Federal Government or of a State or  
25                         any political subdivision therein, a travel or identi-

1        fication document issued by a foreign government  
2        that is not accepted by the Secretary of Homeland  
3        Security to establish personal identity for purposes  
4        of admission to the United States at a port of entry,  
5        except where a person who is not a citizen of the  
6        United States (A) simultaneously presents valid  
7        verifiable documentation of lawful presence in the  
8        United States issued by an agency of the federal  
9        government, or (B) is reporting a violation of law,  
10       or (C) such use is expressly permitted by Federal  
11       law.”; and

12                (2) in subsection (d)—

13                        (A) by redesignating paragraphs (2)  
14                        though (7) as paragraphs (3) through (8), re-  
15                        spectively; and

16                        (B) by inserting after paragraph (1) the  
17                        following:

18                        “(2) Every complete complaint of a violation  
19                        described in subsection (a) that has been filed by an  
20                        entity described in subsection (b), or by a private  
21                        party aggrieved by such violation, shall be promptly  
22                        investigated. The Secretary of Homeland Security  
23                        shall issue a cease and desist order with money pen-  
24                        alty in each case determined after investigation to  
25                        constitute a violation under subsection (a).”.

1 (c) QUALIFIED IMMUNITY.—Actions taken in viola-  
 2 tion of subsections (a) of this section, or section 274C of  
 3 the Immigration and Nationality Act (8 U.S.C. 1324c),  
 4 as amended by subsection (b), shall be deemed outside the  
 5 official capacity of the elected official or officer, employee,  
 6 or agent of a Federal agency so acting.

## 7 **Subtitle B—Employment Eligibility** 8 **Verification**

### 9 **SEC. 511. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-** 10 **ESS AND ELIMINATION OF EXAMINATION OF** 11 **DOCUMENTATION REQUIREMENT.**

12 (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a)  
 13 is amended—

14 (1) in subsection (a)(1)(A), by striking “for a  
 15 fee”;

16 (2) in subsection (a)(3)—

17 (A) by inserting “(A)” after  
 18 “DEFENSE.—”; and

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

20 “(B) FAILURE TO SEEK AND OBTAIN  
 21 VERIFICATION.—In the case of a hiring of an indi-  
 22 vidual for employment in the United States by a  
 23 person or entity, the following requirements apply:

24 “(i) FAILURE TO SEEK VERIFICATION.—

1           “(I) IN GENERAL.—If the person or  
2           entity has not made an inquiry, under the  
3           mechanism established under subsection  
4           (b)(4), seeking verification of the identity,  
5           social security number, and work eligibility  
6           of the individual, by not later than the end  
7           of 3 working days (as specified by the Sec-  
8           retary of Homeland Security) after the  
9           date of the hiring, the defense under sub-  
10          paragraph (A) shall not be considered to  
11          apply with respect to any employment after  
12          such 3 working days, except as provided in  
13          subclause (II).

14          “(II) SPECIAL RULE FOR FAILURE OF  
15          VERIFICATION MECHANISM.—If such a per-  
16          son or entity in good faith attempts to  
17          make an inquiry during such 3 working  
18          days in order to qualify for the defense  
19          under subparagraph (A) and the  
20          verification mechanism has registered that  
21          not all inquiries were responded to during  
22          such time, the person or entity can make  
23          an inquiry until the end of the first subse-  
24          quent working day in which the verification

1 mechanism registers no nonresponses and  
2 qualify for such defense.

3 “(ii) FAILURE TO OBTAIN  
4 VERIFICATION.—If the person or entity has  
5 made the inquiry described in clause (i)(I) but  
6 has not received an appropriate verification of  
7 such identity, number, and work eligibility  
8 under such mechanism within the time period  
9 specified under subsection (b)(4)(B) after the  
10 time the verification inquiry was received, the  
11 defense under subparagraph (A) shall not be  
12 considered to apply with respect to any employ-  
13 ment after the end of such time period.”;

14 (3) in subsection (b)(1)—

15 (A) by amending the paragraph heading to  
16 read as follows:

17 “(1) ATTESTATION.—”; and

18 (B) by amending subparagraph (A) to read  
19 as follows:

20 “(A) IN GENERAL.—The person or entity  
21 must attest, under penalty of perjury and on a  
22 form designated or established by the Secretary  
23 of Homeland Security by regulation, that it has  
24 verified that the individual is not an unauthor-  
25 ized alien by obtaining from the individual the

1 individual's social security account number and  
2 recording the number on the form (if the indi-  
3 vidual claims to have been issued such a num-  
4 ber), and, if the individual does not attest to  
5 United States citizenship under paragraph (2),  
6 obtaining such identification or authorization  
7 number established by the Department of  
8 Homeland Security for the alien as the Sec-  
9 retary may specify, and recording such number  
10 on the form.”;

11 (4) in subsection (b)(2), by adding at the end  
12 the following: “The individual must also provide that  
13 individual's social security account number (if the  
14 individual claims to have been issued such a num-  
15 ber), and, if the individual does not attest to United  
16 States citizenship under this paragraph, such identi-  
17 fication or authorization number established by the  
18 Department of Homeland Security for the alien as  
19 the Secretary of Homeland Security may specify.”;  
20 and

21 (5) by amending subsection (b)(3) to read as  
22 follows:

23 “(3) RETENTION OF VERIFICATION FORM AND  
24 VERIFICATION.—

1           “(A) IN GENERAL.—After completion of  
2 such form in accordance with paragraphs (1)  
3 and (2), the person or entity must—

4           “(i) retain the form and make it avail-  
5 able for inspection by officers of the De-  
6 partment of Homeland Security, the Spe-  
7 cial Counsel for Immigration-Related Un-  
8 fair Employment Practices, or the Depart-  
9 ment of Labor during a period beginning  
10 on the date of the hiring, recruiting, or re-  
11 ferral of the individual and ending—

12           “(I) in the case of the recruiting  
13 or referral for a fee (without hiring)  
14 of an individual, three years after the  
15 date of the recruiting or referral; and

16           “(II) in the case of the hiring of  
17 an individual, the later of—

18           “(aa) three years after the  
19 date of such hiring; or

20           “(bb) one year after the  
21 date the individual’s employment  
22 is terminated; and

23           “(ii) make an inquiry, as provided in  
24 paragraph (4), using the verification sys-  
25 tem to seek verification of the identity and

1 employment eligibility of an individual, by  
2 not later than the end of 3 working days  
3 (as specified by the Secretary of Homeland  
4 Security) after the date of the hiring (or  
5 recruitment or referral, as the case may  
6 be).

7 “(B) VERIFICATION.—

8 “(i) VERIFICATION RECEIVED.—If the  
9 person or other entity receives an appro-  
10 priate verification of an individual’s iden-  
11 tity and work eligibility under the  
12 verification system within the time period  
13 specified, the person or entity shall record  
14 on the form an appropriate code that is  
15 provided under the system and that indi-  
16 cates a final verification of such identity  
17 and work eligibility of the individual.

18 “(ii) TENTATIVE NONVERIFICATION  
19 RECEIVED.—If the person or other entity  
20 receives a tentative nonverification of an  
21 individual’s identity or work eligibility  
22 under the verification system within the  
23 time period specified, the person or entity  
24 shall so inform the individual for whom the  
25 verification is sought. If the individual does



1 not contest the nonverification within the  
2 time period specified, the nonverification  
3 shall be considered final. The person or en-  
4 tity shall then record on the form an ap-  
5 propriate code which has been provided  
6 under the system to indicate a tentative  
7 nonverification. If the individual does con-  
8 test the nonverification, the individual shall  
9 utilize the process for secondary  
10 verification provided under paragraph (4).  
11 The nonverification will remain tentative  
12 until a final verification or nonverification  
13 is provided by the verification system with-  
14 in the time period specified. In no case  
15 shall an employer terminate employment of  
16 an individual because of a failure of the in-  
17 dividual to have identity and work eligi-  
18 bility confirmed under this section until a  
19 nonverification becomes final. Nothing in  
20 this clause shall apply to a termination of  
21 employment for any reason other than be-  
22 cause of such a failure.

23 “(iii) FINAL VERIFICATION OR  
24 NONVERIFICATION RECEIVED.—If a final  
25 verification or nonverification is provided

1 by the verification system regarding an in-  
2 dividual, the person or entity shall record  
3 on the form an appropriate code that is  
4 provided under the system and that indi-  
5 cates a verification or nonverification of  
6 identity and work eligibility of the indi-  
7 vidual.

8 “(iv) EXTENSION OF TIME.—If the  
9 person or other entity in good faith at-  
10 tempts to make an inquiry during such 3  
11 working days and the verification system  
12 has registered that not all inquiries were  
13 received during such time, the person or  
14 entity may make an inquiry in the first  
15 subsequent working day in which the  
16 verification system registers that it has re-  
17 ceived all inquiries. If the verification sys-  
18 tem cannot receive inquiries at all times  
19 during a day, the person or entity merely  
20 has to assert that the entity attempted to  
21 make the inquiry on that day for the pre-  
22 vious sentence to apply to such an inquiry,  
23 and does not have to provide any addi-  
24 tional proof concerning such inquiry.

1                   “(v)           CONSEQUENCES           OF  
2                   NONVERIFICATION.—If the person or other  
3                   entity has received a final nonverification  
4                   regarding an individual, the person or enti-  
5                   ty shall terminate employment (or recruit-  
6                   ment or referral) of the individual.”.

7           (b) EFFECTIVE DATE.—The amendments made by  
8 subsection (a) shall take effect 2 years after the date of  
9 the enactment of this Act. Retention of form requirements  
10 under section 274A(b)(3) of the Immigration and Nation-  
11 ality Act, as in effect before such effective date, shall re-  
12 main in effect as if this section had not been enacted for  
13 forms completed before such effective date.

14 **SEC. 512. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**  
15 **TEM.**

16           (a) IN GENERAL.— Section 274A(b)(4) (8 U.S.C.  
17 1324a(b)(4)) is amended to read as follows:

18                   “(4) EMPLOYMENT ELIGIBILITY VERIFICATION  
19                   SYSTEM.—

20                   “(A) IN GENERAL.—The Secretary of  
21                   Homeland Security shall establish a verification  
22                   system through which the Secretary (or a des-  
23                   ignee of the Secretary, which may be a non-  
24                   governmental entity)—

1 “(i) responds to inquiries made by  
2 persons at any time through a toll-free  
3 telephone line or other toll-free electronic  
4 media concerning an individual’s identity  
5 and whether the individual is authorized to  
6 be employed; and

7 “(ii) maintains records of the inquir-  
8 ies that were made, of verifications pro-  
9 vided (or not provided), and of the codes  
10 provided to inquirers as evidence of their  
11 compliance with their obligations under  
12 this section.

13 To the extent practicable, the Secretary shall  
14 seek to establish such a system using one or  
15 more nongovernmental entities.

16 “(B) INITIAL RESPONSE.—The verification  
17 system shall provide verification or a tentative  
18 nonverification of an individual’s identity and  
19 employment eligibility within 3 working days of  
20 the initial inquiry. If providing verification or  
21 tentative nonverification, the verification system  
22 shall provide an appropriate code indicating  
23 such verification or such nonverification.

24 “(C) SECONDARY VERIFICATION PROCESS  
25 IN CASE OF TENTATIVE NONVERIFICATION.—In

1 cases of tentative nonverification, the Secretary  
2 of Homeland Security shall specify, in consulta-  
3 tion with the Commissioner of Social Security,  
4 an available secondary verification process to  
5 confirm the validity of information provided and  
6 to provide a final verification or nonverification  
7 within 7 working days after the date of the ten-  
8 tative nonverification. When final verification or  
9 nonverification is provided, the verification sys-  
10 tem shall provide an appropriate code indicating  
11 such verification or nonverification.

12 “(D) DESIGN AND OPERATION OF SYS-  
13 TEM.—The verification system shall be designed  
14 and operated—

15 “(i) to maximize its reliability and  
16 ease of use by persons and other entities  
17 consistent with insulating and protecting  
18 the privacy and security of the underlying  
19 information;

20 “(ii) to respond to all inquiries made  
21 by such persons and entities on whether  
22 individuals are authorized to be employed  
23 and to register all times when such inquir-  
24 ies are not received;

1 “(iii) with appropriate administrative,  
2 technical, and physical safeguards to pre-  
3 vent unauthorized disclosure of personal  
4 information; and

5 “(iv) to have reasonable safeguards  
6 against the system’s resulting in unlawful  
7 discriminatory practices based on national  
8 origin or citizenship status, including—

9 “(I) the selective or unauthorized  
10 use of the system to verify eligibility;

11 “(II) the use of the system prior  
12 to an offer of employment; or

13 “(III) the exclusion of certain in-  
14 dividuals from consideration for em-  
15 ployment as a result of a perceived  
16 likelihood that additional verification  
17 will be required, beyond what is re-  
18 quired for most job applicants.

