

113TH CONGRESS
1ST SESSION

H. R. 1525

To amend the Immigration and Nationality Act to comprehensively reform immigration law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 12, 2013

Ms. JACKSON LEE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security and Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to comprehensively reform immigration law, 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 TO ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Save America Comprehensive Immigration Act of 2013”.

6 (b) REFERENCES TO THE IMMIGRATION AND NA-
7 TIONALITY ACT.—Except as otherwise expressly provided,
8 whenever in this Act an amendment or repeal is expressed

1 in terms of an amendment to, or repeal of, a section or
2 other provision, the reference shall be considered to be
3 made to a section or other provision of the Immigration
4 and Nationality Act.

5 **TITLE I—FACILITATING FAMILY-** 6 **BASED IMMIGRATION**

7 **SEC. 101. INCREASING THE ALLOCATION OF FAMILY-BASED** 8 **IMMIGRANT VISAS.**

9 Section 201(c) (8 U.S.C. 115(c)) is amended to read
10 as follows:

11 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
12 IMMIGRANTS.—The worldwide level of family-sponsored
13 immigrants under this subsection for a fiscal year shall
14 be no more than 960,000.”.

15 **SEC. 102. PROTECTION AGAINST PROCESSING DELAYS.**

16 (a) AGE-OUT PROTECTION FOR CHILDREN.—

17 (1) IN GENERAL.—Chapter 1 of title IV (8
18 U.S.C. 1101 note) is amended by adding at the end
19 the following:

20 “AGE-OUT PROTECTION FOR CHILDREN

21 “SEC. 408. (a) IN GENERAL.—In the case of an ap-
22 plication initially to grant a benefit under this Act (other
23 than an application for naturalization) that otherwise
24 would be granted only after a determination that the bene-
25 ficiary of the application is a child (such as classification
26 as an immediate relative under section 201(b)(2)(A)(i)),

1 if the application is neither approved nor denied (on proce-
 2 dural or substantive grounds) during the 90-day period
 3 beginning on the date of the filing of the application, the
 4 beneficiary shall be considered to be a child for all pur-
 5 poses related to the receipt of the benefit if the beneficiary
 6 was a child on the last day of such 90-day period, and
 7 the beneficiary shall not otherwise be prejudiced with re-
 8 spect to such determination by such delay, and shall be
 9 considered to be a child under this Act for all purposes
 10 related to such application.

11 “(b) TERMINATION OF BENEFIT.—Subsection (a)
 12 shall remain in effect until the termination of the 1-year
 13 period beginning on the date on which the application de-
 14 scribed in such paragraph is approved.”.

15 (2) CLERICAL AMENDMENT.—The table of con-
 16 tents is amended by inserting after the item relating
 17 to section 407 the following:

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

18 (b) TIMELINESS OF ADOPTION FOR IMMIGRATION
 19 PURPOSES.—

20 (1) IN GENERAL.—Section 101(b)(1)(E)(i) (8
 21 U.S.C. 1101(b)(1)(E)(i)) is amended by striking “a
 22 child adopted while under the age of sixteen years”
 23 and inserting “a child, under the age of 16 when
 24 adoption proceedings were initiated,”.

1 (2) SPECIAL RULE FOR SIBLINGS.—Section
 2 101(b)(1)(E)(ii)(III) (8 U.S.C.
 3 1101(b)(1)(E)(ii)(III)) is amended by striking
 4 “adopted while under the age of 18 years” and in-
 5 serting “under the age of 18 when adoption pro-
 6 ceedings were initiated”.

7 **SEC. 103. TEMPORARY STATUS PENDING RECEIPT OF PER-**
 8 **MANENT RESIDENT STATUS.**

9 (a) CLASSES OF NONIMMIGRANT ALIENS.—Section
 10 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)) is amended—
 11 (1) by striking “or” at the end of clause (ii);
 12 (2) by adding “or” at the end of clause (iii);
 13 and
 14 (3) by adding at the end the following:

15 “(iv)(I) has concluded a valid mar-
 16 riage with an alien lawfully admitted for
 17 permanent residence, is the parent of a cit-
 18 izen of the United States, or is the child,
 19 son, or daughter of an alien lawfully ad-
 20 mitted for permanent residence or a citizen
 21 of the United States; (II) is the beneficiary
 22 of an approved petition to accord immi-
 23 grant status on the basis of such family re-
 24 lationship that was filed under section 204
 25 by such family member; (III) has available

1 to the alien an immigrant visa number;
2 (IV) has waited more than 6 months for
3 the issuance of an immigrant visa based
4 upon an application made by the alien; and
5 (V) seeks to enter the United States to
6 await such issuance;”.

7 (b) ADMISSION OF NONIMMIGRANTS.—Section
8 214(d) (8 U.S.C. 1184(d)) is amended—

9 (1) by striking “(d)” and inserting “(d)(1)”;
10 and

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

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

19 **SEC. 104. ELIMINATION OF AFFIDAVIT OF SUPPORT RE-**
20 **QUIREMENT.**

21 (a) GROUNDS FOR INELIGIBILITY FOR ADMISSION.—
22 Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended—

23 (1) by amending subparagraph (B)(ii) to read
24 as follows:

“(ii) If an alien submits an affidavit of support described in section 213A, in addition to the factors under clause (i), the consular officer or the Secretary of Homeland Security shall also consider such affidavit in determining whether the alien is inadmissible under this paragraph.”; and

(2) by striking subparagraphs (C) and (D).

(b) REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF SUPPORT.—Subsections (a)(1)(A), (f)(1)(E), and (f)(4)(B)(i) of section 213A (8 U.S.C. 1183a(a)(1)(A), (f)(1)(E), and (f)(4)(B)(i)) are amended by striking “125” and inserting “100”.

TITLE II—ESTABLISHMENT OF A BOARD OF VISA APPEALS FOR FAMILY-BASED VISAS

SEC. 201. ESTABLISHMENT OF A BOARD OF VISA APPEALS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 224 the following new section:

“BOARD OF VISA APPEALS

“SEC. 225. (a) ESTABLISHMENT.—The Secretary of State shall establish within the Department of State a Board of Family-based Visa Appeals. The Board shall be composed of 5 members who shall be appointed by the Secretary. Not more than 2 members of the Board may

1 be consular officers. The Secretary shall designate a mem-
2 ber who shall be chairperson of the Board.

3 “(b) AUTHORITY AND FUNCTIONS.—The Board shall
4 have authority to review any discretionary decision of a
5 consular officer with respect to an alien concerning the
6 denial, revocation, or cancellation of an immigrant visa of
7 someone who has the immediate relative status described
8 in section 201(2)(A)(i) and (ii); or a preference classifica-
9 tion described in section 203(a). The review of the Board
10 shall be made upon the record for decision of the consular
11 officer, including all documents, notes, and memoranda
12 filed with the consular officer, supplemented by affidavits
13 and other writings if offered by the consular officer or
14 alien. Upon a showing that the decision of the consular
15 official is contrary to the preponderance of the evidence,
16 the Board shall have authority to overrule, or remand for
17 further consideration, the decision of such consular officer.

18 “(c) PROCEDURE.—Proceedings before the Board
19 shall be in accordance with such regulations, not incon-
20 sistent with this Act and sections 556 and 557 of title
21 5, United States Code, as the Secretary of State shall pre-
22 scribe. Such regulations shall include requirements that
23 provide that—

24 “(1) at the time of any decision of a consular
25 officer under subsection (b), the interested party de-

1 fined in subsection (d) shall be given notice of the
2 availability of the review process and the necessary
3 steps to request such review;

4 “(2) a written record of the proceedings and de-
5 cision of the consular officer (in accordance with sec-
6 tions 556 and 557 of title 5, United States Code)
7 shall be available to the Board, and on payment of
8 lawfully prescribed costs, shall be made available to
9 the alien;

10 “(3) upon receipt of request for review under
11 this section, the Board shall, within 30 days, notify
12 the consular officer with respect to whose decision
13 review is sought, and, upon receipt of such notice,
14 such officer shall promptly (but in no event more
15 than 30 days after such receipt) forward to the
16 Board the record of proceeding as described in sub-
17 section (b);

18 “(4) the appellant shall be given notice, reason-
19 able under all the circumstances of the time and
20 place at which the Board proceedings will be held;

21 “(5) the appellant may be represented (at no
22 expense to the Government) by such counsel, author-
23 ized to practice in such proceedings, as the appellant
24 shall choose; and

1 “(6) a request for review under this section
2 must be made in writing to the Board within 60
3 days after receipt of notice of the denial, revocation,
4 or cancellation.

5 “(d) INTERESTED PARTIES.—The Board shall review
6 each decision described in subsection (b) upon request by
7 the petitioner of an immigrant visa petition approved
8 under section 201(2)(A)(i) and (ii) or 203(a).

9 “(e) CONSTRUCTION.—This section may not be con-
10 strued to restrict any right to further administrative or
11 judicial review established under any other provision of
12 law.

13 “(f) FEES.—The Secretary of State shall charge, and
14 collect, an appropriate fee associated with a request to the
15 Board for a review. Such fee shall be sufficient to cover
16 the cost of the administration of this section.”.

17 (b) TECHNICAL AMENDMENTS.—

18 (1) Section 222(f) (8 U.S.C. 1202(f)) is amend-
19 ed by adding at the end: “An interested party under
20 section 225(d) or court shall be permitted to inspect
21 the record of proceeding as described in subsections
22 (c)(2) and (c)(3) of section 225.”.

23 (2) Section 104(a)(1) (8 U.S.C. 1104(a)(1)) is
24 amended by striking “except” and inserting “includ-
25 ing”.

1 (3) The table of contents is amended by insert-
 2 ing after the item relating to section 224 the fol-
 3 lowing new item:

“Sec. 225. Board of Visa Appeals.”.

4 **TITLE III—ELIMINATION OF**
 5 **UNFAIR RESTRICTIONS**

6 **SEC. 301. ACQUISITION OF CITIZENSHIP FOR CHILDREN**
 7 **BORN ABROAD AND OUT OF WEDLOCK TO A**
 8 **UNITED STATES CITIZEN FATHER.**

9 (a) REQUIREMENTS FOR CITIZENSHIP ELIGI-
 10 BILITY.—Section 309(a) (8 U.S.C. 1409(a)) is amended—

11 (1) in paragraph (2), by adding “and” at the
 12 end;

13 (2) by striking paragraph (3);

14 (3) in paragraph (4), by striking “while the
 15 person is under the age of 18 years—” and inserting
 16 “at any time—”; and

17 (4) by redesignating paragraph (4) as para-
 18 graph (3).

19 (b) CLARIFICATION REGARDING DECEASED PAR-
 20 ENTS OF CHILDREN BORN ABROAD AND OUT OF WED-
 21 LOCK.—Section 309 (8 U.S.C. 1409) is amended by add-
 22 ing at the end the following:

23 “(d) Nothing in this section shall be construed to pre-
 24 clude a person who is a citizen or national of the United
 25 States by virtue of a provision of this section from estab-

1 lishing such status under this title after the death of the
 2 person’s father, mother, or parents.”.

3 (c) APPLICATION OF CITIZENSHIP PROVISIONS.—

4 The amendments made by this Act shall apply to persons
 5 born out of wedlock who are alive on or after the date
 6 of the enactment of this Act.

7 **SEC. 302. ALLOW AUNTS AND UNCLES OR GRANDPARENTS**
 8 **TO ADOPT ORPHANED OR ABANDONED CHIL-**
 9 **DREN OF THE DECEASED RELATIVE.**

10 Section 101(b)(1) (8 U.S.C. 1101(b)(1)) is amend-
 11 ed—

12 (1) by striking “or” at the end of subparagraph
 13 (E) and inserting a semicolon;

14 (2) by striking the period at the end of sub-
 15 paragraph (F) and inserting a colon;

16 (3) by striking the period at the end of sub-
 17 paragraph (G) and inserting “; and”; and

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

19 “(H) a child adopted in the United States or
 20 abroad or who is coming to the United States for
 21 adoption by a grandparent, aunt or uncle while
 22 under the age of eighteen years, who has suffered
 23 the death or disappearance of, abandonment or de-
 24 sertion by, or separation or loss from, both parents,
 25 or for whom the sole or surviving parent is incapable

1 of providing proper care and has consented in writ-
2 ing to the adoption, if the Secretary of Homeland
3 Security is satisfied that proper care will be fur-
4 nished the child if admitted to the United States. No
5 natural parent or prior adoptive parent of any such
6 child shall thereafter, by virtue of such parentage, be
7 accorded any right, privilege, or status under this
8 Act. Nothing in this subsection shall be construed to
9 require the child to be released to an orphanage as
10 a prerequisite for eligibility.”.

11 **SEC. 303. RELIEF FOR SURVIVING SPOUSES, CHILDREN**
12 **AND PARENTS.**

13 (a) IN GENERAL.—Section 201(b)(2)(A)(i) (8 U.S.C.
14 1151(b)(2)(A)(i)) is amended—

15 (1) by inserting “, and if married for less than
16 two years at the time of the citizen’s death proves
17 by a preponderance of the evidence that the mar-
18 riage was entered into in good faith and not solely
19 for the purpose of obtaining an immigration ben-
20 efit,” after “within 2 years after such date”; and

21 (2) by inserting “In the case of an alien who
22 was the child or parent of a citizen of the United
23 States at the time of the citizen’s death, the alien
24 shall be considered, for purposes of this subsection,
25 to remain an immediate relative after the date of the

1 citizen's death but only if the alien files a petition
2 under section 204(a)(1)(A)(ii) within two years after
3 such date in the case of a parent, or prior to reach-
4 ing the age of 21 in the case of a child." after "re-
5 marries."

6 (b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C.
7 1154(a)(1)(A)(ii)) is amended by inserting "or an alien
8 child or alien parent described in the third sentence of sec-
9 tion 201(b)(2)(A)(i)" after "section 201(b)(2)(A)(i)".

10 (c) TRANSITION PERIOD.—In applying section
11 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)), as amended
12 by subsection (a), in the case of an alien whose citizen
13 relative died before the date of the enactment of this Act,
14 the alien relative may (notwithstanding the deadlines spec-
15 ified in such subsection) file the classification petition re-
16 ferred to in such subsection within 2 years after the date
17 of the enactment of this Act. In the case of an alien who
18 was excluded, deported, removed or departed voluntarily
19 before the date of the enactment of this Act, such alien
20 shall be eligible for parole into the United States pursuant
21 to the Secretary of Homeland Security's authority under
22 section 212(d)(5) of such Act (8 U.S.C. 1182(d)(5)), and
23 such alien's application for adjustment of status shall be
24 considered notwithstanding section 212(a)(9) (8 U.S.C.
25 1182(a)(9)).

