

# Union Calendar No. 509

113TH CONGRESS  
2D SESSION

# H. R. 2278

**[Report No. 113–678, Part I]**

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2013

Mr. GOWDY (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. FORBES, Mrs. BLACKBURN, Mr. BISHOP of Utah, Mr. COBLE, Mr. POE of Texas, Mr. WESTMORELAND, Mr. CHAFFETZ, Mr. SENSENBRENNER, Mrs. BACHMANN, Mr. COLLINS of Georgia, Mr. WOODALL, Mr. MULVANEY, Mr. FRANKS of Arizona, Mr. PEARCE, Mr. DESANTIS, Mr. CHABOT, and Mr. LABRADOR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Agriculture, and Natural Resources, 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

DECEMBER 16, 2014

Additional sponsors: Mr. ISSA, Mr. HOLDING, Mr. MARINO, Mr. SESSIONS, Mr. POMPEO, Mr. CALVERT, Mr. WEBER of Texas, Mr. MCKINLEY, Mr. STUTZMAN, Mr. BARTON, Mr. PITTENGER, Mr. CRAMER, Mrs. LUMMIS, Mr. LAMALFA, Mr. PERRY, Mr. STEWART, Mr. BROOKS of Alabama, Mr. AUSTIN SCOTT of Georgia, Mr. MARCHANT, and Mr. GOSAR

DECEMBER 16, 2014

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

DECEMBER 16, 2014

The Committees on Homeland Security, Agriculture, and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 6, 2013]

# **A BILL**

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, 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.**

4        *This Act may be cited as the “Strengthen and Fortify*  
 5        *Enforcement Act” or the “SAFE Act”.*

6        **SEC. 2. TABLE OF CONTENTS.**

7        *The table of contents for this Act is as follows:*

*Sec. 1. Short title.*

*Sec. 2. Table of contents.*

**TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND  
LOCALITIES**

*Sec. 101. Definitions and severability.*

*Sec. 102. Immigration law enforcement by States and localities.*

*Sec. 103. Listing of immigration violators in the national crime information cen-*  
*ter database.*

*Sec. 104. Technology access.*

*Sec. 105. State and local law enforcement provision of information about appre-*  
*hended aliens.*

*Sec. 106. Financial assistance to State and local police agencies that assist in the*  
*enforcement of immigration laws.*

*Sec. 107. Increased Federal detention space.*

*Sec. 108. Federal custody of inadmissible and deportable aliens in the United*  
*States apprehended by State or local law enforcement.*

*Sec. 109. Training of State and local law enforcement personnel relating to the*  
*enforcement of immigration laws.*

*Sec. 110. Immunity.*

*Sec. 111. Criminal alien identification program.*

*Sec. 112. Clarification of congressional intent.*

*Sec. 113. State criminal alien assistance program (SCAAP).*

*Sec. 114. State violations of enforcement of immigration laws.*

*Sec. 115. Clarifying the authority of ICE detainees.*

**TITLE II—NATIONAL SECURITY**

*Sec. 201. Removal of, and denial of benefits to, terrorist aliens.*

*Sec. 202. Terrorist bar to good moral character.*

*Sec. 203. Terrorist bar to naturalization.*

*Sec. 204. Denaturalization for terrorists.*

*Sec. 205. Use of 1986 IRCA legalization information for national security pur-*  
*poses.*

*Sec. 206. Background and security checks.*

*Sec. 207. Technical amendments relating to the Intelligence Reform and Ter-*  
*rorism Prevention Act of 2004.*

### TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony.*
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.*
- Sec. 303. Espionage clarification.*
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.*
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.*
- Sec. 306. Conforming amendment to the definition of racketeering activity.*
- Sec. 307. Conforming amendments for the aggravated felony definition.*
- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.*
- Sec. 309. Inadmissibility, deportability, and detention of drunk drivers.*
- Sec. 310. Detention of dangerous aliens.*
- Sec. 311. Grounds of inadmissibility and deportability for alien gang members.*
- Sec. 312. Extension of identity theft offenses.*
- Sec. 313. Laundering of monetary instruments.*
- Sec. 314. Increased criminal penalties relating to alien smuggling and related offenses.*
- Sec. 315. Penalties for illegal entry or presence.*
- Sec. 316. Illegal reentry.*
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.*
- Sec. 318. Forfeiture.*
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.*
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.*
- Sec. 321. Protecting immigrants from convicted sex offenders.*
- Sec. 322. Clarification to crimes of violence and crimes involving moral turpitude.*
- Sec. 323. Penalties for failure to obey removal orders.*
- Sec. 324. Pardons.*

### TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.*
- Sec. 402. Visa information sharing.*
- Sec. 403. Restricting waiver of visa interviews.*
- Sec. 404. Authorizing the Department of State to not interview certain ineligible visa applicants.*
- Sec. 405. Visa refusal and revocation.*
- Sec. 406. Funding for the visa security program.*
- Sec. 407. Expedited expansion of visa security program to high-risk posts.*
- Sec. 408. Expedited clearance and placement of Department of Homeland Security personnel at overseas embassies and consular posts.*
- Sec. 409. Accreditation requirements.*
- Sec. 410. Visa fraud.*
- Sec. 411. Background checks.*
- Sec. 412. Number of designated school officials.*
- Sec. 413. Reporting requirement.*
- Sec. 414. Flight schools not certified by FAA.*
- Sec. 415. Revocation of accreditation.*
- Sec. 416. Report on risk assessment.*
- Sec. 417. Implementation of GAO recommendations.*

*Sec. 418. Implementation of SEVIS II.*

*Sec. 419. Definitions.*

**TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS**

*Sec. 501. ICE immigration enforcement agents.*

*Sec. 502. ICE detention enforcement officers.*

*Sec. 503. Ensuring the safety of ICE officers and agents.*

*Sec. 504. ICE Advisory Council.*

*Sec. 505. Pilot program for electronic field processing.*

*Sec. 506. Additional ICE deportation officers and support staff.*

*Sec. 507. Additional ICE prosecutors.*

**TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS**

*Sec. 601. Encouraging aliens to depart voluntarily.*

*Sec. 602. Deterring aliens ordered removed from remaining in the United States unlawfully.*

*Sec. 603. Reinstatement of removal orders.*

*Sec. 604. Clarification with respect to definition of admission.*

*Sec. 605. Reports to Congress on the exercise and abuse of prosecutorial discretion.*

*Sec. 606. Waiver of Federal laws with respect to border security actions on Department of the Interior and Department of Agriculture lands.*

*Sec. 607. Biometric entry and exit data system.*

*Sec. 608. Certain activities restricted.*

*Sec. 609. Border Patrol mobile and rapid response teams.*

*Sec. 610. GAO study on deaths in custody.*

**1 TITLE I—IMMIGRATION LAW EN-  
2 FORCEMENT BY STATES AND  
3 LOCALITIES**

**4 SEC. 101. DEFINITIONS AND SEVERABILITY.**

5 (a) *STATE DEFINED.*—For the purposes of this title,  
6 the term “State” has the meaning given to such term in  
7 section 101(a)(36) of the Immigration and Nationality Act  
8 (8 U.S.C. 1101(a)(36)).

9 (b) *SECRETARY DEFINED.*—For the purpose of this  
10 title, the term “Secretary” means the Secretary of Home-  
11 land Security.

1       (c) *SEVERABILITY*.—If any provision of this title, or  
 2   the application of such provision to any person or cir-  
 3   cumstance, is held invalid, the remainder of this title, and  
 4   the application of such provision to other persons not simi-  
 5   larly situated or to other circumstances, shall not be affected  
 6   by such invalidation.

7   **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**  
 8                           **AND LOCALITIES.**

9       (a) *IN GENERAL*.—Subject to section 274A(h)(2) of the  
 10   Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)),  
 11   States, or political subdivisions of States, may enact, imple-  
 12   ment and enforce criminal penalties that penalize the same  
 13   conduct that is prohibited in the criminal provisions of im-  
 14   migration laws (as defined in section 101(a)(17) of the Im-  
 15   migration and Nationality Act (8 U.S.C. 1101(a)(17))), as  
 16   long as the criminal penalties do not exceed the relevant  
 17   Federal criminal penalties (without regard to ancillary  
 18   issues such as the availability of probation or pardon).  
 19   States, or political subdivisions of States, may enact, imple-  
 20   ment and enforce civil penalties that penalize the same con-  
 21   duct that is prohibited in the civil provisions of immigra-  
 22   tion laws (as defined in such section 101(a)(17)), as long  
 23   as the civil penalties do not exceed the relevant Federal civil  
 24   penalties.

1       (b) *LAW ENFORCEMENT PERSONNEL.*—*Law enforce-*  
2 *ment personnel of a State, or of a political subdivision of*  
3 *a State, may investigate, identify, apprehend, arrest, de-*  
4 *tain, or transfer to Federal custody aliens for the purposes*  
5 *of enforcing the immigration laws of the United States to*  
6 *the same extent as Federal law enforcement personnel. Law*  
7 *enforcement personnel of a State, or of a political subdivi-*  
8 *sion of a State, may also investigate, identify, apprehend,*  
9 *arrest, or detain aliens for the purposes of enforcing the im-*  
10 *migration laws of a State or of a political subdivision of*  
11 *State, as long as those immigration laws are permissible*  
12 *under this section. Law enforcement personnel of a State,*  
13 *or of a political subdivision of a State, may not remove*  
14 *aliens from the United States.*

15 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
16 **TIONAL CRIME INFORMATION CENTER DATA-**  
17 **BASE.**

18       (a) *PROVISION OF INFORMATION TO THE NCIC.*—*Not*  
19 *later than 180 days after the date of the enactment of this*  
20 *Act and periodically thereafter as updates may require, the*  
21 *Secretary shall provide the National Crime Information*  
22 *Center of the Department of Justice with all information*  
23 *that the Secretary may possess regarding any alien against*  
24 *whom a final order of removal has been issued, any alien*  
25 *who has entered into a voluntary departure agreement, any*

1 *alien who has overstayed their authorized period of stay,*  
2 *and any alien whose visa has been revoked. The National*  
3 *Crime Information Center shall enter such information into*  
4 *the Immigration Violators File of the National Crime Infor-*  
5 *mation Center database, regardless of whether—*

6           (1) *the alien received notice of a final order of*  
7       *removal;*

8           (2) *the alien has already been removed; or*

9           (3) *sufficient identifying information is avail-*  
10       *able with respect to the alien.*

11       (b) *INCLUSION OF INFORMATION IN THE NCIC DATA-*  
12       *BASE.—*

13           (1) *IN GENERAL.—Section 534(a) of title 28,*  
14       *United States Code, is amended—*

15               (A) *in paragraph (3), by striking “and” at*  
16       *the end;*

17               (B) *by redesignating paragraph (4) as*  
18       *paragraph (5); and*

19               (C) *by inserting after paragraph (3) the fol-*  
20       *lowing:*

21               “(4) *acquire, collect, classify, and preserve*  
22       *records of violations by aliens of the immigration*  
23       *laws of the United States, regardless of whether any*  
24       *such alien has received notice of the violation or*  
25       *whether sufficient identifying information is available*



1       *with respect to any such alien or whether any such*  
 2       *alien has already been removed from the United*  
 3       *States; and”.*

4           (2) *EFFECTIVE DATE.*—*The Attorney General*  
 5       *and the Secretary shall ensure that the amendment*  
 6       *made by paragraph (1) is implemented by not later*  
 7       *than 6 months after the date of the enactment of this*  
 8       *Act.*

9       **SEC. 104. TECHNOLOGY ACCESS.**

10       *States shall have access to Federal programs or tech-*  
 11       *nology directed broadly at identifying inadmissible or de-*  
 12       *portable aliens.*

13       **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
 14                       **SION OF INFORMATION ABOUT APPRE-**  
 15                       **HENDED ALIENS.**

16       (a) *PROVISION OF INFORMATION.*—*In compliance with*  
 17       *section 642(a) of the Illegal Immigration Reform and Im-*  
 18       *migrant Responsibility Act of 1996 (8 U.S.C. 1373) and*  
 19       *section 434 of the Personal Responsibility and Work Oppor-*  
 20       *tunity Reconciliation Act of 1996 (8 U.S.C. 1644), each*  
 21       *State, and each political subdivision of a State, shall pro-*  
 22       *vide the Secretary of Homeland Security in a timely man-*  
 23       *ner with the information specified in subsection (b) with*  
 24       *respect to each alien apprehended in the jurisdiction of the*

1 *State, or in the political subdivision of the State, who is*  
2 *believed to be inadmissible or deportable.*

3 (b) *INFORMATION REQUIRED.—The information re-*  
4 *ferred to in subsection (a) is as follows:*

5 (1) *The alien’s name.*

6 (2) *The alien’s address or place of residence.*

7 (3) *A physical description of the alien.*

8 (4) *The date, time, and location of the encounter*  
9 *with the alien and reason for stopping, detaining, ap-*  
10 *prehending, or arresting the alien.*

11 (5) *If applicable, the alien’s driver’s license num-*  
12 *ber and the State of issuance of such license.*

13 (6) *If applicable, the type of any other identi-*  
14 *fication document issued to the alien, any designation*  
15 *number contained on the identification document,*  
16 *and the issuing entity for the identification document.*

17 (7) *If applicable, the license plate number, make,*  
18 *and model of any automobile registered to, or driven*  
19 *by, the alien.*

20 (8) *A photo of the alien, if available or readily*  
21 *obtainable.*

22 (9) *The alien’s fingerprints, if available or read-*  
23 *ily obtainable.*

24 (c) *ANNUAL REPORT ON REPORTING.—The Secretary*  
25 *shall maintain and annually submit to the Congress a de-*

1 *tailed report listing the States, or the political subdivisions*  
 2 *of States, that have provided information under subsection*  
 3 *(a) in the preceding year.*

4 *(d) REIMBURSEMENT.—The Secretary shall reimburse*  
 5 *States, and political subdivisions of a State, for all reason-*  
 6 *able costs, as determined by the Secretary, incurred by the*  
 7 *State, or the political subdivision of a State, as a result*  
 8 *of providing information under subsection (a).*

9 *(e) AUTHORIZATION OF APPROPRIATIONS.—There are*  
 10 *authorized to be appropriated such sums as may be nec-*  
 11 *essary to carry out this section.*

12 *(f) CONSTRUCTION.—Nothing in this section shall re-*  
 13 *quire law enforcement officials of a State, or of a political*  
 14 *subdivision of a State, to provide the Secretary with infor-*  
 15 *mation related to a victim of a crime or witness to a crimi-*  
 16 *nal offense.*

17 *(g) EFFECTIVE DATE.—This section shall take effect*  
 18 *on the date that is 120 days after the date of the enactment*  
 19 *of this Act and shall apply with respect to aliens appre-*  
 20 *hended on or after such date.*

21 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**  
 22 **POLICE AGENCIES THAT ASSIST IN THE EN-**  
 23 **FORCEMENT OF IMMIGRATION LAWS.**

24 *(a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING*  
 25 *AND PROCESSING CERTAIN ALIENS.—From amounts made*

1 *available to make grants under this section, the Secretary*  
2 *shall make grants to States, and to political subdivisions*  
3 *of States, for procurement of equipment, technology, facili-*  
4 *ties, and other products that facilitate and are directly re-*  
5 *lated to investigating, apprehending, arresting, detaining,*  
6 *or transporting aliens who are inadmissible or deportable,*  
7 *including additional administrative costs incurred under*  
8 *this title.*

9       (b) *ELIGIBILITY.—To be eligible to receive a grant*  
10 *under this section, a State, or a political subdivision of a*  
11 *State, must have the authority to, and shall have a written*  
12 *policy and a practice to, assist in the enforcement of the*  
13 *immigration laws of the United States in the course of car-*  
14 *rying out the routine law enforcement duties of such State*  
15 *or political subdivision of a State. Entities covered under*  
16 *this section may not have any policy or practice that pre-*  
17 *vents local law enforcement from inquiring about a sus-*  
18 *pect's immigration status.*

19       (c) *FUNDING.—There is authorized to be appropriated*  
20 *for grants under this section such sums as may be necessary*  
21 *for fiscal year 2014 and each subsequent fiscal year.*

22       (d) *GAO AUDIT.—Not later than 3 years after the date*  
23 *of the enactment of this Act, the Comptroller General of the*  
24 *United States shall conduct an audit of funds distributed*

1 *to States, and to political subdivisions of a State, under*  
 2 *subsection (a).*

3 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

4 *(a) CONSTRUCTION OR ACQUISITION OF DETENTION*  
 5 *FACILITIES.—*

6 *(1) IN GENERAL.—The Secretary shall construct*  
 7 *or acquire, in addition to existing facilities for the de-*  
 8 *tention of aliens, detention facilities in the United*  
 9 *States, for aliens detained pending removal from the*  
 10 *United States or a decision regarding such removal.*  
 11 *Each facility shall have a number of beds necessary*  
 12 *to effectuate the purposes of this title.*

13 *(2) DETERMINATIONS.—The location of any de-*  
 14 *tention facility built or acquired in accordance with*  
 15 *this subsection shall be determined by the Secretary.*

16 *(b) AUTHORIZATION OF APPROPRIATIONS.—There are*  
 17 *authorized to be appropriated such sums as may be nec-*  
 18 *essary to carry out this section.*

19 *(c) TECHNICAL AND CONFORMING AMENDMENT.—Sec-*  
 20 *tion 241(g)(1) of the Immigration and Nationality Act (8*  
 21 *U.S.C. 1231(g)(1)) is amended by striking “may expend”*  
 22 *and inserting “shall expend”.*

1 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**  
2 **PORTABLE ALIENS IN THE UNITED STATES**  
3 **APPREHENDED BY STATE OR LOCAL LAW EN-**  
4 **FORCEMENT.**

5 (a) STATE APPREHENSION.—

6 (1) IN GENERAL.—*Title II of the Immigration*  
7 *and Nationality Act (8 U.S.C. 1151 et seq.) is amend-*  
8 *ed by inserting after section 240C the following:*

9 “CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS  
10 PRESENT IN THE UNITED STATES  
11 “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE  
12 AND LOCAL OFFICIALS.—*If a State, or a political subdivi-*  
13 *sion of the State, exercising authority with respect to the*  
14 *apprehension or arrest of an inadmissible or deportable*  
15 *alien submits to the Secretary of Homeland Security a re-*  
16 *quest that the alien be taken into Federal custody, notwith-*  
17 *standing any other provision of law, regulation, or policy*  
18 *the Secretary—*

19 “(1) *shall take the alien into custody not later*  
20 *than 48 hours after the detainer has been issued fol-*  
21 *lowing the conclusion of the State or local charging*  
22 *process or dismissal process, or if no State or local*  
23 *charging or dismissal process is required, the Sec-*  
24 *retary should issue a detainer and take the alien into*  
25 *custody not later than 48 hours after the alien is ap-*  
26 *prehended, in order to determine whether the alien*

1       *should be detained, placed in removal proceedings, re-*  
2       *leased, or removed; and*

3               *“(2) shall request that the relevant State or local*  
4       *law enforcement agency temporarily hold the alien in*  
5       *their custody or transport the alien for transfer to*  
6       *Federal custody.*

7       *“(b) POLICY ON DETENTION IN FEDERAL, CONTRACT,*  
8       *STATE, OR LOCAL DETENTION FACILITIES.—In carrying*  
9       *out section 241(g)(1), the Attorney General or Secretary of*  
10       *Homeland Security shall ensure that an alien arrested*  
11       *under this title shall be held in custody, pending the alien’s*  
12       *examination under this section, in a Federal, contract,*  
13       *State, or local prison, jail, detention center, or other com-*  
14       *parable facility. Notwithstanding any other provision of*  
15       *law, regulation or policy, such facility is adequate for de-*  
16       *tention, if—*

17               *“(1) such a facility is the most suitably located*  
18       *Federal, contract, State, or local facility available for*  
19       *such purpose under the circumstances;*

20               *“(2) an appropriate arrangement for such use of*  
21       *the facility can be made; and*

22               *“(3) the facility satisfies the standards for the*  
23       *housing, care, and security of persons held in custody*  
24       *by a United States Marshal.*

1       “(c) *REIMBURSEMENT.*—*The Secretary of Homeland*  
2 *Security shall reimburse a State, and a political subdivi-*  
3 *sion of a State, for all reasonable expenses, as determined*  
4 *by the Secretary, incurred by the State, or political subdivi-*  
5 *sion, as a result of the incarceration and transportation*  
6 *of an alien who is inadmissible or deportable as described*  
7 *in subsections (a) and (b). Compensation provided for costs*  
8 *incurred under such subsections shall be the average cost*  
9 *of incarceration of a prisoner in the relevant State, as deter-*  
10 *mined by the chief executive officer of a State, or of a polit-*  
11 *ical subdivision of a State, plus the cost of transporting*  
12 *the alien from the point of apprehension to the place of de-*  
13 *tention, and to the custody transfer point if the place of*  
14 *detention and place of custody are different.*

15       “(d) *SECURE FACILITIES.*—*The Secretary of Home-*  
16 *land Security shall ensure that aliens incarcerated pursu-*  
17 *ant to this title are held in facilities that provide an appro-*  
18 *priate level of security.*

19       “(e) *TRANSFER.*—

20               “(1) *IN GENERAL.*—*In carrying out this section,*  
21 *the Secretary of Homeland Security shall establish a*  
22 *regular circuit and schedule for the prompt transfer*  
23 *of apprehended aliens from the custody of States, and*  
24 *political subdivisions of a State, to Federal custody.*



1           “(2) *CONTRACTS.*—*The Secretary may enter into*  
2           *contracts, including appropriate private contracts, to*  
3           *implement this subsection.*”.