19 “(E) RESPONSIBILITIES OF THE COMMIS-  
20 SIONER OF SOCIAL SECURITY.—As part of the  
21 verification system, the Commissioner of Social  
22 Security, in consultation with the entity respon-  
23 sible for administration of the system, shall es-  
24 tablish a reliable, secure method, which, within  
25 the time periods specified under subparagraphs

1 (B) and (C), verifies, for each individual whose  
2 identity and employment eligibility must be con-  
3 firmed under this section, the individual's name  
4 and social security account number, the cor-  
5 respondence of the name and number, and  
6 whether the social security number presented is  
7 valid for employment. The Commissioner shall  
8 not disclose or release social security informa-  
9 tion (other than such verification or  
10 nonverification). If, in carrying out this sub-  
11 paragraph, the Commissioner becomes aware of  
12 a suspicious pattern of use of a social security  
13 account number, the Commissioner shall inves-  
14 tigate such suspicious pattern, or shall notify  
15 the Secretary of Homeland Security of it. Noth-  
16 ing in the Social Security Act or any other pro-  
17 vision of law shall be construed to prevent the  
18 Commissioner from so notifying the Secretary.  
19 Upon receipt of such notification, the Secretary  
20 shall investigate in lieu of the Commissioner.

21 “(F) RESPONSIBILITIES OF THE SEC-  
22 RETARY OF HOMELAND SECURITY.—As part of  
23 the verification system, the Secretary of Home-  
24 land Security, in consultation with the entity  
25 responsible for administration of the system,

1 shall establish a reliable, secure method, which,  
2 within the time periods specified under sub-  
3 paragraphs (B) and (C), compares the name  
4 and alien identification or authorization number  
5 which are provided in an inquiry against such  
6 information maintained by the Secretary in  
7 order to validate (or not validate) the informa-  
8 tion provided, the correspondence of the name  
9 and number, and whether the alien is author-  
10 ized to be employed in the United States.

11 “(G) UPDATING INFORMATION.—The  
12 Commissioner of Social Security and the Sec-  
13 retary of Homeland Security shall update their  
14 information in a manner that promotes the  
15 maximum accuracy and shall provide a process  
16 for the prompt correction of erroneous informa-  
17 tion, including instances in which it is brought  
18 to their attention in the secondary verification  
19 process described in subparagraph (C).

20 “(H) LIMITATION ON USE OF THE  
21 VERIFICATION SYSTEM AND ANY RELATED SYS-  
22 TEMS.—Nothing in this paragraph shall be con-  
23 strued to authorize, directly or indirectly, the  
24 issuance or use of national identification cards



1 or the establishment of a national identification  
2 card.

3 “(I) FEDERAL TORT CLAIMS ACT.—If an  
4 individual alleges that the individual would not  
5 have been dismissed from a job but for an error  
6 of the verification mechanism, the individual  
7 may seek compensation only through the mech-  
8 anism of the Federal Tort Claims Act, and in-  
9 junctive relief to correct such error. No class  
10 action may be brought under this subpara-  
11 graph.

12 “(J) PROTECTION FROM LIABILITY FOR  
13 ACTIONS TAKEN ON THE BASIS OF INFORMA-  
14 TION.—No person or entity shall be civilly or  
15 criminally liable for any action taken in good  
16 faith reliance on information provided through  
17 the employment eligibility verification mecha-  
18 nism established under this paragraph.”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect 2 years after the date of  
21 the enactment of this Act.

1 **SEC. 513. NOTIFICATION BY COMMISSIONER OF FAILURE**  
2 **TO CORRECT SOCIAL SECURITY INFORMA-**  
3 **TION.**

4 The Commissioner of Social Security shall promptly  
5 notify the Secretary of Homeland Security of the failure  
6 of any individual to provide, upon any request of the Com-  
7 missioner made pursuant to section 205(c)(2) of the Social  
8 Security Act (42 U.S.C. 405(c)(2)), evidence necessary,  
9 under such section—

10 (1) to establish the age, citizenship, or alien  
11 status of the individual;

12 (2) to establish such individual's true identity;  
13 or

14 (3) to determine which (if any) social security  
15 account number has previously been assigned to  
16 such individual.

17 **SEC. 514. PROTECTION FOR INDIVIDUALS REPORTING IM-**  
18 **MIGRATION LAW VIOLATIONS.**

19 Section 274B(A)(5) of the Immigration and Nation-  
20 ality Act (8 U.S.C. 1324b(A)(5)) is amended by adding  
21 at the end the following: “Notwithstanding any other pro-  
22 vision of law, the rights protected by this paragraph in-  
23 clude the right of any individual to report a violation or  
24 suspected violation of any immigration law to the Depart-  
25 ment of Homeland Security or a law enforcement agen-  
26 cy.”.

1           **Subtitle C—Miscellaneous**

2   **SEC. 521. INCREASED INVESTIGATIVE PERSONNEL.**

3           (a) BRINGING IN AND HARBORING CERTAIN ALIENS;  
4   UNLAWFUL EMPLOYMENT OF ALIENS.—

5           (1) AUTHORIZATION OF APPROPRIATIONS.—

6           There are authorized to be appropriated such funds  
7           as may be necessary to enable the Secretary of  
8           Homeland Security to increase, above the number  
9           specified in section 101(a)(2) of the Enhanced Bor-  
10          der Security and Visa Entry Reform Act of 2002  
11          (Public Law 107–173), the number of investigators  
12          and support personnel to investigate potential viola-  
13          tions of sections 274 and 274A of the Immigration  
14          and Nationality Act (8 U.S.C. 1324 and 1324a),  
15          other than alien smuggling, by a number equivalent  
16          to—

17                  (A) 250 full-time active-duty investigators  
18                  in each of fiscal years 2004 through 2007; and

19                  (B) 100 full-time active-duty investigators  
20                  in each of fiscal years 2008 through 2011.

21          (2) ALLOCATION.—At least one-half of the in-  
22          vestigators hired with funds made available under  
23          paragraph (1) shall be assigned to investigate poten-  
24          tial violations of section 274A of the Immigration  
25          and Nationality Act.

1 (b) VISA OVERSTAYS.—There are authorized to be  
2 appropriated such funds as may be necessary to enable  
3 the Secretary of Homeland Security to increase, above the  
4 number specified in section 101(a)(2) of the Enhanced  
5 Border Security and Visa Entry Reform Act of 2002  
6 (Public Law 107–173), the number of investigator and  
7 support personnel to investigate aliens who remain in the  
8 United States beyond the period of stay authorized under  
9 their visa by a number equivalent to—

10 (1) 250 full-time active-duty investigators in  
11 each of fiscal years 2004 through 2007; and

12 (2) 100 full-time active-duty investigators in  
13 each of fiscal years 2008 through 2011.

14 **SEC. 522. EXPEDITED EXCLUSION.**

15 Section 235(b)(1)(A) (8 U.S.C. 1225(b)(1)(A)) is  
16 amended by striking clauses (i) through (iii) and inserting  
17 the following:

18 “(i) IN GENERAL.—If an immigration  
19 officer determines that an alien (other  
20 than an alien described in subparagraph  
21 (F)) who is arriving in the United States,  
22 or who has not been admitted or paroled  
23 into the United States and has not been  
24 physically present in the United States  
25 continuously for the 5-year period imme-

1 diately prior to the date of the determina-  
2 tion of inadmissibility under this para-  
3 graph, is inadmissible under section  
4 212(a)(6)(C) or 212(a)(7), the officer shall  
5 order the alien removed from the United  
6 States without further hearing or review,  
7 unless—

8 “(I) the alien has been charged  
9 with a crime; or

10 “(II) the alien indicates an inten-  
11 tion to apply for asylum under section  
12 208 or a fear of persecution and the  
13 officer determines that the alien has  
14 been physically present in the United  
15 States for less than 1 year.

16 “(ii) CLAIMS FOR ASYLUM.—If an im-  
17 migration officer determines that an alien  
18 (other than an alien described in subpara-  
19 graph (F)) who is arriving in the United  
20 States, or who has not been admitted or  
21 paroled into the United States and has not  
22 been physically present in the United  
23 States continuously for the 5-year period  
24 immediately prior to the date of the deter-  
25 mination of inadmissibility under this

1 paragraph, is inadmissible under section  
 2 212(a)(6)(C) or 212(a)(7), and the alien  
 3 indicates either an intention to apply for  
 4 asylum under section 208 or a fear of per-  
 5 secution, the officer shall refer the alien  
 6 for an interview by an asylum officer under  
 7 subparagraph (B) if the officer determines  
 8 that the alien has been physically present  
 9 in the United States for less than 1 year.”.

10 **SEC. 523. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.**

11 (a) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—  
 12 Section 245(c) (8 U.S.C. 1255(c)) is amended by striking  
 13 “(other than an immediate relative as defined in section  
 14 201(b) or a special immigrant described in section  
 15 101(a)(27)(H), (I), (J), or (K))”.

16 (b) INAPPLICABILITY OF CERTAIN PROVISIONS FOR  
 17 CERTAIN IMMIGRANTS.—Section 245(k) (8 U.S.C.  
 18 1255(k)) is amended to read as follows:

19 “(k) INAPPLICABILITY OF CERTAIN PROVISIONS FOR  
 20 CERTAIN IMMIGRANTS.—An alien who is eligible to receive  
 21 an immigrant visa under paragraph (1), (2), or (3) of sec-  
 22 tion 203(b), as an immediate relative as defined in section  
 23 201(b), or, in the case of an alien who is an immigrant  
 24 described in subparagraph (C), (H), (I), (J), or (K) of  
 25 section 101(a)(27), under section 203(b)(4), may adjust

1 status pursuant to subsection (a) and notwithstanding  
 2 paragraphs (2), (7), and (8) of subsection (c), if—

3 “(1) the alien, on the date of filing an applica-  
 4 tion for adjustment of status, is present in the  
 5 United States pursuant to a lawful admission; and

6 “(2) the alien, subsequent to such lawful admis-  
 7 sion has not, for an aggregate period exceeding 180  
 8 days—

9 “(A) failed to maintain continuously a law-  
 10 ful status;

11 “(B) engaged in unauthorized employment;  
 12 or

13 “(C) otherwise violated the terms and con-  
 14 ditions of the alien’s admission.”.

15 **SEC. 524. TERMINATION OF CONTINUOUS PRESENCE FOR**  
 16 **PURPOSES OF CANCELLATION OF REMOVAL**  
 17 **UPON COMMISSION OF OFFENSE RENDERING**  
 18 **ALIEN INADMISSIBLE OR DEPORTABLE.**

19 (a) IN GENERAL.—Section 240A(d)(1) (8 U.S.C.  
 20 1229b(d)(1)) is amended by striking “referred to in sec-  
 21 tion 212(a)(2)”.

22 (b) EFFECTIVE DATE.—The amendment made by  
 23 subsection (a) shall apply to aliens who are in proceedings  
 24 under the Immigration and Nationality Act on or after  
 25 the date of the enactment of this Act if those proceedings

1 have not resulted in a final administrative order before  
2 such date.

3 **SEC. 525. REENTRY OF REMOVED ALIENS.**

4 (a) IN GENERAL.—Section 276(a) (8 U.S.C.  
5 1326(a)) is amended to read as follows:

6 “SEC. 276. (a) Subject to subsection (b), any alien  
7 shall be fined under title 18, United States Code, or im-  
8 prisoned not more than 2 years, or both, who—

9 “(1) has been denied admission, excluded, de-  
10 ported, or removed or has departed the United  
11 States while an order of exclusion, deportation, or  
12 removal is outstanding; and

13 “(2) thereafter enters, attempts to enter, or is  
14 at any time found in, the United States,  
15 unless, in the case of an alien previously denied admission  
16 and removed, the alien establishes that the alien was not  
17 required to obtain from the Secretary of Homeland Secu-  
18 rity advance consent to reapply for admission under this  
19 Act or any prior Act.”.

20 (b) CRIMINAL PENALTIES FOR REENTRY OF CER-  
21 TAIN REMOVED ALIENS.—Section 276(b) (8 U.S.C.  
22 1326(b)) is amended—

23 (1) in paragraph (3), by striking “sentence.”  
24 and inserting “sentence;”; and



1           (2) in paragraph (4), by striking “(unless the  
2       Secretary of Homeland Security has expressly con-  
3       sented to such alien’s reentry)”.