1 (d) ADJUSTMENT OF STATUS.—Section 245 (8
2 U.S.C. 1255) is amended by adding at the end the fol-
3 lowing:

4 “(n) APPLICATIONS FOR ADJUSTMENT OF STATUS
5 BY SURVIVING SPOUSES, CHILDREN AND PARENTS.—

6 “(1) IN GENERAL.—Any alien described in
7 paragraph (2) who applied for adjustment of status
8 prior to the death of the qualifying relative, may
9 have such application adjudicated as if such death
10 had not occurred.

11 “(2) ALIEN DESCRIBED.—An alien described in
12 this paragraph is an alien who—

13 “(A) is an immediate relative as described
14 in section 201(b)(2)(A)(i);

15 “(B) is a family-sponsored immigrant as
16 described in subsection (a) or (d) of section
17 203;

18 “(C) is a derivative beneficiary of an em-
19 ployment-based immigrant under section
20 203(b), as described in section 203(d); or

21 “(D) is a derivative beneficiary of a diver-
22 sity immigrant as described in section 203(c).”.

23 (e) TRANSITION PERIOD.—Notwithstanding a denial
24 of an application for adjustment of status, in the case of
25 an alien whose qualifying relative died before the date of

1 the enactment of this Act, such application may be re-
 2 newed by the alien through a motion to reopen, without
 3 fee, filed within two years after the date of the enactment
 4 of this Act. In the case of an alien who was excluded, de-
 5 ported, removed or departed voluntarily before the date
 6 of the enactment of this Act, such alien shall be eligible
 7 for parole into the United States pursuant to the Sec-
 8 retary of Homeland Security's authority under section
 9 212(d)(5) (8 U.S.C. 1182(d)(5)), and such alien's applica-
 10 tion for adjustment of status shall be considered notwith-
 11 standing section 212(a)(9) (8 U.S.C. 1182(a)(9)).

12 **SEC. 304. ELIMINATING THE WIDOWED PERMANENT RESI-**
 13 **DENT'S NATURALIZATION PENALTY.**

14 Section 319(a) (8 U.S.C. 1429(a)) is amended by in-
 15 serting "or, if the spouse is deceased, the spouse was a
 16 citizen of the United States," after "(a) Any person whose
 17 spouse is a citizen of the United States,".

18 **TITLE IV—PREVENTING SEX OF-**
 19 **FENDERS FROM USING OUR**
 20 **IMMIGRATION LAWS TO**
 21 **BRING INNOCENT, UNSUS-**
 22 **PECTING VICTIMS INTO THE**
 23 **UNITED STATES**

24 **SEC. 401. FINDINGS.**

25 The Congress finds the following:

1 (1) Immigration law allows citizens and aliens
2 lawfully admitted for permanent residence to bring
3 foreign family members to the United States on the
4 basis of immediate relative status or a preference
5 classification.

6 (2) Immediate relative status and preference
7 classifications are obtained by filing petitions with
8 the Secretary of Homeland Security.

9 (3) For national security purposes, the Sec-
10 retary of Homeland Security conducts background
11 checks on the beneficiaries of such petitions and,
12 since September 11, 2001, on the petitioners as well.

13 (4) The Government Accountability Office
14 (GAO) has determined that, in fiscal year 2005, at
15 least 398 of the petitioners who filed family-based
16 visa petitions were on the National Sex Offender
17 Registry maintained by the Federal Bureau of In-
18 vestigations.

19 (5) GAO was only able to ascertain the nature
20 of the sex offense for 194 of the 398 petitioners.

21 (6) GAO was able to ascertain, however, that
22 119 of the convictions were for sex assault, 35 for
23 child fondling, 9 for strong arm rape, 9 for carnal
24 abuse combined with a sexual assault, 7 were for
25 statutory rape, 4 for crimes against persons, 3 for

1 indecent exposure, 2 for kidnapping, 2 for obscene
2 material possession, 1 for exploitation of a minor
3 with photographs, 1 for incest with a minor, 1 for
4 sodomizing a boy, and 1 for restricting movement.

5 (7) At least 14 of the 398 petitioners were clas-
6 sified as “sexual predators”, which means a deter-
7 mination had been made that they are likely to com-
8 mit additional sex offenses.

9 (8) At least 45 of the petitioners were convicted
10 of sex offenses against children.

11 (9) The Immigration and Nationality Act does
12 not provide the Secretary of Homeland Security with
13 authorization to deny family-based petitions on the
14 basis of a petitioner’s conviction for a sex offense,
15 even when the conviction record indicates that a
16 spouse or a child beneficiary may be in grave dan-
17 ger.

18 **SEC. 402. DISCRETIONARY AUTHORITY TO DENY FAMILY-**
19 **SPONSORED CLASSIFICATION PETITION BY**
20 **PETITIONER LISTED ON NATIONAL SEX OF-**
21 **FENDER REGISTRY.**

22 Section 204 (8 U.S.C. 1154) is amended by adding
23 at the end the following:

1 “(m) AUTHORITY TO DENY FAMILY-BASED PETI-
2 TION BY PETITIONER LISTED ON NATIONAL SEX OF-
3 FENDER REGISTRY.—

4 “(1) IN GENERAL.—The Secretary Homeland
5 Security may, in the discretion of the Secretary,
6 deny a petition under subsection (a) for classifica-
7 tion of a spouse or child if—

8 “(A) the Secretary has confirmed that the
9 petitioner is on the national sex offender reg-
10 istry maintained by the Federal Bureau of In-
11 vestigation for a conviction that individually
12 (disregarding any aggregation due to any other
13 conviction) resulted in incarceration for more
14 than 1 year;

15 “(B) the petitioner has been given at least
16 90 days to establish that the petitioner is not
17 the person named on the registry or that the
18 conviction did not result in incarceration for
19 more than 1 year and has failed to establish
20 such fact; and

21 “(C) the Secretary finds that granting the
22 petition would put a primary or derivative
23 spouse or child beneficiary in grave danger of
24 being sexually abused.

1 “(2) DETERMINING DANGER.—In making the
2 determination under paragraph (1)(C), the Secretary
3 shall use the following principles:

4 “(A) NATURE OF THE RELATIONSHIP.—In
5 evaluating a petitioner who has filed a petition
6 for a spouse, consideration should be given to
7 indications of how well the petitioner and the
8 spouse know each other. Petitions filed on the
9 basis of marriages between men and women
10 who have had little direct, personal contact with
11 each other should be viewed with suspicion. In
12 cases where the petitioner and the spouse have
13 had little direct, personal contact with each
14 other, evidence should be submitted to establish
15 that they have gotten to know each other in
16 some other way.

17 “(B) NATURE OF THE SEX OFFENSE.—
18 Consideration should be given to when each of-
19 fense occurred for which the petitioner was in-
20 carcerated for more than a year, how serious it
21 was, the sentence that was imposed, how long
22 the petitioner was incarcerated, the age of the
23 petitioner when it was committed, and the char-
24 acteristics of the victim.

1 “(C) REHABILITATION.—Evidence of reha-
2 bilitation should be evaluated with respect to
3 whether it diminishes the risk of sexual abuse
4 to the primary or derivative spouse or child
5 beneficiaries.

6 “(D) PREVIOUS VISA PETITIONS.—The
7 records for any previous petitions shall be ex-
8 amined to determine whether they provide or
9 might lead to evidence that is pertinent to de-
10 termining whether granting the petition would
11 put a primary or derivative spouse or child ben-
12 eficiary in grave danger of being sexually
13 abused.

14 “(3) REBUTTAL.—If the Secretary intends to
15 deny a petition under paragraph (1), the Secretary
16 shall provide the petitioner with a notice that states
17 the reasons for the intended denial and provides the
18 petitioner with at least 90 days to submit rebuttal
19 evidence. Rebuttal should focus primarily on the fac-
20 tors that led the Secretary to believe that granting
21 the petition would put a primary or derivative
22 spouse or child beneficiary in grave danger of being
23 sexually abused.

24 “(4) POST-DENIAL REMEDIES.—

1 “(A) APPEAL.—All final denials under
2 paragraph (1) may be appealed to the Board of
3 Immigration Appeals.

4 “(B) NEW PETITION.—The petitioner may
5 file a new petition whenever the petitioner has
6 additional evidence that the petitioner believes
7 might be sufficient to warrant granting the new
8 petition.

9 “(5) DISCLOSURE BY THE SECRETARY OF
10 HOMELAND SECURITY TO BENEFICIARIES.—In all
11 cases in which it has been confirmed that the name
12 of a petitioner under subsection (a) is listed on the
13 national sex offender registry maintained by the
14 Federal Bureau of Investigation, and regardless of
15 whether the Secretary may exercise discretion under
16 paragraph (1), the Secretary shall give the petitioner
17 at least 90 days to establish that the petitioner is
18 not the person named on the registry. If the peti-
19 tioner fails to establish that the petitioner is not the
20 person named on the registry within the time allot-
21 ted, the Secretary shall provide the beneficiaries with
22 a written copy of the information on the registry
23 that is available to the public before making a deci-
24 sion on the petition. The beneficiary shall be in-

1 formed that the registry information is based on
2 available records and may not be complete.

3 “(6) DISCLOSURE TO DEPARTMENT OF
4 STATE.—In all cases in which it has been confirmed
5 that the name of a petitioner under subsection (a)
6 is listed on the national sex offender registry main-
7 tained by the Federal Bureau of Investigation, and
8 regardless of whether the Secretary may exercise
9 discretion under paragraph (1), the Secretary shall
10 provide the Secretary of State with—

11 “(A) a separate document with information
12 about the record on the national sex offender
13 registry that is available to the public;

14 “(B) any additional information it has that
15 raises concern that a primary or derivative
16 spouse or child beneficiary may be subject to
17 sexual abuse, including information from the
18 registry that is not available to the public; and

19 “(C) information about any previous peti-
20 tions under subsection (a) filed by the peti-
21 tioner.

22 “(7) DISCLOSURE BY CONSULAR OFFICER TO
23 BENEFICIARIES.—When a petition under subsection
24 (a) is granted, if the petition is filed by a petitioner
25 who has failed to make the demonstration of mis-

1 identification described in paragraph (5), the con-
2 sular officer shall conduct an interview with the pri-
3 mary or derivative spouse or child beneficiary of the
4 petition before issuing a visa to the beneficiary. At
5 least part of the interview must be held without the
6 presence of the petitioner. During the private part of
7 the interview, the beneficiary will be given a written
8 copy of the information about the petitioner from
9 the registry that is available to the public. This doc-
10 ument must be written in the beneficiary's primary
11 language. The consular officer is required to advise
12 the beneficiary that approval of the visa petition
13 does not mean that there are no reasons to be con-
14 cerned about his or her safety.

15 “(8) ADDITIONAL RESPONSIBILITIES OF CON-
16 SULAR OFFICER.—The consular officer may return
17 files to the Secretary of Homeland Security for fur-
18 ther consideration in cases where the consular offi-
19 cer is concerned that granting the visa might put a
20 primary or derivative spouse or child beneficiary in
21 grave danger of being sexually abused. When return-
22 ing a file under the previous sentence, the consular
23 officer may add any additional information or obser-
24 vations the officer has that might have a bearing on
25 whether the visa should be granted, including the re-

1 sults of any field examination that has been con-
2 ducted.”.

3 **SEC. 403. REMOVAL OF CONDITIONAL PERMANENT RESI-**
4 **DENT STATUS.**

5 (a) IDENTIFY AND PROVIDE ASSISTANCE FOR
6 SPOUSES AND CHILDREN WHO ARE SUBJECT TO SEXUAL
7 ABUSE OR RELATED TYPES OF HARM.—Section
8 216(d)(3) (8 U.S.C. 1186a(d)(3)) is amended—

9 (1) by inserting before “The interview” the fol-
10 lowing:

11 “(A) IN GENERAL.—Subject to subpara-
12 graph (B), the interview”; and

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

14 “(B) PETITIONER LISTED ON NATIONAL
15 SEX OFFENDER REGISTRY.—In all cases where
16 the Secretary of Homeland Security has con-
17 firmed that a petitioning spouse is listed on the
18 national sex offender registry maintained by the
19 Federal Bureau of Investigation, an interview
20 with the alien spouse, and any alien sons or
21 daughters, shall be required prior to removal of
22 the conditional status, and at least part of the
23 interview shall be held without the presence of
24 the petitioning spouse. During the private por-
25 tion of the interview, questions will be asked to

1 determine whether an investigation should be
2 conducted regarding the welfare of the alien
3 spouse, or any alien son or daughter. If it is de-
4 termined that any alien spouse, son, or daugh-
5 ter is being abused or harmed by the peti-
6 tioning spouse, the victim shall be offered what-
7 ever assistance is appropriate, including infor-
8 mation on ways to remain in the United States
9 that do not depend on continuing the qualifying
10 marriage.”.

11 (b) HARDSHIP WAIVER IN CASES WHERE THE ALIEN
12 SPOUSE OR CHILD IS SUBJECT TO SEXUAL ABUSE.—Sec-
13 tion 216(c)(4) (8 U.S.C. 1186a(c)(4)) is amended—

14 (1) in subparagraph (B), by striking “or” at
15 the end;

16 (2) in subparagraph (C), by striking the period
17 at the end and inserting “, or”; and

18 (3) by inserting after subparagraph (C) the fol-
19 lowing:

20 “(D) the qualifying marriage was entered
21 into in good faith by the alien spouse and dur-
22 ing the marriage the alien spouse, or a son or
23 daughter of the spouse, was sexually abused
24 and the alien was not at fault in failing to meet
25 the requirements of paragraph (1).”.

1 **SEC. 404. SPECIAL TASK FORCE TO IDENTIFY PEOPLE**
2 **NAMED ON THE NATIONAL SEX OFFENDER**
3 **REGISTRY WHO HAVE FILED FAMILY-BASED**
4 **CLASSIFICATION PETITIONS.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall establish a task force, to be known as the “Task
7 Force to Rescue Immigrant Victims of American Sex Of-
8 fenders”. The task force shall consist of officials from
9 Federal, State, and local law enforcement agencies with
10 experience in domestic violence, sex crimes, immigration
11 law, trafficking in humans, organized crime, or any other
12 area of experience which may be useful in completing the
13 duties described in subsection (b).

14 (b) DUTIES.—The duties of the task force shall be
15 the following:

16 (1) Working back in time from the date of the
17 establishment of the task force, identifying individ-
18 uals on the Federal Bureau of Investigation’s sex of-
19 fender registry who have filed family-based petitions
20 under section 204(a) of the Immigration and Na-
21 tionality Act. When a confirmed match has been
22 made with the sex offender registry, the task force
23 should ascertain whether the petitioner filed previous
24 petitions.

25 (2) Maintaining the information about the peti-
26 tioners in a comprehensive database.

1 (3) Prioritizing the information according to
2 the likelihood that primary or derivative spouse or
3 child beneficiaries are in danger of sexual abuse.

4 (4) Developing a system for investigating the
5 cases in which beneficiaries may be at risk and pro-
6 viding them with information on how to seek assist-
7 ance if they are abused.