4           (2) *CLERICAL AMENDMENT.*—*The table of con-*  
5           *tents of such Act is amended by inserting after the*  
6           *item relating to section 240C the following new item:*

          “*Sec. 240D. Custody of inadmissible and deportable aliens present in the United States.*”.

7           (b) *GAO AUDIT.*—*Not later than 3 years after the date*  
8           *of the enactment of this Act, the Comptroller General of the*  
9           *United States shall conduct an audit of compensation to*  
10          *States, and to political subdivisions of a State, for the in-*  
11          *carceration of inadmissible or deportable aliens under sec-*  
12          *tion 240D(a) of the Immigration and Nationality Act (as*  
13          *added by subsection (a)(1)).*

14          (c) *EFFECTIVE DATE.*—*Section 240D of the Immigra-*  
15          *tion and Nationality Act, as added by subsection (a), shall*  
16          *take effect on the date of the enactment of this Act, except*  
17          *that subsection (e) of such section shall take effect on the*  
18          *date that is 120 day after the date of the enactment of this*  
19          *Act.*

1 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**  
2 **MENT PERSONNEL RELATING TO THE EN-**  
3 **FORCEMENT OF IMMIGRATION LAWS.**

4 (a) *ESTABLISHMENT OF TRAINING MANUAL AND*  
5 *POCKET GUIDE.*—Not later than 180 days after the date  
6 of the enactment of this Act, the Secretary shall establish—

7 (1) *a training manual for law enforcement per-*  
8 *sonnel of a State, or of a political subdivision of a*  
9 *State, to train such personnel in the investigation,*  
10 *identification, apprehension, arrest, detention, and*  
11 *transfer to Federal custody of inadmissible and de-*  
12 *portable aliens in the United States (including the*  
13 *transportation of such aliens across State lines to de-*  
14 *tention centers and the identification of fraudulent*  
15 *documents); and*

16 (2) *an immigration enforcement pocket guide for*  
17 *law enforcement personnel of a State, or of a political*  
18 *subdivision of a State, to provide a quick reference for*  
19 *such personnel in the course of duty.*

20 (b) *AVAILABILITY.*—The training manual and pocket  
21 guide established in accordance with subsection (a) shall be  
22 made available to all State and local law enforcement per-  
23 sonnel.

24 (c) *APPLICABILITY.*—Nothing in this section shall be  
25 construed to require State or local law enforcement per-

1 *sonnel to carry the training manual or pocket guide with*  
2 *them while on duty.*

3 *(d) COSTS.—The Secretary shall be responsible for any*  
4 *costs incurred in establishing the training manual and*  
5 *pocket guide.*

6 *(e) TRAINING FLEXIBILITY.—*

7 *(1) IN GENERAL.—The Secretary shall make*  
8 *training of State and local law enforcement officers*  
9 *available through as many means as possible, includ-*  
10 *ing through residential training at the Center for Do-*  
11 *mestic Preparedness, onsite training held at State or*  
12 *local police agencies or facilities, online training*  
13 *courses by computer, teleconferencing, and videotape,*  
14 *or the digital video display (DVD) of a training*  
15 *course or courses. E-learning through a secure,*  
16 *encrypted distributed learning system that has all its*  
17 *servers based in the United States, is scalable, surviv-*  
18 *able, and can have a portal in place not later than*  
19 *30 days after the date of the enactment of this Act,*  
20 *shall be made available by the Federal Law Enforce-*  
21 *ment Training Center Distributed Learning Program*  
22 *for State and local law enforcement personnel.*

23 *(2) FEDERAL PERSONNEL TRAINING.—The train-*  
24 *ing of State and local law enforcement personnel*

1        *under this section shall not displace the training of*  
2        *Federal personnel.*

3            (3) *CLARIFICATION.—Nothing in this title or*  
4        *any other provision of law shall be construed as mak-*  
5        *ing any immigration-related training a requirement*  
6        *for, or prerequisite to, any State or local law enforce-*  
7        *ment officer to assist in the enforcement of Federal*  
8        *immigration laws.*

9            (4) *PRIORITY.—In carrying out this subsection,*  
10       *priority funding shall be given for existing web-based*  
11       *immigration enforcement training systems.*

12    **SEC. 110. IMMUNITY.**

13        *Notwithstanding any other provision of law, a law en-*  
14       *forcement officer of a State or local law enforcement agency*  
15       *who is acting within the scope of the officer's official duties*  
16       *shall be immune, to the same extent as a Federal law en-*  
17       *forcement officer, from personal liability arising out of the*  
18       *performance of any duty described in this title, including*  
19       *the authorities to investigate, identify, apprehend, arrest,*  
20       *detain, or transfer to Federal custody, an alien for the pur-*  
21       *poses of enforcing the immigration laws of the United*  
22       *States (as defined in section 101(a)(17) of the Immigration*  
23       *and Nationality Act (8 U.S.C. 1101(a)(17)) or the immi-*  
24       *gration laws of a State or a political subdivision of a State.*

1 **SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

2 (a) *CONTINUATION AND EXPANSION.*—

3 (1) *IN GENERAL.*—*The Secretary shall continue*  
4 *to operate and implement a program that—*

5 (A) *identifies removable criminal aliens in*  
6 *Federal and State correctional facilities;*

7 (B) *ensures such aliens are not released into*  
8 *the community; and*

9 (C) *removes such aliens from the United*  
10 *States after the completion of their sentences.*

11 (2) *EXPANSION.*—*The program shall be extended*  
12 *to all States. Any State that receives Federal funds*  
13 *for the incarceration of criminal aliens (pursuant to*  
14 *the State Criminal Alien Assistance Program author-*  
15 *ized under section 241(i) of the Immigration and Na-*  
16 *tionality Act (8 U.S.C. 1231(i)) or other similar pro-*  
17 *gram) shall—*

18 (A) *cooperate with officials of the program;*

19 (B) *expeditiously and systematically iden-*  
20 *tify criminal aliens in its prison and jail popu-*  
21 *lations; and*

22 (C) *promptly convey such information to of-*  
23 *ficials of such program as a condition of receiv-*  
24 *ing such funds.*

25 (b) *AUTHORIZATION FOR DETENTION AFTER COMPLE-*  
26 *TION OF STATE OR LOCAL PRISON SENTENCE.*—*Law en-*

1 *forcement officers of a State, or of a political subdivision*  
2 *of a State, are authorized to—*

3 *(1) hold a criminal alien for a period of up to*  
4 *14 days after the alien has completed the alien’s sen-*  
5 *tence under State or local law in order to effectuate*  
6 *the transfer of the alien to Federal custody when the*  
7 *alien is inadmissible or deportable; or*

8 *(2) issue a detainer that would allow aliens who*  
9 *have served a prison sentence under State or local law*  
10 *to be detained by the State or local prison or jail*  
11 *until the Secretary can take the alien into custody.*

12 *(c) TECHNOLOGY USAGE.—Technology, such as video*  
13 *conferencing, shall be used to the maximum extent prac-*  
14 *ticable in order to make the program available in remote*  
15 *locations. Mobile access to Federal databases of aliens and*  
16 *live scan technology shall be used to the maximum extent*  
17 *practicable in order to make these resources available to*  
18 *State and local law enforcement agencies in remote loca-*  
19 *tions.*

20 *(d) EFFECTIVE DATE.—This section shall take effect*  
21 *of the date of the enactment of this Act, except that sub-*  
22 *section (a)(2) shall take effect on the date that is 180 days*  
23 *after such date.*

1 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

2 *Section 287(g) of the Immigration and Nationality*  
3 *Act (8 U.S.C. 1357(g)) is amended—*

4 *(1) in paragraph (1) by striking “may enter”*  
5 *and all that follows through the period at the end and*  
6 *inserting the following: “shall enter into a written*  
7 *agreement with a State, or any political subdivision*  
8 *of a State, upon request of the State or political sub-*  
9 *division, pursuant to which an officer or employee of*  
10 *the State or subdivision, who is determined by the*  
11 *Secretary to be qualified to perform a function of an*  
12 *immigration officer in relation to the investigation,*  
13 *apprehension, or detention of aliens in the United*  
14 *States (including the transportation of such aliens*  
15 *across State lines to detention centers), may carry out*  
16 *such function at the expense of the State or political*  
17 *subdivision and to extent consistent with State and*  
18 *local law. No request from a bona fide State or polit-*  
19 *ical subdivision or bona fide law enforcement agency*  
20 *shall be denied absent a compelling reason. No limit*  
21 *on the number of agreements under this subsection*  
22 *may be imposed. The Secretary shall process requests*  
23 *for such agreements with all due haste, and in no case*  
24 *shall take not more than 90 days from the date the*  
25 *request is made until the agreement is con-*  
26 *summated.”;*

1           (2) *by redesignating paragraph (2) as para-*  
2           *graph (5) and paragraphs (3) through (10) as para-*  
3           *graphs (7) through (14), respectively;*

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

6           “(2) *An agreement under this subsection shall accom-*  
7           *modate a requesting State or political subdivision with re-*  
8           *spect to the enforcement model or combination of models,*  
9           *and shall accommodate a patrol model, task force model,*  
10          *jail model, any combination thereof, or any other reasonable*  
11          *model the State or political subdivision believes is best suit-*  
12          *ed to the immigration enforcement needs of its jurisdiction.*

13          “(3) *No Federal program or technology directed broad-*  
14          *ly at identifying inadmissible or deportable aliens shall*  
15          *substitute for such agreements, including those establishing*  
16          *a jail model, and shall operate in addition to any agree-*  
17          *ment under this subsection.*

18          “(4)(A) *No agreement under this subsection shall be*  
19          *terminated absent a compelling reason.*

20          “(B)(i) *The Secretary shall provide a State or political*  
21          *subdivision written notice of intent to terminate at least*  
22          *180 days prior to date of intended termination, and the*  
23          *notice shall fully explain the grounds for termination, along*  
24          *with providing evidence substantiating the Secretary’s alle-*  
25          *gations.*



1       “(ii) The State or political subdivision shall have the  
2 right to a hearing before an administrative law judge and,  
3 if the ruling is against the State or political subdivision,  
4 to appeal the ruling to the Federal Circuit Court of Appeals  
5 and, if the ruling is against the State or political subdivi-  
6 sion, to the Supreme Court.

7       “(C) The agreement shall remain in full effect during  
8 the course of any and all legal proceedings.”; and

9               (4) by inserting after paragraph (5) (as redesign-  
10 nated) the following:

11       “(6) The Secretary of Homeland Security shall make  
12 training of State and local law enforcement officers avail-  
13 able through as many means as possible, including through  
14 residential training at the Center for Domestic Prepared-  
15 ness and the Federal Law Enforcement Training Center,  
16 onsite training held at State or local police agencies or fa-  
17 cilities, online training courses by computer, teleconfer-  
18 encing, and videotape, or the digital video display (DVD)  
19 of a training course or courses. Distance learning through  
20 a secure, encrypted distributed learning system that has all  
21 its servers based in the United States, is scalable, surviv-  
22 able, and can have a portal in place not later than 30 days  
23 after the date of the enactment of this Act, shall be made  
24 available by the COPS Office of the Department of Justice  
25 and the Federal Law Enforcement Training Center Distrib-

1 *uted Learning Program for State and local law enforcement*  
 2 *personnel. Preference shall be given to private sector-based*  
 3 *web-based immigration enforcement training programs for*  
 4 *which the Federal Government has already provided sup-*  
 5 *port to develop.”.*

6 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**  
 7 **(SCAAP).**

8 *Section 241(i) of the Immigration and Nationality Act*  
 9 *(8 U.S.C. 1231(i)) is amended—*

10 *(1) by striking “Attorney General” the first place*  
 11 *such term appears and inserting “Secretary of Home-*  
 12 *land Security”;*

13 *(2) by striking “Attorney General” each place*  
 14 *such term appears thereafter and inserting “Sec-*  
 15 *retary”;*

16 *(3) in paragraph (3)(A), by inserting “charged*  
 17 *with or” before “convicted”; and*

18 *(4) by amending paragraph (5) to read as fol-*  
 19 *lows:*

20 *“(5) There are authorized to be appropriated to*  
 21 *carry out this subsection such sums as may be nec-*  
 22 *essary for fiscal year 2014 and each subsequent fiscal*  
 23 *year.”.*

1 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**  
2 **GRATION LAWS.**

3 (a) *IN GENERAL.*—Section 642 of the *Illegal Immigra-*  
4 *tion Reform and Immigrant Responsibility Act of 1996* (8  
5 *U.S.C. 1373*) is amended—

6 (1) by striking “*Immigration and Naturaliza-*  
7 *tion Service*” each place it appears and inserting  
8 “*Department of Homeland Security*”;

9 (2) in subsection (a), by striking “*may*” and in-  
10 scribing “*shall*”;

11 (3) in subsection (b)—

12 (A) by striking “*no person or agency may*”  
13 and inserting “*a person or agency shall not*”;

14 (B) by striking “*doing any of the following*  
15 *with respect to information*” and inserting “*un-*  
16 *dertaking any of the following law enforcement*  
17 *activities*”; and

18 (C) by striking paragraphs (1) through (3)  
19 and inserting the following:

20 “(1) *Notifying the Federal Government regard-*  
21 *ing the presence of inadmissible and deportable aliens*  
22 *who are encountered by law enforcement personnel of*  
23 *a State or political subdivision of a State.*

24 “(2) *Complying with requests for information*  
25 *from Federal law enforcement.*

1           “(3) *Complying with detainers issued by the De-*  
2           *partment of Homeland Security.*

3           “(4) *Issuing policies in the form of a resolutions,*  
4           *ordinances, administrative actions, general or special*  
5           *orders, or departmental policies that violate Federal*  
6           *law or restrict a State or political subdivision of a*  
7           *State from complying with Federal law or coordi-*  
8           *nating with Federal law enforcement.”; and*

9           (4) *by adding at the end the following:*

10          “(d) *COMPLIANCE.—*

11           “(1) *IN GENERAL.—A State, or a political sub-*  
12           *division of a State, that has in effect a statute, policy,*  
13           *or practice that prohibits law enforcement officers of*  
14           *the State, or of a political subdivision of the State,*  
15           *from assisting or cooperating with Federal immigra-*  
16           *tion law enforcement in the course of carrying out the*  
17           *officers’ routine law enforcement duties shall not be*  
18           *eligible to receive—*

19           “(A) *any of the funds that would otherwise*  
20           *be allocated to the State or political subdivision*  
21           *under section 241(i) of the Immigration and Na-*  
22           *tionality Act (8 U.S.C. 1231(i)) or the ‘Cops on*  
23           *the Beat’ program under part Q of title I of the*  
24           *Omnibus Crime Control and Safe Streets Act of*  
25           *1968 (42 U.S.C. 3796dd et seq.); or*

1                   “(B) *any other law enforcement or Depart-*  
2                   *ment of Homeland Security grant.*

3                   “(2) *ANNUAL DETERMINATION.—The Secretary*  
4                   *shall determine annually which State or political sub-*  
5                   *division of a State are not in compliance with this*  
6                   *section and shall report such determinations to Con-*  
7                   *gress on March 1 of each year.*

8                   “(3) *REPORTS.—The Attorney General shall*  
9                   *issue a report concerning the compliance of any par-*  
10                  *ticular State or political subdivision at the request of*  
11                  *the House or Senate Judiciary Committee. Any juris-*  
12                  *isdiction that is found to be out of compliance shall be*  
13                  *ineligible to receive Federal financial assistance as*  
14                  *provided in paragraph (1) for a minimum period of*  
15                  *1 year, and shall only become eligible again after the*  
16                  *Attorney General certifies that the jurisdiction is in*  
17                  *compliance.*

18                  “(4) *REALLOCATION.—Any funds that are not*  
19                  *allocated to a State or to a political subdivision of a*  
20                  *State, due to the failure of the State, or of the polit-*  
21                  *ical subdivision of the State, to comply with sub-*  
22                  *section (c) shall be reallocated to States, or to polit-*  
23                  *ical subdivisions of States, that comply with such*  
24                  *subsection.*

1       “(e) *CONSTRUCTION.*—*Nothing in this section shall re-*  
 2       *quire law enforcement officials from States, or from polit-*  
 3       *ical subdivisions of States, to report or arrest victims or*  
 4       *witnesses of a criminal offense.”.*

5       (b) *EFFECTIVE DATE.*—*The amendments made by this*  
 6       *section shall take effect on the date of the enactment of this*  
 7       *Act, except that subsection (d) of section 642 of the Illegal*  
 8       *Immigration Reform and Immigrant Responsibility Act of*  
 9       *1996 (8 U.S.C. 1373), as added by this section, shall take*  
 10       *effect beginning one year after the date of the enactment*  
 11       *of this Act.*

