

108TH CONGRESS
2D SESSION

H. R. 4885

To amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 2004

Ms. JACKSON-LEE of Texas (for herself, Mr. CONYERS, Ms. LEE, Mr. CLAY, Mr. RUSH, Mr. TOWNS, Mr. MEEK of Florida, Mr. PAYNE, Ms. CORRINE BROWN of Florida, Mr. OWENS, Mrs. CHRISTENSEN, Mr. HASTINGS of Florida, Ms. NORTON, Ms. WATERS, Ms. KILPATRICK, Mr. LEWIS of Georgia, Mr. FATTAH, Mr. MEEKS of New York, Mr. CUMMINGS, Ms. MILLENDER-McDONALD, Ms. SCHAKOWSKY, Mr. JACKSON of Illinois, Mr. DAVIS of Alabama, Mr. ORTIZ, Mr. HINOJOSA, Mr. GRIJALVA, Mr. REYES, Mr. BECERRA, Ms. LINDA T. SÁNCHEZ of California, and Mr. FILNER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to reunify families, permit earned access to permanent resident status, provide protection against unfair immigration-related employment practices, reform the diversity visa program, provide adjustment of status for Haitians and Liberian nationals, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Comprehensive Immi-
3 gration Fairness Act”.

4 **TITLE I—FAMILY REUNIFICA-**
5 **TION AND DISCRETIONARY**
6 **RELIEF**

7 **SEC. 101. PERMANENT APPLICATION OF SECTION 245(i).**

8 Section 245(i) of the Immigration and Nationality
9 Act (8 U.S.C. 1255(i)) is amended—

10 (1) by inserting “and” at the end of paragraph

11 (1)(A);

12 (2) by amending paragraph (1)(B) to read as

13 follows:

14 “(B) who is the beneficiary (including a
15 spouse or child of the principal alien) of—

16 “(i) a petition for classification under
17 section 204; or

18 “(ii) an application for a labor certifi-
19 cation under section 212(a)(5)(A);”;

20 (3) by striking paragraph (1)(C); and

21 (4) by striking “Attorney General” each place
22 such term appears and inserting “Secretary of
23 Homeland Security”.

1 **SEC. 102. DISCRETIONARY WAIVER OF INADMISSIBILITY**
2 **BASED ON UNLAWFUL PRESENCE, FAILURE**
3 **TO ATTEND REMOVAL PROCEEDINGS, AND**
4 **MISREPRESENTATIONS.**

5 (a) IN GENERAL.—Section 212(i) of the Immigration
6 and Nationality Act (8 U.S.C. 1182(i)) is amended to read
7 as follows:

8 “(i) The Secretary of Homeland Security may waive
9 the application of subparagraph (A)(i) or (B), or clause
10 (i) or (ii) of subparagraph (C), of subsection (a)(6) in the
11 case of an immigrant who is the parent, spouse, son, or
12 daughter of a United States citizen or of an alien lawfully
13 admitted to the United States for permanent residence,
14 if it is established to the satisfaction of the Secretary that
15 the refusal of admission to the United States of such im-
16 migrant would result in hardship to the immigrant or to
17 such citizen or lawful permanent resident parent, spouse,
18 son, or daughter.”.

19 (b) CONFORMING AMENDMENTS.—Section 212(a)(6)
20 of such Act (8 U.S.C. 1182(a)(6)) is amended—

21 (1) in subparagraph (A), by adding at the end
22 the following:

23 “(iii) WAIVER AUTHORIZED.—For a
24 provision authorizing the waiver of clause
25 (i), see subsection (i).”;

26 (2) in subparagraph (B)—

1 (A) by inserting “(i)” after the subpara-
 2 graph heading; and

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

4 “(ii) WAIVER AUTHORIZED.—For a
 5 provision authorizing the waiver of clause
 6 (i), see subsection (i).”; and

7 (3) in subparagraph (C)(iii), by inserting “or
 8 (ii)” after “(i)”.

9 **SEC. 103. GENERAL WAIVER FOR ALIENS PREVIOUSLY RE-**
 10 **MOVED AND FOR THE UNLAWFUL PRESENCE**
 11 **BARS.**

12 (a) IN GENERAL.—Section 212(d) of the Immigra-
 13 tion and Nationality Act (8 U.S.C. 1182(d)) is amended
 14 by adding at the end the following:

15 “(14) The Secretary of Homeland Security may, in
 16 the discretion of the Secretary, for humanitarian purposes,
 17 to assure family unity, or when it is otherwise in the public
 18 interest, waive the application of subparagraph (A) or
 19 (B)(i) of subsection (a)(9).”.

20 (b) CONFORMING AMENDMENT.—Section
 21 212(a)(9)(B) of such Act (8 U.S.C. 1182(a)(9)(B)) is
 22 amended by striking clause (v).

1 **SEC. 104. ADDRESSING THE PROBLEM OF VISA NUMBER**
2 **BACKLOGS FOR THE FAMILY MEMBERS OF**
3 **CITIZENS AND LAWFUL PERMANENT RESI-**
4 **DENTS.**

5 (a) CLASSES OF NONIMMIGRANT ALIENS.—Section
6 101(a)(15)(K) of the Immigration and Nationality Act (8
7 U.S.C. 1101(a)(15)(K)) is amended—

8 (1) by striking “or” at the end of clause (ii);

9 (2) by adding “or” at the end of clause (iii);

10 and

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

12 “(iv)(I) has concluded a valid mar-
13 riage with an alien lawfully admitted for
14 permanent residence, is the parent of a cit-
15 izen of the United States, or is the son or
16 daughter of an alien lawfully admitted for
17 permanent residence or a citizen of the
18 United States; (II) is the beneficiary of a
19 petition to accord immigrant status on the
20 basis of such family relationship that was
21 filed under section 204 by such family
22 member; (III) has waited more than 6
23 months for the approval of such petition or
24 the availability to the alien of an immi-
25 grant visa; and (IV) seeks to enter the
26 United States to await the approval of

1 such petition and the availability to the
2 alien of an immigrant visa;”.

3 (b) ADMISSION OF NONIMMIGRANTS.—Section
4 214(d) of such Act (8 U.S.C. 1184(d)) is amended—

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

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

8 “(2) A visa shall not be issued under the provisions
9 of section 101(a)(15)(K)(iv) until the consular officer has
10 received a petition filed in the United States by the lawful
11 permanent resident or citizen relative of the applying alien
12 and approved by the Secretary of Homeland Security. The
13 petition shall be in such form and contain such informa-
14 tion as the Secretary shall, by regulation, prescribe.”.