8 (5) Except for information on the registry that
9 is available to the public, protecting the information
10 produced by its investigations in accordance with the
11 privacy rights of everyone involved in the investiga-
12 tion.

13 (6) Taking whatever other actions as are rea-
14 sonable and appropriate when investigations lead to
15 information about sexual abuse or other criminal ac-
16 tivities, including notifying State and local police de-
17 partments, government offices, public organizations
18 that provide assistance to victims of sexual abuse,
19 and religious organizations.

20 (c) REPORT TO CONGRESS.—Not later than 270 days
21 after the date of the enactment of this Act, the Secretary
22 shall submit to the Congress a report on the findings and
23 recommendations of the task force. The report shall in-
24 clude the following:

1 (1) An analysis of the information obtained in
2 searching visa petition and national sex offender reg-
3 istry records.

4 (2) The results of any investigations conducted
5 by the task force.

6 (3) Recommendations on administrative and
7 legislative actions that would assist in identifying
8 and protecting immigrant victims of sexual abuse or
9 related harm.

10 **SEC. 405. AUTHORIZATION OF APPROPRIATIONS.**

11 There are authorized to be appropriated such sums
12 as may be necessary to carry out the provisions of this
13 Act. Amounts appropriated under this section shall remain
14 available until expended.

15 **SEC. 406. REGULATIONS.**

16 Regulations implementing this Act shall be promul-
17 gated in final form not later than 180 days after the date
18 of the enactment of this Act.

19 **TITLE V—LEGALIZATION FOR**
20 **LONG-TERM RESIDENTS**

21 **SEC. 501. EARNED ACCESS TO LEGALIZATION.**

22 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
23 1255 et seq.) is amended by inserting after section 245A
24 the following:

1 “ADJUSTMENT OF STATUS ON THE BASIS OF EARNED
2 ACCESS TO LEGALIZATION

3 “SEC. 245B. (a) IN GENERAL.—The Secretary of
4 Homeland Security may adjust the status of an alien to
5 that of an alien lawfully admitted for permanent residence
6 if the alien—

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

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

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

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

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

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

4 “(b) TREATMENT OF BRIEF, CASUAL, AND INNO-
5 CENT ABSENCES.—An alien shall not be considered to
6 have failed to maintain a continuous presence in the
7 United States for purposes of subsection (a)(1) by virtue
8 of brief, casual, and innocent absences from the United
9 States.

10 “(c) ADMISSIBLE AS IMMIGRANT.—

11 “(1) IN GENERAL.—The alien shall establish
12 that the alien is admissible to the United States as
13 an immigrant, except as otherwise provided in para-
14 graph (2).

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

20 “(d) SECURITY AND LAW ENFORCEMENT CLEAR-
21 ANCES.—The alien, if over 15 years of age, shall submit
22 fingerprints in accordance with procedures established by
23 the Secretary of Homeland Security. Such fingerprints
24 shall be submitted to relevant Federal agencies to be
25 checked against existing databases for information relat-

1 ing to criminal, national security, or other law enforce-
2 ment actions that would render the alien ineligible for ad-
3 justment of status under this section. The Secretary of
4 Homeland Security shall provide a process for challenging
5 the accuracy of matches that result in a finding of ineligi-
6 bility for adjustment of status.

7 “(e) INAPPLICABILITY OF NUMERICAL LIMITA-
8 TIONS.—When an alien is granted lawful permanent resi-
9 dent status under this subsection, the number of immi-
10 grant visas authorized to be issued under any provision
11 of this Act shall not be reduced. The numerical limitations
12 of sections 201 and 202 shall not apply to adjustment of
13 status under this section.

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

20 (b) CLERICAL AMENDMENT.—The table of contents
21 is amended by inserting after the item relating to section
22 245A the following:

“Sec. 245B. Adjustment of status on the basis of earned access to legaliza-
tion.”.

1 **SEC. 502. LEGALIZATION PROVISIONS FOR CHILDREN.**

2 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
3 1255 et seq.), as amended by section 501, is further
4 amended by inserting after section 245B the following:

5 “ADJUSTMENT OF STATUS FOR CERTAIN CHILDREN

6 “SEC. 245C. (a) IN GENERAL.—The Secretary of
7 Homeland Security may adjust the status of an alien to
8 that of an alien lawfully admitted for permanent residence
9 if the alien is a child at the time of filing the application
10 for such adjustment and establishes that the alien, at such
11 time—

12 “(1) has been physically present and enrolled in
13 school in the United States for a continuous period
14 of not less than 5 years immediately preceding the
15 date of such application, and during that period has
16 been a person of good moral character;

17 “(2) has fully integrated into life in the United
18 States;

19 “(3) has learned English or is satisfactorily
20 pursuing a course of study to achieve an under-
21 standing of English;

22 “(4) is successfully pursuing an elementary
23 school, middle school, high school, or college-level
24 education; and

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

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

7 “(c) ADMISSIBLE AS IMMIGRANT.—

8 “(1) IN GENERAL.—The alien shall establish
9 that the alien is admissible to the United States as
10 an immigrant, except as otherwise provided in para-
11 graph (2).

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

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

20 “(B) WAIVER OF OTHER GROUNDS.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), the Secretary of Home-
23 land Security may waive any other provi-
24 sion of section 212(a) in the case of an in-
25 dividual alien for humanitarian purposes,

1 to assure family unity, or when it is other-
2 wise in the public interest.

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

7 “(I) Paragraphs (2)(A) and
8 (2)(B) (relating to criminals).

9 “(II) Paragraph (2)(C) (relating
10 to drug offenses), except for so much
11 of such paragraph as relates to a sin-
12 gle offense of simple possession of 30
13 grams or less of marijuana.

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

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

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

23 “(1) use information furnished by applicant for
24 an application filed under this section for any pur-

1 pose other than to make a determination on the ap-
2 plication;

3 “(2) make any publication whereby the infor-
4 mation furnished by any particular applicant can be
5 identified; or

6 “(3) permit anyone other than the sworn offi-
7 cers and employees of the Department, the appli-
8 cant, or a representative of the applicant to examine
9 individual applications.

10 “(f) DISSEMINATION OF INFORMATION.—The Sec-
11 retary of Homeland Security shall broadly disseminate in-
12 formation respecting the benefits which aliens may receive
13 under this section and the requirements to obtain such
14 benefits.”.

15 (b) CLERICAL AMENDMENT.—The table of contents,
16 as amended by section 201, is amended further by insert-
17 ing after the item relating to section 245B the following:

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

18 **SEC. 503. UPDATED REGISTRY PROVISION.**

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

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

23 (2) in item (a), by striking “1972” and insert-
24 ing “1986”.

1 (b) CLERICAL AMENDMENT.—The table of sections
 2 is amended in the item relating to section 249 by striking
 3 “1972” and inserting “1986”.

4 **TITLE VI—BORDER SECURITY**
 5 **PROVISIONS**

6 **Subtitle A—Rapid Response**
 7 **Measures**

8 **SEC. 601. EMERGENCY DEPLOYMENT OF UNITED STATES**
 9 **BORDER PATROL AGENTS.**

10 (a) IN GENERAL.—If the Governor of a State on an
 11 international border of the United States declares an
 12 international border security emergency and requests ad-
 13 ditional United States Border Patrol agents from the Sec-
 14 retary of Homeland Security, the Secretary is authorized,
 15 subject to subsections (b) and (c), to provide the State
 16 with up to 1,000 additional United States Border Patrol
 17 agents for the purpose of patrolling and defending the
 18 international border, in order to prevent individuals from
 19 crossing the international border and entering the United
 20 States at any location other than an authorized port of
 21 entry.

22 (b) CONSULTATION.—The Secretary of Homeland
 23 Security shall consult with the President upon receipt of
 24 a request under subsection (a), and shall grant it to the
 25 extent that providing the requested assistance will not sig-

1 nificantly impair the Department of Homeland Security's
2 ability to provide border security for any other State.

3 (c) COLLECTIVE BARGAINING.—Emergency deploy-
4 ments under this section shall be made in conformance
5 with all collective bargaining agreements and obligations.

6 **SEC. 602. ELIMINATION OF FIXED DEPLOYMENT OF UNITED**
7 **STATES BORDER PATROL AGENTS.**

8 The Secretary of Homeland Security shall ensure
9 that no United States Border Patrol agent is precluded
10 from performing patrol duties and apprehending violators
11 of law, except in unusual circumstances where the tem-
12 porary use of fixed deployment positions is necessary.

13 **SEC. 603. HELICOPTERS AND POWER BOATS.**

14 (a) IN GENERAL.—The Secretary of Homeland Secu-
15 rity shall increase by not less than 100 the number of
16 United States Border Patrol helicopters, and shall in-
17 crease by not less than 250 the number of United States
18 Border Patrol power boats. The Secretary of Homeland
19 Security shall ensure that appropriate types of helicopters
20 are procured for the various missions being performed.
21 The Secretary of Homeland Security also shall ensure that
22 the types of power boats that are procured are appropriate
23 for both the waterways in which they are used and the
24 mission requirements.

1 (b) USE AND TRAINING.—The Secretary of Home-
2 land Security shall establish an overall policy on how the
3 helicopters and power boats described in subsection (a)
4 will be used and implement training programs for the
5 agents who use them, including safe operating procedures
6 and rescue operations.

7 **SEC. 604. CONTROL OF UNITED STATES BORDER PATROL**
8 **ASSETS.**

9 The United States Border Patrol shall have complete
10 and exclusive administrative and operational control over
11 all the assets utilized in carrying out its mission, includ-
12 ing, aircraft, watercraft, vehicles, detention space, trans-
13 portation, and all of the personnel associated with such
14 assets.

15 **SEC. 605. MOTOR VEHICLES.**

16 The Secretary of Homeland Security shall establish
17 a fleet of motor vehicles appropriate for use by the United
18 States Border Patrol that will permit a ratio of at least
19 one police-type vehicle per every 3 United States Border
20 Patrol agents. Additionally, the Secretary of Homeland
21 Security shall ensure that there are sufficient numbers
22 and types of other motor vehicles to support the mission
23 of the United States Border Patrol. All vehicles will be
24 chosen on the basis of appropriateness for use by the
25 United States Border Patrol, and each vehicle shall have

1 a “panic button” and a global positioning system device
2 that is activated solely in emergency situations for the
3 purpose of tracking the location of an agent in distress.
4 The police-type vehicles shall be replaced at least every
5 3 years.

6 **SEC. 606. PORTABLE COMPUTERS.**

7 The Secretary of Homeland Security shall ensure
8 that each police-type motor vehicle in the fleet of the
9 United States Border Patrol is equipped with a portable
10 computer with access to all necessary law enforcement
11 databases and otherwise suited to the unique operational
12 requirements of the United States Border Patrol.

13 **SEC. 607. RADIO COMMUNICATIONS.**

14 The Secretary of Homeland Security shall augment
15 the existing radio communications system so all law en-
16 forcement personnel working in every area where United
17 States Border Patrol operations are conducted have clear
18 and encrypted two-way radio communication capabilities
19 at all times. Each portable communications device shall
20 be equipped with a “panic button” and a global posi-
21 tioning system device that is activated solely in emergency
22 situations for the purpose of tracking the location of the
23 agent in distress.

1 **SEC. 608. HAND-HELD GLOBAL POSITIONING SYSTEM DE-**
2 **VICES.**

3 The Secretary of Homeland Security shall ensure
4 that each United States Border Patrol agent is issued a
5 state-of-the-art hand-held global positioning system device
6 for navigational purposes.

7 **SEC. 609. NIGHT VISION EQUIPMENT.**

8 The Secretary of Homeland Security shall ensure
9 that sufficient quantities of state-of-the-art night vision
10 equipment are procured and maintained to enable each
11 United States Border Patrol agent working during the
12 hours of darkness to be equipped with a portable night
13 vision device.

14 **SEC. 610. BORDER ARMOR.**

15 The Secretary of Homeland Security shall ensure
16 that every United States Border Patrol agent is issued
17 high-quality body armor that is appropriate for the climate
18 and risks faced by the individual officer. Each officer shall
19 be allowed to select from among a variety of approved
20 brands and styles. Officers shall be strongly encouraged,
21 but not mandated, to wear such body armor whenever
22 practicable. All body armor shall be replaced at least every
23 5 years.

24 **SEC. 611. WEAPONS.**

25 The Secretary of Homeland Security shall ensure
26 that United States Border Patrol agents are equipped

1 with weapons that are reliable and effective to protect
2 themselves, their fellow officers, and innocent third parties
3 from the threats posed by armed criminals. In addition,
4 the Secretary shall ensure that the Department's policies
5 allow all such officers to carry weapons that are suited
6 to the potential threats that they face.

7 **SEC. 612. UNIFORMS.**

8 The Secretary of Homeland Security shall ensure
9 that all United States Border Patrol agents are provided
10 with all necessary uniform items, including outerwear suit-
11 ed to the climate, footwear, belts, holsters, and personal
12 protective equipment, at no cost to such agents. Such
13 items shall be replaced at no cost to such agents as they
14 become worn, unserviceable, or no longer fit properly.

15 **Subtitle B—Detention Pending**
16 **Removal**

17 **SEC. 621. DETENTION FACILITIES FOR ALIENS ARRESTED**
18 **FOR ILLEGAL ENTRY.**

19 The Secretary of Homeland Security shall make ar-
20 rangements for the availability of 100,000 additional beds
21 for detaining aliens taken into custody by immigration of-
22 ficials. Some of these beds shall be rented from Federal,
23 State, and local detention facilities. The remainder of the
24 100,000 shall be constructed to meet this demand on a

1 temporary basis and then converted to other use when
2 they are no longer needed as detention facilities.

3 **SEC. 622. EXPANSION AND EFFECTIVE MANAGEMENT OF**
4 **DETENTION FACILITIES.**

5 (a) IN GENERAL.—Subject to the availability of ap-
6 propriations, the Secretary of Homeland Security shall
7 fully utilize—

8 (1) all available detention facilities operated or
9 contracted by the Department of Homeland Secu-
10 rity;

11 (2) all possible options to cost effectively in-
12 crease available detention capacities, including the
13 use of State and local correctional facilities, private
14 space, and secure alternatives to detention; and

15 (3) the Department’s Office of Civil Rights and
16 Civil Liberties shall monitor all facilities that are
17 being used to hold detainees for more than 72 hours.
18 The monitoring will include an evaluation of whether there
19 is compliance with the requirements of the Department’s
20 Detention Operations Manual.

21 (b) SECURE ALTERNATIVES TO DETENTION PRO-
22 GRAM.—

23 (1) NATURE OF THE PROGRAM.—For purposes
24 of this section, the secure alternatives to detention
25 referred to in subsection (a) is a program under

1 which eligible aliens are released to the custody of
2 suitable individual or organizational sponsors who
3 will supervise them, use appropriate safeguards to
4 prevent them from absconding, and ensure that they
5 make required appearances.