12       **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

13       *Except as otherwise provided by Federal law or rule*  
 14       *of procedure, the Secretary of Homeland Security shall exe-*  
 15       *cute all lawful writs, process, and orders issued under the*  
 16       *authority of the United States, and shall command all nec-*  
 17       *essary assistance to execute the Secretary’s duties.*

18       **TITLE II—NATIONAL SECURITY**

19       **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**  
 20       **RORIST ALIENS.**

21       (a) *ASYLUM.*—*Section 208(b)(2)(A) of the Immigra-*  
 22       *tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is*  
 23       *amended—*

24               (1) *by inserting “or the Secretary of Homeland*  
 25       *Security” after “if the Attorney General”; and*

1           (2) *by amending clause (v) to read as follows:*

2                       “(v) *the alien is described in subpara-*  
3                       *graph (B)(i) or (F) of section 212(a)(3), un-*  
4                       *less, in the case of an alien described in sub-*  
5                       *paragraph (IV), (V), or (IX) of section*  
6                       *212(a)(3)(B)(i), the Secretary of Homeland*  
7                       *Security or the Attorney General deter-*  
8                       *mines, in the discretion of the Secretary or*  
9                       *the Attorney General, that there are not rea-*  
10                      *sonable grounds for regarding the alien as*  
11                      *a danger to the security of the United*  
12                      *States; or”.*

13           (b) *CANCELLATION OF REMOVAL.—Section 240A(c)(4)*  
14 *of such Act (8 U.S.C. 1229b(c)(4)) is amended—*

15                      (1) *by striking “inadmissible under” and insert-*  
16                      *ing “described in”; and*

17                      (2) *by striking “deportable under” and inserting*  
18                      *“described in”.*

19           (c) *VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C)*  
20 *of such Act (8 U.S.C. 1229c(b)(1)(C)) is amended by strik-*  
21 *ing “deportable under section 237(a)(2)(A)(iii) or section*  
22 *237(a)(4);” and inserting “described in paragraph*  
23 *(2)(A)(iii) or (4) of section 237(a);”.*

24           (d) *RESTRICTION ON REMOVAL.—Section 241(b)(3)(B)*  
25 *of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—*

1           (1) *by inserting “or the Secretary of Homeland*  
 2           *Security” after “Attorney General” each place it ap-*  
 3           *pears;*

4           (2) *in clause (iii), by striking “or” at the end;*

5           (3) *in clause (iv), by striking the period at the*  
 6           *end and inserting “; or”;*

7           (4) *by inserting after clause (iv) the following:*

8                       *“(v) the alien is described in subpara-*  
 9                       *graph (B)(i) or (F) of section 212(a)(3), un-*  
 10                      *less, in the case of an alien described in sub-*  
 11                      *paragraph (IV), (V), or (IX) of section*  
 12                      *212(a)(3)(B)(i), the Secretary of Homeland*  
 13                      *Security or the Attorney General deter-*  
 14                      *mines, in discretion of the Secretary or the*  
 15                      *Attorney General, that there are not reason-*  
 16                      *able grounds for regarding the alien as a*  
 17                      *danger to the security of the United*  
 18                      *States.”; and*

19           (5) *by striking the final sentence.*

20           (e) *RECORD OF ADMISSION.—*

21           (1) *IN GENERAL.—Section 249 of such Act (8*  
 22           *U.S.C. 1259) is amended to read as follows:*



1 *“RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN*  
2 *THE CASE OF CERTAIN ALIENS WHO ENTERED THE*  
3 *UNITED STATES PRIOR TO JANUARY 1, 1972*

4 *“SEC. 249. The Secretary of Homeland Security, in*  
5 *the discretion of the Secretary and under such regulations*  
6 *as the Secretary may prescribe, may enter a record of law-*  
7 *ful admission for permanent residence in the case of any*  
8 *alien, if no such record is otherwise available and the*  
9 *alien—*

10 *“(1) entered the United States before January 1,*  
11 *1972;*

12 *“(2) has continuously resided in the United*  
13 *States since such entry;*

14 *“(3) has been a person of good moral character*  
15 *since such entry;*

16 *“(4) is not ineligible for citizenship;*

17 *“(5) is not described in paragraph (1)(A)(iv),*  
18 *(2), (3), (6)(C), (6)(E), or (8) of section 212(a); and*

19 *“(6) did not, at any time, without reasonable*  
20 *cause fail or refuse to attend or remain in attendance*  
21 *at a proceeding to determine the alien’s inadmis-*  
22 *sibility or deportability.*

23 *Such recordation shall be effective as of the date of approval*  
24 *of the application or as of the date of entry if such entry*  
25 *occurred prior to July 1, 1924.”.*

1           (2) *CLERICAL AMENDMENT.*—*The table of con-*  
 2           *tents for such Act is amended by amending the item*  
 3           *relating to section 249 to read as follows:*

*“Sec. 249. Record of admission for permanent residence in the case of certain  
 aliens who entered the United States prior to January 1, 1972.”.*

4           (f) *EFFECTIVE DATE.*—*The amendments made by this*  
 5           *section shall take effect on the date of enactment of this Act*  
 6           *and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3),*  
 7           *and 249 of the Immigration and Nationality Act, as so*  
 8           *amended, shall apply to—*

9                   (1) *all aliens in removal, deportation, or exclu-*  
 10           *sion proceedings;*

11                   (2) *all applications pending on, or filed after,*  
 12           *the date of the enactment of this Act; and*

13                   (3) *with respect to aliens and applications de-*  
 14           *scribed in paragraph (1) or (2) of this subsection, acts*  
 15           *and conditions constituting a ground for exclusion,*  
 16           *deportation, or removal occurring or existing before,*  
 17           *on, or after the date of the enactment of this Act.*

18 **SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.**

19           (a) *DEFINITION OF GOOD MORAL CHARACTER.*—*Sec-*  
 20           *tion 101(f) of the Immigration and Nationality Act (8*  
 21           *U.S.C. 1101(f)) is amended—*

22                   (1) *by inserting after paragraph (1) the fol-*  
 23           *lowing:*

1           “(2) one who the Secretary of Homeland Secu-  
2           rity or Attorney General determines to have been at  
3           any time an alien described in section 212(a)(3) or  
4           237(a)(4), which determination may be based upon  
5           any relevant information or evidence, including clas-  
6           sified, sensitive, or national security information;”;

7           (2) in paragraph (8), by inserting “, regardless  
8           whether the crime was classified as an aggravated fel-  
9           ony at the time of conviction, except that the Sec-  
10          retary of Homeland Security or Attorney General  
11          may, in the unreviewable discretion of the Secretary  
12          or Attorney General, determine that this paragraph  
13          shall not apply in the case of a single aggravated fel-  
14          ony conviction (other than murder, manslaughter,  
15          homicide, rape, or any sex offense when the victim of  
16          such sex offense was a minor) for which completion  
17          of the term of imprisonment or the sentence (which-  
18          ever is later) occurred 10 or more years prior to the  
19          date of application” after “(as defined in subsection  
20          (a)(43))”; and

21          (3) in the matter following paragraph (9), by  
22          striking the first sentence and inserting the following:  
23          “The fact that any person is not within any of the  
24          foregoing classes shall not preclude a discretionary  
25          finding for other reasons that such a person is or was

1        *not of good moral character. The Secretary or the At-*  
 2        *torney General shall not be limited to the applicant's*  
 3        *conduct during the period for which good moral char-*  
 4        *acter is required, but may take into consideration as*  
 5        *a basis for determination the applicant's conduct and*  
 6        *acts at any time."*

7        *(b) AGGRAVATED FELONS.—Section 509(b) of the Im-*  
 8        *migration Act of 1990 (8 U.S.C. 1101 note) is amended*  
 9        *to read as follows:*

10        *"(b) EFFECTIVE DATE.—The amendment made by*  
 11        *subsection (a) shall take effect on November 29, 1990, and*  
 12        *shall apply to convictions occurring before, on or after such*  
 13        *date."*

14        *(c) TECHNICAL CORRECTION TO THE INTELLIGENCE*  
 15        *REFORM ACT.—Section 5504(2) of the Intelligence Reform*  
 16        *and Terrorism Prevention Act of 2004 (Public Law 108–*  
 17        *458) is amended by striking "adding at the end" and in-*  
 18        *serting "inserting after paragraph (8)".*

19        *(d) EFFECTIVE DATE.—The amendments made by*  
 20        *subsections (a) and (b) shall take effect on the date of enact-*  
 21        *ment of this Act, shall apply to any act that occurred before,*  
 22        *on, or after such date and shall apply to any application*  
 23        *for naturalization or any other benefit or relief, or any*  
 24        *other case or matter under the immigration laws pending*  
 25        *on or filed after such date. The amendments made by sub-*

1 *section (c) shall take effect as if enacted in the Intelligence*  
 2 *Reform and Terrorism Prevention Act of 2004 (Public Law*  
 3 *108–458).*

4 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

5 *(a) NATURALIZATION OF PERSONS ENDANGERING THE*  
 6 *NATIONAL SECURITY.—Section 316 of the Immigration and*  
 7 *Nationality Act (8 U.S.C. 1426) is amended by adding at*  
 8 *the end the following:*

9 *“(g) PERSONS ENDANGERING THE NATIONAL SECU-*  
 10 *RITY.—No person shall be naturalized who the Secretary*  
 11 *of Homeland Security determines to have been at any time*  
 12 *an alien described in section 212(a)(3) or 237(a)(4). Such*  
 13 *determination may be based upon any relevant information*  
 14 *or evidence, including classified, sensitive, or national secu-*  
 15 *urity information.”.*

16 *(b) CONCURRENT NATURALIZATION AND REMOVAL*  
 17 *PROCEEDINGS.—Section 318 of the Immigration and Na-*  
 18 *tionality Act (8 U.S.C. 1429) is amended by striking “other*  
 19 *Act;” and inserting “other Act; and no application for nat-*  
 20 *uralization shall be considered by the Secretary of Home-*  
 21 *land Security or any court if there is pending against the*  
 22 *applicant any removal proceeding or other proceeding to*  
 23 *determine the applicant’s inadmissibility or deportability,*  
 24 *or to determine whether the applicant’s lawful permanent*  
 25 *resident status should be rescinded, regardless of when such*

1 *proceeding was commenced: Provided, That the findings of*  
 2 *the Attorney General in terminating removal proceedings*  
 3 *or in canceling the removal of an alien pursuant to the*  
 4 *provisions of this Act, shall not be deemed binding in any*  
 5 *way upon the Secretary of Homeland Security with respect*  
 6 *to the question of whether such person has established his*  
 7 *eligibility for naturalization as required by this title;”.*

8       (c) *PENDING DENATURALIZATION OR REMOVAL PRO-*  
 9 *CEEDINGS.*—Section 204(b) of the Immigration and Na-  
 10 *tionality Act (8 U.S.C. 1154(b)) is amended by adding at*  
 11 *the end the following: “No petition shall be approved pursu-*  
 12 *ant to this section if there is any administrative or judicial*  
 13 *proceeding (whether civil or criminal) pending against the*  
 14 *petitioner that could (whether directly or indirectly) result*  
 15 *in the petitioner’s denaturalization or the loss of the peti-*  
 16 *tioner’s lawful permanent resident status.”.*

17       (d) *CONDITIONAL PERMANENT RESIDENTS.*—Sections  
 18 *216(e) and section 216A(e) of the Immigration and Nation-*  
 19 *ality Act (8 U.S.C. 1186a(e) and 1186b(e)) are each amend-*  
 20 *ed by striking the period at the end and inserting “, if the*  
 21 *alien has had the conditional basis removed pursuant to*  
 22 *this section.”.*

23       (e) *DISTRICT COURT JURISDICTION.*—Subsection  
 24 *336(b) of the Immigration and Nationality Act (8 U.S.C.*  
 25 *1447(b)) is amended to read as follows:*

1       “(b) *If there is a failure to render a final administra-*  
 2 *tive decision under section 335 before the end of the 180-*  
 3 *day period after the date on which the Secretary of Home-*  
 4 *land Security completes all examinations and interviews*  
 5 *conducted under such section, as such terms are defined by*  
 6 *the Secretary of Homeland Security pursuant to regula-*  
 7 *tions, the applicant may apply to the district court for the*  
 8 *district in which the applicant resides for a hearing on the*  
 9 *matter. Such court shall only have jurisdiction to review*  
 10 *the basis for delay and remand the matter to the Secretary*  
 11 *of Homeland Security for the Secretary’s determination on*  
 12 *the application.”.*

13       (f) *CONFORMING AMENDMENT.—Section 310(c) of the*  
 14 *Immigration and Nationality Act (8 U.S.C. 1421(c)) is*  
 15 *amended—*

16           (1) *by inserting “, not later than the date that*  
 17 *is 120 days after the Secretary of Homeland Secu-*  
 18 *rity’s final determination,” after “seek”; and*

19           (2) *by striking the second sentence and inserting*  
 20 *the following: “The burden shall be upon the peti-*  
 21 *tioner to show that the Secretary’s denial of the appli-*  
 22 *cation was not supported by facially legitimate and*  
 23 *bona fide reasons. Except in a proceeding under sec-*  
 24 *tion 340, notwithstanding any other provision of law*  
 25 *(statutory or nonstatutory), including section 2241 of*

1       *title 28, United States Code, or any other habeas cor-*  
 2       *pus provision, and sections 1361 and 1651 of such*  
 3       *title, no court shall have jurisdiction to determine, or*  
 4       *to review a determination of the Secretary made at*  
 5       *any time regarding, whether, for purposes of an ap-*  
 6       *plication for naturalization, an alien is a person of*  
 7       *good moral character, whether the alien understands*  
 8       *and is attached to the principles of the Constitution*  
 9       *of the United States, or whether an alien is well dis-*  
 10       *posed to the good order and happiness of the United*  
 11       *States.”.*

12       *(g) EFFECTIVE DATE.—The amendments made by this*  
 13       *section shall take effect on the date of enactment of this Act,*  
 14       *shall apply to any act that occurred before, on, or after such*  
 15       *date, and shall apply to any application for naturalization*  
 16       *or any other case or matter under the immigration laws*  
 17       *pending on, or filed after, such date.*

18       **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

19       *(a) IN GENERAL.—Section 340 of the Immigration*  
 20       *and Nationality Act is amended—*

21               *(1) by redesignating subsections (f) through (h)*  
 22       *as subsections (g) through (i), respectively; and*

23               *(2) by inserting after subsection (e) the following:*

24               *“(f)(1) If a person who has been naturalized partici-*  
 25       *pates in any act described in paragraph (2), the Attorney*



1 *General is authorized to find that, as of the date of such*  
2 *naturalization, such person was not attached to the prin-*  
3 *ciples of the Constitution of the United States and was not*  
4 *well disposed to the good order and happiness of the United*  
5 *States at the time of naturalization, and upon such finding*  
6 *shall set aside the order admitting such person to citizen-*  
7 *ship and cancel the certificate of naturalization as having*  
8 *been obtained by concealment of a material fact or by will-*  
9 *ful misrepresentation, and such revocation and setting aside*  
10 *of the order admitting such person to citizenship and such*  
11 *canceling of certificate of naturalization shall be effective*  
12 *as of the original date of the order and certificate, respec-*  
13 *tively.*

14       “(2) *The acts described in this paragraph are the fol-*  
15 *lowing:*

16               “(A) *Any activity a purpose of which is the op-*  
17 *position to, or the control or overthrow of, the Govern-*  
18 *ment of the United States by force, violence, or other*  
19 *unlawful means.*

20               “(B) *Engaging in a terrorist activity (as defined*  
21 *in clauses (iii) and (iv) of section 212(a)(3)(B)).*

22               “(C) *Incitement of terrorist activity under cir-*  
23 *cumstances indicating an intention to cause death or*  
24 *serious bodily harm.*

1           “(D) *Receiving military-type training (as de-*  
 2           *defined in section 2339D(c)(1) of title 18, United States*  
 3           *Code) from or on behalf of any organization that, at*  
 4           *the time the training was received, was a terrorist or-*  
 5           *ganization (as defined in section 212(a)(3)(B)(vi)).”.*

6           (b) *EFFECTIVE DATE.*—*The amendments made by sub-*  
 7           *section (a) shall take effect on the date of the enactment*  
 8           *of this Act and shall apply to acts that occur on or after*  
 9           *such date.*

10   **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**  
 11                           **FOR NATIONAL SECURITY PURPOSES.**

12           (a) *SPECIAL AGRICULTURAL WORKERS.*—*Section*  
 13           *210(b)(6) of the Immigration and Nationality Act (8*  
 14           *U.S.C. 1160(b)(6)) is amended—*

15                   (1) *by striking “Attorney General” each place*  
 16                   *such term appears and inserting “Secretary of Home-*  
 17                   *land Security”;*

18                   (2) *in subparagraph (A), by striking “Depart-*  
 19                   *ment of Justice,” and inserting “Department of*  
 20                   *Homeland Security,”;*

21                   (3) *by redesignating subparagraphs (C) and (D)*  
 22                   *as subparagraphs (D) and (E), respectively;*

23                   (4) *by inserting after subparagraph (B) the fol-*  
 24                   *lowing:*

25                           “(C) *AUTHORIZED DISCLOSURES.*—

1                   “(i) *CENSUS PURPOSE.*—*The Secretary*  
 2                   *of Homeland Security may provide, in his*  
 3                   *discretion, for the furnishing of information*  
 4                   *furnished under this section in the same*  
 5                   *manner and circumstances as census infor-*  
 6                   *mation may be disclosed under section 8 of*  
 7                   *title 13, United States Code.*

8                   “(ii) *NATIONAL SECURITY PURPOSE.*—  
 9                   *The Secretary of Homeland Security may*  
 10                  *provide, in his discretion, for the fur-*  
 11                  *nishing, use, publication, or release of infor-*  
 12                  *mation furnished under this section in any*  
 13                  *investigation, case, or matter, or for any*  
 14                  *purpose, relating to terrorism, national in-*  
 15                  *telligence or the national security.”; and*

16                  (5) *in subparagraph (D), as redesignated, by*  
 17                  *striking “Service” and inserting “Department of*  
 18                  *Homeland Security”.*

19                  (b) *ADJUSTMENT OF STATUS UNDER THE IMMIGRA-*  
 20                  *TION REFORM AND CONTROL ACT OF 1986.*—*Section*  
 21                  *245A(c)(5) of the Immigration and Nationality Act (8*  
 22                  *U.S.C. 1255a(c)(5)), is amended—*

23                  (1) *by striking “Attorney General” each place*  
 24                  *such term appears and inserting “Secretary of Home-*  
 25                  *land Security”;*

1           (2) in subparagraph (A), by striking “Depart-  
2       ment of Justice,” and inserting “Department of  
3       Homeland Security,”;

4           (3) by amending subparagraph (C) to read as  
5       follows:

6           “(C) *AUTHORIZED DISCLOSURES.*—

7                 “(i) *CENSUS PURPOSE.*—The Secretary  
8       of Homeland Security may provide, in his  
9       discretion, for the furnishing of information  
10      furnished under this section in the same  
11      manner and circumstances as census infor-  
12      mation may be disclosed under section 8 of  
13      title 13, United States Code.