15 **SEC. 105. WAIVER OF AGGRAVATED FELONY CON-**
16 **SEQUENCES.**

17 Section 101 of the Immigration and Nationality Act
18 (8 U.S.C. 1101) is amended by adding at the end the fol-
19 lowing:

20 “(j) For purposes of this Act, and notwithstanding
21 subsection (a)(43), the Secretary of Homeland Security
22 may treat any conviction that did not result in incarcer-
23 ation for more than 1 year as if such conviction were not
24 a conviction for an aggravated felony. This discretion may

1 be exercised for humanitarian purposes, to assure family
 2 unity, or when it is otherwise in the public interest.”.

3 **SEC. 106. AGE-OUT PROTECTION FOR CHILDREN.**

4 (a) IN GENERAL.—Chapter 1 of title IV of the Immi-
 5 gration and Nationality Act (8 U.S.C. 1101 note) is
 6 amended by adding at the end the following:

7 “AGE-OUT PROTECTION FOR CHILDREN

8 “SEC. 408. (a) IN GENERAL.—In the case of an ap-
 9 plication initially to grant a benefit under this Act (other
 10 than an application for naturalization) that otherwise
 11 would be granted only after a determination that the bene-
 12 ficiary of the application is a child (such as classification
 13 as an immediate relative under section 201(b)(2)(A)(i)),
 14 if the application is neither approved nor denied (on proce-
 15 dural or substantive grounds) during the 90-day period
 16 beginning on the date of the filing of the application, the
 17 beneficiary shall be considered to be a child for all pur-
 18 poses related to the receipt of the benefit if the beneficiary
 19 was a child on the last day of such 90-day period, and
 20 the beneficiary shall not otherwise be prejudiced with re-
 21 spect to such determination by such delay, and shall be
 22 considered to be a child under this Act for all purposes
 23 related to such application.

24 “(b) TERMINATION OF BENEFIT.—Subsection (a)
 25 shall remain in effect until the termination of the 1-year

1 period beginning on the date on which the application de-
 2 scribed in such paragraph is approved.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
 4 for the Immigration and Nationality Act is amended by
 5 inserting after the item relating to section 407 the fol-
 6 lowing:

“408. Age-out protection for children.”.

7 **SEC. 107. TIMELINESS OF ADOPTION FOR IMMIGRATION**
 8 **PURPOSES.**

9 (a) IN GENERAL.—Section 101(b)(1)(E)(i) of the
 10 Immigration and Nationality Act (8 U.S.C.
 11 1101(b)(1)(E)(i)) is amended by striking “a child adopted
 12 while under the age of sixteen years” and inserting “a
 13 child, under the age of 16 when adoption proceedings were
 14 initiated,”.

15 (b) SPECIAL RULE FOR SIBLINGS.—Section
 16 101(b)(1)(E)(ii)(III) of such Act (8 U.S.C.
 17 1101(b)(1)(E)(ii)(III)) is amended by striking “adopted
 18 while under the age of 18 years” and inserting “under
 19 the age of 18 when adoption proceedings were initiated”.

20 **SEC. 108. DISCRETIONARY WAIVER TO ADMIT PERSONS IN**
 21 **UNUSUAL CIRCUMSTANCES.**

22 (a) NEW GENERAL WAIVER.—Section 212(d) of the
 23 Immigration and Nationality Act (8 U.S.C. 1182(d)) is
 24 amended by adding at the end the following:

“(13) The Secretary of Homeland Security may, in the discretion of such Secretary for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive the application of subparagraph (B) or (G) of subsection (a)(6), clause (i) or (ii) of subsection (a)(9)(A), or subsection (a)(9)(B)(i), in unusual circumstances. For purposes of the preceding sentence, an instance of battering or extreme cruelty is deemed to constitute unusual circumstances in the case where it is inflicted on an alien (or a child of an alien) by the alien’s United States citizen or lawful permanent resident spouse, parent, child, son, or daughter.”.

(b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

(1) CERTAIN ALIENS PREVIOUSLY REMOVED.—Section 212(a)(9)(A) of such Act (8 U.S.C. 1182(a)(9)(A)) is amended by adding at the end the following:

“(iv) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i) or (ii), see subsection (d)(13).”.

(2) ALIENS UNLAWFULLY PRESENT.—Section 212(a)(9)(B)(v) of such Act (8 U.S.C. 1182(A)(9)(B)(v)) is amended to read as follows:

1 “(v) WAIVER AUTHORIZED.—For pro-
2 vision authorizing waiver of clause (i), see
3 subsection (d)(13).”.

4 **TITLE II—EARNED ACCESS TO**
5 **LEGALIZATION AND REG-**
6 **ISTRY UPDATE**

7 **SEC. 201. ADJUSTMENT OF STATUS ON THE BASIS OF**
8 **EARNED ACCESS TO LEGALIZATION.**

9 (a) IN GENERAL.—Chapter 5 of title II of the Immi-
10 gration and Nationality Act (8 U.S.C.1255 et seq.) is
11 amended by inserting after section 245A the following:

12 “ADJUSTMENT OF STATUS ON THE BASIS OF EARNED
13 ACCESS TO LEGALIZATION

14 “SEC. 245B. (a) IN GENERAL.—The Secretary of
15 Homeland Security may adjust the status of an alien to
16 that of an alien lawfully admitted for permanent residence
17 if the alien—

18 “(1) was physically present in the United
19 States for a continuous period of not less than 5
20 years immediately preceding the date on which this
21 provision was enacted and has maintained contin-
22 uous physical presence since then;

23 “(2) has at all times been a person of good
24 moral character;

25 “(3) has never been convicted of a criminal of-
26 fense in the United States;

1 “(4) in the case of an alien who is 18 years of
2 age or older, but who is not over the age of 65, has
3 successfully completed a course on reading, writing,
4 and speaking words in ordinary usage in the English
5 language, unless unable to do so on account of phys-
6 ical or developmental disability or mental impair-
7 ment;

8 “(5) in the case of an alien 18 years of age or
9 older, has accepted the values and cultural life of the
10 United States; and

11 “(6) in the case of an alien 18 years of age or
12 older, has performed at least 40 hours of community
13 service.