6 (2) PROGRAM DEVELOPMENT.—The program
7 shall be developed in accordance with the following
8 guidelines:

9 (A) The Secretary shall design the pro-
10 gram in consultation with nongovernmental or-
11 ganizations and academic experts in both the
12 immigration and the criminal justice fields.
13 Consideration should be given to methods that
14 have proven successful in appearance assistance
15 programs, such as the appearance assistance
16 program developed by the Vera Institute and
17 the Department of Homeland Security’s Inten-
18 sive Supervision Appearance Program.

19 (B) The program shall utilize a continuum
20 of alternatives based on the alien’s need for su-
21 pervision, including placement of the alien with
22 an individual or organizational sponsor, a su-
23 pervised group home, or in a supervised, non-
24 penal community setting that has guards sta-
25 tioned along its perimeter.

1 (C) The Secretary shall enter into con-
2 tracts with nongovernmental organizations and
3 individuals to implement the secure alternatives
4 to detention program.

5 (c) ELIGIBILITY AND OPERATIONS.—

6 (1) SELECTION OF PARTICIPANTS.—The Sec-
7 retary shall select aliens to participate in the pro-
8 gram from designated groups specified in paragraph
9 (4) if the Secretary determines that such aliens are
10 not flight risks or dangers to the community.

11 (2) VOLUNTARY PARTICIPATION.—An alien's
12 participation in the program is voluntary and shall
13 not confer any rights or benefits to the alien under
14 the Immigration and Nationality Act (8 U.S.C. 1101
15 et seq.).

16 (3) LIMITATION ON PARTICIPATION.—

17 (A) IN GENERAL.—Only aliens who are in
18 expedited removal proceedings under section
19 236 of the Immigration and Nationality Act (8
20 U.S.C. 1226) may participate in the program.

21 (B) RULES OF CONSTRUCTION.—

22 (i) ALIENS APPLYING FOR ASYLUM.—
23 Aliens who have established a credible fear
24 of persecution and have been referred to
25 the Executive Office for Immigration Re-

1 view for an asylum hearing shall not be
2 considered to be in expedited removal pro-
3 ceedings and the custody status of such
4 aliens after service of a Notice to Appear
5 shall be determined in accordance with the
6 procedures governing aliens in removal
7 proceedings under section 240 of such Act
8 (8 U.S.C. 1229a).

9 (ii) UNACCOMPANIED ALIEN CHIL-
10 DREN.—Unaccompanied alien children (as
11 defined in section 462(g)(2) of the Home-
12 land Security Act (6 U.S.C. 279(g)(2)))
13 shall be considered to be in the care and
14 exclusive custody of the Department of
15 Health and Human Services and shall not
16 be subject to expedited removal and shall
17 not be permitted to participate in the pro-
18 gram.

19 (4) DESIGNATED GROUPS.—The designated
20 groups referred to in paragraph (1) are the fol-
21 lowing:

22 (A) Alien parents who are being detained
23 with one or more of their children, and their de-
24 tained children.

1 (B) Aliens who have serious medical or
2 mental health needs.

3 (C) Aliens who are mentally retarded or
4 autistic.

5 (D) Pregnant alien women.

6 (E) Elderly aliens who are over the age of
7 65.

8 (F) Aliens placed in expedited removal pro-
9 ceedings after being rescued from trafficking or
10 criminal operations by Government authorities.

11 (G) Other groups designated in regulations
12 promulgated by the Secretary.

13 (5) IMPLEMENTING REGULATIONS.—Not later
14 than 180 days after the date of the enactment of
15 this Act, the Secretary shall promulgate regulations
16 to implement the secure alternatives to detention
17 program and to standardize the care and treatment
18 of aliens in immigration custody based on the Deten-
19 tion Operations Manual of the Department of
20 Homeland Security.

21 (6) DECISIONS REGARDING PROGRAM NOT RE-
22 VIEWABLE.—The decisions of the Secretary regard-
23 ing when to utilize the program and to what extent
24 and the selection of aliens to participate in the pro-

1 gram shall not be subject to administrative or judi-
2 cial review.

3 (d) REPORTING REQUIREMENTS.—Not later than
4 180 days after the date of the enactment of this Act and
5 annually thereafter, the Secretary shall submit to the
6 Committee on Homeland Security of the House of Rep-
7 resentatives, the Committee on the Judiciary of the House
8 of Representatives, the Committee on Homeland Security
9 and Governmental Affairs of the Senate, and the Com-
10 mittee on the Judiciary of the Senate a report that details
11 all policies, regulations, and actions taken to comply with
12 the provisions in this section, including maximizing deten-
13 tion capacity and increasing the cost-effectiveness of de-
14 tention by implementing the secure alternatives to deten-
15 tion program, and a description of efforts taken to ensure
16 that all aliens in expedited removal proceedings are resid-
17 ing under conditions that are safe, secure, and healthy.

18 (e) AUTHORIZATION OF APPROPRIATIONS.—There
19 are authorized to be appropriated to the Secretary of
20 Homeland Security such sums as may be necessary to
21 carry out this section. Amounts appropriated pursuant to
22 this section shall remain available until expended.

1 **Subtitle C—Recruitment and Re-**
2 **tention of Additional Immigra-**
3 **tion Law Enforcement Per-**
4 **sonnel**

5 **SEC. 631. ADDITIONAL UNITED STATES BORDER PATROL**
6 **AGENTS.**

7 The Secretary of Homeland Security shall increase
8 the number of United States Border Patrol agents by—

9 (1) 2,500 in fiscal year 2014;

10 (2) 2,750 in fiscal year 2015;

11 (3) 3,000 in fiscal year 2016;

12 (4) 3,250 in fiscal year 2017; and

13 (5) 3,500 in fiscal year 2018.

14 **SEC. 632. PROVISIONS RELATING TO THE EXERCISE OF**
15 **CERTAIN APPOINTMENT AND OTHER SIMI-**
16 **LAR AUTHORITIES WITH RESPECT TO THE**
17 **UNITED STATES BORDER PATROL.**

18 (a) IN GENERAL.—Notwithstanding any other provi-
19 sion of law—

20 (1) all authority described in subsection (b)
21 that (but for this section) would otherwise be vested
22 in the Secretary of Homeland Security shall instead
23 be vested in the head of the United States Border
24 Patrol;

1 (2) an individual may not be appointed or con-
2 tinue to serve as the head of the United States Bor-
3 der Patrol if, at the time of appointment, such indi-
4 vidual has not completed at least 20 years of service,
5 within the competitive service (as defined by section
6 2102 of title 5, United States Code), as a United
7 States Border Patrol agent; and

8 (3) all activities described in subsection (b)
9 shall be considered inherently Governmental func-
10 tions and may not be carried out by any persons
11 other than employees of the United States Border
12 Patrol.

13 (b) AUTHORITIES DESCRIBED.—This section applies
14 with respect to any authority relating to the recruitment,
15 selection, and appointment of applicants (including the
16 conducting of any investigation necessary to approve or
17 grant security clearances) for United States Border Patrol
18 agents, law enforcement officers (other than United States
19 Border Patrol agents), and such other positions within the
20 United States Border Patrol as the head of the United
21 States Border Patrol may by regulation determine.

22 (c) REGULATIONS.—The head of the United States
23 Border Patrol shall by regulation identify the specific au-
24 thorities, including citations to the relevant provisions of
25 law, rule, or regulation, to which this section applies.

1 **SEC. 633. TRAINING FACILITIES.**

2 The Secretary of Homeland Security shall ensure
3 that the training facilities used to train newly hired United
4 States Border Patrol agents are sufficiently spacious and
5 modern to ensure that all recruits are afforded the highest
6 possible quality training, as well as reasonably comfortable
7 living conditions. All dormitories shall be constructed so
8 that each trainee is housed in separate quarters. More-
9 over, the Secretary shall ensure that the training sites se-
10 lected contains adequate housing for all permanent and
11 temporary instructors within the local commuting area.

12 **SEC. 634. OPERATIONAL FACILITIES.**

13 The Secretary of Homeland Security shall ensure
14 that all operational facilities of the United States Border
15 Patrol are well-equipped and sufficiently spacious and
16 modern to enable all of the personnel assigned to such fa-
17 cilities to efficiently accomplish the agency's mission.

18 **SEC. 635. MAXIMUM STUDENT LOAN REPAYMENTS FOR**
19 **UNITED STATES BORDER PATROL AGENTS.**

20 Section 5379(b) of title 5, United States Code, is
21 amended by adding at the end the following:

22 “(4) In the case of an employee (otherwise eligible
23 for benefits under this section) who is serving as a full-
24 time active-duty United States Border Patrol agent within
25 the Department of Homeland Security—

1 “(A) paragraph (2)(A) shall be applied by sub-
 2 stituting ‘\$20,000’ for ‘\$10,000’; and

3 “(B) paragraph (2)(B) shall be applied by sub-
 4 stituting ‘\$80,000’ for ‘\$60,000’.”.

5 **SEC. 636. RECRUITMENT AND RELOCATION BONUSES AND**
 6 **RETENTION ALLOWANCES FOR PERSONNEL**
 7 **OF THE DEPARTMENT OF HOMELAND SECU-**
 8 **RITY.**

9 The Secretary of Homeland Security shall ensure
 10 that the authority to pay recruitment and relocation bo-
 11 nuses under section 5753 of title 5, United States Code,
 12 the authority to pay retention bonuses under section 5754
 13 of such title, and any other similar authorities available
 14 under any other provision of law, rule, or regulation, are
 15 exercised to the fullest extent allowable in order to encour-
 16 age service in the Department of Homeland Security.

17 **SEC. 637. REPEAL OF THE DEPARTMENT OF HOMELAND SE-**
 18 **CURITY HUMAN RESOURCES MANAGEMENT**
 19 **SYSTEM.**

20 (a) REPEAL.—

21 (1) IN GENERAL.—Effective as of the date
 22 specified in section 4 of the Homeland Security Act
 23 of 2002 (6 U.S.C. 101 note), chapter 97 of title 5,
 24 United States Code (as added by section 841(a)(2)
 25 of such Act), section 841(b)(3) of such Act, and sub-

1 sections (c) and (e) of section 842 of such Act are
2 repealed.

3 (2) REGULATIONS.—Any regulations prescribed
4 under authority of chapter 97 of title 5, United
5 States Code, are void ab initio.

6 (b) NULLIFICATION OF PREVIOUS EXCLUSIONS.—
7 Effective as of the date of the enactment of this Act, all
8 previous determinations as to whether—

9 (1) an agency or subdivision of the Department
10 of Homeland Security (or a predecessor agency or
11 subdivision transferred into the Department) is ex-
12 cluded from coverage under chapter 71 of title 5,
13 United States Code,

14 (2) a unit or subdivision of a unit within the
15 Department of Homeland Security (or a predecessor
16 agency or subdivision transferred into the Depart-
17 ment) is not appropriate for representation by a
18 labor organization under such chapter, or

19 (3) an employee or position within the Depart-
20 ment of Homeland Security (or a predecessor agency
21 or subdivision transferred into the Department) is
22 within a unit that is not appropriate for representa-
23 tion by a labor organization under such chapter,

24 are null and void, except to the extent that such deter-
25 minations were made in accordance with the criteria out-

1 lined in paragraph (1), (2), (3), (4), or (7) of section
2 7112(b) of such title 5.

3 (c) CLERICAL AMENDMENT.—The table of chapters
4 for part III of title 5, United States Code, is amended
5 by striking the item relating to chapter 97.

6 **SEC. 638. ESTABLISHMENT OF SPECIALIZED INSPECTOR**
7 **OCCUPATIONS.**

8 The Secretary of Homeland Security shall establish
9 within the Bureau of Customs and Border Protection 3
10 distinct inspectional occupations: immigration, customs,
11 and agriculture. These divisions shall coordinate closely
12 with each other under the direction of a high-level official
13 within the Bureau, but shall report to separate operational
14 chains of command.

15 **SEC. 639. INCREASE IN INSPECTORS AT AIRPORT AND**
16 **LAND BORDER INSPECTION STATIONS.**

17 In each of the fiscal years 2014 through 2018, the
18 Secretary of Homeland Security shall increase by not less
19 than 1,000 the number of positions for full-time active
20 duty immigration inspectors at airport and land border in-
21 spection stations within the Department of Homeland Se-
22 curity above the number of such positions for which funds
23 were allotted for the preceding fiscal year.

1 **SEC. 640. LAW ENFORCEMENT RETIREMENT COVERAGE**
2 **FOR INSPECTION OFFICERS AND OTHER EM-**
3 **PLOYEES.**

4 (a) AMENDMENTS.—

5 (1) FEDERAL EMPLOYEES' RETIREMENT SYS-
6 TEM.—

7 (A) Paragraph (17) of section 8401 of title
8 5, United States Code, is amended by striking
9 “and” at the end of subparagraph (C), and by
10 adding at the end the following:

11 “(E) an employee (not otherwise covered
12 by this paragraph)—

13 “(i) the duties of whose position in-
14 clude the investigation or apprehension of
15 individuals suspected or convicted of of-
16 fenses against the criminal laws of the
17 United States; and

18 “(ii) who is authorized to carry a fire-
19 arm; and

20 “(F) an employee of the Internal Revenue
21 Service, the duties of whose position are pri-
22 marily the collection of delinquent taxes and the
23 securing of delinquent returns;”.

24 (B) CONFORMING AMENDMENT.—Section
25 8401(17)(C) of title 5, United States Code, is

1 amended by striking “(A) and (B)” and insert-
2 ing “(A), (B), (E), and (F)”.

3 (2) CIVIL SERVICE RETIREMENT SYSTEM.—
4 Paragraph (20) of section 8331 of title 5, United
5 States Code, is amended by inserting after “posi-
6 tion.” (in the matter before subparagraph (A)) the
7 following: “For the purpose of this paragraph, the
8 employees described in the preceding provision of
9 this paragraph (in the matter before ‘including’)
10 shall be considered to include an employee, not oth-
11 erwise covered by this paragraph, who satisfies
12 clauses (i)–(ii) of section 8401(17)(E) and an em-
13 ployee of the Internal Revenue Service the duties of
14 whose position are as described in section
15 8401(17)(F).”.

16 (3) EFFECTIVE DATE.—Except as provided in
17 subsection (b), the amendments made by this sub-
18 section shall take effect on the date of the enactment
19 of this Act, and shall apply only in the case of any
20 individual first appointed (or seeking to be first ap-
21 pointed) as a law enforcement officer (within the
22 meaning of those amendments) on or after such
23 date.

24 (b) TREATMENT OF SERVICE PERFORMED BY IN-
25 CUMBENTS.—

1 (1) LAW ENFORCEMENT OFFICER AND SERVICE
2 DESCRIBED.—

3 (A) LAW ENFORCEMENT OFFICER.—Any
4 reference to a law enforcement officer described
5 in this paragraph refers to an individual who
6 satisfies the requirements of section 8331(20)
7 or 8401(17) of title 5, United States Code (re-
8 lating to the definition of a law enforcement of-
9 ficer) by virtue of the amendments made by
10 subsection (a).