14           “(ii) *NATIONAL SECURITY PURPOSE.*—

15      The Secretary of Homeland Security may  
16      provide, in his discretion, for the fur-  
17      nishing, use, publication, or release of infor-  
18      mation furnished under this section in any  
19      investigation, case, or matter, or for any  
20      purpose, relating to terrorism, national in-  
21      telligence or the national security.”; and

22           (4) in subparagraph (D)(i), striking “Service”  
23      and inserting “Department of Homeland Security”.

1 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

2       (a) *REQUIREMENT TO COMPLETE BACKGROUND AND*  
3 *SECURITY CHECKS.*—Section 103 of the Immigration and  
4 Nationality Act (8 U.S.C. 1103) is amended by adding at  
5 the end the following:

6       “(h) Notwithstanding any other provision of law (stat-  
7 utory or nonstatutory), including but not limited to section  
8 309 of Public Law 107–173, sections 1361 and 1651 of title  
9 28, United States Code, and section 706(1) of title 5, United  
10 States Code, neither the Secretary of Homeland Security,  
11 the Attorney General, nor any court may—

12               “(1) grant, or order the grant of or adjudication  
13 of an application for adjustment of status to that of  
14 an alien lawfully admitted for permanent residence;

15               “(2) grant, or order the grant of or adjudication  
16 of an application for United States citizenship or any  
17 other status, relief, protection from removal, employ-  
18 ment authorization, or other benefit under the immi-  
19 gration laws;

20               “(3) grant, or order the grant of or adjudication  
21 of, any immigrant or nonimmigrant petition; or

22               “(4) issue or order the issuance of any docu-  
23 mentation evidencing or related to any such grant,  
24 until such background and security checks as the Sec-  
25 retary may in his discretion require have been com-  
26 pleted or updated to the satisfaction of the Secretary.

1       “(i) *Notwithstanding any other provision of law (stat-*  
2 *utory or nonstatutory), including but not limited to section*  
3 *309 of Public Law 107–173, sections 1361 and 1651 of title*  
4 *28, United States Code, and section 706(1) of title 5, United*  
5 *States Code, neither the Secretary of Homeland Security*  
6 *nor the Attorney General may be required to—*

7               “(1) *grant, or order the grant of or adjudication*  
8 *of an application for adjustment of status to that of*  
9 *an alien lawfully admitted for permanent residence,*

10              “(2) *grant, or order the grant of or adjudication*  
11 *of an application for United States citizenship or any*  
12 *other status, relief, protection from removal, employ-*  
13 *ment authorization, or other benefit under the immi-*  
14 *gration laws,*

15              “(3) *grant, or order the grant of or adjudication*  
16 *of, any immigrant or nonimmigrant petition, or*

17              “(4) *issue or order the issuance of any docu-*  
18 *mentation evidencing or related to any such grant,*  
19 *until any suspected or alleged materially false infor-*  
20 *mation, material misrepresentation or omission, con-*  
21 *cealment of a material fact, fraud or forgery, counter-*  
22 *feiting, or alteration, or falsification of a document,*  
23 *as determined by the Secretary, relating to the adju-*  
24 *dications of an application or petition for any status*  
25 *(including the granting of adjustment of status), re-*

1        *lief, protection from removal, or other benefit under*  
 2        *this subsection has been investigated and resolved to*  
 3        *the Secretary’s satisfaction.*

4        “(j) Notwithstanding any other provision of law (stat-  
 5        *utory or nonstatutory), including section 309 of the En-*  
 6        *hanced Border Security and Visa Entry Reform Act (8*  
 7        *U.S.C. 1738), sections 1361 and 1651 of title 28, United*  
 8        *States Code, and section 706(1) of title 5, United States*  
 9        *Code, no court shall have jurisdiction to require any of the*  
 10        *acts in subsection (h) or (i) to be completed by a certain*  
 11        *time or award any relief for failure to complete or delay*  
 12        *in completing such acts.”.*

13        (b) CONSTRUCTION.—

14                (1) IN GENERAL.—Chapter 4 of title III of the  
 15        *Immigration and Nationality Act (8 U.S.C. 1501 et*  
 16        *seq.) is amended by adding at the end the following:*

17                                “CONSTRUCTION

18        “SEC. 362. (a) IN GENERAL.—Nothing in this Act or  
 19        *any other law, except as provided in subsection (d), shall*  
 20        *be construed to require the Secretary of Homeland Security,*  
 21        *the Attorney General, the Secretary of State, the Secretary*  
 22        *of Labor, or a consular officer to grant any application,*  
 23        *approve any petition, or grant or continue any relief, pro-*  
 24        *tection from removal, employment authorization, or any*  
 25        *other status or benefit under the immigration laws by, to,*  
 26        *or on behalf of—*

1           “(1) any alien deemed by the Secretary to be de-  
2           scribed in section 212(a)(3) or section 237(a)(4); or

3           “(2) any alien with respect to whom a criminal  
4           or other proceeding or investigation is open or pend-  
5           ing (including, but not limited to, issuance of an ar-  
6           rest warrant, detainer, or indictment), where such  
7           proceeding or investigation is deemed by the official  
8           described in subsection (a) to be material to the  
9           alien’s eligibility for the status or benefit sought.

10          “(b) *DENIAL OR WITHHOLDING OF ADJUDICATION.*—

11       *An official described in subsection (a) may, in the discre-*  
12       *tion of the official, deny (with respect to an alien described*  
13       *in paragraph (1) or (2) of subsection (a)) or withhold adju-*  
14       *dication of pending resolution of the investigation or case*  
15       *(with respect to an alien described in subsection (a)(2) of*  
16       *this section) any application, petition, relief, protection*  
17       *from removal, employment authorization, status or benefit.*

18          “(c) *JURISDICTION.*—*Notwithstanding any other pro-*  
19       *vision of law (statutory or nonstatutory), including section*  
20       *309 of the Enhanced Border Security and Visa Entry Re-*  
21       *form Act (8 U.S.C. 1738), sections 1361 and 1651 of title*  
22       *28, United States Code, and section 706(1) of title 5, United*  
23       *States Code, no court shall have jurisdiction to review a*  
24       *decision to deny or withhold adjudication pursuant to sub-*  
25       *section (b) of this section.*



1       “(d) *WITHHOLDING OF REMOVAL AND TORTURE CON-*  
 2 *VENTION.*—*This section does not limit or modify the appli-*  
 3 *cability of section 241(b)(3) or the United Nations Conven-*  
 4 *tion Against Torture and Other Cruel, Inhuman or Degrad-*  
 5 *ing Treatment or Punishment, subject to any reservations,*  
 6 *understandings, declarations and provisos contained in the*  
 7 *United States Senate resolution of ratification of the Con-*  
 8 *vention, as implemented by section 2242 of the Foreign Af-*  
 9 *fairs Reform and Restructuring Act of 1998 (Public Law*  
 10 *105–277) with respect to an alien otherwise eligible for pro-*  
 11 *tection under such provisions.”.*

12               (2) *CLERICAL AMENDMENT.*—*The table of con-*  
 13 *tents for such Act is amended by inserting after the*  
 14 *item relating to section 361 the following:*

“Sec. 362. *Construction.*”.

15               (c) *EFFECTIVE DATE.*—*The amendments made by this*  
 16 *section shall take effect on the date of the enactment of this*  
 17 *Act and shall apply to applications for immigration bene-*  
 18 *fits pending on or after such date.*

19 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**  
 20 **TELLIGENCE REFORM AND TERRORISM PRE-**  
 21 **VENTION ACT OF 2004.**

22               (a) *TRANSIT WITHOUT VISA PROGRAM.*—*Section*  
 23 *7209(d) of the Intelligence Reform and Terrorism Preven-*  
 24 *tion Act of 2004 (8 U.S.C. 1185 note) is amended by strik-*  
 25 *ing “the Secretary, in conjunction with the Secretary of*

1 *Homeland Security,” and inserting “the Secretary of*  
 2 *Homeland Security, in consultation with the Secretary of*  
 3 *State,”.*

4 (b) *TECHNOLOGY ACQUISITION AND DISSEMINATION*  
 5 *PLAN.—Section 7201(c)(1) of such Act is amended by in-*  
 6 *serting “and the Department of State” after “used by the*  
 7 *Department of Homeland Security”.*

8 ***TITLE III—REMOVAL OF***  
 9 ***CRIMINAL ALIENS***

10 ***SEC. 301. DEFINITION OF AGGRAVATED FELONY.***

11 (a) *DEFINITION OF AGGRAVATED FELONY.—Section*  
 12 *101(a)(43) of the Immigration and Nationality Act (8*  
 13 *U.S.C. 1101(a)(43)) is amended—*

14 (1) *by striking “The term ‘aggravated felony’*  
 15 *means—” and inserting “Notwithstanding any other*  
 16 *provision of law, the term ‘aggravated felony’ applies*  
 17 *to an offense described in this paragraph, whether in*  
 18 *violation of Federal or State law, or in violation of*  
 19 *the law of a foreign country for which the term of im-*  
 20 *prisonment was completed within the previous 15*  
 21 *years, even if the length of the term of imprisonment*  
 22 *for the offense is based on recidivist or other enhance-*  
 23 *ments and regardless of whether the conviction was*  
 24 *entered before, on, or after September 30, 1996, and*  
 25 *means—”;*

1           (2) in subparagraph (A), by striking “murder,  
2       rape, or sexual abuse of a minor;” and inserting  
3       “murder, manslaughter, homicide, rape (whether the  
4       victim was conscious or unconscious), or any offense  
5       of a sexual nature involving a victim under the age  
6       of 18 years;”;

7           (3) in subparagraph (I), by striking “or 2252”  
8       and inserting “2252, or 2252A”.

9           (4) in subparagraph (F), by striking “at least  
10      one year;” and inserting “is at least one year, except  
11      that if the conviction records do not conclusively es-  
12      tablish whether a crime constitutes a crime of vio-  
13      lence, the Attorney General may consider other evi-  
14      dence related to the conviction that clearly establishes  
15      that the conduct for which the alien was engaged con-  
16      stitutes a crime of violence;”

17          (5) in subparagraph (N)—

18               (A) by striking “paragraph (1)(A) or (2)  
19       of”; and

20               (B) by inserting a semicolon at the end;

21          (6) in subparagraph (O), by striking “section  
22       275(a) or 276 committed by an alien who was pre-  
23       viously deported on the basis of a conviction for an  
24       offense described in another subparagraph of this

paragraph” and inserting “section 275 or 276 for which the term of imprisonment is at least 1 year”;

(7) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense described in this paragraph” and inserting “attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense”; and

(8) by striking the undesignated matter following subparagraph (U).

(b) *EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—*

(1) *IN GENERAL.—*The amendments made by subsection (a)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any act or conviction that occurred before, on, or after such date.

(2) *APPLICATION OF IIRIRA AMENDMENTS.—*The amendments to section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009-627) shall con-

1        *tinue to apply, whether the conviction was entered be-*  
 2        *fore, on, or after September 30, 1996.*

3    **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**  
 4                    **VICTED OF AGGRAVATED FELONIES OR**  
 5                    **OTHER SERIOUS OFFENSES.**

6        *(a) INADMISSIBILITY ON CRIMINAL AND RELATED*  
 7        *GROUND; WAIVERS.—Section 212 of the Immigration and*  
 8        *Nationality Act (8 U.S.C. 1182) is amended—*

9                *(1) in subsection (a)(2)(A)(i)—*

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

12                *(B) in subclause (II), by adding “or” at the*  
 13                *end; and*

14                *(C) by inserting after subclause (II) the fol-*  
 15                *lowing:*

16                        *“(III) a violation of (or a con-*  
 17                        *spiracy or attempt to violate) an of-*  
 18                        *fense described in section 408 of title*  
 19                        *42, United States Code (relating to so-*  
 20                        *cial security account numbers or social*  
 21                        *security cards) or section 1028 of title*  
 22                        *18, United States Code (relating to*  
 23                        *fraud and related activity in connec-*  
 24                        *tion with identification documents, au-*

1                    *thentication features, and informa-*  
2                    *tion),”.*

3                    *(2) by adding at the end of subsection (a)(2) the*  
4                    *following:*

5                    *“(J) PROCUREMENT OF CITIZENSHIP OR*  
6                    *NATURALIZATION UNLAWFULLY.—Any alien con-*  
7                    *victed of, or who admits having committed, or*  
8                    *who admits committing acts which constitute the*  
9                    *essential elements of, a violation of, or an at-*  
10                   *tempt or a conspiracy to violate, subsection (a)*  
11                   *or (b) of section 1425 of title 18, United States*  
12                   *Code (relating to the procurement of citizenship*  
13                   *or naturalization unlawfully) is inadmissible.*

14                   *“(K) CERTAIN FIREARM OFFENSES.—Any*  
15                   *alien who at any time has been convicted under*  
16                   *any law of, or who admits having committed or*  
17                   *admits committing acts which constitute the es-*  
18                   *sential elements of, purchasing, selling, offering*  
19                   *for sale, exchanging, using, owning, possessing,*  
20                   *or carrying, or of attempting or conspiring to*  
21                   *purchase, sell, offer for sale, exchange, use, own,*  
22                   *possess, or carry, any weapon, part, or accessory*  
23                   *which is a firearm or destructive device (as de-*  
24                   *defined in section 921(a) of title 18, United States*  
25                   *Code) in violation of any law is inadmissible.*

1           “(L) *AGGRAVATED FELONS*.—Any alien who  
 2           has been convicted of an aggravated felony at  
 3           any time is inadmissible.

4           “(M) *CRIMES OF DOMESTIC VIOLENCE,*  
 5           *STALKING, OR VIOLATION OF PROTECTION OR-*  
 6           *DERS, CRIMES AGAINST CHILDREN*.—

7           “(i) *DOMESTIC VIOLENCE, STALKING,*  
 8           *AND CHILD ABUSE*.—Any alien who at any  
 9           time is convicted of, or who admits having  
 10          committed or admits committing acts which  
 11          constitute the essential elements of, a crime  
 12          of domestic violence, a crime of stalking, or  
 13          a crime of child abuse, child neglect, or  
 14          child abandonment is inadmissible. For  
 15          purposes of this clause, the term ‘crime of  
 16          domestic violence’ means any crime of vio-  
 17          lence (as defined in section 16 of title 18,  
 18          United States Code) against a person com-  
 19          mitted by a current or former spouse of the  
 20          person, by an individual with whom the  
 21          person shares a child in common, by an in-  
 22          dividual who is cohabiting with or has  
 23          cohabited with the person as a spouse, by  
 24          an individual similarly situated to a spouse  
 25          of the person under the domestic or family

1           *violence laws of the jurisdiction where the*  
2           *offense occurs, or by any other individual*  
3           *against a person who is protected from that*  
4           *individual's acts under the domestic or fam-*  
5           *ily violence laws of the United States or*  
6           *any State, Indian tribal government, or*  
7           *unit of local or foreign government.*

8           “(ii) *VIOLATORS OF PROTECTION OR-*  
9           *DERS.—Any alien who at any time is en-*  
10          *joined under a protection order issued by a*  
11          *court and whom the court determines has*  
12          *engaged in conduct that violates the portion*  
13          *of a protection order that involves protec-*  
14          *tion against credible threats of violence, re-*  
15          *peated harassment, or bodily injury to the*  
16          *person or persons for whom the protection*  
17          *order was issued is inadmissible. For pur-*  
18          *poses of this clause, the term ‘protection*  
19          *order’ means any injunction issued for the*  
20          *purpose of preventing violent or threatening*  
21          *acts of domestic violence, including tem-*  
22          *porary or final orders issued by civil or*  
23          *criminal courts (other than support or child*  
24          *custody orders or provisions) whether ob-*  
25          *tained by filing an independent action or*



as a independent order in another proceeding.

“(iii) *WAIVER AUTHORIZED.*—*The waiver authority available under section 237(a)(7) with respect to section 237(a)(2)(E)(i) shall be available on a comparable basis with respect to this subparagraph.*

“(iv) *CLARIFICATION.*—*If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Attorney General may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime of violence.”; and*

*(3) in subsection (h)—*

*(A) by striking “The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)” and inserting “The Attorney General or the Secretary of Homeland Security may, in the discretion of the Attorney General or the*

1        *Secretary, waive the application of subpara-*  
 2        *graphs (A)(i)(I), (III), (B), (D), (E), (K), and*  
 3        *(M) of subsection (a)(2)”;*

4                *(B) by striking “a criminal act involving*  
 5        *torture.” and inserting “a criminal act involving*  
 6        *torture, or has been convicted of an aggravated*  
 7        *felony.”;*

8                *(C) by striking “if either since the date of*  
 9        *such admission the alien has been convicted of*  
 10        *an aggravated felony or the alien” and inserting*  
 11        *“if since the date of such admission the alien”;*  
 12        *and*

13                *(D) by inserting “or Secretary of Homeland*  
 14        *Security” after “the Attorney General” each*  
 15        *place it appears.*

16        *(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section*  
 17        *237(a)(3)(B) of the Immigration and Nationality Act (8*  
 18        *U.S.C. 1227(a)(3)(B)) is amended—*

19                *(1) in clause (ii), by striking “or” at the end;*

20                *(2) in clause (iii), by inserting “or” at the end;*

21        *and*

22                *(3) by inserting after clause (iii) the following:*

23                        *“(iv) of a violation of, or an attempt*  
 24                        *or a conspiracy to violate, section 1425(a)*  
 25                        *or (b) of title 18 (relating to the procure-*

1                   *ment of citizenship or naturalization un-*  
 2                   *lawfully),”.*

3           (c) *DEPORTABILITY; CRIMINAL OFFENSES.—Section*  
 4 *237(a)(2) of the Immigration and Nationality Act (8*  
 5 *U.S.C. 1227(a)(2)) is amended by adding at the end the*  
 6 *following:*

7                   “(G) *FRAUD AND RELATED ACTIVITY ASSO-*  
 8                   *CIATED WITH SOCIAL SECURITY ACT BENEFITS*  
 9                   *AND IDENTIFICATION DOCUMENTS.—Any alien*  
 10                  *who at any time after admission has been con-*  
 11                  *victed of a violation of (or a conspiracy or at-*  
 12                  *tempt to violate) section 208 of the Social Secu-*  
 13                  *rity Act (42 U.S.C. 408) (relating to social secu-*  
 14                  *rity account numbers or social security cards) or*  
 15                  *section 1028 of title 18, United States Code (re-*  
 16                  *lating to fraud and related activity in connec-*  
 17                  *tion with identification) is deportable.”.*

18           (d) *EFFECTIVE DATE.—The amendments made by this*  
 19 *section shall apply—*

20                   (1) *to any act that occurred before, on, or after*  
 21 *the date of the enactment of this Act; and*

22                   (2) *to all aliens who are required to establish ad-*  
 23 *missibility on or after such date, and in all removal,*  
 24 *deportation, or exclusion proceedings that are filed,*  
 25 *pending, or reopened, on or after such date.*

1       (e) *CONSTRUCTION.*—*The amendments made by sub-*  
 2 *section (a) shall not be construed to create eligibility for*  
 3 *relief from removal under former section 212(c) of the Im-*  
 4 *migration and Nationality Act where such eligibility did*  
 5 *not exist before these amendments became effective.*

6 **SEC. 303. ESPIONAGE CLARIFICATION.**

7       *Section 212(a)(3)(A) of the Immigration and Nation-*  
 8 *ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read as*  
 9 *follows:*

10               “(A) *IN GENERAL.*—*Any alien who a con-*  
 11               *sular officer, the Attorney General, or the Sec-*  
 12               *retary of Homeland Security knows, or has rea-*  
 13               *sonable ground to believe, seeks to enter the*  
 14               *United States to engage solely, principally, or*  
 15               *incidentally in, or who is engaged in, or with re-*  
 16               *spect to clauses (i) and (iii) of this subpara-*  
 17               *graph has engaged in—*

18               “(i) *any activity—*

19               “(I) *to violate any law of the*  
 20               *United States relating to espionage or*  
 21               *sabotage; or*

22               “(II) *to violate or evade any law*  
 23               *prohibiting the export from the United*  
 24               *States of goods, technology, or sensitive*  
 25               *information;*

1                   “(ii) any other unlawful activity; or  
 2                   “(iii) any activity a purpose of which  
 3                   is the opposition to, or the control or over-  
 4                   throw of, the Government of the United  
 5                   States by force, violence, or other unlawful  
 6                   means;  
 7                   is inadmissible.”.