4       (c) REENTRY OF ALIENS REMOVED PRIOR TO COM-  
5       PLETION OF IMPRISONMENT.—Section 276(c) (8 U.S.C.  
6       1326(c)) is amended—

7           (1) by inserting “(as in effect prior to the effec-  
8       tive date of the amendments made by section 305 of  
9       the Illegal Immigration Reform and Immigrant Re-  
10      sponsibility Act of 1996), or removed under section  
11      241(a)(4),” after “242(h)(2)”;

12          (2) by striking “(unless the Secretary of Home-  
13      land Security has expressly consented to such alien’s  
14      reentry)”;

15          (3) by inserting “or removal” after “time of de-  
16      portation”; and

17          (4) by inserting “or removed” after “reentry of  
18      deported”.

19       (d) CHALLENGE TO VALIDITY OF ORDER.—Section  
20       276(d) (8 U.S.C. 1326(d)) is amended—

21          (1) in the matter preceding paragraph (1), by  
22      striking “deportation order” and inserting “deporta-  
23      tion or removal order”; and

24          (2) in paragraph (2), by inserting “or removal”  
25      after “deportation”.

1       (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act and shall apply to criminal proceedings involv-  
4 ing aliens who enter, attempt to enter, or are found in  
5 the United States, after such date.

6 **SEC. 526. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF**  
7 **ALIENS AT IMPROPER TIME OR PLACE,**  
8 **AVOIDANCE OF EXAMINATION OR INSPEC-**  
9 **TION, UNLAWFUL PRESENCE, AND MISREPRE-**  
10 **SENTATION OR CONCEALMENT OF FACTS.**

11       Section 275 (8 U.S.C. 1325) is amended to read as  
12 follows:

13 “CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS  
14 AT IMPROPER TIME OR PLACE, AVOIDANCE OF EX-  
15 AMINATION OR INSPECTION, UNLAWFUL PRESENCE,  
16 AND MISREPRESENTATION OR CONCEALMENT OF  
17 FACTS

18 “SEC. 275. (a) ENTRY AT IMPROPER TIME OR  
19 PLACE; AVOIDANCE OF EXAMINATION OR INSPECTION;  
20 UNLAWFUL PRESENCE; MISREPRESENTATION OR CON-  
21 CEALMENT OF FACTS.—Any alien who—

22           “(1) enters or attempts to enter the United  
23 States at any time or place other than as designated  
24 by immigration officers;

1           “(2) eludes examination or inspection by immi-  
2           gration officers;

3           “(3) is knowingly unlawfully present in the  
4           United States for an aggregate period of more than  
5           180 days; or

6           “(4) attempts to enter or obtains entry to the  
7           United States by a willfully false or misleading rep-  
8           resentation or the willful concealment of a material  
9           fact,

10 shall, for the first commission of any such offense, be fined  
11 under title 18, United States Code, or imprisoned not  
12 more than 2 years, or both, and, for a subsequent commis-  
13 sion of any such offense, be fined under title 18, United  
14 States Code, or imprisoned not more than 10 years, or  
15 both.

16       “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
17 ALTIES.—Any alien who is apprehended while entering (or  
18 attempting to enter) the United States at a time or place  
19 other than as designated by immigration officers shall be  
20 subject to a civil penalty of—

21           “(1) at least \$100 and not more than \$10,000  
22           for each such entry (or attempted entry); or

23           “(2) three times the amount specified in para-  
24           graph (1) in the case of an alien who has been pre-

1 viously subject to a civil penalty under this sub-  
2 section.

3 Civil penalties under this subsection are in addition to,  
4 and not in lieu of, any criminal or other civil penalties  
5 that may be imposed.

6 “(c) MARRIAGE FRAUD.—An individual who know-  
7 ingly enters into a marriage for the purpose of evading  
8 any provision of the immigration laws shall be fined not  
9 more than \$1,000,000, imprisoned not more than 15  
10 years, or both.

11 “(d) IMMIGRATION-RELATED ENTREPRENEURSHIP  
12 FRAUD.—Any individual who knowingly established a  
13 commercial enterprise for the purpose of evading any pro-  
14 vision of the immigration laws shall be fined under title  
15 18, United States Code, or imprisoned not more than 15  
16 years, or both.”.

17 **SEC. 527. COMMUNICATION BETWEEN GOVERNMENT AGEN-**  
18 **CIES AND THE DEPARTMENT OF HOMELAND**  
19 **SECURITY.**

20 Section 642 of the Illegal Immigration Reform and  
21 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is  
22 amended by adding at the end the following:

23 “(d) ENFORCEMENT.—

24 “(1) INELIGIBILITY FOR FEDERAL LAW EN-  
25 FORCEMENT AID.—Upon a determination that any

1 person, or any Federal, State, or local government  
2 agency or entity, is in violation of subsection (a) or  
3 (b), the Attorney General shall not provide to that  
4 person, agency, or entity any grant amount pursuant  
5 to any law enforcement grant program carried out  
6 by any element of the Department of Justice, includ-  
7 ing the program under section 241(i) of the Immig-  
8 ration and Nationality Act (8 U.S.C. 241(i)), or  
9 pursuant to any grant program authorized under  
10 title I of the Housing and Community Development  
11 Act of 1974 (42 U.S.C. 5301 et seq.), and shall en-  
12 sure that no such grant amounts are provided, di-  
13 rectly or indirectly, to such person, agency, or entity.  
14 In the case of grant amounts that otherwise would  
15 be provided to such person, agency, or entity pursu-  
16 ant to a formula, such amounts shall be reallocated  
17 among eligible recipients.

18 “(2) VIOLATIONS BY GOVERNMENT OFFI-  
19 CIALS.—In any case in which a Federal, State, or  
20 local government official is in violation of subsection  
21 (a) or (b), the government agency or entity that em-  
22 ploys (or, at the time of the violation, employed) the  
23 official shall be subject to the sanction under para-  
24 graph (1).

1           “(3) DURATION.—The sanction under para-  
2           graph (1) shall remain in effect until the Secretary  
3           of Homeland Security determines that the person,  
4           agency, or entity has ceased violating subsections (a)  
5           and (b).”.

6   **SEC. 528. EXCEPTION TO REMOVAL FOR CERTAIN ALIENS.**

7           (a)(1) Section 214(o) (8 U.S.C. 1184(o)) (as redesignig-  
8           nated by section 204 of this Act) is amended by adding  
9           at the end the following new paragraph:

10          “(4) No alien shall be eligible for admission to the  
11          United States under section 101(a)(15)(T) if there is a  
12          substantial reason to believe that the alien voluntarily  
13          came to the United States, except that if the alien is or  
14          has been a victim of a severe form of trafficking in the  
15          form of sex trafficking, the alien shall be eligible for ad-  
16          mission under such section unless the alien knew or rea-  
17          sonably should have known when coming to the United  
18          States that the alien would be expected to perform com-  
19          mercial sex acts.”.

20          (2) Section 245(l) (8 U.S.C. 1255(l)), as added by  
21          section 107(f) of Public Law 106–386, is amended—

22                  (A) in paragraph (1)(C)(i), by striking “or” at  
23                  the end and inserting “and”;

24                  (B) by redesignating—

1 (i) paragraphs (3) and (4) as paragraphs  
2 (4) and (5), respectively; and

3 (ii) the second paragraph (2) as paragraph  
4 (3);

5 (C) in paragraph (2)(B), by striking “(3),  
6 (10)(C), and (10(E)), if the activities rendering the  
7 alien inadmissible under the provision were caused  
8 by, or were incident to,” and inserting “(2), (3), (8),  
9 (9)(A), (10)(C), (10)(D), and (10)(E)), if the activi-  
10 ties rendering the alien inadmissible under the provi-  
11 sion were caused by”; and

12 (D) by amending paragraph (5) (as so redesign-  
13 nated) to read as follows:

14 “(5) Upon the approval of adjustment of status under  
15 paragraph (1), the Secretary of Homeland Security shall  
16 record the alien’s lawful admission for permanent resi-  
17 dence as of the date of such approval and the Secretary  
18 of State shall reduce by one the number of visas author-  
19 ized to be issued under sections 201(d) and 203(b)(4) for  
20 the fiscal year then current, unless the number of remain-  
21 ing visas authorized to be issued under section 203(b)(4)  
22 for such year is zero, in which case such reductions shall  
23 not be made.”.

24 (b)(1) Section 101(a)(15)(U)(iii) (8 U.S.C.  
25 1101(a)(15)(U)(iii)) is amended to read as follows:

1           “(iii) the criminal activity referred to in this  
2       clause is that involving 1 or more of the following  
3       or any similar activity in violation of Federal, State,  
4       or local criminal law: rape; incest; domestic violence,  
5       sexual assault; abusive sexual contact; sexual exploi-  
6       tation; female genital mutilation; or attempt or con-  
7       spiracy to commit any of the above mentioned  
8       crimes; or”.

9       (2) Section 204(a)(1)(C) (8 U.S.C. 1154(a)(1)(C)) is  
10   amended by inserting “directly” before “connected”.

11       (3) Section 214(p)(1) (8 U.S.C. 1184(p)(1)) (as re-  
12   designated by section 204 of this Act) is amended by strik-  
13   ing “This certification may also be provided by an official  
14   of the Department of Homeland Security whose ability to  
15   provide such certification is not limited to information  
16   concerning immigration violations.”.

17       (4) Section 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H))  
18   is amended—

19           (A) by striking clause (ii);

20           (B) in clause (i), by striking “(I)”;

21           (C) by redesignating subclause (II) as clause  
22   (ii).

23       (5) Section 240A (8 U.S.C. 1229b) is amended—

24           (A) in subsection (b)(2)(A)(ii), by striking “,  
25   and the issuance of a charging document for removal



1 proceedings shall not toll the 3-year period of contin-  
2 uous physical presence in the United States”;

3 (B) by amending subsection (b)(2)(A)(iv) to  
4 read as follows:

5 “(iv) the alien is not inadmissible  
6 under paragraph (2), (3), (8), (9)(A),  
7 (10)(C), (10)(D), or (10)(E) of section  
8 212(a), is not deportable under paragraph  
9 (1)(E), (1)(G), or (2) through (4) of sec-  
10 tion 237(a) (except in a case described in  
11 section 237(a)(7) where the Secretary of  
12 Homeland Security exercises discretion to  
13 grant a waiver), and has not been con-  
14 victed of an aggravated felony; and”;

15 (C) in subsection (b)(2)(B)—

16 (i) by inserting “direct” before “connection  
17 between the absence”;

18 (ii) by inserting “directly” before “con-  
19 nected to the battering or extreme”; and

20 (iii) in the third sentence, by inserting  
21 “battery or cruelty-related” before “absences or  
22 portions of the absences”;

23 (iv) in subsection (b)(2)(C), by inserting  
24 “directly” before “connected”;

1 (v) in subsection (b)(4)(A), by striking  
2 “shall” and inserting “may”; and

3 (vi) in subsection (d)(1), by striking “ex-  
4 cept in the case of an alien who applies for can-  
5 cellation of removal under subsection (b)(2),”.

6 (6) Section 245 (8 U.S.C. 1255) is amended by redes-  
7 ignating the subsection (l) that was added by section  
8 1513(f) of Public Law 106–386 as subsection (m) and in  
9 such redesignated subsection—

10 (A) in paragraph (1)—

11 (i) in the matter preceding subparagraph  
12 (A), by striking “section 212(a)(3)(E), unless  
13 the Attorney General determines based on af-  
14 firmative evidence” and inserting “paragraph  
15 (2), (3), (8), (9)(A), (10)(C), (10)(D), or  
16 (10)(E) of section 212(a), unless the Attorney  
17 General determines”;

18 (ii) by striking “and” at the end of sub-  
19 paragraph (A);

20 (iii) by striking subparagraph (B) and in-  
21 serting the following:

22 “(B) the alien has, throughout such period,  
23 been a person of good moral character; and

24 “(C) in the opinion of the Secretary of Home-  
25 land Security, the alien or the alien’s spouse, parent,

1 or child, who is a citizen of the United States or an  
2 alien lawfully admitted for permanent residence,  
3 would suffer extreme hardship.”;

4 (B) in paragraph (2), by striking “or unless an  
5 official involved in the investigation or prosecution  
6 certifies that the absence was otherwise justified”;  
7 and

8 (C) by amending paragraph (4) to read as fol-  
9 lows:

10 “(4) Upon the approval of adjustment of status under  
11 paragraph (1) or (3), the Secretary of Homeland Security  
12 shall record the alien’s lawful admission for permanent  
13 residence as of the date of such approval and the Sec-  
14 retary of State shall reduce by one the number of visas  
15 authorized to be issued under sections 201(d) and  
16 203(b)(4) for the fiscal year then current, unless the num-  
17 ber of remaining visas authorized to be issued under sec-  
18 tion 203(b)(4) for such year is zero, in which case such  
19 reductions shall not be made.”.