14 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-
15 CENT ABSENCES.—An alien shall not be considered to
16 have failed to maintain a continuous presence in the
17 United States for purposes of subsection (a)(1) by virtue
18 of brief, casual, and innocent absences from the United
19 States.

20 “(c) ADMISSIBLE AS IMMIGRANT.—

21 “(1) IN GENERAL.—The alien shall establish
22 that the alien is admissible to the United States as
23 immigrant, except as otherwise provided in para-
24 graph (2).

1 “(2) EXCEPTIONS.—The provisions of para-
2 graphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G),
3 (7)(A), (9)(B), and (9)(C)(i)(I) of section 212(a)
4 shall not apply in the determination of an alien’s ad-
5 missibility under this section.

6 “(d) SECURITY AND LAW ENFORCEMENT CLEAR-
7 ANCES.—The alien, if over 15 years of age, shall submit
8 fingerprints in accordance with procedures established by
9 the Secretary of Homeland Security. Such fingerprints
10 shall be submitted to relevant Federal agencies to be
11 checked against existing databases for information relat-
12 ing to criminal, national security, or other law enforce-
13 ment actions that would render the alien ineligible for ad-
14 justment of status under this section. The Secretary of
15 Homeland Security shall provide a process for challenging
16 the accuracy of matches that result in a finding of ineligi-
17 bility for adjustment of status.

18 “(e) INAPPLICABILITY OF NUMERICAL LIMITA-
19 TIONS.—When an alien is granted lawful permanent resi-
20 dent status under this subsection, the number of immi-
21 grant visas authorized to be issued under any provision
22 of this Act shall not be reduced. The numerical limitations
23 of sections 201 and 202 shall not apply to adjustment of
24 status under this section.

1 “(f) TERMINATION OF PROCEEDINGS.—The Sec-
 2 retary of Homeland Security may terminate removal pro-
 3 ceedings without prejudice pending the outcome of an
 4 alien’s application for adjustment of status under this sec-
 5 tion on the basis of a prima facie showing of eligibility
 6 for relief under this section.”.

7 (b) CLERICAL AMENDMENT.—The table of contents
 8 for the Immigration and Nationality Act is amended by
 9 inserting after the item relating to section 245A the fol-
 10 lowing:

“245B. Adjustment of status on the basis of earned access to legalization.”.

11 **SEC. 202. AUTHORITY TO ADJUST STATUS OF CERTAIN**
 12 **CHILDREN.**

13 (a) IN GENERAL.—Chapter 5 of title II of the Immi-
 14 gration and Nationality Act (8 U.S.C. 1255 et seq.), as
 15 amended by section 201, is further amended further by
 16 inserting after section 245B the following:

17 “ADJUSTMENT OF STATUS FOR CERTAIN CHILDREN

18 “SEC. 245C. (a) IN GENERAL.—The Secretary of
 19 Homeland Security may adjust the status of an alien to
 20 that of an alien lawfully admitted for permanent residence
 21 if the alien is a child at the time of filing the application
 22 for such adjustment and establishes that the alien, at such
 23 time—

24 “(1) has been physically present and enrolled in
 25 school in the United States for a continuous period

1 of not less than 5 years immediately preceding the
2 date of such application, and during that period has
3 been a person of good moral character;

4 “(2) has fully integrated into life in the United
5 States;

6 “(3) has learned English or is satisfactorily
7 pursuing a course of study to achieve an under-
8 standing of English;

9 “(4) is successfully pursuing an elementary
10 school, middle school, high school, or college-level
11 education; and

12 “(5) if older than 13 years of age, has per-
13 formed at least 60 hours of community service.

14 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-
15 CENT ABSENCES.—An alien shall not be considered to
16 have failed to maintain a continuous presence in the
17 United States for purposes of subsection (a)(1) by virtue
18 of brief, casual, and innocent absences from the United
19 States.

20 “(c) ADMISSIBLE AS IMMIGRANT.—

21 “(1) IN GENERAL.—The alien shall establish
22 that the alien is admissible to the United States as
23 an immigrant, except as otherwise provided in para-
24 graph (2).

1 “(2) APPLICABILITY OF CERTAIN PROVI-
2 SIONS.—

3 “(A) GROUNDS OF INADMISSIBILITY NOT
4 APPLIED.—The provisions of paragraphs (5),
5 (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7)(A),
6 (9)(B), and (9)(C) of section 212(a) shall not
7 apply in the determination of an alien’s admis-
8 sibility under this section.

9 “(B) WAIVER OF OTHER GROUNDS.—

10 “(i) IN GENERAL.—Except as pro-
11 vided in clause (ii), the Secretary of Home-
12 land Security may waive any other provi-
13 sion of section 212(a) in the case of an in-
14 dividual alien for humanitarian purposes,
15 to assure family unity, or when it is other-
16 wise in the public interest.

17 “(ii) GROUNDS THAT MAY NOT BE
18 WAIVED.—The following provisions of sec-
19 tion 212(a) may not be waived by the Sec-
20 retary under clause (i):

21 “(I) Paragraphs (2)(A) and
22 (2)(B) (relating to criminals).

23 “(II) Paragraph (2)(C) (relating
24 to drug offenses), except for so much
25 of such paragraph as relates to a sin-

1 gle offense of simple possession of 30
2 grams or less of marijuana.

3 “(III) Paragraph (3) (relating to
4 security and related grounds).

5 “(d) NO NUMERICAL LIMITATIONS.—The numerical
6 limitations of sections 201 and 202 shall not apply to ad-
7 justment of status under this section.

8 “(e) CONFIDENTIALITY OF INFORMATION.—Except
9 as provided in this section, neither the Secretary of Home-
10 land Security, nor any other official or employee of the
11 Department of Homeland Security, may—

12 “(1) use information furnished by applicant for
13 an application filed under this section for any pur-
14 pose other than to make a determination on the ap-
15 plication;

16 “(2) make any publication whereby the infor-
17 mation furnished by any particular applicant can be
18 identified; or

19 “(3) permit anyone other than the sworn offi-
20 cers and employees of the Department, the appli-
21 cant, or a representative of the applicant to examine
22 individual applications.

23 “(f) DISSEMINATION OF INFORMATION.—The Sec-
24 retary of Homeland Security shall broadly disseminate in-
25 formation respecting the benefits which aliens may receive

1 under this section and the requirements to obtain such
2 benefits.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Immigration and Nationality Act, as amended by
5 section 201, is amended further by inserting after the item
6 relating to section 245B the following:

“245C. Adjustment of status for certain children.”.