8   **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**  
 9                   **THE POSSESSION OF FIREARMS BY, CERTAIN**  
 10                  **ALIENS.**

11       Section 922 of title 18, United States Code, is amend-  
 12   ed—

13               (1) in subsection (d)(5), in subparagraph (B), by  
 14       striking “(y)(2)” and all that follows and inserting  
 15       “(y), is in the United States not as an alien lawfully  
 16       admitted for permanent residence;”;

17               (2) in subsection (g)(5), in subparagraph (B), by  
 18       striking “(y)(2)” and all that follows and inserting  
 19       “(y), is in the United States not as an alien lawfully  
 20       admitted for permanent residence;” and

21               (3) in subsection (y)—

22                       (A) in the header, by striking “*ADMITTED*  
 23                       *UNDER NONIMMIGRANT VISAS.—*” and inserting  
 24                       “*NOT LAWFULLY ADMITTED FOR PERMANENT*  
 25                       *RESIDENCE.—*”;

1           (B) in paragraph (1), by amending sub-  
 2           paragraph (B) to read as follows:

3           “(B) the term ‘lawfully admitted for perma-  
 4           nent residence’ has the same meaning as in sec-  
 5           tion 101(a)(20) of the Immigration and Nation-  
 6           ality Act (8 U.S.C. 1101(a)(20)).”.

7           (C) in paragraph (2), by striking “under a  
 8           nonimmigrant visa” and inserting “but not law-  
 9           fully admitted for permanent residence”; and

10          (D) in paragraph (3)(A), by striking “ad-  
 11          mitted to the United States under a non-  
 12          immigrant visa” and inserting “lawfully admit-  
 13          ted to the United States but not as an alien law-  
 14          fully admitted for permanent residence”.

15 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**  
 16 **TAIN IMMIGRATION, NATURALIZATION, AND**  
 17 **PEONAGE OFFENSES.**

18          Section 3291 of title 18, United States Code, is amend-  
 19          ed by striking “No person” and all that follows through the  
 20          period at the end and inserting the following: “No person  
 21          shall be prosecuted, tried, or punished for a violation of any  
 22          section of chapters 69 (relating to nationality and citizen-  
 23          ship offenses) and 75 (relating to passport, visa, and immi-  
 24          gration offenses), or for a violation of any criminal provi-  
 25          sion of sections 243, 266, 274, 275, 276, 277, or 278 of the

1 *Immigration and Nationality Act, or for an attempt or con-*  
 2 *spiracy to violate any such section, unless the indictment*  
 3 *is returned or the information is filed within ten years after*  
 4 *the commission of the offense.”.*

5 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**  
 6 **OF RACKETEERING ACTIVITY.**

7 *Section 1961(1) of title 18, United States Code, is*  
 8 *amended by striking “section 1542” through “section 1546*  
 9 *(relating to fraud and misuse of visas, permits, and other*  
 10 *documents)” and inserting “sections 1541-1548 (relating to*  
 11 *passports and visas)”.*

12 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**  
 13 **VATED FELONY DEFINITION.**

14 (a) *IN GENERAL.*—Subparagraph (P) of section  
 15 101(a)(43) of the *Immigration and Nationality Act* (8  
 16 *U.S.C. 1101(a)(43)) is amended—*

17 (1) *by striking “(i) which either is falsely mak-*  
 18 *ing, forging, counterfeiting, mutilating, or altering a*  
 19 *passport or instrument in violation of section 1543 of*  
 20 *title 18, United States Code, or is described in section*  
 21 *1546(a) of such title (relating to document fraud) and*  
 22 *(ii)” and inserting “which is described in any section*  
 23 *of chapter 75 of title 18, United States Code,”; and*

1           (2) by inserting after “first offense” the fol-  
 2           lowing: “(i) that is not described in section 1548 of  
 3           such title (relating to increased penalties), and (ii)”.

4           (b) *EFFECTIVE DATE*.—The amendment made by sub-  
 5           section (a) shall take effect on the date of the enactment  
 6           of this Act and shall apply to acts that occur before, on,  
 7           or after the date of the enactment of this Act.

8           **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**  
 9                                   **OF STATUS FOR AGGRAVATED FELONS.**

10          (a) *IN GENERAL*.—Section 209(c) of the Immigration  
 11          and Nationality Act (8 U.S.C. 1159(c)) is amended by add-  
 12          ing at the end thereof the following: “However, an alien  
 13          who is convicted of an aggravated felony is not eligible for  
 14          a waiver or for adjustment of status under this section.”.

15          (b) *EFFECTIVE DATE*.—The amendment made by sub-  
 16          section (a) shall apply—

17               (1) to any act that occurred before, on, or after  
 18               the date of the enactment of this Act; and

19               (2) to all aliens who are required to establish ad-  
 20               missibility on or after such date, and in all removal,  
 21               deportation, or exclusion proceedings that are filed,  
 22               pending, or reopened, on or after such date.



1 **SEC. 309. INADMISSIBILITY, DEPORTABILITY, AND DETEN-**  
 2 **TION OF DRUNK DRIVERS.**

3 (a) *IN GENERAL.*—Section 101(a)(43) of the Immigra-  
 4 tion and Nationality Act (8 U.S.C. 1101(a)(43)) (as  
 5 amended by this Act) is further amended—

6 (1) in subparagraph (T), by striking “and”;

7 (2) in subparagraph (U), by striking the period  
 8 at the end and inserting “; and”; and

9 (3) by inserting after subparagraph (U) the fol-  
 10 lowing:

11 “(V) a second or subsequent conviction for driv-  
 12 ing while intoxicated (including a conviction for driv-  
 13 ing while under the influence of or impaired by alco-  
 14 hol or drugs) without regard to whether the conviction  
 15 is classified as a misdemeanor or felony under State  
 16 law.”.

17 (b) *DETENTION.*—Section 236(c)(1) of the Immigra-  
 18 tion and Nationality Act (8 U.S.C. 1226(c)(1)) is amend-  
 19 ed—

20 (1) in subparagraph (C), by striking “or” at the  
 21 end;

22 (2) in subparagraph (D), by adding “or” at the  
 23 end; and

24 (3) by inserting after subparagraph (D) the fol-  
 25 lowing:

1           “(E) is unlawfully present in the United  
 2           States and has been convicted one or multiple  
 3           times for driving while intoxicated (including a  
 4           conviction for driving while under the influence  
 5           or impaired by alcohol or drugs) without regard  
 6           to whether the conviction is classified as a mis-  
 7           demeanor or felony under State law,”.

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

11       **SEC. 310. DETENTION OF DANGEROUS ALIENS.**

12          (a) *IN GENERAL.*—Section 241(a) of the Immigration  
 13          and Nationality Act (8 U.S.C. 1231(a)) is amended—

14               (1) by striking “Attorney General” each place it  
 15               appears, except for the first reference in paragraph  
 16               (4)(B)(i), and inserting “Secretary of Homeland Se-  
 17               curity”;

18               (2) in paragraph (1), by amending subpara-  
 19               graph (B) to read as follows:

20                       “(B) *BEGINNING OF PERIOD.*—The removal  
 21                       period begins on the latest of the following:

22                               “(i) The date the order of removal be-  
 23                               comes administratively final.

24                               “(ii) If the alien is not in the custody  
 25                               of the Secretary on the date the order of re-

1                    *moval becomes administratively final, the*  
2                    *date the alien is taken into such custody.*

3                    *“(iii) If the alien is detained or con-*  
4                    *fined (except under an immigration proc-*  
5                    *ess) on the date the order of removal be-*  
6                    *comes administratively final, the date the*  
7                    *alien is taken into the custody of the Sec-*  
8                    *retary, after the alien is released from such*  
9                    *detention or confinement.”;*

10                  *(3) in paragraph (1), by amending subpara-*  
11                  *graph (C) to read as follows:*

12                  *“(C) SUSPENSION OF PERIOD.—*

13                  *“(i) EXTENSION.—The removal period*  
14                  *shall be extended beyond a period of 90*  
15                  *days and the Secretary may, in the Sec-*  
16                  *retary’s sole discretion, keep the alien in de-*  
17                  *tention during such extended period if—*

18                  *“(I) the alien fails or refuses to*  
19                  *make all reasonable efforts to comply*  
20                  *with the removal order, or to fully co-*  
21                  *operate with the Secretary’s efforts to*  
22                  *establish the alien’s identity and carry*  
23                  *out the removal order, including mak-*  
24                  *ing timely application in good faith*  
25                  *for travel or other documents necessary*

1 *to the alien's departure or conspires or*  
2 *acts to prevent the alien's removal that*  
3 *is subject to an order of removal;*

4 *“(II) a court, the Board of Immi-*  
5 *gration Appeals, or an immigration*  
6 *judge orders a stay of removal of an*  
7 *alien who is subject to an administra-*  
8 *tively final order of removal;*

9 *“(III) the Secretary transfers cus-*  
10 *tody of the alien pursuant to law to*  
11 *another Federal agency or a State or*  
12 *local government agency in connection*  
13 *with the official duties of such agency;*  
14 *or*

15 *“(IV) a court or the Board of Im-*  
16 *migration Appeals orders a remand to*  
17 *an immigration judge or the Board of*  
18 *Immigration Appeals, during the time*  
19 *period when the case is pending a deci-*  
20 *sion on remand (with the removal pe-*  
21 *riod beginning anew on the date that*  
22 *the alien is ordered removed on re-*  
23 *mand).*

24 *“(ii) RENEWAL.—If the removal period*  
25 *has been extended under clause (C)(i), a*

1           *new removal period shall be deemed to have*  
2           *begun on the date—*

3                     “(I) *the alien makes all reasonable*  
4                     *efforts to comply with the removal*  
5                     *order, or to fully cooperate with the*  
6                     *Secretary’s efforts to establish the*  
7                     *alien’s identity and carry out the re-*  
8                     *moval order;*

9                     “(II) *the stay of removal is no*  
10                    *longer in effect; or*

11                    “(III) *the alien is returned to the*  
12                    *custody of the Secretary.*

13                    “(iii) *MANDATORY DETENTION FOR*  
14                    *CERTAIN ALIENS.—In the case of an alien*  
15                    *described in subparagraphs (A) through (D)*  
16                    *of section 236(c)(1), the Secretary shall keep*  
17                    *that alien in detention during the extended*  
18                    *period described in clause (i).*

19                    “(iv) *SOLE FORM OF RELIEF.—An*  
20                    *alien may seek relief from detention under*  
21                    *this subparagraph only by filing an appli-*  
22                    *cation for a writ of habeas corpus in ac-*  
23                    *cordance with chapter 153 of title 28,*  
24                    *United States Code. No alien whose period*  
25                    *of detention is extended under this subpara-*

1                   *graph shall have the right to seek release on*  
 2                   *bond.”;*

3                   *(4) in paragraph (3)—*

4                   *(A) by adding after “If the alien does not*  
 5                   *leave or is not removed within the removal pe-*  
 6                   *riod” the following: “or is not detained pursuant*  
 7                   *to paragraph (6) of this subsection”; and*

8                   *(B) by striking subparagraph (D) and in-*  
 9                   *serting the following:*

10                   *“(D) to obey reasonable restrictions on the*  
 11                   *alien’s conduct or activities that the Secretary*  
 12                   *prescribes for the alien, in order to prevent the*  
 13                   *alien from absconding, for the protection of the*  
 14                   *community, or for other purposes related to the*  
 15                   *enforcement of the immigration laws.”;*

16                   *(5) in paragraph (4)(A), by striking “paragraph*  
 17                   *(2)” and inserting “subparagraph (B)”;* and

18                   *(6) by striking paragraph (6) and inserting the*  
 19                   *following:*

20                   *“(6) ADDITIONAL RULES FOR DETENTION OR RE-*  
 21                   *LEASE OF CERTAIN ALIENS.—*

22                   *“(A) DETENTION REVIEW PROCESS FOR CO-*  
 23                   *OPERATIVE ALIENS ESTABLISHED.—For an alien*  
 24                   *who is not otherwise subject to mandatory deten-*  
 25                   *tion, who has made all reasonable efforts to com-*

1        *ply with a removal order and to cooperate fully*  
2        *with the Secretary of Homeland Security's ef-*  
3        *forts to establish the alien's identity and carry*  
4        *out the removal order, including making timely*  
5        *application in good faith for travel or other doc-*  
6        *uments necessary to the alien's departure, and*  
7        *who has not conspired or acted to prevent re-*  
8        *moval, the Secretary shall establish an adminis-*  
9        *trative review process to determine whether the*  
10       *alien should be detained or released on condi-*  
11       *tions. The Secretary shall make a determination*  
12       *whether to release an alien after the removal pe-*  
13       *riod in accordance with subparagraph (B). The*  
14       *determination shall include consideration of any*  
15       *evidence submitted by the alien, and may in-*  
16       *clude consideration of any other evidence, includ-*  
17       *ing any information or assistance provided by*  
18       *the Secretary of State or other Federal official*  
19       *and any other information available to the Sec-*  
20       *retary of Homeland Security pertaining to the*  
21       *ability to remove the alien.*

22                *“(B) AUTHORITY TO DETAIN BEYOND RE-*  
23        *MOVAL PERIOD.—*

24                *“(i) IN GENERAL.—The Secretary of*  
25        *Homeland Security, in the exercise of the*

1            *Secretary’s sole discretion, may continue to*  
2            *detain an alien for 90 days beyond the re-*  
3            *moval period (including any extension of*  
4            *the removal period as provided in para-*  
5            *graph (1)(C)). An alien whose detention is*  
6            *extended under this subparagraph shall*  
7            *have no right to seek release on bond.*

8            *“(ii) SPECIFIC CIRCUMSTANCES.—The*  
9            *Secretary of Homeland Security, in the ex-*  
10           *ercise of the Secretary’s sole discretion, may*  
11           *continue to detain an alien beyond the 90*  
12           *days authorized in clause (i)—*

13           *“(I) until the alien is removed, if*  
14           *the Secretary, in the Secretary’s sole*  
15           *discretion, determines that there is a*  
16           *significant likelihood that the alien—*

17           *“(aa) will be removed in the*  
18           *reasonably foreseeable future; or*

19           *“(bb) would be removed in*  
20           *the reasonably foreseeable future,*  
21           *or would have been removed, but*  
22           *for the alien’s failure or refusal to*  
23           *make all reasonable efforts to com-*  
24           *ply with the removal order, or to*  
25           *cooperate fully with the Sec-*



1           retary's efforts to establish the  
2           alien's identity and carry out the  
3           removal order, including making  
4           timely application in good faith  
5           for travel or other documents nec-  
6           essary to the alien's departure, or  
7           conspires or acts to prevent re-  
8           moval;

9           “(II) until the alien is removed, if  
10          the Secretary of Homeland Security  
11          certifies in writing—

12               “(aa) in consultation with  
13               the Secretary of Health and  
14               Human Services, that the alien  
15               has a highly contagious disease  
16               that poses a threat to public safe-  
17               ty;

18               “(bb) after receipt of a writ-  
19               ten recommendation from the Sec-  
20               retary of State, that release of the  
21               alien is likely to have serious ad-  
22               verse foreign policy consequences  
23               for the United States;

24               “(cc) based on information  
25               available to the Secretary of

1 *Homeland Security (including*  
2 *classified, sensitive, or national*  
3 *security information, and without*  
4 *regard to the grounds upon which*  
5 *the alien was ordered removed),*  
6 *that there is reason to believe that*  
7 *the release of the alien would*  
8 *threaten the national security of*  
9 *the United States; or*

10 *“(dd) that the release of the*  
11 *alien will threaten the safety of*  
12 *the community or any person,*  
13 *conditions of release cannot rea-*  
14 *sonably be expected to ensure the*  
15 *safety of the community or any*  
16 *person, and either (AA) the alien*  
17 *has been convicted of one or more*  
18 *aggravated felonies (as defined in*  
19 *section 101(a)(43)(A)) or of one or*  
20 *more crimes identified by the Sec-*  
21 *retary of Homeland Security by*  
22 *regulation, or of one or more at-*  
23 *tempts or conspiracies to commit*  
24 *any such aggravated felonies or*  
25 *such identified crimes, if the ag-*

1 *gregate term of imprisonment for*  
2 *such attempts or conspiracies is*  
3 *at least 5 years; or (BB) the alien*  
4 *has committed one or more crimes*  
5 *of violence (as defined in section*  
6 *16 of title 18, United States Code,*  
7 *but not including a purely polit-*  
8 *ical offense) and, because of a*  
9 *mental condition or personality*  
10 *disorder and behavior associated*  
11 *with that condition or disorder,*  
12 *the alien is likely to engage in*  
13 *acts of violence in the future; or*

14 *“(III) pending a certification*  
15 *under subclause (II), so long as the*  
16 *Secretary of Homeland Security has*  
17 *initiated the administrative review*  
18 *process not later than 30 days after the*  
19 *expiration of the removal period (in-*  
20 *cluding any extension of the removal*  
21 *period, as provided in paragraph*  
22 *(1)(C)).*

23 *“(iii) NO RIGHT TO BOND HEARING.—*  
24 *An alien whose detention is extended under*  
25 *this subparagraph shall have no right to*

1           *seek release on bond, including by reason of*  
2           *a certification under clause (ii)(II).*

3           “(C) *RENEWAL AND DELEGATION OF CER-*  
4           *TIFICATION.—*

5                     “(i) *RENEWAL.—The Secretary of*  
6                     *Homeland Security may renew a certifi-*  
7                     *cation under subparagraph (B)(ii)(II) every*  
8                     *6 months, after providing an opportunity*  
9                     *for the alien to request reconsideration of*  
10                    *the certification and to submit documents or*  
11                    *other evidence in support of that request. If*  
12                    *the Secretary does not renew a certification,*  
13                    *the Secretary may not continue to detain*  
14                    *the alien under subparagraph (B)(ii)(II).*