20 **SEC. 529. DETENTION FACILITIES.**

21 (a) INCREASING NUMBER OF DETENTION BEDS.—  
22 Subject to the availability of appropriations, the Secretary  
23 of Homeland Security shall provide for a doubling in the  
24 detention beds of the Department of Homeland Security

1 over the number existing on the date of the enactment  
2 of this Act by the end of fiscal year 2005.

3 (b) PLACES OF DETENTION FOR ALIENS ARRESTED  
4 PENDING EXAMINATION AND DECISION ON REMOVAL.—  
5 Section 241(g) (8 U.S.C. 1231(g)) is amended by adding  
6 at the end the following:

7 “(3) POLICY ON DETENTION IN STATE AND  
8 LOCAL DETENTION FACILITIES.—In carrying out  
9 paragraph (1), the Secretary of Homeland Security  
10 shall ensure that an alien arrested under section  
11 287(a) may be detained, pending the alien’s being  
12 taken for the examination described in such section,  
13 in a State or local prison, jail, detention center, or  
14 other comparable facility, if—

15 “(A) such facility is the most suitably lo-  
16 cated Federal, State, or local facility available  
17 for such purpose under the circumstances;

18 “(B) an appropriate arrangement for such  
19 use of the facility can be made; and

20 “(C) such facility satisfies the standards  
21 for the housing, care, and security of persons  
22 held in custody of a United States marshal.”.

23 **SEC. 530. VOLUNTARY DEPARTURE.**

24 (a) IN GENERAL.—Section 240B (8 U.S.C. 1229c)  
25 is amended to read as follows:

## 1 “VOLUNTARY DEPARTURE

2 “SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The  
3 Secretary of Homeland Security may permit an alien vol-  
4 untarily to depart the United States at the alien’s own  
5 expense under this subsection, in lieu of being subject to  
6 proceedings under section 240 and in lieu of applying for  
7 another form of relief from removal, if the alien is not  
8 deportable under paragraph (2)(A)(iii) or (4)(B) of section  
9 237(a). Permission to depart voluntarily under this sub-  
10 section shall not be valid for a period exceeding 90 days  
11 and cannot be extended. The Secretary of Homeland Secu-  
12 rity shall require an alien permitted to depart voluntarily  
13 under this subsection to post a voluntary departure bond,  
14 in an amount necessary to ensure that the alien will de-  
15 part, to be surrendered upon proof that the alien has de-  
16 parted the United States within the time specified.

17 “(b) PRIOR TO SCHEDULING MERITS HEARING.—  
18 The Secretary of Homeland Security may permit an alien  
19 voluntarily to depart the United States at the alien’s own  
20 expense under this subsection prior to the scheduling of  
21 the first merits hearing, in lieu of applying for another  
22 form of relief from removal, if the alien is not deportable  
23 under paragraph (2)(A)(iii) or (4)(B) of section 237(a).  
24 Permission to depart voluntarily under this subsection  
25 shall not be valid for a period exceeding 60 days and can-

1 not be extended. The Secretary shall require an alien per-  
2 mitted to depart voluntarily under this subsection to post  
3 a voluntary departure bond, in an amount necessary to  
4 ensure that the alien will depart, to be surrendered upon  
5 proof that the alien has departed the United States within  
6 the time specified.

7 “(c) ONCE FIRST MERITS HEARING SCHEDULED.—

8 “(1) IN GENERAL.—Once the first merits hear-  
9 ing has been scheduled under section 240, the Sec-  
10 retary of Homeland Security may permit an alien  
11 voluntarily to depart the United States at the alien’s  
12 own expense under this subsection, in lieu of pur-  
13 suing another form of relief from removal, if the im-  
14 migration judge enters an order granting voluntary  
15 departure in lieu of removal and finds that—

16 “(A) the alien has been physically present  
17 in the United States for a period of at least one  
18 year immediately preceding the date the notice  
19 to appear was served under section 239(a);

20 “(B) the alien is, and has been, a person  
21 of good moral character for at least 5 years im-  
22 mediately preceding the alien’s application for  
23 voluntary departure;

1           “(C) the alien is not deportable under  
2           paragraph (2)(A)(iii) or (4)(B) of section  
3           237(a); and

4           “(D) the alien has established by clear and  
5           convincing evidence that the alien has the  
6           means to depart the United States and intends  
7           to do so.

8           “(2) PERIOD.—Permission to depart voluntarily  
9           under this subsection shall not be valid for a period  
10          exceeding 30 days and cannot be extended.

11          “(3) BOND.—The Secretary of Homeland Secu-  
12          rity shall require an alien permitted to depart volun-  
13          tarily under this subsection to post a voluntary de-  
14          parture bond, in an amount necessary to ensure that  
15          the alien will depart, to be surrendered upon proof  
16          that the alien has departed the United States within  
17          the time specified.

18          “(d) ALIENS NOT ELIGIBLE.—The Secretary of  
19          Homeland Security shall not permit an alien to depart vol-  
20          untarily under this section if the alien was previously per-  
21          mitted to depart voluntarily under section 244(e) or this  
22          section, or to voluntarily return, at any time.

23          “(e) CIVIL PENALTY FOR FAILURE TO DEPART.—  
24          If an alien is permitted to depart voluntarily under this  
25          section and fails voluntarily to depart the United States

1 within the time period specified, the alien shall be subject  
2 to a civil penalty of not less than \$1,000 and not more  
3 than \$5,000, and be ineligible for a period of 10 years  
4 for any further relief under this section and sections 240A,  
5 245, 248, and 249. The order permitting the alien to de-  
6 part voluntarily shall inform the alien of the penalties  
7 under this subsection.

8 “(f) ADDITIONAL CONDITIONS.—The Secretary of  
9 Homeland Security may by regulation limit eligibility for  
10 voluntary departure under this section for any class or  
11 classes of aliens. No court may review any regulation  
12 issued under this subsection.

13 “(g) TREATMENT OF ALIENS ARRIVING IN THE  
14 UNITED STATES.—In the case of an alien who is arriving  
15 in the United States and with respect to whom pro-  
16 ceedings under section 240 are (or would otherwise be)  
17 initiated at the time of such alien’s arrival, subsections  
18 (a) through (c) shall not apply. Nothing in this paragraph  
19 shall be construed as preventing such an alien from with-  
20 drawing the application for admission in accordance with  
21 section 235(a)(4).

22 “(h) REVIEW.—There shall be no administrative or  
23 judicial review of a denial of a request for an order of  
24 voluntary departure. No court or agency shall order a stay  
25 of an alien’s removal pending consideration of any claim



1 with respect to voluntary departure. The order permitting  
2 the alien to depart voluntarily shall inform the alien that  
3 the alien has no right to appeal any issue relating to the  
4 removal proceeding.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 subsection (a) shall take effect on the date of the enact-  
7 ment of this Act and shall apply to aliens who are in pro-  
8 ceedings under the Immigration and Nationality Act on  
9 or after such date if those proceedings have not resulted  
10 in a final administrative order before such date.

11 **SEC. 531. CANCELLATION OF REMOVAL.**

12 Section 240(A)(c) is amended by adding at the end  
13 the following:

14 “(7) An alien who is inadmissible under section  
15 212(a)(9)(B)(i).”.

16 **SEC. 532. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

17 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is  
18 amended—

19 (1) by amending the section heading to read as  
20 follows:

21 “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

22 (2) in subsection (a), by amending the sub-  
23 section heading to read as follows: “EXPEDITED RE-  
24 MOVAL FROM CORRECTIONAL FACILITIES.—”;

1           (3) in subsection (b), by amending the sub-  
2       section heading to read as follows: “REMOVAL OF  
3       CRIMINAL ALIENS.—”;

4           (4) in subsection (b), by striking paragraphs  
5       (1) and (2) and inserting the following:

6           “(1) IN GENERAL.— The Secretary may, in the  
7       case of an alien described in paragraph (2), deter-  
8       mine the deportability of such alien and issue an  
9       order of removal pursuant to the procedures set  
10      forth in this subsection or section 240.

11          “(2) ALIENS DESCRIBED.— An alien is de-  
12      scribed in this paragraph if the alien, whether or not  
13      admitted into the United States, was convicted of  
14      any criminal offense described in subparagraph  
15      (A)(iii), (C), or (D) of section 237(a)(2).”;

16          (5) in the first subsection (c) (relating to pre-  
17      sumption of deportability), by striking “convicted of  
18      an aggravated felony” and inserting “described in  
19      paragraph (b)(2)”;

20          (6) by redesignating the second subsection (c)  
21      (relating to judicial removal) as subsection (d); and

22          (7) in subsection (d)(5) (as so redesignated),  
23      and by striking “, who is deportable under this  
24      Act,”.

1 (b) LIMIT ON INJUNCTIVE RELIEF.—Section  
 2 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting  
 3 “or stay, whether temporarily or otherwise,” after “en-  
 4 join”.

5 **SEC. 533. SUBJECT TO THE JURISDICTION DEFINED.**

6 Section 101(c) (8 U.S.C. 1101(c)) is amended by  
 7 adding at the end the following:

8 “(3) The term ‘subject to the jurisdiction of the  
 9 United States’ means that, at the time of birth in  
 10 the United States, the mother or the father of the  
 11 child, excluding aliens classified under subparagraph  
 12 (A) or (G) of section 101(a)(15), resided lawfully  
 13 therein.”.

14 **SEC. 534. CLAIMS FOR SERVICES PERFORMED BY UNAU-**  
 15 **THORIZED ALIENS.**

16 Title II (8 U.S.C. 1151 et seq.) is amended by insert-  
 17 ing after section 271 the following:

18 “CLAIMS ARISING FROM SERVICES OF ALIENS WITHOUT  
 19 WORK AUTHORIZATION

20 “SEC. 271A. (a) IN GENERAL.—It shall be unlawful  
 21 for any person, entity or enterprise, including any em-  
 22 ployer, contractor, employee, or independent contractor, to  
 23 claim any deduction, credit, benefit, subsidy, rebate, grant  
 24 or other payment otherwise authorized by any provision  
 25 of the United States Code, including the Internal Revenue  
 26 Code, derived from compensation in any form for labor

1 or personal services provided in the United States that was  
2 paid to or on behalf of a person, knowingly or in reckless  
3 disregard of the fact that such person was, at the time  
4 such labor or services were performed, an unauthorized  
5 alien (as defined in section 274A(h)(3)).

6 “(b) ENFORCEMENT.—

7 “(1) Where any claim described in subsection  
8 (a) made by a person, entity, or enterprise amount  
9 in aggregate to \$50,000 or more, a right of action  
10 shall exist for a State or local government agency or  
11 a private party to recover such sums on behalf of the  
12 United States.

13 “(2) A complaint described in subparagraph (i)  
14 shall be made in writing under oath or affirmation  
15 to the Chief Administrative Hearing Officer of the  
16 Executive Office for Immigration Review.

17 “(3) No complaint may be filed in which all al-  
18 leged violations occurred more than two years prior  
19 to the filing of the complaint.

20 “(4) A prevailing private party acting on behalf  
21 of the United States shall be awarded 25 percent  
22 from any sums recovered.

23 “(5) Adjudication of a complaint shall proceed  
24 under the provisions of the Administrative Procedure  
25 Act (5 U.S.C. 551 et seq.).

1           “(6) The administrative law judge may grant  
 2           the prevailing party reasonable attorney’s fees if the  
 3           judge determines that the opposing party’s argu-  
 4           ment was without reasonable basis in law and fact.”.

5 **SEC. 535. RESTRICTION ON WARRANTLESS ENTRY.**

6           (a) IN GENERAL.—Section 287(e) (8 U.S.C. 1357(e))  
 7 is amended by inserting “that is an active participant in  
 8 an employment verification system approved by the Sec-  
 9 retary of Homeland Security” after “farm or other out-  
 10 door agricultural operation”.

11          (b) EFFECTIVE DATE.—The amendment made by  
 12 subsection (a) shall take effect on the date described in  
 13 section 511(b).