7 **SEC. 203. RECORD OF ADMISSION FOR PERMANENT RESI-**
8 **DENCE IN THE CASE OF CERTAIN ALIENS.**

9 (a) IN GENERAL.—Section 249 of the Immigration
10 and Nationality Act (8 U.S.C. 1259) is amended—

11 (1) in the section heading by striking “1972”
12 and inserting “1986”; and

13 (2) in paragraph (a), by striking “1972” and
14 inserting “1986”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 is amended in the item relating to section 249 by striking
17 “1972” and inserting “1986”.

18 **TITLE III—EMPLOYEE**
19 **PROTECTIONS**

20 **SEC. 301. UNFAIR IMMIGRATION-RELATED EMPLOYMENT**
21 **PRACTICES.**

22 Section 274B of the Immigration and Nationality Act
23 (8 U.S.C. 1324b) is amended—

24 (1) in subsection (a)(5)—

1 (A) by amending the paragraph heading to
2 read “PROHIBITION OF INTIMIDATION, RETAL-
3 IATION, OR UNLAWFUL DISCRIMINATION IN EM-
4 PLOYMENT”;

5 (B) by moving the text down and to the
6 right 2 ems;

7 (C) by inserting before such text the fol-
8 lowing: “(A) IN GENERAL.—”; and

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

10 “(B) FEDERAL LABOR OR EMPLOYMENT
11 LAWS.—It is an unfair employment practice for
12 any employer to directly or indirectly threaten
13 any individual with removal or any other ad-
14 verse consequences pertaining to that individ-
15 ual’s immigration status or employment bene-
16 fits for the purpose of intimidating, pressuring,
17 or coercing any such individual not to exercise
18 any right protected by state or federal labor or
19 employment law (including section 7 of the Na-
20 tional Labor Relations Act (29 U.S.C. 157)), or
21 for the purpose of retaliating against any such
22 individual for having exercised or having stated
23 an intention to exercise any such right.

24 “(C) DISCRIMINATION BASED ON IMMIGRA-
25 TION STATUS.—It is an unfair employment

1 practice for any employer, except to the extent
2 specifically authorized or required by law, to
3 discriminate in any term or condition of em-
4 ployment against any individual employed by
5 such employer on the basis of such individual's
6 immigration status.”; and

7 (2) in subsection (c)(2), by adding at the end
8 the following: “The Special Counsel shall not dis-
9 close to the Secretary of Homeland Security or any
10 other government agency or employee, and shall not
11 cause to be published in a manner that discloses to
12 the Secretary of Homeland Security or any other
13 government agency or employee, any information ob-
14 tained by the Special Counsel in any manner con-
15 cerning the immigration status of any individual who
16 has filed a charge under this section, or the identity
17 of any individual or entity that is a party or witness
18 to a proceedings brought pursuant to such charge.
19 The Secretary of Homeland Security may not rely,
20 in whole or in part, in any enforcement action or re-
21 moval proceeding, upon any information obtained as
22 a result of the filing or prosecution of an unfair im-
23 migration-related employment practice charge. For
24 purposes of this paragraph, the term ‘Special Coun-
25 sel’ includes individuals formerly appointed to the

1 position of Special Counsel and any current or
2 former employee of the office of the Special Counsel.
3 Whoever knowingly uses, publishes, or permits infor-
4 mation to be used in violation of this paragraph
5 shall be fined not more than \$10,000”.

6 **SEC. 302. DEPARTMENT OF LABOR TASK FORCE.**

7 The Secretary of Labor, in consultation with the At-
8 torney General and the Secretary of Homeland Security,
9 shall conduct a national study of American workplaces to
10 determine the causes, extent, circumstances, and con-
11 sequences, of exploitation of undocumented alien workers
12 by their employers. As part of this study, the Secretary
13 of Labor shall create a plan for targeted review of federal
14 labor law enforcement in industries with a substantial im-
15 migrant workforce, for the purpose of identifying, moni-
16 toring, and deterring frequent or egregious violators of
17 wage and hour, anti-discrimination, National Labor Rela-
18 tions Act, and workplace safety and health requirements.
19 Not later than 18 months after the date of the enactment
20 of this Act, the Secretary of Labor shall submit to the
21 Congress a report describing the results of the study and
22 the Secretary’s recommendations based on the study.

23 **SEC. 303. RECRUITMENT OF AMERICAN WORKERS.**

24 Section 214 of the Immigration and Nationality Act
25 is amended—

1 (1) by redesignating subsections (m) (as added
2 by section 105 of Public Law 106–313), (n) (as
3 added by section 107(e) of Public Law 106–386),
4 (o) (as added by section 1513(c) of Public Law 106–
5 386), (o) (as added by section 1102(b) of the Legal
6 Immigration Family Equity Act), and (p) (as added
7 by section 1503(b) of the Legal Immigration Family
8 Equity Act) as subsections (n), (o), (p), (q), and (r),
9 respectively; and

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

11 “(s)(1) No petition to accord employment status
12 under any nonimmigrant classification described in section
13 101(a)(15) shall be granted in the absence of an affidavit
14 from the petitioner describing the efforts that were made
15 to recruit an alien lawfully admitted for permanent resi-
16 dence or a citizen of the United States before resorting
17 to a petition to obtain a foreign employee. The recruitment
18 efforts must have included substantial attempts to find
19 employees in minority communities. Recruitment efforts in
20 minority communities should include at least one of the
21 following, if appropriate for the employment being adver-
22 tised:

23 “(A) Advertise the availability of the job oppor-
24 tunity for which the employer is seeking a worker in
25 local newspapers in the labor market that is likely

1 to be patronized by a potential worker for at least
2 5 consecutive days.

3 “(B) Undertake efforts to advertise the avail-
4 ability of the job opportunity for which the employer
5 is seeking a worker through advertisements in public
6 transportation systems.

7 “(C) To the extent permitted by local laws and
8 regulations, engage in recruitment activities in sec-
9 ondary schools, recreation centers, community cen-
10 ters, and other places throughout the communities
11 within 50 miles of the job site that serve minorities.