15                   “(ii) *DELEGATION.—Notwithstanding*  
16                    *section 103, the Secretary of Homeland Se-*  
17                    *curity may not delegate the authority to*  
18                    *make or renew a certification described in*  
19                    *item (bb), (cc), or (dd) of subparagraph*  
20                    *(B)(ii)(II) below the level of the Assistant*  
21                    *Secretary for Immigration and Customs*  
22                    *Enforcement.*

23                   “(iii) *HEARING.—The Secretary of*  
24                    *Homeland Security may request that the*  
25                    *Attorney General or the Attorney General’s*

1           *designee provide for a hearing to make the*  
2           *determination described in item (dd)(BB) of*  
3           *subparagraph (B)(ii)(II).*

4           “(D) *RELEASE ON CONDITIONS.*—*If it is de-*  
5           *termined that an alien should be released from*  
6           *detention by a Federal court, the Board of Immi-*  
7           *gration Appeals, or if an immigration judge or-*  
8           *ders a stay of removal, the Secretary of Home-*  
9           *land Security, in the exercise of the Secretary’s*  
10          *discretion, may impose conditions on release as*  
11          *provided in paragraph (3).*

12          “(E) *REDETENTION.*—*The Secretary of*  
13          *Homeland Security, in the exercise of the Sec-*  
14          *retary’s discretion, without any limitations other*  
15          *than those specified in this section, may again*  
16          *detain any alien subject to a final removal order*  
17          *who is released from custody, if removal becomes*  
18          *likely in the reasonably foreseeable future, the*  
19          *alien fails to comply with the conditions of re-*  
20          *lease, or to continue to satisfy the conditions de-*  
21          *scribed in subparagraph (A), or if, upon recon-*  
22          *sideration, the Secretary, in the Secretary’s sole*  
23          *discretion, determines that the alien can be de-*  
24          *tained under subparagraph (B). This section*  
25          *shall apply to any alien returned to custody pur-*

1           *suant to this subparagraph, as if the removal pe-*  
 2           *riod terminated on the day of the redetention.*

3                   “(F) *REVIEW OF DETERMINATIONS BY SEC-*  
 4           *RETARY.—A determination by the Secretary*  
 5           *under this paragraph shall not be subject to re-*  
 6           *view by any other agency.”.*

7           (b) *DETENTION OF ALIENS DURING REMOVAL PRO-*  
 8           *CEEDINGS.—*

9                   (1) *CLERICAL AMENDMENT.—(A) Section 236 of*  
 10          *the Immigration and Nationality Act (8 U.S.C. 1226)*  
 11          *is amended by striking “Attorney General” each place*  
 12          *it appears (except in the second place that term ap-*  
 13          *pears in section 236(a)) and inserting “Secretary of*  
 14          *Homeland Security”.*

15                  (B) *Section 236(a) of such Act (8 U.S.C.*  
 16          *1226(a)) is amended by inserting “the Secretary of*  
 17          *Homeland Security or” before “the Attorney Gen-*  
 18          *eral—”.*

19                  (C) *Section 236(e) of such Act (8 U.S.C. 1226(e))*  
 20          *is amended by striking “Attorney General’s” and in-*  
 21          *serting “Secretary of Homeland Security’s”.*

22                  (2) *LENGTH OF DETENTION.—Section 236 of*  
 23          *such Act (8 U.S.C. 1226) is amended by adding at*  
 24          *the end the following:*

25                  “(f) *LENGTH OF DETENTION.—*

1           “(1) *IN GENERAL.*—Notwithstanding any other  
2           provision of this section, an alien may be detained  
3           under this section for any period, without limitation,  
4           except as provided in subsection (h), until the alien  
5           is subject to a final order of removal.

6           “(2) *CONSTRUCTION.*—The length of detention  
7           under this section shall not affect detention under sec-  
8           tion 241.”.

9           (3) *DETENTION OF CRIMINAL ALIENS.*—Section  
10          236(c)(1) of the Immigration and Nationality Act (8  
11          U.S.C. 1226(c)(1)) (as added by section 309(b)(3)) is  
12          further amended, in the matter following subpara-  
13          graph (E) to read as follows:

14          “any time after the alien is released, without regard  
15          to whether an alien is released related to any activity,  
16          offense, or conviction described in this paragraph; to  
17          whether the alien is released on parole, supervised re-  
18          lease, or probation; or to whether the alien may be ar-  
19          rested or imprisoned again for the same offense. If the  
20          activity described in this paragraph does not result in  
21          the alien being taken into custody by any person  
22          other than the Secretary, then when the alien is  
23          brought to the attention of the Secretary or when the  
24          Secretary determines it is practical to take such alien

1       *into custody, the Secretary shall take such alien into*  
 2       *custody.”.*

3               (4) *ADMINISTRATIVE REVIEW.*—Section 236 of  
 4       *the Immigration and Nationality Act (8 U.S.C.*  
 5       *1226), as amended by paragraph (2), is further*  
 6       *amended by adding at the end the following:*

7       “(g) *ADMINISTRATIVE REVIEW.*—

8               “(1) *IN GENERAL.*—The Attorney General’s re-  
 9       *view of the Secretary’s custody determinations under*  
 10       *subsection (a) for the following classes of aliens shall*  
 11       *be limited to whether the alien may be detained, re-*  
 12       *leased on bond (of at least \$1,500 with security ap-*  
 13       *proved by the Secretary), or released with no bond:*

14               “(A) *Aliens in exclusion proceedings.*

15               “(B) *Aliens described in section 212(a)(3)*  
 16       *or 237(a)(4).*

17               “(C) *Aliens described in subsection (c).*

18               “(2) *SPECIAL RULE.*—The Attorney General’s re-  
 19       *view of the Secretary’s custody determinations under*  
 20       *subsection (a) for aliens in deportation proceedings*  
 21       *subject to section 242(a)(2) of the Act (as in effect*  
 22       *prior to April 1, 1997, and as amended by section*  
 23       *440(c) of Public Law 104–132) shall be limited to a*  
 24       *determination of whether the alien is properly in-*  
 25       *cluded in such category.*



1       “(h) *RELEASE ON BOND.*—

2               “(1) *IN GENERAL.*—An alien detained under  
3       subsection (a) may seek release on bond. No bond may  
4       be granted except to an alien who establishes by clear  
5       and convincing evidence that the alien is not a flight  
6       risk or a risk to another person or the community.

7               “(2) *CERTAIN ALIENS INELIGIBLE.*—No alien de-  
8       tained under subsection (c) may seek release on  
9       bond.”.

10              (5) *CLERICAL AMENDMENTS.*—(A) Section  
11       236(a)(2)(B) of the Immigration and Nationality Act  
12       (8 U.S.C. 1226(a)(2)(B)) is amended by striking  
13       “conditional parole” and inserting “recognizance”.

14              (B) Section 236(b) of such Act (8 U.S.C.  
15       1226(b)) is amended by striking “parole” and insert-  
16       ing “recognizance”.

17              (c) *SEVERABILITY.*—If any of the provisions of this  
18       section or any amendment by this section, or the applica-  
19       tion of any such provision to any person or circumstance,  
20       is held to be invalid for any reason, the remainder of this  
21       section and of amendments made by this section, and the  
22       application of the provisions and of the amendments made  
23       by this section to any other person or circumstance shall  
24       not be affected by such holding.

25              (d) *EFFECTIVE DATES.*—

1           (1) *The amendments made by subsection (a)*  
 2           *shall take effect upon the date of enactment of this*  
 3           *Act, and section 241 of the Immigration and Nation-*  
 4           *ality Act, as so amended, shall in addition apply*  
 5           *to—*

6                     *(A) all aliens subject to a final administra-*  
 7                     *tive removal, deportation, or exclusion order that*  
 8                     *was issued before, on, or after the date of the en-*  
 9                     *actment of this Act; and*

10                    *(B) acts and conditions occurring or exist-*  
 11                    *ing before, on, or after such date.*

12           (2) *The amendments made by subsection (b)*  
 13           *shall take effect upon the date of the enactment of this*  
 14           *Act, and section 236 of the Immigration and Nation-*  
 15           *ality Act, as so amended, shall in addition apply to*  
 16           *any alien in detention under provisions of such sec-*  
 17           *tion on or after such date.*

18 **SEC. 311. GROUNDS OF INADMISSIBILITY AND DEPORT-**  
 19 **ABILITY FOR ALIEN GANG MEMBERS.**

20           (a) *DEFINITION OF GANG MEMBER.—Section 101(a)*  
 21           *of the Immigration and Nationality Act (8 U.S.C. 1101(a))*  
 22           *is amended by adding at the end the following:*

23                    “(53)(A) *The term ‘criminal gang’ means an ongoing*  
 24                    *group, club, organization, or association of 5 or more per-*  
 25                    *sons that has as one of its primary purposes the commission*

1 *of 1 or more of the following criminal offenses and the mem-*  
2 *bers of which engage, or have engaged within the past 5*  
3 *years, in a continuing series of such offenses, or that has*  
4 *been designated as a criminal gang by the Secretary of*  
5 *Homeland Security, in consultation with the Attorney Gen-*  
6 *eral, as meeting these criteria. The offenses described, wheth-*  
7 *er in violation of Federal or State law or foreign law and*  
8 *regardless of whether the offenses occurred before, on, or*  
9 *after the date of the enactment of this paragraph, are the*  
10 *following:*

11           “(i) A ‘felony drug offense’ (as defined in section  
12           102 of the Controlled Substances Act (21 U.S.C.  
13           802)).

14           “(ii) An offense under section 274 (relating to  
15           bringing in and harboring certain aliens), section 277  
16           (relating to aiding or assisting certain aliens to enter  
17           the United States), or section 278 (relating to impor-  
18           tation of alien for immoral purpose).

19           “(iii) A crime of violence (as defined in section  
20           16 of title 18, United States Code).

21           “(iv) A crime involving obstruction of justice,  
22           tampering with or retaliating against a witness, vic-  
23           tim, or informant, or burglary.

24           “(v) Any conduct punishable under sections 1028  
25           and 1029 of title 18, United States Code (relating to

1     *fraud and related activity in connection with identi-*  
 2     *fication documents or access devices), sections 1581*  
 3     *through 1594 of such title (relating to peonage, slav-*  
 4     *ery and trafficking in persons), section 1952 of such*  
 5     *title (relating to interstate and foreign travel or*  
 6     *transportation in aid of racketeering enterprises), sec-*  
 7     *tion 1956 of such title (relating to the laundering of*  
 8     *monetary instruments), section 1957 of such title (re-*  
 9     *lating to engaging in monetary transactions in prop-*  
 10    *erty derived from specified unlawful activity), or sec-*  
 11    *tions 2312 through 2315 of such title (relating to*  
 12    *interstate transportation of stolen motor vehicles or*  
 13    *stolen property).*

14           “(vi) *A conspiracy to commit an offense de-*  
 15    *scribed in clauses (i) through (v).*”

16           “(B) *Notwithstanding any other provision of law (in-*  
 17    *cluding any effective date), the term applies regardless of*  
 18    *whether the conduct occurred before, on, or after the date*  
 19    *of the enactment of this paragraph.*”.

20           (b) *INADMISSIBILITY.*—Section 212(a)(2) of such Act  
 21    (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2) of  
 22    this Act, is further amended by adding at the end the fol-  
 23    lowing:

24                   “(N) *ALIENS ASSOCIATED WITH CRIMINAL*  
 25           *GANGS.*—Any alien is inadmissible who a con-

1        *sular officer, the Secretary of Homeland Secu-*  
 2        *rity, or the Attorney General knows or has rea-*  
 3        *son to believe—*

4                *“(i) to be or to have been a member of*  
 5                *a criminal gang (as defined in section*  
 6                *101(a)(53)); or*

7                *“(ii) to have participated in the activi-*  
 8                *ties of a criminal gang (as defined in sec-*  
 9                *tion 101(a)(53)), knowing or having reason*  
 10                *to know that such activities will promote,*  
 11                *further, aid, or support the illegal activity*  
 12                *of the criminal gang.”.*

13        *(c) DEPORTABILITY.—Section 237(a)(2) of the Immi-*  
 14        *gration and Nationality Act (8 U.S.C. 1227(a)(2)), as*  
 15        *amended by section 302(c) of this Act, is further amended*  
 16        *by adding at the end the following:*

17                *“(H) ALIENS ASSOCIATED WITH CRIMINAL*  
 18                *GANGS.—Any alien is deportable who the Sec-*  
 19                *retary of Homeland Security or the Attorney*  
 20                *General knows or has reason to believe—*

21                *“(i) is or has been a member of a*  
 22                *criminal gang (as defined in section*  
 23                *101(a)(53)); or*

24                *“(ii) has participated in the activities*  
 25                *of a criminal gang (as so defined), knowing*

1                   or having reason to know that such activi-  
 2                   ties will promote, further, aid, or support  
 3                   the illegal activity of the criminal gang.”.

4           (d) *DESIGNATION*.—

5                   (1) *IN GENERAL*.—Chapter 2 of title II of the  
 6           *Immigration and Nationality Act* (8 U.S.C. 1182) is  
 7           amended by inserting after section 219 the following:

8                                   “*DESIGNATION*

9                   “*SEC. 220. (a) IN GENERAL*.—The Secretary of Home-  
 10   land Security, in consultation with the Attorney General,  
 11   and the Secretary of State may designate a group or asso-  
 12   ciation as a criminal street gang if their conduct is de-  
 13   scribed in section 101(a)(53) or if the group or association  
 14   conduct poses a significant risk that threatens the security  
 15   and the public safety of United States nationals or the na-  
 16   tional security, homeland security, foreign policy, or econ-  
 17   omy of the United States.

18                   “(b) *EFFECTIVE DATE*.—Designations under sub-  
 19   section (a) shall remain in effect until the designation is  
 20   revoked after consultation between the Secretary of Home-  
 21   land Security, the Attorney General, and the Secretary of  
 22   State or is terminated in accordance with Federal law.”.

23                   (2) *CLERICAL AMENDMENT*.—The table of con-  
 24   tents for such Act is amended by inserting after the  
 25   item relating to section 219 the following:

“220. *Designation*.”.

1       (e) *MANDATORY DETENTION OF CRIMINAL STREET*  
 2 *GANG MEMBERS.*—

3           (1) *IN GENERAL.*—Section 236(c)(1)(D) of the  
 4 *Immigration and Nationality Act* (8 U.S.C.  
 5 1226(c)(1)(D)) is amended—

6           (A) by inserting “or 212(a)(2)(N)” after  
 7 “212(a)(3)(B)”; and

8           (B) by inserting “237(a)(2)(H) or” before  
 9 “237(a)(4)(B)”.

10          (2) *ANNUAL REPORT.*—Not later than March 1 of  
 11 each year (beginning 1 year after the date of the en-  
 12 actment of this Act), the Secretary of Homeland Secu-  
 13 rity, after consultation with the appropriate Federal  
 14 agencies, shall submit a report to the Committees on  
 15 the Judiciary of the House of Representatives and of  
 16 the Senate on the number of aliens detained under the  
 17 amendments made by paragraph (1).

18       (f) *ASYLUM CLAIMS BASED ON GANG AFFILIATION.*—

19           (1) *INAPPLICABILITY OF RESTRICTION ON RE-*  
 20 *MOVAL TO CERTAIN COUNTRIES.*—Section  
 21 241(b)(3)(B) of the *Immigration and Nationality Act*  
 22 (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter  
 23 preceding clause (i), by inserting “who is described in  
 24 section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) or  
 25 who is” after “to an alien”.

1           (2) *INELIGIBILITY FOR ASYLUM*.—Section  
 2       208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) (as  
 3       amended by this Act) is further amended—

4           (A) in clause (v), by striking “or” at the  
 5       end;

6           (B) by redesignating clause (vi) as clause  
 7       (vii); and

8           (C) by inserting after clause (v) the fol-  
 9       lowing:

10           “(vi) the alien is described in section  
 11       212(a)(2)(N)(i) or section 237(a)(2)(H)(i)  
 12       (relating to participation in criminal street  
 13       gangs); or”.

14       (g) *TEMPORARY PROTECTED STATUS*.—Section 244 of  
 15       such Act (8 U.S.C. 1254a) is amended—

16           (1) by striking “Attorney General” each place it  
 17       appears and inserting “Secretary of Homeland Secu-  
 18       rity”;

19           (2) in subparagraph (c)(2)(B)—

20           (A) in clause (i), by striking “or” at the  
 21       end;

22           (B) in clause (ii), by striking the period  
 23       and inserting “; or”; and

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



1                   “(iii) the alien is, or at any time after  
 2                   admission has been, a member of a criminal  
 3                   gang (as defined in section 101(a)(53)).”;  
 4                   and

5                   (3) in subsection (d)—

6                   (A) by striking paragraph (3); and

7                   (B) in paragraph (4), by adding at the end  
 8                   the following: “The Secretary of Homeland Secu-  
 9                   rity may detain an alien provided temporary  
 10                  protected status under this section whenever ap-  
 11                  propriate under any other provision of law.”.

12                  (h) *EFFECTIVE DATE.*—The amendments made by this  
 13                  section shall take effect on the date of the enactment of this  
 14                  Act and shall apply to acts that occur before, on, or after  
 15                  the date of the enactment of this Act.

16   **SEC. 312. EXTENSION OF IDENTITY THEFT OFFENSES.**

17                  (a) *FRAUD AND RELATED ACTIVITIES RELATING TO*  
 18                  *IDENTIFICATION DOCUMENTS.*—Section 1028 of title 18,  
 19                  United States Code, is amended in subsection (a)(7), by  
 20                  striking “of another person” and inserting “that is not his  
 21                  or her own”.

22                  (b) *AGGRAVATED IDENTITY THEFT.*—Section  
 23                  1028A(a) of title 18, United States Code, is amended by  
 24                  striking “of another person” both places it appears and in-  
 25                  serting “that is not his or her own”.

1 **SEC. 313. LAUNDERING OF MONETARY INSTRUMENTS.**

2 (a) *ADDITIONAL PREDICATE OFFENSES.*—Section  
3 1956(c)(7)(D) of title 18, United States Code, is amended—

4 (1) by inserting “section 1590 (relating to traf-  
5 ficking with respect to peonage, slavery, involuntary  
6 servitude, or forced labor),” after “section 1363 (relat-  
7 ing to destruction of property within the special mar-  
8 itime and territorial jurisdiction),”; and

9 (2) by inserting “section 274(a) of the Immigra-  
10 tion and Nationality Act (8 U.S.C.1324(a)) (relating  
11 to bringing in and harboring certain aliens),” after  
12 “section 590 of the Tariff Act of 1930 (19 U.S.C.  
13 1590) (relating to aviation smuggling),”.

14 (b) *INTENT TO CONCEAL OR DISGUISE.*—Section  
15 1956(a) of title 18, United States Code, is amended—

16 (1) in paragraph (1) so that subparagraph (B)  
17 reads as follows:

18 “(B) knowing that the transaction—

19 “(i) conceals or disguises, or is intended to  
20 conceal or disguise, the nature, source, location,  
21 ownership, or control of the proceeds of some  
22 form of unlawful activity; or

23 “(ii) avoids, or is intended to avoid, a  
24 transaction reporting requirement under State  
25 or Federal law,”; and

1           (2) in paragraph (2) so that subparagraph (B)  
2       reads as follows:

3           “(B) knowing that the monetary instrument or  
4       funds involved in the transportation, transmission, or  
5       transfer represent the proceeds of some form of unlaw-  
6       ful activity, and knowing that such transportation,  
7       transmission, or transfer—

8           “(i) conceals or disguises, or is intended to  
9       conceal or disguise, the nature, source, location,  
10      ownership, or control of the proceeds of some  
11      form of unlawful activity; or

12          “(ii) avoids, or is intended to avoid, a  
13      transaction reporting requirement under State  
14      or Federal law.”.