11 (B) SERVICE.—Any reference to service
12 described in this paragraph refers to service
13 performed as a law enforcement officer (as de-
14 scribed in this paragraph).

15 (2) INCUMBENT DEFINED.—For purposes of
16 this subsection, the term “incumbent” means an in-
17 dividual who—

18 (A) is first appointed as a law enforcement
19 officer (as described in paragraph (1)) before
20 the date of the enactment of this Act; and

21 (B) is serving as such a law enforcement
22 officer on such date.

23 (3) TREATMENT OF SERVICE PERFORMED BY
24 INCUMBENTS.—

1 (A) IN GENERAL.—Service described in
2 paragraph (1) which is performed by an incum-
3 bent on or after the date of the enactment of
4 this Act shall, for all purposes (other than those
5 to which subparagraph (B) pertains), be treated
6 as service performed as a law enforcement offi-
7 cer (within the meaning of section 8331(20) or
8 8401(17) of title 5, United States Code, as ap-
9 propriate), irrespective of how such service is
10 treated under subparagraph (B).

11 (B) RETIREMENT.—Service described in
12 paragraph (1) which is performed by an incum-
13 bent before, on, or after the date of the enact-
14 ment of this Act shall, for purposes of sub-
15 chapter III of chapter 83 and chapter 84 of
16 title 5, United States Code, be treated as serv-
17 ice performed as a law enforcement officer
18 (within the meaning of such section 8331(20)
19 or 8401(17), as appropriate), but only if an ap-
20 propriate written election is submitted to the
21 Office of Personnel Management within 5 years
22 after the date of the enactment of this Act or
23 before separation from Government service,
24 whichever is earlier.

1 (4) INDIVIDUAL CONTRIBUTIONS FOR PRIOR
2 SERVICE.—

3 (A) IN GENERAL.—An individual who
4 makes an election under paragraph (3)(B) may,
5 with respect to prior service performed by such
6 individual, contribute to the Civil Service Re-
7 tirement and Disability Fund the difference be-
8 tween the individual contributions that were ac-
9 tually made for such service and the individual
10 contributions that should have been made for
11 such service if the amendments made by sub-
12 section (a) had then been in effect.

13 (B) EFFECT OF NOT CONTRIBUTING.—If
14 no part of or less than the full amount required
15 under subparagraph (A) is paid, all prior serv-
16 ice of the incumbent shall remain fully cred-
17 itable as law enforcement officer service, but
18 the resulting annuity shall be reduced in a man-
19 ner similar to that described in section
20 8334(d)(2) of title 5, United States Code, to
21 the extent necessary to make up the amount
22 unpaid.

23 (C) PRIOR SERVICE DEFINED.—For pur-
24 poses of this subsection, the term “prior serv-
25 ice” means, with respect to any individual who

1 makes an election under paragraph (3)(B),
2 service (described in paragraph (1)) performed
3 by such individual before the date as of which
4 appropriate retirement deductions begin to be
5 made in accordance with such election.

6 (5) GOVERNMENT CONTRIBUTIONS FOR PRIOR
7 SERVICE.—

8 (A) IN GENERAL.—If an incumbent makes
9 an election under paragraph (3)(B), the agency
10 in or under which that individual was serving at
11 the time of any prior service (referred to in
12 paragraph (4)) shall remit to the Office of Per-
13 sonnel Management, for deposit in the Treasury
14 of the United States to the credit of the Civil
15 Service Retirement and Disability Fund, the
16 amount required under subparagraph (B) with
17 respect to such service.

18 (B) AMOUNT REQUIRED.—The amount an
19 agency is required to remit is, with respect to
20 any prior service, the total amount of additional
21 Government contributions to the Civil Service
22 Retirement and Disability Fund (above those
23 actually paid) that would have been required if
24 the amendments made by subsection (a) had
25 then been in effect.

1 (C) CONTRIBUTIONS TO BE MADE RAT-
2 ABLY.—Government contributions under this
3 paragraph on behalf of an incumbent shall be
4 made by the agency ratably (on at least an an-
5 nual basis) over the 10-year period beginning
6 on the date referred to in paragraph (4)(C).

7 (6) EXEMPTION FROM MANDATORY SEPARA-
8 TION.—Nothing in section 8335(b) or 8425(b) of
9 title 5, United States Code, shall cause the involun-
10 tary separation of a law enforcement officer (as de-
11 scribed in paragraph (1)) before the end of the 3-
12 year period beginning on the date of the enactment
13 of this Act.

14 (7) REGULATIONS.—The Office shall prescribe
15 regulations to carry out this section, including—

16 (A) provisions in accordance with which in-
17 terest on any amount under paragraph (4) or
18 (5) shall be computed, based on section 8334(e)
19 of title 5, United States Code; and

20 (B) provisions for the application of this
21 subsection in the case of—

22 (i) any individual who—

23 (I) satisfies subparagraph (A)
24 (but not subparagraph (B)) of para-
25 graph (2); and

1 (II) serves as a law enforcement
2 officer (as described in paragraph (1))
3 after the date of the enactment of this
4 Act; and

5 (ii) any individual entitled to a sur-
6 vivor annuity (based on the service of an
7 incumbent, or of an individual under
8 clause (i), who dies before making an elec-
9 tion under paragraph (3)(B)), to the ex-
10 tent of any rights that would then be avail-
11 able to the decedent (if still living).

12 (8) RULE OF CONSTRUCTION.—Nothing in this
13 subsection shall be considered to apply in the case
14 of a reemployed annuitant.

15 **SEC. 641. REESTABLISHMENT OF THE UNITED STATES BOR-**
16 **DER PATROL ANTI-SMUGGLING UNIT.**

17 The Secretary of Homeland Security shall reestablish
18 the Anti-Smuggling Unit within the Office of United
19 States Border Patrol, and shall immediately staff such of-
20 fice with a minimum of 500 criminal investigators selected
21 from within the ranks of the United States Border Patrol.
22 Staffing levels shall be adjusted upward periodically in ac-
23 cordance with workload requirements.

1 **SEC. 642. ESTABLISHMENT OF SPECIALIZED CRIMINAL IN-**
2 **VESTIGATOR OCCUPATIONS.**

3 The Secretary of Homeland Security shall establish
4 specialized Criminal Investigator occupations within the
5 Department: one for the investigation of violations of im-
6 migration laws, another for customs laws, and a third for
7 agriculture laws. These divisions shall coordinate closely
8 with each other under the direction of a high-level official
9 within the Department, but shall report to separate oper-
10 ational chains of command.

11 **SEC. 643. ESTABLISHMENT OF CAREER PATHS TO CRIMI-**
12 **NAL INVESTIGATOR POSITIONS.**

13 The Secretary of Homeland Security shall ensure
14 that all persons selected for criminal investigator positions
15 within the Department of Homeland Security possess a
16 minimum of 3 years of field experience within the Depart-
17 ment or its predecessor agencies in the specialized area
18 of law that will be investigated.

19 **SEC. 644. ADDITIONAL IMMIGRATION ENFORCEMENT**
20 **AGENTS.**

21 In each of fiscal years 2010 through 2014, the Sec-
22 retary of Homeland Security shall increase by not less
23 than 500 the number of positions for full-time active duty
24 immigration enforcement agents responsible for trans-
25 porting and guarding detained aliens above the number

1 of such positions for which funds were allotted for the pre-
2 ceding fiscal year.

3 **SEC. 645. INCREASE UNITED STATES BORDER PATROL**
4 **AGENT AND INSPECTOR PAY.**

5 (a) IN GENERAL.—Effective as of the first day of the
6 first applicable pay period beginning on or after the date
7 of the enactment of this Act, the rate of basic pay for
8 all employees of the Department of Homeland Security de-
9 scribed in subsection (b) shall be increased in accordance
10 with subsection (c).

11 (b) EMPLOYEES DESCRIBED.—This section applies
12 to any individual who, as of the date of the enactment
13 of this Act—

14 (1) is a journey level United States Border Pa-
15 trol agent or immigration, customs, or agriculture
16 inspector within the Department of Homeland Secu-
17 rity, whose primary duties consist of enforcing the
18 immigration, customs, or agriculture laws of the
19 United States;

20 (2) has completed at least one year of service
21 as a United States Border Patrol agent or inspector
22 (whether as an employee of the Department of
23 Homeland Security, the Department of Justice, or
24 both agencies combined); and

1 (3) is receiving an annual rate of basic pay for
 2 positions at GS–11 of the General Schedule under
 3 section 5332 of title 5, United States Code.

4 (c) INCREASE DESCRIBED.—The basic rate of pay for
 5 the employees described in this subsection shall increase
 6 from the annual rate of basic pay for positions at GS–
 7 11 of the General Schedule to the annual rate of basic
 8 pay for positions at GS–13 of such schedule.

9 **SEC. 646. FAIR LABOR STANDARDS ACT OVERTIME.**

10 Notwithstanding any other provision of law, all over-
 11 time hours worked on and after the date of the enactment
 12 of this Act by all employees of the Department of Home-
 13 land Security who are at or below the second-line level of
 14 field supervision shall be compensated in accordance with
 15 the provisions of the Fair Labor Standards Act.

16 **Subtitle D—Enforcement Tools To**
 17 **Diminish Entries Using Fraudu-**
 18 **lent Documents and Commer-**
 19 **cial Alien Smuggling**

20 **SEC. 651. FOREIGN LANGUAGE TRAINING.**

21 The Secretary of Homeland Security shall require all
 22 officers of the Department of Homeland Security who
 23 come into contact with aliens who have crossed the border
 24 illegally to take Spanish and other appropriate foreign lan-

1 guage training courses to facilitate communication with
2 the aliens.

3 **SEC. 652. FOREIGN LANGUAGE AWARDS.**

4 (a) SPECIAL RULES.—The Secretary of Homeland
5 Security shall apply section 4523 of title 5, United States
6 Code, in conformance with the following:

7 (1) Any law enforcement officer within the De-
8 partment of Homeland Security whose primary du-
9 ties involve—

10 (A) the enforcement of the immigration
11 laws of the United States,

12 (B) the detention or transportation of vio-
13 lators of the immigration laws of the United
14 States, or

15 (C) both,
16 shall, for purposes of such section 4523, be pre-
17 sumed to make substantial use of a foreign language
18 in the performance of such officer's official duties.

19 (2)(A) Any individual who successfully com-
20 pletes a foreign language program as part of their
21 agency-sponsored or agency-approved training shall
22 be deemed to possess the foreign language pro-
23 ficiency necessary to qualify for an award under
24 such section for so long as such individual serves as

1 a law enforcement officer within the Department of
2 Homeland Security.

3 (B) Nothing in this paragraph shall, in the case
4 of any individual who does not satisfy subparagraph
5 (A), prevent such individual from being allowed to
6 demonstrate foreign language proficiency in accord-
7 ance with the criteria and procedures that would
8 otherwise apply under such section.

9 (3) For purposes of applying subsection (a) of
10 such section 4523, substitute “equal to” for “up to”.

11 (b) DEFINITION.—For purposes of this section, the
12 term “law enforcement officer” has the meaning given
13 such term by section 4521 of such title 5.

14 **SEC. 653. ADDITIONAL PERSONNEL FOR INVESTIGATION OF**
15 **FRAUDULENT SCHEMES AND DOCUMENT**
16 **FRAUD.**

17 The Secretary of Homeland Security shall hire at
18 least 1000 additional investigators for investigating fraud-
19 ulent schemes, including benefit application schemes, and
20 fraudulent documents used to enter or remain in the
21 United States unlawfully.

1 **SEC. 654. ESTABLISH A SPECIAL TASK FORCE FOR COORDI-**
2 **NATING AND DISTRIBUTING INFORMATION**
3 **ON FRAUDULENT IMMIGRATION DOCU-**
4 **MENTS.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall establish a Fraudulent Documents Task Force
7 to carry out the following:

8 (1) Collect information from Federal, State,
9 and local law enforcement agencies, and foreign gov-
10 ernments on the production, sale, distribution and
11 use of fraudulent documents intended to be used to
12 enter, travel or remain within the United States un-
13 lawfully.

14 (2) Maintain the information described in sub-
15 part (1) in a comprehensive database.

16 (3) Maintain a repository of genuine and fraud-
17 ulent travel and identity document exemplars.

18 (4) Convert the information collected into re-
19 ports that provide guidance to government officials
20 in identifying fraudulent documents being used to
21 enter into, travel within or remain in the United
22 States.

23 (5) Develop a system for distributing these re-
24 ports on an ongoing basis to appropriate Federal,
25 State, and local law enforcement agencies.

1 (b) DISTRIBUTION OF INFORMATION.—The task
 2 force will distribute the reports to appropriate Federal,
 3 State, and local law enforcement agencies on an ongoing
 4 basis.

5 **SEC. 655. NEW NONIMMIGRANT VISA CLASSIFICATION TO**
 6 **ENABLE INFORMANTS TO ENTER THE**
 7 **UNITED STATES AND REMAIN TEMPORARILY.**

8 (a) IN GENERAL.—Section 101(a)(15)(S) (8 U.S.C.
 9 1101(a)(15)(S)) is amended

10 (1) in clause (i), by striking “or” at the end;

11 (2) in clause (ii), by striking the comma at the
 12 end and inserting “; or”;

13 (3) by inserting after clause (ii) the following:

14 “(iii) who the Secretary of Homeland
 15 Security, the Secretary of State, or the At-
 16 torney General determines—

17 “(I) is in possession of critical re-
 18 liable information concerning a com-
 19 mercial alien smuggling organization
 20 or enterprise or a commercial oper-
 21 ation for making or trafficking in doc-
 22 uments to be used for entering or re-
 23 maining in the United States unlaw-
 24 fully;

1 “(II) is willing to supply or has
2 supplied such information to a Fed-
3 eral or State court; or

4 “(III) whose presence in the
5 United States the Secretary of Home-
6 land Security, the Secretary of State,
7 or the Attorney General determines is
8 essential to the success of an author-
9 ized criminal investigation, the suc-
10 cessful prosecution of an individual in-
11 volved in the commercial alien smug-
12 gling organization or enterprise, or
13 the disruption of such organization or
14 enterprise or a commercial operation
15 for making or trafficking in docu-
16 ments to be used for entering or re-
17 maining in the United States unlaw-
18 fully.”;

19 (4) by inserting “, or with respect to clause
20 (iii), the Secretary of Homeland Security, the Sec-
21 retary of State, or the Attorney General” after
22 “jointly”; and

23 (5) by striking “(i) or (ii)” and inserting “(i),
24 (ii), or (iii)”.