12 “(2)(A) The Secretary of Homeland Security shall
13 impose a 10 percent surcharge on all fees collected for pe-
14 titions to accord employment status and shall use these
15 funds to establish an employment training program which
16 will include unemployed workers in the United States who
17 need to be trained or retrained. The purpose of this pro-
18 gram shall be to increase the number of lawful permanent
19 residents and citizens of the United States who are avail-
20 able for employment in the occupations that are the sub-
21 jects of such petitions. At least 50 percent of the funds
22 generated by this provision must be used to train Amer-
23 ican workers in rural and inner city areas.

24 “(B) The Secretary of Homeland Security shall re-
25 serve and make available to the Secretary of Labor a por-

tion of the funds collected under this paragraph. Such funds shall be used by the Secretary of Labor to establish an ‘Office to Preserve American Jobs’ within the Department of Labor. The purpose of this office shall be to establish policies intended to ensure that employers in the United States will hire available workers in the United States before resorting to foreign labor, giving substantial emphasis to hiring minority workers in the United States.”.

TITLE IV—DIVERSITY VISAS

SEC. 401. INCREASE IN WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.

Section 201(e) of the Immigration and Nationality Act (8 U.S.C. 1151(e)) is amended by striking “55,000” and inserting “110,000”.

SEC. 402. PERIOD DESIGNATED FOR APPLICATION.

Section 203(e)(1) of the Immigration and Nationality Act (8 U.S.C. 1153(e)(1)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following: “The Secretary shall provide for a filing system that will permit unlimited filing throughout the entire period designated for the filing of petitions. If an electronic

1 filing system is chosen, the Secretary shall ensure
2 that the computer equipment and software used to
3 accept the filed petitions will have the capacity to ac-
4 cept every application that is submitted during the
5 period designated for filing the petitions. In the
6 event that petitions submitted during the designated
7 period are rejected, the designated period will be ex-
8 tended for an additional 10-day period.”

9 **TITLE V—HAITIAN PARITY**

10 **SEC. 501. ADJUSTMENT OF STATUS FOR HAITIANS.**

11 (a) IN GENERAL.—Chapter 5 of title II of the Immi-
12 gration and Nationality Act (8 U.S.C. 1255 et seq.), as
13 amended by section 202, is further amended by inserting
14 after section 245C the following:

15 “ADJUSTMENT OF STATUS OF CERTAIN HAITIAN
16 NATIONALS

17 “SEC. 245D. Notwithstanding the provisions of sec-
18 tion 245(c), the status of any alien who is a national or
19 citizen of Haiti, and who has been physically present in
20 the United States for at least one year, may be adjusted
21 by the Secretary of Homeland Security, in the Secretary’s
22 discretion and under such regulations as the Secretary
23 may prescribe, to that of an alien lawfully admitted for
24 permanent residence, if the alien makes an application for
25 such adjustment and the alien is eligible to receive an im-
26 migrant visa and is admissible to the United States for

1 permanent residence. Upon approval of such an applica-
 2 tion for adjustment of status, the Secretary shall create
 3 a record of the alien’s admission for permanent residence
 4 as of a date 30 months prior to the filing of such an appli-
 5 cation or the date of the alien’s last arrival into the United
 6 States, whichever date is later. The provisions of this Act
 7 shall be applicable to the spouse and child of any alien
 8 described in this section, regardless of their citizenship
 9 and place of birth, if the spouse or child is residing with
 10 such alien in the United States.”.

11 (b) CLERICAL AMENDMENT.—The table of contents
 12 for the Immigration and Nationality Act, as amended by
 13 section 202, is further amended by inserting after the item
 14 relating to section 245C the following:

“Sec. 245D. Adjustment of status of certain Haitian nationals.”.

15 (c) SUNSET.—The amendments made by this section
 16 shall cease to be effective on the date that is 3 years after
 17 the date of the enactment of this Act.

18 **SEC. 502. LIMITATION OF ATTORNEY GENERAL’S BOND DIS-**
 19 **CRETION.**

20 Section 236 of the Immigration and Nationality Act
 21 (8 U.S.C. 1226) is amended by adding at the end the fol-
 22 lowing:

23 “(f) EXERCISE OF AUTHORITY FOR ARREST, DETEN-
 24 TION, AND RELEASE.—The Secretary of Homeland Secu-
 25 rity shall exercise the discretion afforded under subsection

1 (a) on a case-by-case basis. If bond is to be denied on
 2 the ground that the alien's release would give rise to ad-
 3 verse consequences for national security or national immi-
 4 gration policy, the finding of such adverse consequences
 5 shall be based on circumstances pertaining to the indi-
 6 vidual alien whose release is being considered.”.

7 **SEC. 503. ELIMINATION OF MANDATORY DETENTION IN EX-**
 8 **PEDITED REMOVAL PROCEEDINGS.**

9 Section 235(b)(1)(B)(iii)(IV) of the Immigration and
 10 Nationality Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV)) is
 11 amended to read as follows:

12 “(IV) DETENTION.—Aliens sub-
 13 ject to the procedures under this
 14 clause shall be detained in accordance
 15 with section 236.”.

16 **SEC. 504. AMENDMENTS TO HAITIAN AND IMMIGRANT**
 17 **FAIRNESS ACT OF 1998.**

18 (a) GROUND FOR INADMISSIBILITY FOR DOCUMENT
 19 FRAUD DOES NOT APPLY.—The Haitian Refugee Immi-
 20 gration Fairness Act of 1998 (8 U.S.C. 1255 note) is
 21 amended in subsections (a)(1)(B) and (d)(1)(D) of section
 22 902 by inserting “(6)(C)(i),” after “(6)(A),”.

23 (b) DETERMINATIONS WITH RESPECT TO CHIL-
 24 DREN.—Section 902(d) of such Act is amended by adding
 25 at the end the following:

1 “(3) DETERMINATIONS WITH RESPECT TO
2 CHILDREN.—

3 “(A) USE OF APPLICATION FILING
4 DATE.—Determinations made under this sub-
5 section as to whether an individual is a child of
6 a parent shall be made using the age and status
7 of the individual on the date of the enactment
8 of this section.

9 “(B) APPLICATION SUBMISSION BY PAR-
10 ENT.—Notwithstanding paragraph (1)(C), an
11 application under this subsection filed based on
12 status as a child may be filed for the benefit of
13 such child by a parent or guardian of the child,
14 if the child is physically present in the United
15 States on such filing date.”.