14 **TITLE VI—ELIMINATING EXCES-**  
 15 **SIVE REVIEW AND DILATORY**  
 16 **AND ABUSIVE TACTICS BY**  
 17 **ALIENS IN REMOVAL PRO-**  
 18 **CEEDINGS**

19 **SEC. 601. FRIVOLOUS APPLICATIONS.**

20          (a) IN GENERAL.—Paragraph (6) of section 208(d)  
 21 (8 U.S.C. 1158(d)) is amended by adding at the end the  
 22 following new sentence: “As used in this section, the term  
 23 ‘frivolous application’ means an application that lacks a  
 24 reasonably arguable basis either in law or in fact. If an  
 25 alien withdraws an application for asylum and pursues an-

1 other benefit or form of relief under this Act, the alien  
2 shall bear the burden of proving by clear and convincing  
3 evidence, in the adjudication respecting such other benefit  
4 or form of relief, that such asylum application was not  
5 a frivolous application. If the alien fails to carry such bur-  
6 den, the alien shall be permanently ineligible for any ben-  
7 efit under this Act.”.

8 (b) EFFECTIVE DATE.—The amendment made by  
9 subsection (a) shall take effect on the date of the enact-  
10 ment of this Act and shall apply to applications for asylum  
11 pending on or after such date if the application has not  
12 resulted in a final administrative order before such date.

13 **SEC. 602. CONTINUANCES; CHANGE OF VENUE.**

14 (a) IN GENERAL.—Section 240(b)(1) (8 U.S.C.  
15 1229a(b)(1)) is amended by adding at the end the fol-  
16 lowing:

17 “The immigration judge may not grant a continu-  
18 ance to permit an alien to become eligible for relief  
19 under any provision of law. In proceedings under  
20 this section or under section 236, the immigration  
21 judge may not grant a change of venue for an alien  
22 who has not been inspected and admitted or paroled  
23 into the United States. For all other aliens, the im-  
24 migration judge may grant a change of venue only

1 if the alien demonstrates that the alien cannot ob-  
 2 tain a fair proceeding in the current venue.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
 4 subsection (a) shall take effect on the date of the enact-  
 5 ment of this Act and shall apply to continuances and  
 6 changes of venue sought after such date.

7 **SEC. 603. BURDEN OF PROOF IN ASYLUM PROCEEDINGS.**

8 (a) **IN GENERAL.**—Section 208(b)(1) (8 U.S.C.  
 9 1158(b)(1)) is amended—

10 (1) by striking “(1) **IN GENERAL.**—The Attor-  
 11 ney General” and inserting the following:

12 “(1) **IF ALIEN IS A REFUGEE.**—

13 “(A) **IN GENERAL.**—The Secretary of  
 14 Homeland Security or the Attorney General”;  
 15 and

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

17 “(B) **BURDEN OF PROOF.**—The burden of  
 18 proof is on the applicant for asylum to establish  
 19 that he or she is a refugee within the meaning  
 20 of section 101(a)(42). The testimony of the ap-  
 21 plicant, if credible, may be sufficient to sustain  
 22 such burden without corroboration. Where it is  
 23 reasonable to expect corroborating evidence for  
 24 certain alleged facts pertaining to the specifics  
 25 of an alien’s claim for asylum, such evidence

1 must be provided unless a reasonable expla-  
2 nation is given as to why such information is  
3 not presented.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall take effect on the date of the enact-  
6 ment of this Act and shall apply to applications for asylum  
7 pending on or after such date if the application has not  
8 resulted in a final administrative order before such date.

9 **SEC. 604. REVIEW OF CONVENTION AGAINST TORTURE**  
10 **GRANTS AND DENIALS.**

11 (a) IN GENERAL.—Section 241(b) (8 U.S.C.  
12 1231(b)) is amended by adding at the end the following  
13 new paragraph:

14 “(4) ELIMINATION OF REVIEW.—A determina-  
15 tion as to whether the removal of an alien to any  
16 country should be withheld or deferred under the  
17 United Nations Convention Against Torture and  
18 Other Cruel, Inhuman, or Degrading Treatment or  
19 Punishment shall be made by the Secretary of  
20 Homeland Security. There shall be no administrative  
21 or judicial review of a determination of the Secretary  
22 under this section.”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall take effect on the date of the enact-  
25 ment of this Act and shall apply to applications pending



1 on or after such date if the application has not resulted  
2 in a final administrative order before such date.

3 **SEC. 605. TIME LIMIT FOR DECISIONS IN ADMINISTRATIVE**  
4 **APPEALS.**

5 (a) IN GENERAL.—Chapter 9 of title II of the Act  
6 is amended by inserting after section 294 the following  
7 new section:

8 “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

9 “SEC. 295. (a) DEADLINE.—A decision in any ad-  
10 ministrative appeal from a decision of an immigration  
11 judge shall be issued not later than 180 days after the  
12 appeal is filed. If the appeal is not decided before such  
13 deadline, the decision of the immigration judge shall be  
14 final, unless the Attorney General certifies the decision for  
15 review.

16 “(b) STANDARD OF REVIEW.—In any administrative  
17 appeal from a decision of an immigration judge, such  
18 judge’s determinations of factual issues, including findings  
19 as to the credibility of testimony, shall be accepted unless  
20 they are clearly erroneous.”.

21 (b) CLERICAL AMENDMENT.—The table of contents  
22 of the Immigration and Nationality Act is amended by in-  
23 serting after the item relating to section 294 the following:

“295. Rules for decisions in administrative appeals.”.

24 (c) EFFECTIVE DATE.—The amendments made by  
25 this section shall take effect on the date of the enactment

1 of this Act and shall apply to decisions appealed on or  
2 after such date.

3 **SEC. 606. REVIEW OF ASYLUM CLAIMS.**

4 (a) JUDICIAL REVIEW.—

5 (1) IN GENERAL.—Section 208 (8 U.S.C. 1158)  
6 is amended by adding at the end the following:

7 “(e) LIMITATION ON JUDICIAL REVIEW.—No court  
8 shall have jurisdiction to review any decision of the Sec-  
9 retary of Homeland Security or the Attorney General  
10 under this section.”.

11 (2) CONFORMING AMENDMENTS.—Section 242  
12 (8 U.S.C 1252) is amended—

13 (A) in subsection (a)(2)(B)(i), by inserting  
14 “208,” before “212(h),”;

15 (B) in subsection (a)(2)(B)(ii), by striking  
16 “General,” and all that follows through the pe-  
17 riod at the end and inserting “General.”; and

18 (C) in subsection (b)(4)—

19 (i) in subparagraph (B), by adding  
20 “and” at the end;

21 (ii) in subparagraph (C), by striking  
22 “, and” at the end and inserting a period;  
23 and

24 (iii) by striking subparagraph (D).

1       (b) LIMITATION ON ASYLUM OFFICE.—Section  
2 208(d) (8 U.S.C. 1158(d)) is amended by adding at the  
3 end the following:

4               “(8) OTHER PROCEDURAL MATTERS.—

5                       “(A) DETERMINATION OF LAWFUL STA-  
6 TUS.—

7                               “(i) IN GENERAL.—In the case of an  
8 alien who is physically present in the  
9 United States and who has applied to the  
10 Secretary of Homeland Security for asy-  
11 lum, the Secretary shall determine whether  
12 the alien is inadmissible or deportable be-  
13 fore the Secretary prepares to schedule the  
14 applicant for an asylum interview. If the  
15 Secretary determines that the alien is not  
16 inadmissible or deportable, the Secretary  
17 shall adjudicate the asylum application and  
18 render a decision granting or denying asy-  
19 lum. If the Secretary determines that the  
20 alien is inadmissible or deportable before  
21 the Secretary prepares to schedule an  
22 interview, the Secretary shall place the  
23 alien in removal proceedings without adju-  
24 dicating the asylum application. The alien

1                   may then pursue such application in such  
2                   proceedings.

3                   “(ii) REVIEW OF DETERMINATIONS.—

4                   If an alien’s asylum application has been  
5                   denied by the Secretary, in any administra-  
6                   tive or judicial appeal from such denial,  
7                   the Secretary’s determinations of factual  
8                   issues, including findings as to the credi-  
9                   bility of testimony, shall be accepted into  
10                  evidence.

11                  “(B) RECORDING OF INTERVIEWS.—The  
12                  Secretary shall record asylum interviews and in-  
13                  clude any such recording in the applicant’s file  
14                  and record of proceedings.”.

15                  (c) EFFECTIVE DATE.—The amendments made by  
16                  this section shall take effect on the date of the enactment  
17                  of this Act and shall apply to decisions rendered on or  
18                  after such date.

19       **SEC. 607. JUDICIAL REVIEW.**

20                  (a) ORDERS AGAINST CRIMINAL ALIENS.—Subpara-  
21                  graph (C) of section 242(a)(2) (8 U.S.C. 1252(a)(2)) is  
22                  amended—

23                       (1) by striking “no court shall have jurisdic-  
24                       tion” and inserting “including section 2241 of title

1       28, United States Code, no court shall have jurisdic-  
2       tion, except as provided in this section,”; and

3               (2) by adding at the end the following: “Such  
4       review shall be limited to constitutional challenges or  
5       statutory claims involving pure issues of law,”.

6       (b) VENUE FOR REVIEW OF ORDERS OF REMOVAL.—  
7       Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended by  
8       striking “with the court of appeals for the judicial circuit  
9       in which the immigration judge completed the pro-  
10      ceedings.” and inserting “with the United States Court  
11      of Appeals for the District of Columbia Circuit.”.

12      (c) FEDERAL CIRCUIT COURT APPEALS.—

13              (1) IN GENERAL.—Title I of the Act is amend-  
14      ed by inserting after section 105 the following:

15      “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

16      “SEC. 106. Notwithstanding any other provision of  
17      law, the final order of a district court of the United States  
18      in any proceeding under this Act, or under any other im-  
19      migration law of the United States, shall be subject to re-  
20      view, on appeal, by the United States Court of Appeals  
21      for the District of Columbia Circuit. There shall be no  
22      right of appeal in such proceedings to any other circuit  
23      court of appeals. The law applied by the Supreme Court,  
24      and the United States Court of Appeals for the District  
25      of Columbia Circuit, shall be regarded as the rule of deci-  
26      sion in any proceeding under this Act.”.

1           (2) CLERICAL AMENDMENT.—The table of con-  
2           tents of the Immigration and Nationality Act is  
3           amended by inserting after the item relating to sec-  
4           tion 105 the following:

“106. Federal circuit court appeals.”.

5 **TITLE VII—EMERGENCY IMMI-**  
6 **GRATION WORKLOAD REDUC-**  
7 **TION**

8 **SEC. 701. CONGRESSIONAL FINDINGS.**

9           The Congress finds as follows:

10           (1) The effective establishment and organiza-  
11           tion of the Directorate of Border and Transpor-  
12           tation Security of the Department of Homeland Se-  
13           curity is imperative if the Directorate is to carry out  
14           the immigration enforcement and immigration serv-  
15           ices responsibilities delegated to it by the Congress  
16           in the manner expected by the American people.

17           (2) The effective implementation of these duties  
18           will not be achieved without an unacceptable com-  
19           promise to the security interests of the United  
20           States unless certain visa programs are temporarily  
21           suspended, and other material assistance is provided  
22           to law enforcement agencies and other entities that  
23           support the immigration enforcement functions of  
24           the Directorate, until such time as the Secretary of

1 Homeland Security can make the certifications to  
2 Congress required in section 708.

3 (3) Such certifications, taken together, will es-  
4 tablish the effective operational transfer of immigra-  
5 tion enforcement functions to the new Directorate.

6 **SEC. 702. TEMPORARY SUSPENSION OF VISA WAIVER PRO-**  
7 **GRAM.**

8 The admission of aliens to the United States under  
9 the provisions of section 217 of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1187) is suspended.

11 **SEC. 703. TEMPORARY SUSPENSION OF ADJUSTMENT OF**  
12 **STATUS APPLICATIONS.**

13 (a) The admission of aliens described in section  
14 101(a)(15)(V) of the Immigration and Nationality Act (8  
15 U.S.C. 1101(a)(15)(V) is suspended.

16 (b) The authority of the Secretary of Homeland Secu-  
17 rity to adjust the status of any alien to that of an alien  
18 lawfully admitted for permanent residence under sections  
19 240A or 245 of the Immigration and Nationality Act is  
20 suspended.

21 (c) The suspensions described in subsections (a) and  
22 (b) shall include the suspension of acceptance for filing  
23 of applications for adjustment of status described in such  
24 subsection.

1 (d) Subsections (b) and (c) shall not apply to aliens  
2 described in sections 101(a)(15)(K) or 101(a)(42) of the  
3 Immigration and Nationality Act.

4 **SEC. 704. TEMPORARY SUSPENSION OF RENEWALS OF TEM-**  
5 **PORARY PROTECTED STATUS.**

6 The authority of the Secretary of Homeland Security  
7 to renew or extend any designation made under subpara-  
8 graph (B) or (C) of section 244(b)(1) of the Immigration  
9 and Nationality Act (8 U.S.C. 1254(b)(1)) is suspended.