1 (b) ADMISSION OF NONIMMIGRANTS.—Section
2 214(k) (8 U.S.C. 1184(k)) is amended—

3 (1) by adding at the end of paragraph (1) the
4 following: “The number of aliens who may be pro-
5 vided a visa as nonimmigrants under section
6 101(a)(15)(S)(iii) in any fiscal year may not exceed
7 400.”; and

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

9 “(5) If the Secretary of Homeland Security, the
10 Secretary of State, or the Attorney General deter-
11 mines that a nonimmigrant described in clause (iii)
12 of section 101(a)(15)(S), or that of any family mem-
13 ber of such a nonimmigrant who is provided non-
14 immigrant status pursuant to such section, must be
15 protected, such official may take such lawful action
16 as the official considers necessary to effect such pro-
17 tection.”.

18 **SEC. 656. ADJUSTMENT OF STATUS WHEN NEEDED TO PRO-**
19 **TECT INFORMANTS.**

20 Section 245(j) (8 U.S.C. 1255(j)) is amended—

21 (1) in paragraph (3), by striking “(1) or (2),”
22 and inserting “(1), (2), (3), or (4),”;

23 (2) by redesignating paragraph (3) as para-
24 graph (5);

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

3 “(3) if, in the opinion of the Secretary of
4 Homeland Security, the Secretary of State, or the
5 Attorney General—

6 “(A) a nonimmigrant admitted into the
7 United States under section 101(a)(15)(S)(iii)
8 has supplied information described in subclause
9 (I) of such section; and

10 “(B) the provision of such information has
11 substantially contributed to the success of a
12 commercial alien smuggling investigation or an
13 investigation of the sale or production of fraud-
14 ulent documents to be used for entering or re-
15 maining in the United States unlawfully, the
16 disruption of such an enterprise, or the pros-
17 ecution of an individual described in subclause
18 (III) of that section,

19 the Secretary of Homeland Security may adjust the
20 status of the alien (and the spouse, children, mar-
21 ried and unmarried sons and daughters, and parents
22 of the alien if admitted under that section) to that
23 of an alien lawfully admitted for permanent resi-
24 dence if the alien is not described in section
25 212(a)(3)(E).

1 “(4) The Secretary of Homeland Security may
 2 adjust the status of a nonimmigrant admitted into
 3 the United States under section 101(a)(15)(S)(iii)
 4 (and the spouse, children, married and unmarried
 5 sons and daughters, and parents of the non-
 6 immigrant if admitted under that section) to that of
 7 an alien lawfully admitted for permanent residence
 8 on the basis of a recommendation of the Secretary
 9 of State or the Attorney General.”; and

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

11 “(6) If the Secretary of Homeland Security, the
 12 Secretary of State, or the Attorney General deter-
 13 mines that a person whose status is adjusted under
 14 this subsection must be protected, such official may
 15 take such lawful action as the official considers nec-
 16 essary to effect such protection.”.

17 **SEC. 657. REWARDS PROGRAM.**

18 (a) REWARDS PROGRAM.—Section 274 (8 U.S.C.
 19 1324) is amended by adding at the end the following:

20 “(f) REWARDS PROGRAM.—

21 “(1) IN GENERAL.—There is established in the
 22 Department of Homeland Security a program for
 23 the payment of rewards to carry out the purposes of
 24 this section.

1 “(2) PURPOSE.—The rewards program shall be
2 designed to assist in the elimination of commercial
3 operations to produce or sell fraudulent documents
4 to be used for entering or remaining in the United
5 States unlawfully and to assist in the investigation,
6 prosecution, or disruption of a commercial alien
7 smuggling operation.

8 “(3) ADMINISTRATION.—The rewards program
9 shall be administered by the Secretary of Homeland
10 Security, in consultation, as appropriate, with the
11 Attorney General and the Secretary of State.

12 “(4) REWARDS AUTHORIZED.—In the sole dis-
13 cretion of the Secretary of Homeland Security, such
14 Secretary, in consultation, as appropriate, with the
15 Attorney General and the Secretary of State, may
16 pay a reward to any individual who furnishes infor-
17 mation or testimony leading to—

18 “(A) the arrest or conviction of any indi-
19 vidual conspiring or attempting to produce or
20 sell fraudulent documents to be used for enter-
21 ing or remaining in the United States unlaw-
22 fully or to commit an act of commercial alien
23 smuggling involving the transportation of
24 aliens;

1 “(B) the arrest or conviction of any indi-
2 vidual committing such an act;

3 “(C) the arrest or conviction of any indi-
4 vidual aiding or abetting the commission of
5 such an act;

6 “(D) the prevention, frustration, or favor-
7 able resolution of such an act, including the dis-
8 mantling of an operation to produce or sell
9 fraudulent documents to be used for entering or
10 remaining in the United States, or commercial
11 alien smuggling operations, in whole or in sig-
12 nificant part; or

13 “(E) the identification or location of an in-
14 dividual who holds a key leadership position in
15 an operation to produce or sell fraudulent docu-
16 ments to be used for entering or remaining in
17 the United States unlawfully or a commercial
18 alien smuggling operation involving the trans-
19 portation of aliens.

20 “(5) AUTHORIZATION OF APPROPRIATIONS.—
21 There are authorized to be appropriated such sums
22 as may be necessary to carry out this subsection.
23 Amounts appropriated under this paragraph shall
24 remain available until expended.

1 “(6) INELIGIBILITY.—An officer or employee of
2 any Federal, State, local, or foreign government
3 who, while in performance of his or her official du-
4 ties, furnishes information described in paragraph
5 (4) shall not be eligible for a reward under this sub-
6 section for such furnishing.

7 “(7) PROTECTION MEASURES.—If the Secretary
8 of Homeland Security, the Secretary of State, or the
9 Attorney General determines that an individual who
10 furnishes information or testimony described in
11 paragraph (4), or any spouse, child, parent, son, or
12 daughter of such an individual, must be protected,
13 such official may take such lawful action as the offi-
14 cial considers necessary to effect such protection.

15 “(8) LIMITATIONS AND CERTIFICATION.—

16 “(A) MAXIMUM AMOUNT.—No reward
17 under this subsection may exceed \$100,000, ex-
18 cept as personally authorized by the Secretary
19 of Homeland Security.

20 “(B) APPROVAL.—Any reward under this
21 subsection exceeding \$50,000 shall be person-
22 ally approved by the Secretary of Homeland Se-
23 curity.

24 “(C) CERTIFICATION FOR PAYMENT.—Any
25 reward granted under this subsection shall be

1 certified for payment by the Secretary of Home-
2 land Security.”.

3 **SEC. 658. OUTREACH PROGRAM.**

4 Section 274 (8 U.S.C. 1324), as amended by section
5 657, is further amended by adding at the end the fol-
6 lowing:

7 “(g) OUTREACH PROGRAM.—The Secretary of
8 Homeland Security, in consultation, as appropriate, with
9 the Attorney General and the Secretary of State, shall de-
10 velop and implement an outreach program to educate the
11 public in the United States and abroad about—

12 “(1) the penalties for—

13 “(A) bringing in and harboring aliens in
14 violation of this section; and

15 “(B) participating in a commercial oper-
16 ation for making, or trafficking in, documents
17 to be used for entering or remaining in the
18 United States unlawfully; and

19 “(2) the financial rewards and other incentives
20 available for assisting in the investigation, disrup-
21 tion, or prosecution of a commercial smuggling oper-
22 ation or a commercial operation for making, or traf-
23 ficking in, documents to be used for entering or re-
24 maining in the United States unlawfully.”.

1 **TITLE VII—EMPLOYMENT-BASED**
2 **IMMIGRATION**

3 **SEC. 701. UNFAIR IMMIGRATION-RELATED EMPLOYMENT**
4 **PRACTICES.**

5 Section 274B (8 U.S.C. 1324b) is amended—

6 (1) in subsection (a)(5)—

7 (A) by amending the paragraph heading to
8 read “PROHIBITION OF INTIMIDATION, RETAL-
9 IATION, OR UNLAWFUL DISCRIMINATION IN EM-
10 PLOYMENT”;

11 (B) by moving the text down and to the
12 right 2 ems;

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

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

16 “(B) FEDERAL LABOR OR EMPLOYMENT
17 LAWS.—It is an unfair employment practice for
18 any employer to directly or indirectly threaten
19 any individual with removal or any other ad-
20 verse consequences pertaining to that individ-
21 ual’s immigration status or employment bene-
22 fits for the purpose of intimidating, pressuring,
23 or coercing any such individual not to exercise
24 any right protected by State or Federal labor or
25 employment law (including section 7 of the Na-

1 tional Labor Relations Act (29 U.S.C. 157)), or
2 for the purpose of retaliating against any such
3 individual for having exercised or having stated
4 an intention to exercise any such right.

5 “(C) DISCRIMINATION BASED ON IMMIGRA-
6 TION STATUS.—It is an unfair employment
7 practice for any employer, except to the extent
8 specifically authorized or required by law, to
9 discriminate in any term or condition of em-
10 ployment against any individual employed by
11 such employer on the basis of such individual’s
12 immigration status.”; and

13 (2) in subsection (c)(2), by adding at the end
14 the following: “The Special Counsel shall not dis-
15 close to the Secretary of Homeland Security or any
16 other government agency or employee, and shall not
17 cause to be published in a manner that discloses to
18 the Secretary of Homeland Security or any other
19 government agency or employee, any information ob-
20 tained by the Special Counsel in any manner con-
21 cerning the immigration status of any individual who
22 has filed a charge under this section, or the identity
23 of any individual or entity that is a party or witness
24 to a proceedings brought pursuant to such charge.
25 The Secretary of Homeland Security may not rely,

1 in whole or in part, in any enforcement action or re-
2 moval proceeding, upon any information obtained as
3 a result of the filing or prosecution of an unfair im-
4 migration-related employment practice charge. For
5 purposes of this paragraph, the term ‘Special Coun-
6 sel’ includes individuals formerly appointed to the
7 position of Special Counsel and any current or
8 former employee of the office of the Special Counsel.
9 Whoever knowingly uses, publishes, or permits infor-
10 mation to be used in violation of this paragraph
11 shall be fined not more than \$10,000.”.

12 **SEC. 702. DEPARTMENT OF LABOR TASK FORCE.**

13 The Secretary of Labor, in consultation with the At-
14 torney General and the Secretary of Homeland Security,
15 shall conduct a national study of American workplaces to
16 determine the causes, extent, circumstances, and con-
17 sequences, of exploitation of undocumented alien workers
18 by their employers. As part of this study, the Secretary
19 of Labor shall create a plan for targeted review of Federal
20 labor law enforcement in industries with a substantial im-
21 migrant workforce, for the purpose of identifying, moni-
22 toring, and deterring frequent or egregious violators of
23 wage and hour, antidiscrimination, National Labor Rela-
24 tions Act, and workplace safety and health requirements.
25 Not later than 18 months after the date of the enactment

1 of this Act, the Secretary of Labor shall submit to the
2 Congress a report describing the results of the study and
3 the Secretary's recommendations based on the study.

4 **SEC. 703. RECRUITMENT OF AMERICAN WORKERS.**

5 Section 214 (8 U.S.C. 1184) is amended by adding
6 at the end the following:

7 “(s)(1) No petition to accord employment status
8 under the nonimmigrant classifications described in sec-
9 tions 101(a)(15)(E)(iii) and (H) shall be granted in the
10 absence of an affidavit from the petitioner describing the
11 efforts that were made to recruit an alien lawfully admit-
12 ted for permanent residence or a citizen of the United
13 States before resorting to a petition to obtain a foreign
14 employee. The recruitment efforts must have included sub-
15 stantial attempts to find employees in minority commu-
16 nities. Recruitment efforts in minority communities should
17 include at least one of the following, if appropriate for the
18 employment being advertised:

19 “(A) Advertise the availability of the job oppor-
20 tunity for which the employer is seeking a worker in
21 local newspapers in the labor market that is likely
22 to be patronized by a potential worker for at least
23 5 consecutive days.

24 “(B) Undertake efforts to advertise the avail-
25 ability of the job opportunity for which the employer

1 is seeking a worker through advertisements in public
2 transportation systems.

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

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

20 “(B) The Secretary of Homeland Security shall re-
21 serve and make available to the Secretary of Labor a por-
22 tion of the funds collected under this paragraph. Such
23 funds shall be used by the Secretary of Labor to establish
24 an ‘Office to Preserve American Jobs’ within the Depart-
25 ment of Labor. The purpose of this office shall be to estab-

lish 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 VIII—FAIRNESS IN REMOVAL PROCEEDINGS

SEC. 801. RIGHT TO COUNSEL.

Section 292 (8 U.S.C. 1362) is amended by striking the matter after the section designation and inserting the following: “In any bond, custody, detention, or removal proceedings before the Attorney General and in any appeal proceedings before the Attorney General from any such proceedings, the person concerned shall have the privilege of being represented (at no expense to the government) by such counsel, authorized to practice in such proceedings, as he shall choose. With consent of their clients, counsel may enter appearances limited to bond, custody, or other specific proceedings.”.

SEC. 802. PRESUMPTION IN FAVOR OF WITHDRAWAL OF APPLICATION FOR ADMISSION.

Section 235(a)(4) (8 U.S.C. 1225(a)(4)) is amended to read as follows:

“(4) WITHDRAWAL OF APPLICATION FOR ADMISSION.—

1 “(A) PRESUMPTION IN FAVOR OF WITH-
2 DRAWAL.—The Attorney General shall permit
3 an alien applying for admission to withdraw the
4 application and depart immediately from the
5 United States at any time, unless an immigra-
6 tion judge has rendered a decision with respect
7 to the admissibility of the alien, except that the
8 Attorney General may deny permission for the
9 withdrawal when warranted by unusual cir-
10 cumstances.

11 “(B) PERMISSIVE WITHDRAWAL.—Except
12 as provided in subparagraph (A), an alien ap-
13 plying for admission may, in the discretion of
14 the Attorney General and at any time after a
15 decision described in such subparagraph has
16 been rendered, be permitted to withdraw the
17 application and depart immediately from the
18 United States.”.

19 **SEC. 803. ABSENCES OUTSIDE THE CONTROL OF THE**
20 **ALIEN.**

21 Section 101(a)(13)(C) (8 U.S.C. 1101(a)(13)(C)) is
22 amended by amending clause (ii) to read as follows:

23 “(ii) has been absent from the United
24 States for a continuous period in excess of
25 one year unless the alien’s return was im-

1 peded by emergency or extenuating cir-
2 cumstances outside the control of the
3 alien,”.

4 **SEC. 804. REINSTATEMENT OF REMOVAL ORDERS AGAINST**
5 **ALIENS ILLEGALLY REENTERING.**

6 Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is amend-
7 ed—

8 (1) by inserting “, after a hearing by an immi-
9 gration judge,” after “If”;

10 (2) by inserting “, on or after September 30,
11 1996,” after “alien has”;

12 (3) by striking “is reinstated” and inserting
13 “may be deemed to be reinstated”;

14 (4) by striking “and is not subject” and all that
15 follows through “under this Act”; and

16 (5) by striking the period at the end and insert-
17 ing the following: “subject to reopening and review
18 of the previous order. Nothing in this section shall
19 preclude an alien from applying for any relief from
20 removal under this Act.”.