15 **SEC. 314. INCREASED CRIMINAL PENALTIES RELATING TO**  
16 **ALIEN SMUGGLING AND RELATED OFFENSES.**

17       (a) *IN GENERAL.*—Section 274 of the Immigration  
18      and Nationality Act (8 U.S.C. 1324), is amended to read  
19      as follows:

20 **“SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

21       “(a) *CRIMINAL OFFENSES AND PENALTIES.*—

22           “(1) *PROHIBITED ACTIVITIES.*—Except as pro-  
23      vided in paragraph (3), a person shall be punished as  
24      provided under paragraph (2), if the person—

1           “(A) facilitates, encourages, directs, or in-  
2           duces a person to come to or enter the United  
3           States, or to cross the border to the United  
4           States, knowing or in reckless disregard of the  
5           fact that such person is an alien who lacks law-  
6           ful authority to come to, enter, or cross the bor-  
7           der to the United States;

8           “(B) facilitates, encourages, directs, or in-  
9           duces a person to come to or enter the United  
10          States, or to cross the border to the United  
11          States, at a place other than a designated port  
12          of entry or place other than as designated by the  
13          Secretary of Homeland Security, knowing or in  
14          reckless disregard of the fact that such person is  
15          an alien and regardless of whether such alien has  
16          official permission or lawful authority to be in  
17          the United States;

18          “(C) transports, moves, harbors, conceals, or  
19          shields from detection a person outside of the  
20          United States knowing or in reckless disregard of  
21          the fact that such person is an alien in unlawful  
22          transit from one country to another or on the  
23          high seas, under circumstances in which the  
24          alien is seeking to enter the United States with-  
25          out official permission or lawful authority;

1           “(D) encourages or induces a person to re-  
2           side in the United States, knowing or in reckless  
3           disregard of the fact that such person is an alien  
4           who lacks lawful authority to reside in the  
5           United States;

6           “(E) transports or moves a person in the  
7           United States, knowing or in reckless disregard  
8           of the fact that such person is an alien who lacks  
9           lawful authority to enter or be in the United  
10          States, if the transportation or movement will  
11          further the alien’s illegal entry into or illegal  
12          presence in the United States;

13          “(F) harbors, conceals, or shields from de-  
14          tection a person in the United States, knowing  
15          or in reckless disregard of the fact that such per-  
16          son is an alien who lacks lawful authority to be  
17          in the United States; or

18          “(G) conspires or attempts to commit any  
19          of the acts described in subparagraphs (A)  
20          through (F).

21          “(2) CRIMINAL PENALTIES.—A person who vio-  
22          lates any provision under paragraph (1) shall, for  
23          each alien in respect to whom a violation of para-  
24          graph (1) occurs—

1           “(A) except as provided in subparagraphs  
2           (C) through (G), if the violation was not com-  
3           mitted for commercial advantage, profit, or pri-  
4           vate financial gain, be fined under title 18,  
5           United States Code, imprisoned for not more  
6           than 5 years, or both;

7           “(B) except as provided in subparagraphs  
8           (C) through (G), if the violation was committed  
9           for commercial advantage, profit, or private fi-  
10          nancial gain—

11           “(i) be fined under such title, impris-  
12          oned for not more than 20 years, or both, if  
13          the violation is the offender’s first violation  
14          under this subparagraph; or

15           “(ii) be fined under such title, impris-  
16          oned for not less than 3 years or more than  
17          20 years, or both, if the violation is the of-  
18          fender’s second or subsequent violation of  
19          this subparagraph;

20           “(C) if the violation furthered or aided the  
21          commission of any other offense against the  
22          United States or any State that is punishable by  
23          imprisonment for more than 1 year, be fined  
24          under such title, imprisoned for not less than 5  
25          years or more than 20 years, or both;

1           “(D) be fined under such title, imprisoned  
2           not less than 5 years or more than 20 years, or  
3           both, if the violation created a substantial and  
4           foreseeable risk of death, a substantial and fore-  
5           seeable risk of serious bodily injury (as defined  
6           in section 2119(2) of title 18, United States  
7           Code), or inhumane conditions to another per-  
8           son, including—

9                   “(i) transporting the person in an en-  
10                  gine compartment, storage compartment, or  
11                  other confined space;

12                  “(ii) transporting the person at an ex-  
13                  cessive speed or in excess of the rated capac-  
14                  ity of the means of transportation; or

15                  “(iii) transporting the person in, har-  
16                  boring the person in, or otherwise subjecting  
17                  the person to crowded or dangerous condi-  
18                  tions;

19           “(E) if the violation caused serious bodily  
20           injury (as defined in section 2119(2) of title 18,  
21           United States Code) to any person, be fined  
22           under such title, imprisoned for not less than 7  
23           years or more than 30 years, or both;

24           “(F) be fined under such title and impris-  
25           oned for not less than 10 years or more than 30

1        *years if the violation involved an alien who the*  
2        *offender knew or had reason to believe was—*

3                *“(i) engaged in terrorist activity (as*  
4                *defined in section 212(a)(3)(B)); or*

5                *“(ii) intending to engage in terrorist*  
6                *activity; or*

7                *“(G) if the violation caused or resulted in*  
8        *the death of any person, be punished by death or*  
9        *imprisoned for a term of years not less than 10*  
10        *years and up to life, and fined under title 18,*  
11        *United States Code.*

12        *“(3) LIMITATION.—It is not a violation of sub-*  
13        *paragraph (D), (E), or (F) of paragraph (1) for a re-*  
14        *ligious denomination having a bona fide nonprofit,*  
15        *religious organization in the United States, or the*  
16        *agents or officers of such denomination or organiza-*  
17        *tion, to encourage, invite, call, allow, or enable an*  
18        *alien who is present in the United States to perform*  
19        *the vocation of a minister or missionary for the de-*  
20        *nomination or organization in the United States as*  
21        *a volunteer who is not compensated as an employee,*  
22        *notwithstanding the provision of room, board, travel,*  
23        *medical assistance, and other basic living expenses,*  
24        *provided the minister or missionary has been a mem-*  
25        *ber of the denomination for at least 1 year.*



1           “(4) *EXTRATERRITORIAL JURISDICTION.*—*There*  
 2           *is extraterritorial Federal jurisdiction over the of-*  
 3           *fenses described in this subsection.*

4           “(b) *SEIZURE AND FORFEITURE.*—

5           “(1) *IN GENERAL.*—*Any real or personal prop-*  
 6           *erty used to commit or facilitate the commission of a*  
 7           *violation of this section, the gross proceeds of such*  
 8           *violation, and any property traceable to such prop-*  
 9           *erty or proceeds, shall be subject to forfeiture.*

10          “(2) *APPLICABLE PROCEDURES.*—*Seizures and*  
 11          *forfeitures under this subsection shall be governed by*  
 12          *the provisions of chapter 46 of title 18, United States*  
 13          *Code, relating to civil forfeitures, except that such du-*  
 14          *ties as are imposed upon the Secretary of the Treas-*  
 15          *ury under the customs laws described in section*  
 16          *981(d) shall be performed by such officers, agents, and*  
 17          *other persons as may be designated for that purpose*  
 18          *by the Secretary of Homeland Security.*

19          “(3) *PRIMA FACIE EVIDENCE IN DETERMINA-*  
 20          *TIONS OF VIOLATIONS.*—*In determining whether a*  
 21          *violation of subsection (a) has occurred, prima facie*  
 22          *evidence that an alien involved in the alleged viola-*  
 23          *tion lacks lawful authority to come to, enter, reside*  
 24          *in, remain in, or be in the United States or that such*  
 25          *alien had come to, entered, resided in, remained in,*

1       or been present in the United States in violation of  
2       law may include:

3               “(A) any order, finding, or determination  
4       concerning the alien’s status or lack of status  
5       made by a Federal judge or administrative adju-  
6       dicator (including an immigration judge or im-  
7       migration officer) during any judicial or admin-  
8       istrative proceeding authorized under Federal  
9       immigration law;

10              “(B) official records of the Department of  
11       Homeland Security, the Department of Justice,  
12       or the Department of State concerning the alien’s  
13       status or lack of status; and

14              “(C) testimony by an immigration officer  
15       having personal knowledge of the facts con-  
16       cerning the alien’s status or lack of status.

17       “(c) *AUTHORITY TO ARREST.*—No officer or person  
18       shall have authority to make any arrests for a violation  
19       of any provision of this section except:

20              “(1) officers and employees designated by the  
21       Secretary of Homeland Security, either individually  
22       or as a member of a class; and

23              “(2) other officers responsible for the enforcement  
24       of Federal criminal laws.

1       “(d) *ADMISSIBILITY OF VIDEOTAPED WITNESS TESTI-*  
2 *MONY.—Notwithstanding any provision of the Federal*  
3 *Rules of Evidence, the videotaped or otherwise audio-*  
4 *visually preserved deposition of a witness to a violation of*  
5 *subsection (a) who has been deported or otherwise expelled*  
6 *from the United States, or is otherwise unavailable to tes-*  
7 *tify, may be admitted into evidence in an action brought*  
8 *for that violation if:*

9               “(1) *the witness was available for cross examina-*  
10 *tion at the deposition by the party, if any, opposing*  
11 *admission of the testimony; and*

12               “(2) *the deposition otherwise complies with the*  
13 *Federal Rules of Evidence.*

14       “(e) *DEFINITIONS.—In this section:*

15               “(1) *CROSS THE BORDER TO THE UNITED*  
16 *STATES.—The term ‘cross the border’ refers to the*  
17 *physical act of crossing the border, regardless of*  
18 *whether the alien is free from official restraint.*

19               “(2) *LAWFUL AUTHORITY.—The term ‘lawful au-*  
20 *thority’ means permission, authorization, or license*  
21 *that is expressly provided for in the immigration*  
22 *laws of the United States or accompanying regula-*  
23 *tions. The term does not include any such authority*  
24 *secured by fraud or otherwise obtained in violation of*  
25 *law or authority sought, but not approved. No alien*

1        *shall be deemed to have lawful authority to come to,*  
 2        *enter, reside in, remain in, or be in the United States*  
 3        *if such coming to, entry, residence, remaining, or*  
 4        *presence was, is, or would be in violation of law.*

5            “(3) *PROCEEDS.*—*The term ‘proceeds’ includes*  
 6        *any property or interest in property obtained or re-*  
 7        *tained as a consequence of an act or omission in vio-*  
 8        *lation of this section.*

9            “(4) *UNLAWFUL TRANSIT.*—*The term ‘unlawful*  
 10        *transit’ means travel, movement, or temporary pres-*  
 11        *ence that violates the laws of any country in which*  
 12        *the alien is present or any country from which or to*  
 13        *which the alien is traveling or moving.”.*

14        (b) *CLERICAL AMENDMENT.*—*The table of contents for*  
 15        *the Immigration and Nationality Act is amended by strik-*  
 16        *ing the item relating to section 274 and inserting the fol-*  
 17        *lowing:*

*“Sec. 274. Alien smuggling and related offenses.”.*

18        (c) *PROHIBITING CARRYING OR USING A FIREARM*  
 19        *DURING AND IN RELATION TO AN ALIEN SMUGGLING*  
 20        *CRIME.*—*Section 924(c) of title 18, United States Code, is*  
 21        *amended—*

22            (1) *in paragraph (1)—*

23                (A) *in subparagraph (A)——*

24                        (i) *by inserting “, alien smuggling*  
 25                        *crime,” after “any crime of violence”; and*

1                   (ii) by inserting “, alien smuggling  
 2                   crime,” after “such crime of violence”; and  
 3                   (B) in subparagraph (D)(ii), by inserting  
 4                   “, alien smuggling crime,” after “crime of vio-  
 5                   lence”; and

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

7                   “(6) For purposes of this subsection, the term ‘alien  
 8                   smuggling crime’ means any felony punishable under sec-  
 9                   tion 274(a), 277, or 278 of the Immigration and Nation-  
 10                  ality Act (8 U.S.C. 1324(a), 1327, and 1328).”.

11   **SEC. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

12                  (a) *IN GENERAL*.—Section 275 of the Immigration  
 13                  and Nationality Act (8 U.S.C. 1325) is amended to read  
 14                  as follows:

15                               “*ILLEGAL ENTRY OR PRESENCE*

16                               “*SEC. 275. (a) IN GENERAL*.—

17                               “(1) *ILLEGAL ENTRY*.—An alien shall be subject  
 18                               to the penalties set forth in paragraph (2) if the alien:

19                               “(A) knowingly enters or crosses the border  
 20                               into the United States at any time or place other  
 21                               than as designated by the Secretary of Homeland  
 22                               Security;

23                               “(B) knowingly eludes, at any time or  
 24                               place, examination or inspection by an author-  
 25                               ized immigration, customs, or agriculture officer

1           *(including by failing to stop at the command of*  
2           *such officer);*

3           *“(C) knowingly enters or crosses the border*  
4           *to the United States and, upon examination or*  
5           *inspection, knowingly makes a false or mis-*  
6           *leading representation or the knowing conceal-*  
7           *ment of a material fact (including such represen-*  
8           *tation or concealment in the context of arrival,*  
9           *reporting, entry, or clearance requirements of the*  
10           *customs laws, immigration laws, agriculture*  
11           *laws, or shipping laws);*

12           *“(D) knowingly violates the terms or condi-*  
13           *tions of the alien’s admission or parole into the*  
14           *United States; or*

15           *“(E) knowingly is unlawfully present in the*  
16           *United States (as defined in section*  
17           *212(a)(9)(B)(ii) subject to the exceptions set for*  
18           *in section 212(a)(9)(B)(iii)).*

19           *“(2) CRIMINAL PENALTIES.—Any alien who vio-*  
20           *lates any provision under paragraph (1):*

21           *“(A) shall, for the first violation, be fined*  
22           *under title 18, United States Code, imprisoned*  
23           *not more than 6 months, or both;*

24           *“(B) shall, for a second or subsequent viola-*  
25           *tion, or following an order of voluntary depar-*

1        *ture, be fined under such title, imprisoned not*  
2        *more than 2 years (or not more than 6 months*  
3        *in the case of a second or subsequent violation of*  
4        *paragraph (1)(E)), or both;*

5                *“(C) if the violation occurred after the alien*  
6        *had been convicted of 3 or more misdemeanors or*  
7        *for a felony, shall be fined under such title, im-*  
8        *prisoned not more than 10 years, or both;*

9                *“(D) if the violation occurred after the alien*  
10       *had been convicted of a felony for which the alien*  
11       *received a term of imprisonment of not less than*  
12       *30 months, shall be fined under such title, im-*  
13       *prisoned not more than 15 years, or both; and*

14               *“(E) if the violation occurred after the alien*  
15       *had been convicted of a felony for which the alien*  
16       *received a term of imprisonment of not less than*  
17       *60 months, such alien shall be fined under such*  
18       *title, imprisoned not more than 20 years, or*  
19       *both.*

20               *“(3) PRIOR CONVICTIONS.—The prior convictions*  
21       *described in subparagraphs (C) through (E) of para-*  
22       *graph (2) are elements of the offenses described and*  
23       *the penalties in such subparagraphs shall apply only*  
24       *in cases in which the conviction or convictions that*  
25       *form the basis for the additional penalty are—*

1                   “(A) *alleged in the indictment or informa-*  
2                   *tion; and*

3                   “(B) *proven beyond a reasonable doubt at*  
4                   *trial or admitted by the defendant.*

5                   “(4) *DURATION OF OFFENSE.—An offense under*  
6                   *this subsection continues until the alien is discovered*  
7                   *within the United States by an immigration, cus-*  
8                   *toms, or agriculture officer.*

9                   “(5) *ATTEMPT.—Whoever attempts to commit*  
10                  *any offense under this section shall be punished in the*  
11                  *same manner as for a completion of such offense.*

12                  “(b) *IMPROPER TIME OR PLACE; CIVIL PENALTIES.—*  
13                  *Any alien who is apprehended while entering, attempting*  
14                  *to enter, or knowingly crossing or attempting to cross the*  
15                  *border to the United States at a time or place other than*  
16                  *as designated by immigration officers shall be subject to a*  
17                  *civil penalty, in addition to any criminal or other civil*  
18                  *penalties that may be imposed under any other provision*  
19                  *of law, in an amount equal to—*

20                  “(1) *not less than \$50 or more than \$250 for*  
21                  *each such entry, crossing, attempted entry, or at-*  
22                  *tempted crossing; or*

23                  “(2) *twice the amount specified in paragraph (1)*  
24                  *if the alien had previously been subject to a civil pen-*  
25                  *alty under this subsection.”.*



1       (b) *CLERICAL AMENDMENT.*—*The table of contents for*  
 2 *the Immigration and Nationality Act is amended by strik-*  
 3 *ing the item relating to section 275 and inserting the fol-*  
 4 *lowing:*

“Sec. 275. *Illegal entry or presence.*”.

5 **SEC. 316. ILLEGAL REENTRY.**

6       *Section 276 of the Immigration and Nationality Act*  
 7 *(8 U.S.C. 1326) is amended to read as follows:*

8                               “REENTRY OF REMOVED ALIEN

9       “SEC. 276. (a) *REENTRY AFTER REMOVAL.*—*Any*  
 10 *alien who has been denied admission, excluded, deported,*  
 11 *or removed, or who has departed the United States while*  
 12 *an order of exclusion, deportation, or removal is out-*  
 13 *standing, and subsequently enters, attempts to enter, crosses*  
 14 *the border to, attempts to cross the border to, or is at any*  
 15 *time found in the United States, shall be fined under title*  
 16 *18, United States Code, imprisoned not more than 2 years,*  
 17 *or both.*

18       “(b) *REENTRY OF CRIMINAL OFFENDERS.*—*Notwith-*  
 19 *standing the penalty provided in subsection (a), if an alien*  
 20 *described in that subsection was convicted before such re-*  
 21 *moval or departure—*

22                               “(1) *for 3 or more misdemeanors or for a felony,*  
 23 *the alien shall be fined under title 18, United States*  
 24 *Code, imprisoned not more than 10 years, or both;*

1           “(2) for a felony for which the alien was sen-  
2           tenced to a term of imprisonment of not less than 30  
3           months, the alien shall be fined under such title, im-  
4           prisoned not less than 2 years and not more than 15  
5           years, or both;

6           “(3) for a felony for which the alien was sen-  
7           tenced to a term of imprisonment of not less than 60  
8           months, the alien shall be fined under such title, im-  
9           prisoned not less than 4 years and not more than 20  
10          years, or both; or

11          “(4) for murder, rape, kidnapping, or a felony  
12          offense described in chapter 77 (relating to peonage  
13          and slavery) or 113B (relating to terrorism) of such  
14          title, or for 3 or more felonies of any kind, the alien  
15          shall be fined under such title, imprisoned not less  
16          than 5 years and not more than 25 years, or both.