16 **SEC. 505. NEW APPLICATIONS AND MOTIONS TO REOPEN.**

17 (a) NEW APPLICATIONS.—Notwithstanding section
18 902(a)(1)(A) of the Haitian and Immigrant Fairness Act
19 of 1998, an alien who is eligible for adjustment of status
20 under such Act, as amended by section 504 of this Act,
21 may submit an application for adjustment of status under
22 such Act not later than the later of—

23 (1) 2 years after the date of the enactment of
24 this Act; and

1 (2) 1 year after the date on which final regula-
2 tions implementing section 504 are promulgated.

3 (b) MOTIONS TO REOPEN.—The Secretary of Home-
4 land Security shall establish procedures for the reopening
5 and reconsideration of applications for adjustment of sta-
6 tus under the Haitian Refugee Immigration Fairness Act
7 of 1998 that are affected by the amendments under sec-
8 tion 504 of this Act.

9 (c) RELATIONSHIP OF APPLICATION TO CERTAIN OR-
10 DERS.—Section 902(a)(3) of the Haitian and Immigrant
11 Fairness Act of 1998 shall apply to an alien present in
12 the United States who has been ordered excluded, de-
13 ported, removed, or ordered to depart voluntarily, and who
14 files an application under subsection (a), or a motion
15 under subsection (b), in the same manner as such section
16 902(a)(3) applied to aliens filing applications for adjust-
17 ment of status under such Act before April 1, 2000.

18 **SEC. 506. SENSE OF CONGRESS REGARDING TEMPORARY**
19 **PROTECTED STATUS FOR HAITIANS.**

20 It is the sense of the Congress that the Secretary of
21 Homeland Security should be more liberal with respect to
22 Haiti in deciding whether to designate that country for
23 temporary protected status under section 244(b)(1)(A) of
24 the Immigration and Nationality (8 U.S.C.
25 1254(b)(1)(A)). It is the sense of the Congress that this

1 decision has sometimes been made without due regard to
2 the serious threat to personal safety that results from
3 sending Haitians back to Haiti during a period of ongoing
4 armed conflict in that country.

5 **TITLE VI—LIBERIAN REFUGEE**
6 **RELIEF**

7 **SEC. 601. ADJUSTMENT OF STATUS OF CERTAIN LIBERIAN**
8 **NATIONALS.**

9 (a) ADJUSTMENT OF STATUS.—

10 (1) IN GENERAL.—Notwithstanding section
11 245(c) of the Immigration and Nationality Act, the
12 status of any alien described in subsection (b) shall
13 be adjusted by the Secretary of Homeland Security
14 to that of an alien lawfully admitted for permanent
15 residence, if the alien—

16 (A) applies for such adjustment before
17 April 1, 2005; and

18 (B) is otherwise eligible to receive an im-
19 migrant visa and is otherwise admissible to the
20 United States for permanent residence, except
21 in determining such admissibility the grounds
22 for inadmissibility specified in paragraphs (4),
23 (5), (6)(A), and (7)(A) of section 212(a) of the
24 Immigration and Nationality Act shall not
25 apply.

1 (2) RELATIONSHIP OF APPLICATION TO CER-
2 TAIN ORDERS.—An alien present in the United
3 States who has been ordered excluded, deported, re-
4 moved, or ordered to depart voluntarily from the
5 United States under any provision of the Immigra-
6 tion and Nationality Act may, notwithstanding such
7 order, apply for adjustment of status under para-
8 graph (1). Such an alien may not be required, as a
9 condition on submitting or granting such applica-
10 tion, to file a motion to reopen, reconsider, or vacate
11 such order. If the Secretary of Homeland Security
12 grants the application, the Secretary of Homeland
13 Security shall cancel the order. If the Secretary of
14 Homeland Security renders a final administrative
15 decision to deny the application, the order shall be
16 effective and enforceable to the same extent as if the
17 application had not been made.

18 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
19 TUS.—The benefits provided by subsection (a) shall apply
20 to any alien who—

21 (1) is a national of Liberia; and

22 (2)(A) who was granted temporary protected
23 status on or after March 27, 1991; or

24 (B) was eligible to apply for temporary pro-
25 tected status on or after March 27, 1991.

1 (c) STAY OF REMOVAL.—

2 (1) IN GENERAL.—The Secretary of Homeland
3 Security shall provide by regulation for an alien sub-
4 ject to a final order of deportation or removal or ex-
5 clusion to seek a stay of such order based on the fil-
6 ing of an application under subsection (a).

7 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
8 standing any provision of the Immigration and Na-
9 tionality Act, the Secretary of Homeland Security
10 shall not order any alien to be removed from the
11 United States, if the alien is in exclusion, deporta-
12 tion, or removal proceedings under any provision of
13 such Act and raises as a defense to such an order
14 the eligibility of the alien to apply for adjustment of
15 status under subsection (a), except where the Sec-
16 retary of Homeland Security has rendered a final
17 administrative determination to deny the application.

18 (3) WORK AUTHORIZATION.—The Secretary of
19 Homeland Security may authorize an alien who has
20 applied for adjustment of status under subsection
21 (a) to engage in employment in the United States
22 during the pendency of such application and may
23 provide the alien with an “employment authorized”
24 endorsement or other appropriate document signi-
25 fying authorization of employment, except that if

1 such application is pending for a period exceeding
2 180 days, and has not been denied, the Secretary of
3 Homeland Security shall authorize such employment.

4 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
5 CHILDREN.—

6 (1) IN GENERAL.—Notwithstanding section
7 245(c) of the Immigration and Nationality Act, the
8 status of an alien shall be adjusted by the Secretary
9 of Homeland Security to that of an alien lawfully
10 admitted for permanent residence, if—

11 (A) the alien is a national of Liberia;

12 (B) the alien is the spouse, child, or un-
13 married son or daughter, of an alien whose sta-
14 tus is adjusted to that of an alien lawfully ad-
15 mitted for permanent residence under sub-
16 section (a), except that in the case of such an
17 unmarried son or daughter, the son or daughter
18 shall be required to establish that they have
19 been physically present in the United States for
20 at least 1 year and is physically present in the
21 United States on the date the application for
22 such adjustment is filed;

23 (C) the alien applies for such adjustment
24 and is physically present in the United States
25 on the date the application is filed; and

1 (D) the alien is otherwise eligible to receive
2 an immigration visa and is otherwise admissible
3 to the United States for permanent residence,
4 except in determining such admissibility the
5 grounds for exclusion specified in paragraphs
6 (4), (5), (6)(A), and (7)(A) of section 212(a) of
7 the Immigration and Nationality Act shall not
8 apply.