10 **SEC. 705. CURTAILMENT OF VISAS FOR COUNTRIES DENY-**  
11 **ING OR DELAYING REPATRIATION OF NA-**  
12 **TIONALS.**

13 (a) PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-  
14 CANT LIKELIHOOD OF REMOVAL.—The Secretary of  
15 Homeland Security shall establish and maintain a public  
16 listing of every alien who is subject to a final order of  
17 removal and with respect to whom the Secretary or any  
18 Federal court has determined that there is no significant  
19 likelihood of removal in the reasonably foreseeable future  
20 due to the refusal, or unreasonable delay, of all countries  
21 designated by the alien or under this section to receive  
22 the alien. The public listing shall indicate whether such  
23 alien has been released from federal custody, and the city  
24 and state in which such alien resides.



1       (b) DISCONTINUATION OF VISAS.—In the case of any  
2 foreign state for which 24 or more of the citizens, subjects,  
3 or nationals of such state appear on the public listing de-  
4 scribed in paragraph (a), such foreign state shall be  
5 deemed to have denied or unreasonably delayed the accept-  
6 ance of such aliens, and the Secretary of Homeland Secu-  
7 rity shall make the notification to the Secretary of State  
8 prescribed in section 243(d) of the Immigration and Na-  
9 tionality Act (8 U.S.C. 1253(d)). The Secretary of State  
10 shall accordingly discontinue the issuance of non-immi-  
11 grant visas to citizens, subjects, or nationals of such for-  
12 eign state.

13 **SEC. 706. WAIVER OF SUSPENSIONS.**

14       The Secretary of Homeland Security may in his or  
15 her discretion waive, on an individual case-by-case basis,  
16 the suspension of applications under sections 702, 703,  
17 or 704, if the beneficiaries of such applications are not  
18 inadmissible under section 212(a) of the Immigration and  
19 Nationality Act (8 U.S.C. 1182(a)) or deportable under  
20 section 237(a) of such Act (8 U.S.C. 1227).

21 **SEC. 707. TERMINATION OF TEMPORARY SUSPENSIONS.**

22       The emergency suspension of issuance of non-  
23 immigrant visas, and of admissions to the United States,  
24 as mandated by sections 702 through 704, shall terminate  
25 one week after the certification by the Secretary of Home-

1 land Security to the Congress that the following conditions  
2 are satisfied:

3           (1) The integrated entry and exit data system  
4       required by the Immigration and Naturalization  
5       Service Data Management Improvement Act of 2000  
6       (Public Law 106–215), including the requirements  
7       added by section 302(a) of the Enhanced Border Se-  
8       curity and Visa Entry Reform Act of 2002 (Public  
9       Law 107–173), is fully operational at all ports of  
10      entry.

11          (2) The system of machine-readable tamper-re-  
12      sistant visas and other alien travel and entry docu-  
13      ments described in section 202 of this Act is fully  
14      implemented at all ports of entry.

15          (3) The Department of Homeland Security has  
16      the operational capability to take into custody and  
17      remove from the United States any alien described  
18      in section 237(a) of the Immigration and Nationality  
19      Act (8 U.S.C. 1227(a)) who has been lawfully de-  
20      tained by a State or local law enforcement agency,  
21      and such agency has notified the Department of  
22      such detention.

23          (4) The data system for the registration of  
24      aliens under chapter 7 of title II of the Immigration

1 and Nationality Act (8 U.S.C. 261 et. seq.) is fully  
2 operational and—

3 (A) is fully compliant with the data system  
4 integration and interoperability standards en-  
5 acted in section 202(a) of the Enhanced Border  
6 Security and Visa Entry Reform Act of 2002  
7 (Public Law 107–173);

8 (B) ensures the entry of all registrations  
9 made in accordance with section 221(b) of the  
10 Immigration and Nationality Act (8 U.S.C.  
11 1201(b)) into the registration system at the  
12 time of the relevant visa application;

13 (C) ensures that all other registrations  
14 made under procedures required by section 264  
15 of such Act (8 U.S.C. 1304) are entered into  
16 the data system within 72 hours of receipt from  
17 the alien of an approved form of registration;  
18 and

19 (D) ensures that all notices of change of  
20 address required by section 265 of such Act (8  
21 U.S.C. 1305) are entered in the data system  
22 within 5 working days of receipt from the alien  
23 of an approved change of address form.

24 (5) A program for the random audit of the  
25 backlog of applications for changes in immigration

1 status by aliens present in the United States exist-  
2 ing on the effective date of this Act has been fully  
3 implemented by the Department of Homeland Secu-  
4 rity.

5 (6) The program described in paragraph (5) re-  
6 liably indicates that the estimated incidence of fraud  
7 or false statements is no more than three percent of  
8 all approved applications and a program is in place  
9 to ensure that all benefits granted on the basis of  
10 such fraud or false statements are revoked in a  
11 timely manner.

12 (7) The foreign student monitoring system de-  
13 scribed in section 641 of the Illegal Immigration Re-  
14 form and Immigrant Responsibility Act (8 U.S.C.  
15 1372), as amended and expanded by sections 501  
16 and 502 of the Enhanced Border Security and Visa  
17 Entry Reform Act of 2002 (Public Law 107–173),  
18 is fully operational, and no educational institution  
19 certified to receive nonimmigrant students under  
20 subparagraph (F), (M), or (J) of section 101(a)(15)  
21 of the Immigration and Nationality Act (8 U.S.C.  
22 1101(a)(15)) knowingly registers or admits aliens  
23 present in the United States in violation of law.

24 (8) The number of aliens removed from the  
25 United States, during the 4 month period preceding

1 the month in which the certification under this sec-  
2 tion is executed, was at least 25 percent higher than  
3 in the comparable period of the previous year.

4 (9) All reports and plans, and all operational  
5 transfers of functions, required under title IV of the  
6 Homeland Security Act of 2002 (6 U.S.C. 201 et  
7 seq.) have been successfully performed and imple-  
8 mented to the extent required by law as of the cer-  
9 tification date.

10 (10) The annual report required by section  
11 205(b) of the American Competitiveness in the  
12 Twenty-First Century Act of 2000 (8  
13 U.S.C.1574(b)), for the fiscal year preceding the  
14 date of the certification, has been submitted to the  
15 Congress.

16 (11) Process changes described in section  
17 205(b)(2)(C)(vi) of the American Competitiveness in  
18 the Twenty-First Century Act of 2000 (8 U.S.C.  
19 1574(b)(2)(C)(vi)) have been implemented and are  
20 substantially operational.

21 **SEC. 708. EFFECTIVE DATE.**

22 The provisions of this title shall take effect at mid-  
23 night on the first Saturday that occurs two weeks after  
24 the date of enactment of this Act.

1 **TITLE VIII—REFORMING LEGAL**  
2 **IMMIGRATION**  
3 **Subtitle A—Promotion of**  
4 **Citizenship**

5 **SEC. 801. CHANGES IN NATURALIZATION REQUIREMENTS.**

6 (a) STUDY OF NATURALIZATION EXAMINATION.—

7 (1) IN GENERAL.—The Chief of the Office of  
8 Citizenship of the Department of Homeland Security  
9 shall conduct a study of the scope and nature of the  
10 examination of applicants for naturalization. The  
11 study shall analyze the value of the questions on the  
12 exam, and recommend questions that ought to be  
13 eliminated and new questions that ought to be in-  
14 cluded. The study shall recommend new questions to  
15 be included that gauge an applicant’s understanding  
16 of the principles in the oath of allegiance required  
17 under section 337(a) of the Immigration and Na-  
18 tionality Act (8 U.S.C. 1448(a)).

19 (2) CIVICS COURSE.—The study shall also ana-  
20 lyze and make recommendations as to whether appli-  
21 cants for naturalization ought to be required to com-  
22 plete a course in civic education.

23 (3) REPORT.—Not later than 6 months after  
24 the date of the enactment of this Act, the Chief of  
25 the Office of Citizenship for the Bureau of Citizen-

1 ship and Immigration Services of the Department of  
2 Homeland Security shall submit a report to the Con-  
3 gress containing the results of the study conducted  
4 under this subsection. The report shall also contain  
5 a proposed revised examination to be administered  
6 to applicants for naturalization that reflects the rec-  
7 ommendations developed through the study. In de-  
8 veloping the proposed examination, the Chief of the  
9 Office of Citizenship shall consult with interested  
10 groups specializing in immigration issues, civics or-  
11 ganizations, patriotic associations, and veterans’  
12 groups.

13 (b) REQUIRING APPLICANTS FOR NATURALIZATION  
14 TO UNDERSTAND OATH.—

15 (1) REQUIREMENTS FOR NATURALIZATION.—

16 Section 312(a) (8 U.S.C. 1423(a)) is amended—

17 (A) in paragraph (1), by striking “and” at  
18 the end;

19 (B) in paragraph (2), by striking the pe-  
20 riod at the end and inserting “; and”; and

21 (C) by adding at the end the following:

22 “(3) an understanding of the oath of allegiance  
23 required under section 337(a).”.

24 (2) EXAMINATION.—Section 332(a) (8 U.S.C.  
25 1443(a)) is amended by inserting before “ability”

1 the following: “understanding of the oath of alle-  
2 giance required under section 337(a),”.

3 (c) CONTENTS OF CERTIFICATE OF NATURALIZA-  
4 TION.—Section 338 (8 U.S.C. 1449) is amended by insert-  
5 ing before “and the seal” the following: “the oath of alle-  
6 giance required under section 337(a); a statement that the  
7 applicant recognizes the privileges and responsibilities of  
8 citizenship;”.

9 **SEC. 802. OATH OF RENUNCIATION AND ALLEGIANCE.**

10 Section 337(a) of the Immigration and Nationality  
11 Act (8 U.S.C. 1448(a)) is amended by inserting after “the  
12 child is unable to understand its meaning.” the following:  
13 “The oath referred to in this section shall read the same  
14 as the oath provided for in paragraph (a) or (b) of part  
15 337.1 of title 8, Code of Federal Regulations, as in effect  
16 on September 1, 2003.”.

17 **Subtitle B—Treatment of Nationals**  
18 **of State Sponsors of Terrorism**

19 **SEC. 811. TREATMENT OF NATIONALS OF STATE SPONSORS**  
20 **OF TERRORISM.**

21 (a) IN GENERAL.—

22 (1) AMENDMENT.—Chapter 9 of title II, as  
23 amended by section 265 of this Act, is further  
24 amended by inserting after section 295 the following  
25 new section:



1 “TREATMENT OF NATIONALS OF STATE SPONSORS OF  
2 TERRORISM

3 “SEC. 296. (a) IN GENERAL.—No nonimmigrant or  
4 immigrant visa may be issued, or nonimmigrant or immi-  
5 grant status otherwise provided, other than a visa or sta-  
6 tus described in section 101(a)(15)(A) or 201(b)(2)(A)(i),  
7 to any alien who is a national of, or residing in, a country  
8 that is determined to be a state sponsor of terrorism, ex-  
9 cept the Secretary of Homeland Security (or the consular  
10 officer, in the case of an application for a visa) may, on  
11 a case-by-case basis, waive the application of this sub-  
12 section in the case of an alien who—

13 “(1) requires examination or treatment for an  
14 emergency medical condition (as defined in section  
15 562(d) of the Illegal Immigration Reform and Immi-  
16 gration Responsibility Act of 1996 (8 U.S.C.  
17 1396(d))); or

18 “(2) is eligible for admission as a refugee under  
19 section 207 or for asylum under section 208.

20 “(b) STATE SPONSOR OF TERRORISM DEFINED.—

21 “(1) IN GENERAL.—In this section, the term  
22 ‘state sponsor of terrorism’ means any country the  
23 government of which has been determined by the  
24 Secretary of State under any of the laws specified in  
25 paragraph (2) to have repeatedly provided support

1 for acts of terrorism. Such term shall apply to a  
2 country beginning on the date on which such deter-  
3 mination takes effect and ending on the date on  
4 which such determination is withdrawn, terminated,  
5 revoked, or otherwise ceases to be effective.

6 “(2) LAWS UNDER WHICH DETERMINATIONS  
7 WERE MADE.—The laws specified in this paragraph  
8 are the following:

9 “(A) Section 6(j)(1)(A) of the Export Ad-  
10 ministration Act of 1979 (or successor statute).

11 “(B) Section 40(d) of the Arms Export  
12 Control Act.

13 “(C) Section 620A(a) of the Foreign As-  
14 sistance Act of 1961.”.

15 (2) CLERICAL AMENDMENT.—The table of con-  
16 tents of the Immigration and Nationality Act is  
17 amended by inserting after the item relating to sec-  
18 tion 295 the following:

“296. Treatment of nationals of state sponsors of terrorism.”.