21 **SEC. 805. PERMANENT APPLICATION OF SECTION 245(i).**

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

23 (1) by inserting “and” at the end of paragraph
24 (1)(A);

1 (2) by amending paragraph (1)(B) to read as
2 follows:

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

5 “(i) a petition for classification under
6 section 204; or

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

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

10 (4) by striking “Attorney General” each place
11 such term appears and inserting “Secretary of
12 Homeland Security”.

13 **SEC. 806. DISCRETIONARY WAIVER OF INADMISSIBILITY**
14 **BASED ON UNLAWFUL PRESENCE, FAILURE**
15 **TO ATTEND REMOVAL PROCEEDINGS, AND**
16 **MISREPRESENTATIONS.**

17 (a) IN GENERAL.—Section 212(i) (8 U.S.C. 1182(i))
18 is amended to read as follows:

19 “(i) The Secretary of Homeland Security may waive
20 the application of subparagraph (A)(i) or (B), or clause
21 (i) or (ii) of subparagraph (C), of subsection (a)(6) in the
22 case of an immigrant who is the parent, spouse, child, son,
23 or daughter of a United States citizen or of an alien law-
24 fully admitted to the United States for permanent resi-
25 dence, if it is established to the satisfaction of the Sec-

1 retary that the refusal of admission to the United States
 2 of such immigrant would result in hardship to the immi-
 3 grant or to such citizen or lawful permanent resident par-
 4 ent, spouse, child, son, or daughter.”.

5 (b) CONFORMING AMENDMENTS.—Section 212(a)(6)
 6 (8 U.S.C. 1182(a)(6)) is amended—

7 (1) in subparagraph (A), by adding at the end
 8 the following:

9 “(iii) WAIVER AUTHORIZED.—For a
 10 provision authorizing the waiver of clause
 11 (i), see subsection (i).”;

12 (2) in subparagraph (B)—

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

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

16 “(ii) WAIVER AUTHORIZED.—For a
 17 provision authorizing the waiver of clause
 18 (i), see subsection (i).”; and

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

21 **SEC. 807. WAIVER OF INADMISSIBILITY FOR MINOR CRIMI-**
 22 **NAL OFFENSES.**

23 Section 212(h) (8 U.S.C. 1182(h)) is amended—

24 (1) in the matter preceding paragraph (1), by
 25 striking “offense of simple possession of 30 grams or

1 less of marijuana” and inserting “controlled sub-
2 stance offense for which the alien was not incarcer-
3 ated for a period exceeding 1 year”; and

4 (2) by striking the final two sentences.

5 **SEC. 808. GENERAL WAIVER FOR ALIENS PREVIOUSLY RE-**
6 **MOVED AND FOR THE UNLAWFUL PRESENCE**
7 **BARS.**

8 (a) IN GENERAL.—Section 212(d) (8 U.S.C.
9 1182(d)) is amended by adding at the end the following:
10 “(14) The Secretary of Homeland Security may, in
11 the discretion of the Secretary, for humanitarian purposes,
12 to assure family unity, or when it is otherwise in the public
13 interest, waive the application of subparagraph (A) or
14 (B)(i) of subsection (a)(9).”.

15 (b) CONFORMING AMENDMENT.—Section
16 212(a)(9)(B) of such Act (8 U.S.C. 1182(a)(9)(B)) is
17 amended by striking clause (v).

18 **SEC. 809. WAIVER OF AGGRAVATED FELONY CON-**
19 **SEQUENCES.**

20 Section 101 (8 U.S.C. 1101) is amended by adding
21 at the end the following:

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

1 a conviction for an aggravated felony. This discretion may
 2 be exercised for humanitarian purposes, to assure family
 3 unity, or when it is otherwise in the public interest.”.

4 **SEC. 810. DISCRETIONARY WAIVER TO ADMIT PERSONS IN**
 5 **UNUSUAL CIRCUMSTANCES.**

6 (a) NEW GENERAL WAIVER.—Section 212(d) (8
 7 U.S.C. 1182(d)) is amended by adding at the end the fol-
 8 lowing:

9 “(15) The Secretary of Homeland Security
 10 may, in the discretion of such Secretary for humani-
 11 tarian purposes, to assure family unity, or when it
 12 is otherwise in the public interest, waive the applica-
 13 tion of subparagraph (B) or (G) of subsection
 14 (a)(6), clause (i) or (ii) of subsection (a)(9)(A), or
 15 subsection (a)(9)(B)(i), in unusual circumstances.
 16 For purposes of the preceding sentence, an instance
 17 of battering or extreme cruelty is deemed to con-
 18 stitute unusual circumstances in the case where it is
 19 inflicted on an alien (or a child of an alien) by the
 20 alien’s United States citizen or lawful permanent
 21 resident spouse, parent, child, son, or daughter.”.

22 (b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

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

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

4 (2) ALIENS UNLAWFULLY PRESENT.—Section
 5 212(a)(9)(B)(v) (8 U.S.C. 1182(A)(9)(B)(v)) is
 6 amended to read as follows:

7 “(v) WAIVER AUTHORIZED.—For pro-
 8 vision authorizing waiver of clause (i), see
 9 subsection (d)(13).”.

10 **SEC. 811. RESTORATION OF SUSPENSION OF DEPORTA-**
 11 **TION.**

12 (a) CANCELLATION OF REMOVAL.—Section
 13 240A(a)(3) (8 U.S.C. 1229b(a)(3)) is amended to read as
 14 follows:

15 “(3) has not been convicted of an aggravated
 16 felony for which the sentence imposed is five years
 17 or more.”.

18 (b) REPEAL OF RULE FOR TERMINATION OF CON-
 19 TINUOUS PERIOD.—

20 (1) Section 240A(d)(1) (8 U.S.C. 1229b(d)(1))
 21 (8 U.S.C. 1229b(a)) is repealed.

22 (2) Section 240A(d) (8 U.S.C. 1229b) is
 23 amended—

24 (A) by redesignating paragraphs (2) and
 25 (3) as paragraphs (1) and (2), respectively; and

1 (B) by inserting before the period at the
2 end of paragraph (1) (as redesignated) the fol-
3 lowing: “, unless the alien’s departure from the
4 United States was due to a temporary trip
5 abroad required by emergency or extenuating
6 circumstances outside the control of the alien”.

7 (c) CANCELLATION OF REMOVAL AND ADJUSTMENT
8 FOR CERTAIN NONPERMANENT RESIDENTS.—Section
9 240A(b)(1) (8 U.S.C. 1229b(b)(1)) is amended to read as
10 follows:

11 “(1) IN GENERAL.—The Secretary of Homeland
12 Security may cancel removal in the case of an alien
13 who is inadmissible or deportable from the United
14 States if the alien—

15 “(A) has been physically present in the
16 United States for a continuous period of—

17 “(i) 7 years immediately preceding the
18 date of application in the case of an
19 alien—

20 “(I) who is deportable on any
21 ground other than a ground specified
22 in clause (ii)(I); and

23 “(II) whose deportation would, in
24 the opinion of the Attorney General,
25 result in extreme hardship to the alien

1 or the alien's spouse, child, parent,
2 son, or daughter, who is a citizen of
3 the United States or an alien lawfully
4 admitted for permanent residence; or
5 “(ii) 10 years immediately preceding
6 the date of application in the case of an
7 alien—

8 “(I) who is deportable for convic-
9 tion of an offense under section
10 212(a)(2), 237(a)(2), or 237(a)(3);
11 and

12 “(II) whose deportation would, in
13 the opinion of the Attorney General,
14 result in exceptional and extremely
15 unusual hardship to the alien or the
16 alien's spouse, parent, child, son, or
17 daughter, who is a citizen of the
18 United States or an alien lawfully ad-
19 mitted for permanent residence; and

20 “(B) has been a person of good moral
21 character during such period.”.

22 (d) ELIMINATION OF ANNUAL LIMITATION.—Section
23 240A (8 U.S.C. 1229b) is amended by striking subsection
24 (e).

1 **TITLE IX—REMOVAL GROUNDS**
 2 **BASED ON CRIMINAL OFFENSES**

3 **SEC. 901. DEFINITION OF MORAL TURPITUDE.**

4 (a) EQUITABLE DEFINITION OF “MORAL TURPI-
 5 TUDE”.—

6 (1) CONVICTION OF CERTAIN CRIMES.—Section
 7 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is
 8 amended by striking “of, or who admits having com-
 9 mitted, or who admits committing acts which con-
 10 stitute the essential elements of—” and inserting
 11 “of—”.

12 (2) EXCEPTION.—Section 212(a)(2)(A)(ii)(II)
 13 (8 U.S.C. 1182(a)(2)(A)(ii)(II)) is amended—

14 (A) by striking “the maximum” and all
 15 that follows through “such crime,”; and

16 (B) by striking “6 months” and inserting
 17 “1 year”.

18 (b) EQUITABLE DEFINITION OF “CRIMES OF MORAL
 19 TURPITUDE”.—Section 237(a)(2)(A)(i)(II) (8 U.S.C.
 20 1227(a)(2)(A)(i)(II)) is amended to read as follows:

21 “(II) for which the alien has been
 22 incarcerated for a period exceeding
 23 one year,”.

1 **SEC. 902. “AGGRAVATED FELONY” DEFINITIONS.**

2 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
3 1101(a)(43)) is amended by striking “The term ‘aggra-
4 vated felony’ means—” and inserting “The term ‘aggra-
5 vated felony’ means a felony that is—”.

6 (b) ILLICIT TRAFFICKING.—Section 101(a)(43)(B)
7 (8 U.S.C. 1101(a)(43)(B)) is amended by striking
8 “Code);” and inserting “Code), except it does not include
9 simple possession of a controlled substance;”.

10 (c) CRIMES OF VIOLENCE AND THEFT OFFENSES.—
11 Subparagraphs (F), (G), (R), and (S) of section
12 101(a)(43) (8 U.S.C. 1101(a)(43)(F), (G), (R), and (S))
13 are each amended by striking “imprisonment” and all that
14 follows through the semicolon and inserting “imprison-
15 ment of more than five years;”.

16 (d) CORRUPT ORGANIZATIONS AND GAMBLING OF-
17 FENSES.—Section 101(a)(43)(J) (8 U.S.C.
18 1101(a)(43)(J)) is amended by inserting “more than five
19 years” after the words “sentence of”.

20 (e) ALIEN SMUGGLING.—Section 101(a)(43)(N) (8
21 U.S.C. 101(a)(43)(N)) is amended—

22 (1) by inserting “committed for the purpose of
23 commercial advantage,” after “smuggling,”; and

24 (2) by adding at the end a semicolon.

1 **SEC. 903. DEFINITIONS OF “CONVICTION” AND “TERM OF**
2 **IMPRISONMENT”.**

3 Section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amend-
4 ed—

5 (1) in subparagraph (A), by striking “court”
6 and all that follows through the period at the end
7 and inserting “court. An adjudication or judgment
8 of guilt that has been expunged, deferred, annulled,
9 invalidated, withheld, or vacated, an order of proba-
10 tion without entry of judgment, or any similar dis-
11 position shall not be considered a conviction for pur-
12 poses of this Act.”; and

13 (2) in subparagraph (B)—

14 (A) by inserting “only” after “deemed to
15 include”; and

16 (B) by striking “court of law” and all that
17 follows through the period at the end and in-
18 serting “court of law. Any such reference shall
19 not be deemed to include any suspension of the
20 imposition or execution of that imprisonment or
21 sentence in whole or in part.”.

22 “(i) For purposes of this Act, and notwithstanding
23 subsection (a)(43), the Attorney General may treat any
24 conviction that did not result in incarceration for more
25 than 1 year as if such conviction were not a conviction
26 for an aggravated felony.”.

1 **SEC. 904. ELIMINATING RETROACTIVE CHANGES IN RE-**
2 **MOVAL GROUNDS.**

3 (a) APPLICATION OF AGGRAVATED FELONY DEFINI-
4 TION.—The last sentence of section 101(a)(43) (8 U.S.C.
5 1101(a)(43)) is amended to read as follows: “The term
6 shall not apply to any offense that was not covered by
7 the term on the date on which the offense occurred.”.

8 (b) GROUNDS OF DEPORTABILITY.—Section 237 (8
9 U.S.C. 1227) is amended by adding at the end the fol-
10 lowing:

11 “(e) Notwithstanding any other provision of this sec-
12 tion, an alien is not deportable by reason of committing
13 any offense that was not a ground of deportability on the
14 date the offense occurred.”.

15 (c) GROUNDS OF INADMISSIBILITY.—Section 212 (8
16 U.S.C. 1182) is amended by adding at the end the fol-
17 lowing:

18 “(u) Notwithstanding any other provision of this sec-
19 tion, an alien is not inadmissible by reason of committing
20 any offense that was not a ground of inadmissibility on
21 the date the offense occurred.”.

22 **SEC. 905. ELIMINATING UNFAIR RETROACTIVE CHANGES IN**
23 **REMOVAL RULES FOR PERSONS PREVIOUSLY**
24 **REMOVED.**

25 (a) IN GENERAL.—The Secretary of Homeland Secu-
26 rity shall establish a process by which an alien described

1 in subsection (b) may apply for reopening a proceeding
2 so as to seek relief from exclusion, deportation, or removal
3 under section 212(c) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(c)), as such section was in effect prior
5 to the enactment of the Antiterrorism and Effective Death
6 Penalty Act of 1996 (Public Law 104–132), or section
7 240A of the Immigration and Nationality Act (8 U.S.C.
8 1229b), as amended by this Act.

9 (b) ALIEN DESCRIBED.—An alien referred to in sub-
10 section (a) is an alien who received a final order of exclu-
11 sion, deportation, or removal, or a decision on a petition
12 for review or petition for habeas corpus, on or after Sep-
13 tember 30, 1996, and who was—

14 (1) excluded, deported, or removed from the
15 United States by reason of having committed a
16 criminal offense that was not a basis for removal,
17 exclusion, or deportation on the date on which the
18 offense was committed;

19 (2) excluded, deported, or removed from the
20 United States by reason of having committed a
21 criminal offense that is not a basis for removal, ex-
22 clusion, or deportation on the date of enactment of
23 this Act; or

24 (3) excluded, deported, or removed from the
25 United States by reason of having committed a

1 criminal offense prior to April 24, 1996, for which
 2 there was relief from exclusion, deportation, or re-
 3 moval available prior to such date.

4 (c) PAROLE.—The Secretary of Homeland Security
 5 may, in the Secretary’s discretion, exercise the parole au-
 6 thority under section 212(d)(5)(A) of the Immigration and
 7 Nationality Act (8 U.S.C. 1182(d)(5)(A)) for the purpose
 8 of permitting aliens excluded, deported, or removed from
 9 the United States to participate in the process established
 10 under subsection (a), if the alien establishes prima facie
 11 eligibility for the relief.