9 (2) PROOF OF CONTINUOUS PRESENCE.—For
10 purposes of establishing the period of continuous
11 physical presence referred to in paragraph (1)(B),
12 an alien shall not be considered to have failed to
13 maintain continuous physical presence by reason of
14 an absence, or absences, from the United States for
15 any periods in aggregate not exceeding 180 days.

16 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
17 The Secretary of Homeland Security shall provide to ap-
18 plicants for adjustment of status under subsection (a) the
19 same right to, and procedures for, administrative review
20 as are provided to—

21 (1) applicants for adjustment of status under
22 section 245 of the Immigration and Nationality Act;
23 or

24 (2) aliens subject to removal proceedings under
25 section 240 of such Act.

1 (f) LIMITATION ON JUDICIAL REVIEW.—A deter-
2 mination by the Secretary of Homeland Security as to
3 whether the status of any alien should be adjusted under
4 this section is final and shall not be subject to review by
5 any court.

6 (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
7 When an alien is granted the status of having been law-
8 fully admitted for permanent residence pursuant to this
9 section, the Secretary of State shall not be required to re-
10 duce the number of immigrant visas authorized to be
11 issued under any provision of the Immigration and Na-
12 tionality Act.

13 (h) APPLICATION OF IMMIGRATION AND NATION-
14 ALITY ACT PROVISIONS.—Except as otherwise specifically
15 provided in this section, the definitions contained in the
16 Immigration and Nationality Act shall apply in the admin-
17 istration of this section. Nothing contained in this section
18 shall be held to repeal, amend, alter, modify, effect, or re-
19 strict the powers, duties, functions, or authority of the
20 Secretary of Homeland Security in the administration and
21 enforcement of such Act or any other law relating to immi-
22 gration, nationality, or naturalization. The fact that an
23 alien may be eligible to be granted the status of having
24 been lawfully admitted for permanent residence under this
25 section shall not preclude the alien from seeking such sta-

1 tus under any other provision of law for which the alien
2 may be eligible.

3 **TITLE VII—FAIRNESS IN ASYLUM** 4 **AND REFUGEE PROCEEDINGS**

5 **SEC. 701. REFUGEE STATUS FOR UNMARRIED SONS AND** 6 **DAUGHTERS OF REFUGEES.**

7 Section 207(c)(2) of the Immigration and Nationality
8 Act (8 U.S.C. 1157(c)(2)) is amended by adding at the
9 end the following:

10 “(C) When warranted by unusual cir-
11 cumstances or to preserve family unity, the At-
12 torney General may, in the Attorney General’s
13 discretion, consider an unmarried son or daugh-
14 ter of a refugee to be a child of the refugee for
15 purposes of this paragraph.”.

16 **SEC. 702. ASYLEE STATUS FOR UNMARRIED SONS AND** 17 **DAUGHTERS OF ASYLEES.**

18 Section 208(b)(3) of the Immigration and Nationality
19 Act (8 U.S.C. 1158(b)(3)) is amended by adding at the
20 end the following:

21 “(C) When warranted by unusual cir-
22 cumstances or to preserve family unity, the At-
23 torney General may, in the Attorney General’s
24 discretion, consider an unmarried son or daugh-
25 ter of an alien who is granted asylum under

1 this subsection to be a child of the alien for
2 purposes of this paragraph.”.

3 **SEC. 703. ELIMINATION OF ARBITRARY TIME LIMITS ON**
4 **ASYLUM APPLICATIONS.**

5 Section 208(a)(2) of the Immigration and Nationality
6 Act (8 U.S.C. 1158(a)(2)) is amended—

7 (1) by striking subparagraph (B);

8 (2) in subparagraph (C), by striking “(D),” and
9 inserting “(C),”;

10 (3) in subparagraph (D)—

11 (A) by striking “subparagraphs (B) and
12 (C),” and inserting “subparagraph (B),”;

13 (B) by striking “either”; and

14 (C) by striking “asylum or extraordinary”
15 and all that follows through the period at the
16 end and inserting “asylum.”; and

17 (4) by redesignating subparagraphs (C) and
18 (D) as subparagraphs (B) and (C), respectively.

19 **SEC. 704. GENDER-BASED PERSECUTION.**

20 (a) TREATMENT AS REFUGEE.—Section 101(a)(42)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1101(a)(42)) is amended by adding at the end the fol-
23 lowing:

24 “(C) For purposes of determinations under
25 this Act, a person who establishes that he or

1 she suffered persecution in the past, or has a
 2 well-founded fear of persecution, on account of
 3 gender shall be considered to have suffered per-
 4 secution, or to have a well-founded fear of per-
 5 secution, on account of membership in a par-
 6 ticular social group.”.

7 (b) RESTRICTION ON REMOVAL TO COUNTRY WHERE
 8 ALIEN WOULD BE THREATENED.—Section 241(b)(3) of
 9 such Act (8 U.S.C. 1231(b)(3)) is amended by adding at
 10 the end the following:

11 “(C) GENDER-BASED PERSECUTION.—For
 12 purposes of determinations under this para-
 13 graph, an alien who establishes that the alien’s
 14 life or freedom would be threatened in a coun-
 15 try on account of gender shall be considered to
 16 have established that the alien’s life or freedom
 17 would be threatened in that country on account
 18 of membership in a particular social group.”.

19 **SEC. 705. ELIMINATION OF ARBITRARY CAP ON PERSONS**
 20 **ELIGIBLE TO ADJUST STATUS FROM ASYLEES**
 21 **TO LEGAL PERMANENT RESIDENTS.**

22 Section 209(b) of the Immigration and Nationality
 23 Act (8 U.S.C. 1159(b)) is amended by striking “Not more
 24 than 10,000 of the” and all that follows through “to ad-
 25 just” and inserting “Subject to a numerical limitation de-

1 terminated by the President before the beginning of each
 2 fiscal year, the Attorney General may adjust, in the Attor-
 3 ney General's discretion and under such regulations as the
 4 Attorney General may prescribe,".