19 (3) EFFECTIVE DATE.—The amendments made  
20 by this subsection shall take effect on the date of the  
21 enactment of this Act and shall apply to visas  
22 issued, or status provided, on and after such date.

23 (b) APPLICATION TO ADMITTED NONIMMIGRANTS.—  
24 In the case of a nonimmigrant alien lawfully admitted into  
25 the United States who would have been ineligible to be

1 granted such nonimmigrant status if the amendments  
2 made by subsection (a) had been in effect on the date on  
3 which such status was granted, notwithstanding any other  
4 provision of law, the period of authorized admission as  
5 such a nonimmigrant shall terminate 60 days after the  
6 date of the enactment of this Act, unless the Secretary  
7 of Homeland Security makes an individualized determina-  
8 tion described in section 296(a) of the Immigration and  
9 Nationality Act (as added by subsection (a)) with respect  
10 to the alien.

11 (c) REPEAL.—Section 306 of the Enhanced Border  
12 Security and Visa Entry Reform Act of 2002 (Public Law  
13 107–173) is repealed.

14 **Subtitle C—Legal Immigration**  
15 **Reform**

16 **SEC. 821. EXTENDED FAMILY PREFERENCE CATEGORIES.**

17 (a) IN GENERAL.—Section 203(a) (8 U.S.C.  
18 1153(a)) is amended to read as follows:

19 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
20 SORED IMMIGRANTS.—Qualified immigrants who are the  
21 spouses or children of an alien lawfully admitted for per-  
22 manent residence shall be subject to the worldwide level  
23 specified in section 201(c) for family-sponsored immi-  
24 grants, and shall be allocated visas in a number not to  
25 exceed such level.”.

1 (b) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-  
2 MIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amend-  
3 ed—

4 (1) by striking “480,000” and inserting  
5 “87,934”; and

6 (2) by striking “226,000” and inserting  
7 “87,934”.

8 (c) NUMERICAL LIMITATION TO ANY SINGLE FOR-  
9 EIGN STATE.—Section 202 (8 U.S.C. 1152) is amended—

10 (1) in subsection (a)(4), by striking subpara-  
11 graph (A) and inserting the following:

12 “(A) 75 PERCENT NOT SUBJECT TO PER  
13 COUNTRY LIMITATION.—Of the visa numbers  
14 made available under section 203(a) in any fis-  
15 cal year, 75 percent shall be issued without re-  
16 gard to the numerical limitation under para-  
17 graph (2).”; and

18 (2) in subsection (e)—

19 (A) in paragraph (1), by adding “and” at  
20 the end;

21 (B) by striking paragraph (2); and

22 (C) by redesignating paragraph (3) as  
23 paragraph (2).

24 (d) PROCEDURE FOR GRANTING IMMIGRANT STA-  
25 TUS.—Section 204 (8 U.S.C. 1154) is amended—

1           (1) in subsection (a)(1)(A)(i), by striking  
2           “paragraph (1), (3), or (4) of”;

3           (2) in subsection (a)(1)(B), by striking  
4           “203(a)(2)” and “203(a)(2)(A)” each place such  
5           terms appear and inserting “203(a)”;

6           (3) in subsection (a)(1)(D)(i)—

7                 (A) in subclause (I), by striking “a peti-  
8                 tioner for preference status under paragraph  
9                 (1), (2), or (3)” and all that follows through  
10                the period at the end and inserting “to be an  
11                individual under 21 years of age for purposes of  
12                adjudicating such petition, and for purposes of  
13                admission as an immediate relative under sec-  
14                tion 201(b)(2)(A)(i), notwithstanding the actual  
15                age of the individual.”; and

16               (B) in subclause (III), by striking “para-  
17               graph (1), (2), or (3) of section 203(a), which-  
18               ever paragraph is applicable,” and inserting  
19               “section 203(a), and under 21 years of age  
20               (notwithstanding the actual age of the indi-  
21               vidual),”; and

22           (4) in subsection (f), by striking “201(b),  
23           203(a)(1), or 203(a)(3), as appropriate.” and insert-  
24           ing “201(b).”.

1 (e) CLASSES OF DEPORTABLE ALIENS.—Section  
2 237(a)(1)(E)(ii) (8 U.S.C. 1227(a)(1)(E)(ii)) is amended  
3 by striking “203(a)(2)” and inserting “203(a)”.

4 (f) CONDITIONAL PERMANENT RESIDENT STATUS  
5 FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGH-  
6 TERS.—Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C))  
7 is amended by striking “203(a)(2)” and inserting  
8 “203(a)”.

9 (g) EFFECTIVE DATE.—The amendments made this  
10 section shall take effect on the date of enactment of this  
11 Act.

12 **SEC. 822. EMPLOYMENT THIRD PREFERENCE CATEGORY.**

13 (a) IN GENERAL.—Paragraph (3) of section 203(b)  
14 (8 U.S.C. 1153(b)) is amended to read as follows:

15 “(3) SKILLED WORKERS AND PROFES-  
16 SIONALS.—

17 “(A) IN GENERAL.—Visas shall be made  
18 available, in a number not to exceed 28.6 per-  
19 cent of such worldwide level, plus any visas not  
20 required for the classes specified in paragraphs  
21 (1) and (2), to the following classes of aliens  
22 who are not described in paragraph (2):

23 “(i) SKILLED WORKERS.—Qualified  
24 immigrants who are capable, at the time of  
25 petitioning for classification under this

1 paragraph, of performing skilled labor (re-  
2 quiring at least 2 years training or experi-  
3 ence), not of a temporary or seasonal na-  
4 ture, for which qualified workers are not  
5 available in the United States.

6 “(ii) PROFESSIONALS.—Qualified im-  
7 migrants who hold baccalaureate degrees  
8 and who are members of the professions.

9 “(B) LABOR CERTIFICATION REQUIRED.—  
10 An immigrant visa may not be issued to an im-  
11 migrant under subparagraph (A) until the con-  
12 sular officer is in receipt of a determination  
13 made by the Secretary of labor pursuant to the  
14 provisions of section 212(a)(5)(A).”.

15 (b) EFFECTIVE DATE.—The amendment made by  
16 subsection (a) shall take effect on the date of enactment  
17 of this Act.

18 **SEC. 823. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**  
19 **GRAM.**

20 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-  
21 GRANTS.—Section 201 (8 U.S.C. 1151) is amended—

22 (1) in subsection (a)—

23 (A) by inserting “and” at the end of para-  
24 graph (1);

1 (B) by striking “; and” at the end of para-  
2 graph (2) and inserting a period; and

3 (C) by striking paragraph (3); and  
4 (2) by striking subsection (e).

5 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—  
6 Section 203 (8 U.S.C. 1153) is amended—

7 (1) by striking subsection (c);

8 (2) in subsection (d), by striking “(a), (b), or  
9 (c),” and inserting “(a) or (b),”;

10 (3) in subsection (e), by striking paragraph (2)  
11 and redesignating paragraph (3) as paragraph (2);

12 (4) in subsection (f), by striking “(a), (b), or  
13 (c)” and inserting “(a) or (b)”; and

14 (5) in subsection (g), by striking “(a), (b), and  
15 (c)” and inserting “(a) and (b)”.

16 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-  
17 TUS.—Section 204 (8 U.S.C. 1154) is amended—

18 (1) by striking subsection (a)(1)(I); and

19 (2) in subsection (e), by striking “(a), (b), or  
20 (c)” and inserting “(a) or (b)”.

21 (c) EFFECTIVE DATE.—The amendments made this  
22 section shall take effect on the date of enactment of this  
23 Act.



1 **SEC. 824. REFUGEE ADMISSIONS.**

2 (a) IN GENERAL.—Paragraphs (1) and (2) of section  
3 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

4 “(a)(1) Except as provided in paragraph (2) and sub-  
5 section (b), the number of refugees who may be admitted  
6 under this section in any fiscal year shall be such number  
7 as the President determines, before the beginning of the  
8 fiscal year and after appropriate consultation, is justified  
9 by humanitarian concerns or is otherwise in the national  
10 interest.

11 “(2)(A) Except as provided in subparagraphs (B)  
12 and (C), the number determined under paragraph (1) for  
13 a fiscal year may not exceed the number of United Nations  
14 High Commissioner for Refugees-referred refugees who  
15 were resettled in a country other than the United States  
16 (excluding any internally resettled person) in the second  
17 preceding calendar year.

18 “(B) The number determined under paragraph (1)  
19 for a fiscal year may exceed the limit specified in subpara-  
20 graph (A) by the number of refugees admitted pursuant  
21 to section 599D(b)(3) of the Foreign Operations, Export  
22 Financing, and Related Programs Appropriations Act,  
23 1990 (8 U.S.C. 1157 note).

24 “(C) The number determined under paragraph (1)  
25 for a fiscal year may exceed the limit specified in subpara-

1 graph (A) if the Congress enacts a law providing for a  
2 higher number.”.

3 (b) EMERGENCY REFUGEE SITUATIONS.—Section  
4 207(b) (8 U.S.C. 1157(b)) is amended by striking “the  
5 President may fix” and inserting “the President may, if  
6 the Congress enacts a law providing such authority, fix”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on the date of enactment of  
9 this Act.

10 **SEC. 825. ALIENS SUBJECT TO DIRECT NUMERICAL LIMITA-**  
11 **TIONS.**

12 Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amend-  
13 ed—

14 (1) by striking subparagraphs (C), (D), and  
15 (E); and

16 (2) by amending subparagraph (B) to read as  
17 follows:

18 “(B) Aliens who are admitted under sec-  
19 tion 207.”.

20 **SEC. 826. EDUCATION OF FAMILY-SPONSORED IMMI-**  
21 **GRANTS.**

22 Section 203(a) (8 U.S.C. 1153(a)) is amended by  
23 adding at the end the following:

24 “(5) LIMITATION.—An adult alien other than a  
25 derivative spouse is not eligible for a visa under this

1 subsection unless the alien has attained at least a  
 2 high school education or its equivalent.”.

3 **SEC. 827. SPONSORSHIP LEVELS.**

4 Section 213A(f)(1)(E) (8 U.S.C. 1183a(f)(1)(E)) is  
 5 amended by striking “125 percent of the Federal poverty  
 6 line” and inserting “200 percent of the poverty line”.

7 **SEC. 828. REPEAL OF SECTION 245(i).**

8 Section 245(i) (8 U.S.C. 1255(i)) is repealed.

9 **TITLE IX—MISCELLANEOUS**  
 10 **PROVISIONS**

11 **SEC. 901. TEMPORARY PROTECTED STATUS.**

12 (a) IN GENERAL.—Section 244 (8 U.S.C. 1254a) is  
 13 amended—

14 (1) in subsection (a)—

15 (A) by striking paragraph (3)(D);

16 (B) in paragraph (4)—

17 (i) by striking subparagraph (B);

18 (ii) by moving the text of subpara-  
 19 graph (A) up and to the right so that it  
 20 follows immediately after the paragraph  
 21 heading; and

22 (iii) by striking “(A)”; and

23 (C) in paragraph (5), by striking “to deny  
 24 temporary protected status to an alien based on  
 25 the alien’s immigration status or”;

1 (2) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by adding  
4 “or” at the end;

5 (ii) in subparagraph (B)—

6 (I) in clause (i), by striking “dis-  
7 ruption of living conditions” and in-  
8 serting “physical destruction of homes  
9 and businesses”;

10 (II) by amending clause (ii) to  
11 read as follows:

12 “(ii) the foreign state is unable, tem-  
13 porarily, to house and employ the aliens  
14 who are nationals of the state residing in  
15 the United States, but has officially re-  
16 quested designation and submitted to the  
17 Secretary of State a specific plan to repa-  
18 triate such nationals in a short and speci-  
19 fied period of time; and”;

20 (III) in clause (iii), by striking “;  
21 or” and inserting a period;

22 (iii) by striking subparagraph (C);  
23 and

24 (iv) by adding at the end the fol-  
25 lowing:

1 “An initial designation, or extension of a designa-  
2 tion, of a foreign state (or part of such foreign  
3 state) under this paragraph shall not become effec-  
4 tive if the Secretary of Homeland Security finds that  
5 permitting the aliens to remain temporarily in the  
6 United States is contrary to the national interest of  
7 the United States.”