12 **TITLE X—DIVERSITY VISAS**

13 **SEC. 1001. INCREASE IN WORLDWIDE LEVEL OF DIVERSITY** 14 **IMMIGRANTS.**

15 Section 201(e) (8 U.S.C. 1151(e)) is amended by
 16 striking “55,000” and inserting “110,000”.

17 **TITLE XI—HAITIAN PARITY**

18 **SEC. 1101. ADJUSTMENT OF STATUS FOR HAITIANS.**

19 (a) IN GENERAL.—Chapter 5 of title II (8 U.S.C.
 20 1255 et seq.), as amended by section 202, is further
 21 amended by inserting after section 245C the following:

22 “ADJUSTMENT OF STATUS OF CERTAIN HAITIAN
 23 NATIONALS

24 “SEC. 245D. Notwithstanding the provisions of sec-
 25 tion 245(c), the status of any alien who is a national or
 26 citizen of Haiti, and who has been physically present in

1 the United States for at least one year, may be adjusted
2 by the Secretary of Homeland Security, in the Secretary's
3 discretion and under such regulations as the Secretary
4 may prescribe, to that of an alien lawfully admitted for
5 permanent residence, if the alien makes an application for
6 such adjustment and the alien is eligible to receive an im-
7 migrant visa and is admissible to the United States for
8 permanent residence. Upon approval of such an applica-
9 tion for adjustment of status, the Secretary shall create
10 a record of the alien's admission for permanent residence
11 as of a date 30 months prior to the filing of such an appli-
12 cation or the date of the alien's last arrival into the United
13 States, whichever date is later. The provisions of this Act
14 shall be applicable to the spouse and child of any alien
15 described in this section, regardless of their citizenship
16 and place of birth, if the spouse or child is residing with
17 such alien in the United States.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 as amended by section 202, is further amended by insert-
20 ing after the item relating to section 245C the following:

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

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

1 **SEC. 1102. LIMITATION ON BOND DISCRETION.**

2 Section 236 (8 U.S.C. 1226) is amended by adding
3 at the end the following:

4 “(f) EXERCISE OF AUTHORITY FOR ARREST, DETEN-
5 TION, AND RELEASE.—The Secretary of Homeland Secu-
6 rity shall exercise the discretion afforded under subsection
7 (a) on a case-by-case basis. If bond is to be denied on
8 the ground that the alien’s release would give rise to ad-
9 verse consequences for national security or national immi-
10 gration policy, the finding of such adverse consequences
11 shall be based on circumstances pertaining to the indi-
12 vidual alien whose release is being considered.”.

13 **SEC. 1103. ELIMINATION OF MANDATORY DETENTION IN**
14 **EXPEDITED REMOVAL PROCEEDINGS.**

15 Section 235(b)(1)(B)(iii)(IV) (8 U.S.C.
16 1225(b)(1)(B)(iii)(IV)) is amended to read as follows:

17 “(IV) DETENTION.—Aliens sub-
18 ject to the procedures under this
19 clause shall be detained in accordance
20 with section 236.”.

21 **SEC. 1104. AMENDMENTS TO HAITIAN AND IMMIGRANT**
22 **FAIRNESS ACT OF 1998.**

23 (a) GROUND FOR INADMISSIBILITY FOR DOCUMENT
24 FRAUD DOES NOT APPLY.—The Haitian Refugee Immi-
25 gration Fairness Act of 1998 (8 U.S.C. 1255 note) is

1 amended in subsections (a)(1)(B) and (d)(1)(D) of section
2 902 by inserting “(6)(C)(i),” after “(6)(A),”.

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

6 “(3) DETERMINATIONS WITH RESPECT TO
7 CHILDREN.—

8 “(A) USE OF APPLICATION FILING
9 DATE.—Determinations made under this sub-
10 section as to whether an individual is a child of
11 a parent shall be made using the age and status
12 of the individual on the date of the enactment
13 of this section.

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

21 **SEC. 1105. NEW APPLICATIONS AND MOTIONS TO REOPEN.**

22 (a) NEW APPLICATIONS.—Notwithstanding section
23 902(a)(1)(A) of the Haitian and Immigrant Fairness Act
24 of 1998 (8 U.S.C. 1255 note), an alien who is eligible for
25 adjustment of status under such Act, as amended by sec-

tion 804 of this Act, may submit an application for adjustment of status under such Act not later than the later of—

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

(2) 1 year after the date on which final regulations implementing section 804 are promulgated.

(b) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments made by section 1104 of this Act.

(c) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 (8 U.S.C. 1255 note) shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under subsection (a), or a motion under subsection (b), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

1 **SEC. 1106. TEMPORARY PROTECTED STATUS FOR HAI-**
2 **TIANS.**

3 It is the sense of the Congress that the Secretary of
4 Homeland Security should be more liberal with respect to
5 Haiti in deciding whether to designate that country for
6 temporary protected status under section 244(b)(1)(A) of
7 the Immigration and Nationality (8 U.S.C.
8 1254(b)(1)(A)). It is the sense of the Congress that this
9 decision has sometimes been made without due regard to
10 the serious threat to personal safety that results from
11 sending Haitians back to Haiti during a period of ongoing
12 armed conflict in that country.

13 **TITLE XII—FAIRNESS IN ASYLUM**
14 **AND REFUGEE PROCEEDINGS**

15 **SEC. 1201. REFUGEE STATUS FOR UNMARRIED SONS AND**
16 **DAUGHTERS OF REFUGEES.**

17 Section 207(c)(2) (8 U.S.C. 1157(c)(2)) is amended
18 by adding at the end the following:

19 “(C) When warranted by unusual cir-
20 cumstances or to preserve family unity, the At-
21 torney General may, in the Attorney General’s
22 discretion, consider an unmarried son or daugh-
23 ter of a refugee to be a child of the refugee for
24 purposes of this paragraph.”.

1 **SEC. 1202. ASYLEE STATUS FOR UNMARRIED SONS AND**
2 **DAUGHTERS OF ASYLEES.**

3 Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended
4 by adding at the end the following:

5 “(D) When warranted by unusual cir-
6 cumstances or to preserve family unity, the Sec-
7 retary of Homeland Security may, in the Sec-
8 retary’s discretion, consider an unmarried son
9 or daughter of an alien who is granted asylum
10 under this subsection to be a child of the alien
11 for purposes of this paragraph.”.

12 **SEC. 1203. ELIMINATION OF ARBITRARY TIME LIMITS ON**
13 **ASYLUM APPLICATIONS.**

14 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is amend-
15 ed—

16 (1) by striking subparagraph (B);

17 (2) in subparagraph (C), by striking “(D),” and
18 inserting “(C),”;

19 (3) in subparagraph (D)—

20 (A) by striking “subparagraphs (B) and
21 (C),” and inserting “subparagraph (B),”;

22 (B) by striking “either”; and

23 (C) by striking “asylum or extraordinary”
24 and all that follows through the period at the
25 end and inserting “asylum.”; and

1 (4) by redesignating subparagraphs (C) and
2 (D) as subparagraphs (B) and (C), respectively.

3 **SEC. 1204. GENDER-BASED PERSECUTION.**

4 (a) TREATMENT AS REFUGEE.—Section 101(a)(42)
5 (8 U.S.C. 1101(a)(42)) is amended by adding at the end
6 the following:

7 “(C) For purposes of determinations under
8 this Act, a person who establishes that he or
9 she suffered persecution in the past, or has a
10 well-founded fear of persecution, on account of
11 gender shall be considered to have suffered per-
12 secution, or to have a well-founded fear of per-
13 secution, on account of membership in a par-
14 ticular social group.”.

15 (b) RESTRICTION ON REMOVAL TO COUNTRY WHERE
16 ALIEN WOULD BE THREATENED.—Section 241(b)(3) (8
17 U.S.C. 1231(b)(3)) is amended by adding at the end the
18 following:

19 “(D) GENDER-BASED PERSECUTION.—For
20 purposes of determinations under this para-
21 graph, an alien who establishes that the alien’s
22 life or freedom would be threatened in a coun-
23 try on account of gender shall be considered to
24 have established that the alien’s life or freedom

1 would be threatened in that country on account
2 of membership in a particular social group.”.

3 **TITLE XIII—TEMPORARY**
4 **PROTECTED STATUS**

5 **SEC. 1301. ADJUSTMENT OF STATUS FOR CERTAIN RECIPI-**
6 **ENTS OF TEMPORARY PROTECTED STATUS.**

7 (a) IN GENERAL.—Section 245 (8 U.S.C. 1255) is
8 amended by adding at the end the following:

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

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

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

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

19 “(D) in the case of an alien who is 18 years of
20 age or older, but who is not over the age of 65, has
21 successfully completed a course on reading, writing,
22 and speaking words in ordinary usage in the English
23 language, unless unable to do so on account of phys-
24 ical or developmental disability or mental impair-
25 ment;

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

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

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

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

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

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

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

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

6 (b) LIMITATION ON CONSIDERATION IN THE SENATE
 7 OF LEGISLATION ADJUSTING STATUS.—Section 244 (8
 8 U.S.C. 1254a) is amended by striking subsection (h) and
 9 redesignating subsection (i) as subsection (h).

10 **SEC. 1302. FOREIGN STATE DESIGNATIONS.**

11 Section 244(b)(1)(C) (8 U.S.C. 1254a(b)(1)(C)) is
 12 amended by striking “the Attorney General finds that
 13 there exist extraordinary and temporary conditions in the
 14 foreign state that prevent aliens who are nationals of the
 15 state from returning to the state in safety,” and inserting
 16 “the Secretary of Homeland Security finds that extraor-
 17 dinary and temporary conditions in the foreign state make
 18 returning aliens to the state undesirable for humanitarian
 19 reasons,”.

20 **TITLE XIV—MISCELLANEOUS**
 21 **PROVISIONS**

22 **SEC. 1401. NATURALIZATION PROVISIONS.**

23 (a) PHYSICAL PRESENCE REQUIREMENT.—Section
 24 316 (8 U.S.C. 1427) is amended by adding at the end
 25 the following:

1 “(g) When warranted by extraordinary cir-
 2 cumstances, the Secretary of Homeland Security may re-
 3 duce, by not more than 90 days, the physical presence re-
 4 quirement described in the preceding sentence.”.

5 (b) ABSENCES FROM THE UNITED STATES.—Section
 6 316(b) (8 U.S.C. 1427(b)) is amended—

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

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

12 **SEC. 1402. PREVENTING INAPPROPRIATE STATE AND**
 13 **LOCAL GOVERNMENT INVOLVEMENT IN THE**
 14 **ENFORCEMENT OF CIVIL IMMIGRATION PRO-**
 15 **VISIONS UNDER THE IMMIGRATION AND NA-**
 16 **TIONALITY ACT.**

17 (a) ELIMINATION OF BAN ON STATE AND LOCAL
 18 GOVERNMENTS FROM PREVENTING COMMUNICATIONS
 19 WITH THE DEPARTMENT OF HOMELAND SECURITY.—

20 (1) IN GENERAL.—Section 642 of the Illegal
 21 Immigration Reform and Immigrant Responsibility
 22 Act of 1996 (8 U.S.C. 1373) is repealed.

23 (2) VERIFICATION OF ELIGIBILITY FOR FED-
 24 ERAL PUBLIC BENEFITS.—Section 432 of the Per-

1 sonal Responsibility and Work Opportunity Rec-
2 onciliation Act of 1996 (8 U.S.C. 1642) is repealed.

3 (b) **ELIMINATION OF AUTHORITY TO PERMIT STATE**
4 **PERSONNEL TO CARRY OUT IMMIGRATION OFFICER**
5 **FUNCTIONS.**—Section 287(g) (8 U.S.C. 1357(g)) is re-
6 pealed.

7 **SEC. 1403. NONIMMIGRANT CATEGORY FOR FASHION MOD-**
8 **ELS.**

9 (a) **ELIMINATION OF H-1B CLASSIFICATION FOR**
10 **FASHION MODELS.**—Section 101(a)(15)(H)(i)(b) (8
11 U.S.C. 1101(a)(15)(H)(i)(b)) is amended—

12 (1) by striking “or as a fashion model”; and

13 (2) by striking “or, in the case of a fashion
14 model, is of distinguished merit and ability”.

15 (b) **NEW CLASSIFICATION.**—Section 101(a)(15)(O)
16 (8 U.S.C. 1101(a)(15)(O)) is amended—

17 (1) in clause (iii), by striking “clause (i) or (ii)”
18 and inserting “clause (i), (ii), or (iii)” and by redes-
19 ignating clause (iii) as clause (iv); and

20 (2) by inserting after clause (ii) the following
21 new clause:

22 “(iii) is a fashion model who is of distin-
23 guished merit and ability and who is seeking to
24 enter the United States temporarily to perform
25 fashion modeling services that involve events or

1 productions which have a distinguished reputa-
2 tion or that are performed for an organization
3 or establishment that has a distinguished rep-
4 utation for, or a record of, utilizing prominent
5 modeling talent; or”.

6 (c) EFFECTIVE DATE AND IMPLEMENTATION.—

7 (1) IN GENERAL.—The amendments made by
8 this section shall take effect on the date of the en-
9 actment of this Act.

10 (2) REGULATIONS, GUIDELINES, AND PRECE-
11 DENTS.—The regulations, guidelines, and precedents
12 in effect on the date of the enactment of this Act for
13 the adjudication of petitions for fashion models
14 under section 101(a)(15)(H)(i)(b) of the Immigra-
15 tion and Nationality Act (8 U.S.C.
16 1101(a)(15)(H)(i)(b)) shall be applied to petitions
17 for fashion model under section 101(a)(15)(O)(iii) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)(O)(iii)), as added by this section, except
20 that the duration of status approvals shall be based
21 on regulations applicable to other occupations under
22 section 101(a)(15)(O) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1101(a)(15)(O)).

24 (3) CONSTRUCTION.—Nothing in this section,
25 or the amendments made by this section, shall be

1 construed as preventing an alien who is a fashion
2 model from obtaining nonimmigrant status under
3 section 101(a)(15)(O)(i) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(15)(O)(i)) if such
5 alien is otherwise qualified for such status.

6 (4) TREATMENT OF PENDING PETITIONS.—Pe-
7 titions filed on behalf of fashion models under sec-
8 tion 101(a)(15)(H)(i)(b) of the Immigration and
9 Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)(b))
10 that are pending on the date of the enactment of
11 this Act shall be treated as if they had been filed
12 under section 101(a)(15)(O)(iii) of the Immigration
13 and Nationality Act (8 U.S.C. 1101(a)(15)(O)(iii)),
14 as added by this section.

15 (5) VISA VALIDITY PERIOD.—The validity pe-
16 riod for visas issued to beneficiaries of petitions filed
17 under section 101(a)(15)(O)(iii) of the Immigration
18 and Nationality Act (8 U.S.C. 1101(a)(15)(O)(iii))
19 shall be for the full period of approval notwith-
20 standing the reciprocity validity periods that would
21 otherwise be applicable.

○