5 **TITLE VIII—TEMPORARY** 6 **PROTECTED STATUS**

7 **SEC. 801. ADJUSTMENT OF STATUS FOR CERTAIN RECIPI-** 8 **ENTS OF TEMPORARY PROTECTED STATUS.**

9 (a) IN GENERAL.—Section 245 of the Immigration
 10 and Nationality Act (8 U.S.C. 1255) is amended by add-
 11 ing at the end the following:

12 “(n)(1) If, in the opinion of the Secretary of the
 13 Homeland Security Department, a person granted tem-
 14 porary protected status under section 244—

15 “(A) has been physically present in the United
 16 States in that status for a continuous period of at
 17 least 5 years;

18 “(B) has at all times been a person of good
 19 moral character;

20 “(C) has never been convicted of a criminal of-
 21 fense in the United States;

22 “(D) in the case of an alien who is 18 years of
 23 age or older, but who is not over the age of 65, has
 24 successfully completed a course on reading, writing,
 25 and speaking words in ordinary usage in the English

1 language, unless unable to do so on account of phys-
2 ical or developmental disability or mental impair-
3 ment;

4 “(E) in the case of an alien 18 years of age or
5 older, has accepted the values and cultural life of the
6 United States; and

7 “(F) in the case of an alien 18 years of age or
8 older, has performed at least 40 hours of community
9 service;

10 the Secretary may adjust the status of the alien to that
11 of an alien lawfully admitted for permanent residence.

12 “(2) An alien shall not be considered to have failed
13 to maintain a continuous presence in the United States
14 for purposes of subsection (a)(1) by virtue of brief, casual,
15 and innocent absences from the United States.

16 “(3)(A) The alien shall establish that the alien is ad-
17 missible to the United States as immigrant, except as oth-
18 erwise provided in paragraph (2).

19 “(B) The provisions of paragraphs (5), (6)(A),
20 (6)(B), (6)(C), (6)(F), (6)(G), (7)(A), (9)(B), and
21 (9)(C)(i)(I) of section 212(a) shall not apply in the deter-
22 mination of an alien’s admissibility under this section.

23 “(4) When an alien is granted lawful permanent resi-
24 dent status under this subsection, the number of immi-
25 grant visas authorized to be issued under any provision

1 of this Act shall not be reduced. The numerical limitations
2 of sections 201 and 202 shall not apply to adjustment of
3 status under this section.

4 “(5) The Secretary of Homeland Security may termi-
5 nate removal proceedings without prejudice pending the
6 outcome of an alien’s application for adjustment of status
7 under this section on the basis of a prima facie showing
8 of eligibility for relief under this section.”.

9 (b) LIMITATION ON CONSIDERATION IN THE SENATE
10 OF LEGISLATION ADJUSTING STATUS.—Section 244 of
11 the Immigration and Nationality Act (8 U.S.C. 1254a) is
12 amended by striking subsection (h) and redesignating sub-
13 section (i) as subsection (h).

14 **SEC. 802. FOREIGN STATE DESIGNATIONS.**

15 Section 244(b)(1)(C) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1254a(b)(1)(C)) is amended to change
17 the following phrase “the Attorney General finds that
18 there exist extraordinary and temporary conditions in the
19 foreign state that prevent aliens who are nationals of the
20 state from returning to the state in safety,” so that it
21 reads as follows: “the Secretary of Homeland Security
22 finds that extraordinary and temporary conditions in the
23 foreign state make returning aliens to the state undesir-
24 able for humanitarian reasons,”.

1 **SEC. 803. TECHNICAL CORRECTION.**

2 Section 244 of the Immigration and Nationality Act
3 (8 U.S.C. 1254a) is amended by striking “Attorney Gen-
4 eral” each place such term appears and inserting “Sec-
5 retary of Homeland Security”.

6 **TITLE IX—MISCELLANEOUS**
7 **PROVISIONS**

8 **SEC. 901. PHYSICAL PRESENCE REQUIREMENT.**

9 Section 316(a) of the Immigration and Nationality
10 Act (8 U.S.C. 1427) is amended by adding at the end the
11 following:

12 “When warranted by extraordinary circumstances, the
13 Secretary of Homeland Security may reduce, by not more
14 than 90 days, the physical presence requirement described
15 in the preceding sentence.”.

16 **SEC. 902. ABSENCES FROM THE UNITED STATES.**

17 Section 316(b) of the Immigration and Nationality
18 Act (8 U.S.C. 1427(b)) is amended—

19 (1) in the first sentence, by striking “one year”
20 and inserting “18 months”; and

21 (2) in the second sentence, by striking “contin-
22 uous period of one year” and inserting “continuous
23 period of 18 months”.

1 **SEC. 903. ELIMINATING THE WIDOWED IMMIGRANT'S 2-**
2 **YEAR MARRIAGE PENALTY.**

3 Section 201(b)(2)(A)(i) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1251(b)(2)(A)(i)) is amended—

5 (1) by striking “for at least 2 years”; and

6 (2) by inserting “, proves by a preponderance
7 of the evidence that the marriage was entered into
8 in good faith and not for the purpose of obtaining
9 an immigration benefit,” after “within 2 years after
10 such date”.

11 **SEC. 904. ELIMINATE THE WIDOWED PERMANENT RESI-**
12 **DENT'S NATURALIZATION PENALTY.**

13 Section 319(a) of the Immigration and Nationality
14 Act (8 U.S.C. 1429(a)) is amended by inserting “or, if
15 the spouse is deceased, the spouse was a citizen of the
16 United States,” after “(a) Any person whose spouse is a
17 citizen of the United States,”.

18 **SEC. 905. ELIMINATION OF BAN ON STATE AND LOCAL GOV-**
19 **ERNMENTS FROM PREVENTING COMMUNICA-**
20 **TIONS WITH THE DEPARTMENT OF HOME-**
21 **LAND SECURITY.**

22 (a) IN GENERAL.—Section 642 of the Illegal Immi-
23 gration Reform and Immigrant Responsibility Act of 1996
24 (8 U.S.C. 1373) is repealed.

25 (b) VERIFICATION OF ELIGIBILITY FOR FEDERAL
26 PUBLIC BENEFITS.—Section 432 of the Personal Respon-

1 sibility and Work Opportunity Reconciliation Act of 1996
2 (8 U.S.C. 1642) is repealed.

3 **SEC. 906. ELIMINATION OF AUTHORITY TO PERMIT STATE**
4 **PERSONNEL TO CARRY OUT IMMIGRATION**
5 **OFFICER FUNCTIONS.**

6 Section 287(g) of the Immigration and Nationality
7 Act (8 U.S.C. 1357(g)) is repealed.

○