8 (B) in the last sentence of paragraph (2),  
9 by striking “18 months” and inserting “12  
10 months”;

11 (C) in paragraph (3)—

12 (i) in subparagraph (A), by inserting  
13 “all” after “and shall determine whether”;

14 (ii) in subparagraph (B), by inserting  
15 “all” after “no longer continues to meet”;

16 and

17 (iii) by amending subparagraph (C) to  
18 read as follows:

19 “(C) EXTENSION OF DESIGNATION.—If  
20 the Secretary of Homeland Security determines  
21 under subparagraph (A) that a foreign state (or  
22 part of such foreign state) continues to meet all  
23 the conditions for designation under paragraph  
24 (1) and that the foreign state warrants an ex-  
25 tension, the period of designation of the foreign

1 State is extended for an additional period of 6  
2 months (or, in the discretion of the Secretary,  
3 a period of 12 months).”; and

4 (D) in paragraph (5)—

5 (i) by striking subparagraph (B);

6 (ii) by moving the text of subpara-  
7 graph (A) up and to the right so that it  
8 follows immediately after the paragraph  
9 heading; and

10 (iii) by striking “(A) DESIGNA-  
11 TIONS.—”;

12 (3) in subsection (c)—

13 (A) in paragraph (1)(B), by striking “The  
14 amount of any such fee shall not exceed \$50.”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking  
17 “of paragraph (1)—” and all that follows  
18 through the end and inserting the fol-  
19 lowing: “, the provisions of section  
20 212(a)(1) may be waived in the Secretary  
21 of Homeland Security’s discretion if a de-  
22 nial of temporary protected status would  
23 separate the alien from a spouse or child  
24 in the United States.”;

25 (ii) in subparagraph (B)—

1 (I) by amending clause (i) to  
2 read as follows:

3 “(i) the alien is inadmissible under  
4 section 212(a) by reason of having been  
5 convicted of a crime committed in the  
6 United States, or the alien is deportable  
7 under section 237(a) (other than under  
8 section 237(a)(1)(B));”;

9 (II) in clause (ii), by striking the  
10 period at the end and inserting “; or”;  
11 and

12 (III) by adding at the end the  
13 following:

14 “(iii) the alien was unlawfully present  
15 in the United States on the effective date  
16 of the designation of the applicable foreign  
17 state (or part of a state), or the effective  
18 date of any extension of such designation,  
19 unless a law to the contrary is enacted be-  
20 fore such date, except that if the Congress  
21 is adjourned sine die on such date, the  
22 alien may be granted temporary protected  
23 status for a period of not more than 4  
24 months.”;

25 (C) in paragraph (3)—

1 (i) by striking “, or” at the end of  
2 subparagraph (B) and inserting a semi-  
3 colon;

4 (ii) in subparagraph (C)—

5 (I) by inserting “and record the  
6 alien’s current address” after “reg-  
7 ister”; and

8 (II) by striking the period at the  
9 end and inserting a semicolon; and

10 (iii) by adding at the end the fol-  
11 lowing:

12 “(D) the alien commits a crime after being  
13 granted temporary protected status; or

14 “(E) the alien travels, no matter how brief-  
15 ly, to the foreign state (or part of such state)  
16 the designation of which was the basis of the  
17 alien being granted such status.”;

18 (D) in paragraph (4), in each of subpara-  
19 graphs (A) and (B), by inserting before the pe-  
20 riod at the end the following: “, unless the alien  
21 travels, no matter how briefly, to the foreign  
22 state (or part of such state) the designation of  
23 which was the basis of the alien being granted  
24 such status”; and

25 (E) by striking paragraph (6);



1 (4) in subsection (d), by striking paragraph (4);

2 (5) in subsection (e), by striking “, unless the  
3 Attorney General determines that extreme hardship  
4 exists” in the first sentence;

5 (6) in subsection (f)—

6 (A) by inserting “and” at the end of para-  
7 graph (2);

8 (B) in paragraph (3), by striking “Attor-  
9 ney General; and” and inserting “Secretary of  
10 Homeland Security, except to the foreign state  
11 (or part of such state) the designation of which  
12 was the basis of the alien being granted such  
13 status.”; and

14 (C) by striking paragraph (4); and

15 (7) in subsection (h)—

16 (A) in paragraph (1), by inserting “or the  
17 House of Representatives” after “Senate”;

18 (B) in paragraph (2), by striking “three-  
19 fifths” and inserting “two-thirds”; and

20 (C) by inserting “and the House of Rep-  
21 resentatives” after “Senate” each place such  
22 term appears in paragraphs (2) and (3).

23 (b) INELIGIBILITY OF CERTAIN ALIENS.—

24 (1) IN GENERAL.—In the case of a foreign  
25 state (or part of a foreign state) initially designated

1       under section 244 (8 U.S.C. 1254a), or having such  
2       a designation extended, before the date of the enact-  
3       ment of this Act, an alien who is a national of such  
4       state (or in the case of an alien having no nation-  
5       ality, is a person who last habitually resided in such  
6       state), and was unlawfully present in the United  
7       States on the date of such designation or extension,  
8       shall be subject to paragraph (2).

9               (2) ALIENS INELIGIBLE.—An alien described in  
10       paragraph (1) shall not be considered eligible for  
11       temporary protected status under section 244 pursu-  
12       ant to any initial or succeeding extension of a des-  
13       ignation described in such paragraph that takes ef-  
14       fect after the date of the enactment of this Act, un-  
15       less a law to the contrary is enacted before such ef-  
16       fective date, except that if the Congress is adjourned  
17       sine die on such effective date, the alien may be  
18       granted temporary protected status for a period of  
19       not more than 4 months.

20   **SEC. 902. GOOD MORAL CHARACTER.**

21       (a) IN GENERAL.—Section 101(f)(6) (8 U.S.C.  
22   1101(f)(6)) is amended to read as follows:

23               “(6) one who, by fraud or willfully misrep-  
24       senting a material fact, seeks to procure (or has  
25       sought to procure or has procured) a visa, other doc-

1       umentation, or admission into the United States or  
2       other benefit provided under this Act, for himself,  
3       herself, or any other alien;”.

4       (b) EFFECTIVE DATE.—The amendment made by  
5       subsection (a) shall take effect on the date of the enact-  
6       ment of this Act and shall apply to misrepresentations  
7       made on or after such date.

8       **SEC. 903. REMOVAL FOR ALIENS WHO MAKE MISREPRESEN-**  
9                                   **TATIONS TO PROCURE BENEFITS.**

10       (a) IN GENERAL.—Section 237(a)(3) (8 U.S.C.  
11       1127(a)(3)) is amended by adding at the end the fol-  
12       lowing:

13                       “(F) MISREPRESENTATION.—Any alien  
14       who, by fraud or willfully misrepresenting a ma-  
15       terial fact, seeks to procure (or has sought to  
16       procure or has procured) a visa, other docu-  
17       mentation, or admission into the United States  
18       or other benefit provided under this Act, for  
19       himself, herself, or any other alien, is deport-  
20       able.”.

21       (b) EFFECTIVE DATE.—The amendment made by  
22       subsection (a) shall take effect on the date of the enact-  
23       ment of this Act and shall apply to misrepresentations  
24       made on or after such date.

1 **SEC. 904. DESIGNATIONS OF FOREIGN TERRORIST ORGANI-**  
2 **ZATIONS.**

3 Section 219 (8 U.S.C. 1189) is amended—

4 (1) by striking “Secretary” each place such  
5 term appears, excluding subsection (a)(2)(C), and  
6 inserting “official specified under subsection (d)”;

7 (2) in subsection (c)—

8 (A) in paragraph (2), by adding “and” at  
9 the end;

10 (B) in paragraph (3), by striking “; and”  
11 at the end and inserting a period; and

12 (C) by striking paragraph (4); and

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

14 “(d) IMPLEMENTATION OF DUTIES AND AUTHORI-  
15 TIES.—The duties under this section shall, and authorities  
16 under this section may, be exercised by the Secretary of  
17 State, the Attorney General, or the Secretary of Homeland  
18 Security.”.

19 **SEC. 905. FOREIGN STUDENTS.**

20 (a) LENGTH OF VISA TERM.—Section 221(c) (8  
21 U.S.C. 1201(c)) is amended—

22 (1) by striking “A nonimmigrant visa” and in-  
23 serting “Except as otherwise provided by law, a non-  
24 immigrant visa”; and

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

1 “In the case of a nonimmigrant visa issued under subpara-  
2 graph (F), (J), or (M) of section 101(a)(15) for study in  
3 the United States, the visa shall not be valid for any pe-  
4 riod in excess of the stated period that the institution or  
5 place of study to which the visa relates determines is nec-  
6 essary and proper for the purpose of achieving the objec-  
7 tive of such study. Such determinations shall be timely  
8 submitted, in accordance with such regulations as the Sec-  
9 retary of Homeland Security may prescribe, as a condition  
10 of the granting of authority to issue documents dem-  
11 onstrating aliens’ eligibility for a visa under subparagraph  
12 (F), (J), or (M) of section 101(a)(15).”.

13 (b) ELIGIBLE INSTITUTION.—Section 214 (8 U.S.C.  
14 1202), as amended by section 204 of this Act, is further  
15 amended by adding at the end the following:

16 “(w) A nonimmigrant visa may not be issued under  
17 subparagraph (F), (J), or (M) of section 101(a)(15) for  
18 postsecondary study at an educational institution unless  
19 that institution is an eligible institution for the purpose  
20 of a program authorized under title IV of the Higher Edu-  
21 cation Act of 1965 (20 U.S.C. 1070 et seq.).”.

22 (c) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect 6 months after the date  
24 of the enactment of this Act. The amendment made by

1 subsection (b) shall take effect on the date of the enact-  
2 ment of this Act.

3 **SEC. 906. PAY GRADE GS-15 AVAILABLE FOR TRIAL ATTOR-**  
4 **NEYS.**

5 There are authorized to be appropriated such sums  
6 as may be to establish a range for the annual rate of basic  
7 pay for positions as a trial attorney in the Bureau of Cus-  
8 toms and Border Protection, the Bureau of Immigration  
9 and Customs Enforcement, and the Bureau of Citizenship  
10 and Immigration Services between the minimum annual  
11 rate of basic pay payable for grade GS-11 of the General  
12 Schedule and the maximum annual rate of basic pay pay-  
13 able for grade GS-15 of the General Schedule.

14 **SEC. 907. PROOF OF IDENTITY OF ALIENS SEEKING RELIEF.**

15 (a) ASYLUM.—Section 208(b)(2) (8 U.S.C.  
16 1158(b)(2)) is amended by adding at the end the fol-  
17 lowing:

18 “(E) PROOF OF IDENTITY.—No alien may  
19 be granted asylum until the alien proves the  
20 alien’s true identity by clear and convincing evi-  
21 dence.”.

22 (b) ADJUSTMENT OF STATUS OF REFUGEES.—Sec-  
23 tion 209 (8 U.S.C. 1159) is amended by adding at the  
24 end the following:

1 “(d) No alien may have the alien’s status adjusted  
2 under this section until the alien proves the alien’s true  
3 identity by clear and convincing evidence.”.

4 (c) CANCELLATION OF REMOVAL.—Section 240A (8  
5 U.S.C. 1229b) is amended by adding at the end the fol-  
6 lowing:

7 “(f) PROOF OF IDENTITY.—No alien may receive re-  
8 lief under this section until the alien proves the alien’s  
9 true identity by clear and convincing evidence.”.

10 (d) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—  
11 Section 245 (8 U.S.C. 1255) is amended—

12 (1) by redesignating the subsection (l) added by  
13 section 1513(f) of Public Law 106–386 (114 Stat.  
14 1536) as subsection (m); and

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

16 “(n) PROOF OF IDENTITY.—No alien may have the  
17 alien’s status adjusted under this section until the alien  
18 proves the alien’s true identity by clear and convincing evi-  
19 dence.”.

20 (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on the date of the enactment  
22 of this Act and shall apply to relief provided on and after  
23 such date.

1 **SEC. 908. FOLLOWING TO JOIN DEFINED.**

2 Section 101(a) (8 U.S.C. 1101) is amended by adding  
3 at the end the following:

4 “(51) The term ‘following to join’ when used with re-  
5 spect to a spouse or child of an alien, means that the  
6 spouse or child departs for the United States, in order  
7 to reside with the alien, during the 1-year period beginning  
8 on the date on which the alien is admitted into the United  
9 States.”.

10 **SEC. 909. INFORMATION ON FOREIGN CRIMES.**

11 Section 245(a) is amended—

12 (1) by striking “and” at the end of paragraph  
13 (2);

14 (2) by redesignating paragraph (3) as para-  
15 graph (4); and

16 (3) by inserting after paragraph (2) the fol-  
17 lowing: “(3) the Secretary of Homeland Security has  
18 thoroughly examined the alien’s countries of prior  
19 residence to determine that the alien has not com-  
20 mitted a crime in those countries making the alien  
21 inadmissible, and”.

○