17          “(c) *REENTRY AFTER REPEATED REMOVAL.*—Any  
18          alien who has been denied admission, excluded, deported,  
19          or removed 3 or more times and thereafter enters, attempts  
20          to enter, crosses the border to, attempts to cross the border  
21          to, or is at any time found in the United States, shall be  
22          fined under title 18, United States Code, imprisoned not  
23          more than 10 years, or both.

24          “(d) *PROOF OF PRIOR CONVICTIONS.*—The prior con-  
25          victions described in subsection (b) are elements of the

1 *crimes described, and the penalties in that subsection shall*  
 2 *apply only in cases in which the conviction or convictions*  
 3 *that form the basis for the additional penalty are—*

4           “(1) *alleged in the indictment or information;*  
 5       *and*

6           “(2) *proven beyond a reasonable doubt at trial*  
 7       *or admitted by the defendant.*

8           “(e) *AFFIRMATIVE DEFENSES.—It shall be an affirma-*  
 9 *tive defense to a violation of this section that—*

10           “(1) *prior to the alleged violation, the alien had*  
 11 *sought and received the express consent of the Sec-*  
 12 *retary of Homeland Security to reapply for admis-*  
 13 *sion into the United States; or*

14           “(2) *with respect to an alien previously denied*  
 15 *admission and removed, the alien—*

16           “(A) *was not required to obtain such ad-*  
 17 *vance consent under the Immigration and Na-*  
 18 *tionality Act or any prior Act; and*

19           “(B) *had complied with all other laws and*  
 20 *regulations governing the alien’s admission into*  
 21 *the United States.*

22           “(f) *LIMITATION ON COLLATERAL ATTACK ON UNDER-*  
 23 *LYING REMOVAL ORDER.—In a criminal proceeding under*  
 24 *this section, an alien may not challenge the validity of any*  
 25 *prior removal order concerning the alien.*

1       “(g) *REENTRY OF ALIEN REMOVED PRIOR TO COM-*  
2 *PLETION OF TERM OF IMPRISONMENT.*—Any alien removed  
3 *pursuant to section 241(a)(4) who enters, attempts to enter,*  
4 *crosses the border to, attempts to cross the border to, or is*  
5 *at any time found in, the United States shall be incarcer-*  
6 *ated for the remainder of the sentence of imprisonment*  
7 *which was pending at the time of deportation without any*  
8 *reduction for parole or supervised release unless the alien*  
9 *affirmatively demonstrates that the Secretary of Homeland*  
10 *Security has expressly consented to the alien’s reentry. Such*  
11 *alien shall be subject to such other penalties relating to the*  
12 *reentry of removed aliens as may be available under this*  
13 *section or any other provision of law.*

14       “(h) *DEFINITIONS.*—For purposes of this section and  
15 *section 275, the following definitions shall apply:*

16               “(1) *CROSSES THE BORDER TO THE UNITED*  
17 *STATES.*—The term ‘crosses the border’ refers to the  
18 *physical act of crossing the border, regardless of*  
19 *whether the alien is free from official restraint.*

20               “(2) *FELONY.*—The term ‘felony’ means any  
21 *criminal offense punishable by a term of imprison-*  
22 *ment of more than 1 year under the laws of the*  
23 *United States, any State, or a foreign government.*

24               “(3) *MISDEMEANOR.*—The term ‘misdemeanor’  
25 *means any criminal offense punishable by a term of*

1        *imprisonment of not more than 1 year under the ap-*  
 2        *plicable laws of the United States, any State, or a*  
 3        *foreign government.*

4            “(4) *REMOVAL.*—*The term ‘removal’ includes*  
 5        *any denial of admission, exclusion, deportation, or re-*  
 6        *moval, or any agreement by which an alien stipulates*  
 7        *or agrees to exclusion, deportation, or removal.*

8            “(5) *STATE.*—*The term ‘State’ means a State of*  
 9        *the United States, the District of Columbia, and any*  
 10       *commonwealth, territory, or possession of the United*  
 11       *States.”.*

12    **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**  
 13            **FRAUD OFFENSES.**

14        *Chapter 75 of title 18, United States Code, is amended*  
 15        *to read as follows:*

16        **“CHAPTER 75—PASSPORTS AND VISAS**

      “Sec.

      “1541. *Issuance without authority.*

      “1542. *False statement in application and use of passport.*

      “1543. *Forgery or false use of passport.*

      “1544. *Misuse of a passport.*

      “1545. *Schemes to defraud aliens.*

      “1546. *Immigration and visa fraud.*

      “1547. *Attempts and conspiracies.*

      “1548. *Alternative penalties for certain offenses.*

      “1549. *Definitions.*

17    **“§ 1541. Issuance without authority**

18        “(a) *IN GENERAL.*—*Whoever—*

19            “(1) *acting or claiming to act in any office or*  
 20        *capacity under the United States, or a State, without*

1      *lawful authority grants, issues, or verifies any pass-*  
2      *port or other instrument in the nature of a passport*  
3      *to or for any person; or*

4            *“(2) being a consular officer authorized to grant,*  
5      *issue, or verify passports, knowingly grants, issues, or*  
6      *verifies any such passport to or for any person not*  
7      *owing allegiance, to the United States, whether a cit-*  
8      *izen or not;*

9      *shall be fined under this title or imprisoned not more than*  
10     *15 years, or both.*

11        *“(b) DEFINITION.—In this section, the term ‘State’*  
12     *means a State of the United States, the District of Colum-*  
13     *bia, and any commonwealth, territory, or possession of the*  
14     *United States.*

15     **“§ 1542. False statement in application and use of**  
16            ***passport***

17        *“Whoever knowingly—*

18            *“(1) makes any false statement in an applica-*  
19     *tion for passport with intent to induce or secure the*  
20     *issuance of a passport under the authority of the*  
21     *United States, either for his own use or the use of an-*  
22     *other, contrary to the laws regulating the issuance of*  
23     *passports or the rules prescribed pursuant to such*  
24     *laws; or*

1           “(2) uses or attempts to use, or furnishes to an-  
2           other for use any passport the issue of which was se-  
3           cured in any way by reason of any false statement;  
4 shall be fined under this title or imprisoned not more than  
5 15 years, or both.

6 **“§ 1543. Forgery or false use of passport**

7           “Whoever—

8           “(1) falsely makes, forges, counterfeits, mutilates,  
9           or alters any passport or instrument purporting to be  
10          a passport, with intent that the same may be used;  
11          or

12          “(2) knowingly uses, or attempts to use, or fur-  
13          nishes to another for use any such false, forged, coun-  
14          terfeited, mutilated, or altered passport or instrument  
15          purporting to be a passport, or any passport validly  
16          issued which has become void by the occurrence of any  
17          condition therein prescribed invalidating the same;  
18 shall be fined under this title or imprisoned not more than  
19 15 years, or both.

20 **“§ 1544. Misuse of a passport**

21          “Whoever knowingly—

22          “(1) uses any passport issued or designed for the  
23          use of another;

24          “(2) uses any passport in violation of the condi-  
25          tions or restrictions therein contained, or in violation

1       *of the laws, regulations, or rules governing the*  
2       *issuance and use of the passport;*

3               *“(3) secures, possesses, uses, receives, buys, sells,*  
4       *or distributes any passport knowing it to be forged,*  
5       *counterfeited, altered, falsely made, procured by*  
6       *fraud, stolen, or produced or issued without lawful*  
7       *authority; or*

8               *“(4) violates the terms and conditions of any*  
9       *safe conduct duly obtained and issued under the au-*  
10       *thority of the United States;*

11       *shall be fined under this title, imprisoned not more than*  
12       *15 years, or both.*

13       **“§ 1545. Schemes to defraud aliens**

14               *“Whoever inside the United States, or in or affecting*  
15       *interstate or foreign commerce, in connection with any mat-*  
16       *ter that is authorized by or arises under the immigration*  
17       *laws of the United States or any matter the offender claims*  
18       *or represents is authorized by or arises under the immigra-*  
19       *tion laws of the United States, knowingly executes a scheme*  
20       *or artifice—*

21               *“(1) to defraud any person, or*

22               *“(2) to obtain or receive money or anything else*  
23       *of value from any person by means of false or fraudu-*  
24       *lent pretenses, representations, or promises;*



1 *shall be fined under this title, imprisoned not more than*  
2 *15 years, or both.*

3 ***“§ 1546. Immigration and visa fraud***

4 *“Whoever knowingly—*

5 *“(1) uses any immigration document issued or*  
6 *designed for the use of another;*

7 *“(2) forges, counterfeits, alters, or falsely makes*  
8 *any immigration document;*

9 *“(3) mails, prepares, presents, or signs any im-*  
10 *migration document knowing it to contain any mate-*  
11 *rially false statement or representation;*

12 *“(4) secures, possesses, uses, transfers, receives,*  
13 *buys, sells, or distributes any immigration document*  
14 *knowing it to be forged, counterfeited, altered, falsely*  
15 *made, stolen, procured by fraud, or produced or*  
16 *issued without lawful authority;*

17 *“(5) adopts or uses a false or fictitious name to*  
18 *evade or to attempt to evade the immigration laws;*

19 *“(6) transfers or furnishes, without lawful au-*  
20 *thority, an immigration document to another person*  
21 *for use by a person other than the person for whom*  
22 *the immigration document was issued or designed; or*

23 *“(7) produces, issues, authorizes, or verifies,*  
24 *without lawful authority, an immigration document;*

1 *shall be fined under this title, imprisoned not more than*  
 2 *15 years, or both.*

3 **“§ 1547. Attempts and conspiracies**

4 *“Whoever attempts or conspires to violate this chapter*  
 5 *shall be punished in the same manner as a person who com-*  
 6 *pletes that violation.*

7 **“§ 1548. Alternative penalties for certain offenses**

8 *“(a) **TERRORISM.**—Whoever violates any section in*  
 9 *this chapter to facilitate an act of international terrorism*  
 10 *or domestic terrorism (as such terms are defined in section*  
 11 *2331), shall be fined under this title or imprisoned not more*  
 12 *than 25 years, or both.*

13 *“(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-*  
 14 *lates any section in this chapter to facilitate a drug traf-*  
 15 *ficking crime (as defined in section 929(a)) shall be fined*  
 16 *under this title or imprisoned not more than 20 years, or*  
 17 *both.*

18 **“§ 1549. Definitions**

19 *“In this chapter:*

20 *“(1) An ‘application for a United States pass-*  
 21 *port’ includes any document, photograph, or other*  
 22 *piece of evidence attached to or submitted in support*  
 23 *of the application.*

24 *“(2) The term ‘immigration document’ means*  
 25 *any instrument on which is recorded, by means of let-*

1        *ters, figures, or marks, matters which may be used to*  
 2        *fulfill any requirement of the Immigration and Na-*  
 3        *tionality Act.”.*

4    **SEC. 318. FORFEITURE.**

5        *Section 981(a)(1) of title 18, United States Code, is*  
 6        *amended by adding at the end the following:*

7                *“(I) Any property, real or personal, that has*  
 8        *been used to commit or facilitate the commission of*  
 9        *a violation of chapter 75, the gross proceeds of such*  
 10        *violation, and any property traceable to any such*  
 11        *property or proceeds.”.*

12    **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**  
 13                **ON CRIMINAL OR SECURITY GROUNDS.**

14        *(a) IN GENERAL.—Section 238(b) of the Immigration*  
 15        *and Nationality Act (8 U.S.C. 1228(b)) is amended—*

16                *(1) in paragraph (1)—*

17                        *(A) by striking “Attorney General” and in-*  
 18                *serting “Secretary of Homeland Security in the*  
 19                *exercise of discretion”; and*

20                        *(B) by striking “set forth in this subsection*  
 21                *or” and inserting “set forth in this subsection, in*  
 22                *lieu of removal proceedings under”;*

23                *(2) in paragraph (3), by striking “paragraph (1)*  
 24                *until 14 calendar days” and inserting “paragraph*  
 25                *(1) or (3) until 7 calendar days”;*

1           (3) by striking “Attorney General” each place it  
2       appears in paragraphs (3) and (4) and inserting  
3       “Secretary of Homeland Security”;

4           (4) in paragraph (5)—

5               (A) by striking “described in this section”  
6       and inserting “described in paragraph (1) or  
7       (2)”; and

8               (B) by striking “the Attorney General may  
9       grant in the Attorney General’s discretion” and  
10      inserting “the Secretary of Homeland Security  
11      or the Attorney General may grant, in the dis-  
12      cretion of the Secretary or Attorney General, in  
13      any proceeding”;

14          (5) by redesignating paragraphs (3), (4), and (5)  
15      as paragraphs (4), (5), and (6), respectively; and

16          (6) by inserting after paragraph (2) the fol-  
17      lowing new paragraph:

18               “(3) The Secretary of Homeland Security in the  
19      exercise of discretion may determine inadmissibility  
20      under section 212(a)(2) (relating to criminal offenses)  
21      and issue an order of removal pursuant to the proce-  
22      dures set forth in this subsection, in lieu of removal  
23      proceedings under section 240, with respect to an  
24      alien who

25               “(A) has not been admitted or paroled;

1           “(B) has not been found to have a credible  
2           fear of persecution pursuant to the procedures set  
3           forth in section 235(b)(1)(B); and

4           “(C) is not eligible for a waiver of inadmis-  
5           sibility or relief from removal.”.

6           (b) *EFFECTIVE DATE.*—The amendments made by sub-  
7           section (a) shall take effect on the date of the enactment  
8           of this Act but shall not apply to aliens who are in removal  
9           proceedings under section 240 of the Immigration and Na-  
10          tionality Act as of such date.

11   **SEC. 320. INCREASED PENALTIES BARRING THE ADMISSION**  
12                           **OF CONVICTED SEX OFFENDERS FAILING TO**  
13                           **REGISTER AND REQUIRING DEPORTATION OF**  
14                           **SEX OFFENDERS FAILING TO REGISTER.**

15           (a) *INADMISSIBILITY.*—Section 212(a)(2)(A)(i) of the  
16           Immigration and Nationality Act (8 U.S.C.  
17           1182(a)(2)(A)(i)), as amended by section 302(a) of this Act,  
18           is further amended—

19                   (1) in subclause (II), by striking “or” at the end;

20                   (2) in subclause (III), by adding “or” at the end;

21           and

22                   (3) by inserting after subclause (III) the fol-  
23           lowing:

24                                           “(IV) a violation of section 2250  
25                                           of title 18, United States Code (relat-

1                    *ing to failure to register as a sex of-*  
 2                    *fender),”.*

3            *(b) DEPORTABILITY.—Section 237(a)(2) of such Act (8*  
 4 *U.S.C. 1227(a)(2)), as amended by sections 302(c) and*  
 5 *311(c) of this Act, is further amended—*

6                    *(1) in subparagraph (A), by striking clause (v);*  
 7            *and*

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

9                    *“(I) FAILURE TO REGISTER AS A SEX OF-*  
 10 *FENDER.—Any alien convicted of, or who admits*  
 11 *having committed, or who admits committing*  
 12 *acts which constitute the essential elements of a*  
 13 *violation of section 2250 of title 18, United*  
 14 *States Code (relating to failure to register as a*  
 15 *sex offender) is deportable.”.*

16            *(c) EFFECTIVE DATE.—The amendments made by this*  
 17 *section shall take effect on the date of the enactment of this*  
 18 *Act and shall apply to acts that occur before, on, or after*  
 19 *the date of the enactment of this Act.*

20    **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED SEX**  
 21                    **OFFENDERS.**

22            *(a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-*  
 23 *tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-*  
 24 *ed—*

1           (1) in subparagraph (A), by amending clause  
2           (viii) to read as follows:

3           “(viii) Clause (i) shall not apply to a citizen of the  
4           United States who has been convicted of an offense described  
5           in subparagraph (A), (I), or (K) of section 101(a)(43), un-  
6           less the Secretary of Homeland Security, in the Secretary’s  
7           sole and unreviewable discretion, determines that the citizen  
8           poses no risk to the alien with respect to whom a petition  
9           described in clause (i) is filed.”; and

10           (2) in subparagraph (B)(i)—

11                   (A) by redesignating the second subclause  
12                   (I) as subclause (II); and

13                   (B) by amending such subclause (II) to read  
14                   as follows:

15           “(II) Subclause (I) shall not apply in the case of an  
16           alien admitted for permanent residence who has been con-  
17           victed of an offense described in subparagraph (A), (I), or  
18           (K) of section 101(a)(43), unless the Secretary of Homeland  
19           Security, in the Secretary’s sole and unreviewable discre-  
20           tion, determines that the alien lawfully admitted for perma-  
21           nent residence poses no risk to the alien with respect to  
22           whom a petition described in subclause (I) is filed.”.

23           (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of such  
24           Act (8 U.S.C. 1101(a)(15)(K)), is amended by striking

1 “204(a)(1)(A)(viii)(I)” each place such term appears and  
 2 inserting “204(a)(1)(A)(viii)”.

3 (c) *EFFECTIVE DATE.*—The amendments made by this  
 4 section shall take effect on the date of the enactment of this  
 5 Act and shall apply to petitions filed on or after such date.

6 **SEC. 322. CLARIFICATION TO CRIMES OF VIOLENCE AND**  
 7 **CRIMES INVOLVING MORAL TURPITUDE.**

8 (a) *INADMISSIBLE ALIENS.*—Section 212(a)(2)(A) of  
 9 the Immigration and Nationality Act (8 U.S.C.  
 10 1182(a)(2)(A)) is amended by adding at the end the fol-  
 11 lowing:

12 “(iii) *CLARIFICATION.*—If the convic-  
 13 tion records do not conclusively establish  
 14 whether a crime constitutes a crime involv-  
 15 ing moral turpitude, the Attorney General  
 16 may consider other evidence related to the  
 17 conviction that clearly establishes that the  
 18 conduct for which the alien was engaged  
 19 constitutes a crime involving moral turpi-  
 20 tude.”.

21 (b) *DEPORTABLE ALIENS.*—

22 (1) *GENERAL CRIMES.*—Section 237(a)(2)(A) of  
 23 such Act (8 U.S.C. 1227(a)(2)(A)), as amended by  
 24 section 320(b) of this Act, is further amended by in-  
 25 serting after clause (iv) the following:



1                   “(v) *CRIMES INVOLVING MORAL TURPI-*  
 2                   *TUDE.—If the conviction records do not*  
 3                   *conclusively establish whether a crime con-*  
 4                   *stitutes a crime involving moral turpitude,*  
 5                   *the Attorney General may consider other*  
 6                   *evidence related to the conviction that clear-*  
 7                   *ly establishes that the conduct for which the*  
 8                   *alien was engaged constitutes a crime in-*  
 9                   *volving moral turpitude.”.*

10                   (2) *DOMESTIC VIOLENCE.—Section 237(a)(2)(E)*  
 11                   *of such Act (8 U.S.C. 1227(a)(2)(E)) is amended by*  
 12                   *adding at the end the following:*

13                   “(iii) *CRIMES OF VIOLENCE.—If the*  
 14                   *conviction records do not conclusively estab-*  
 15                   *lish whether a crime of domestic violence*  
 16                   *constitutes a crime of violence (as defined in*  
 17                   *section 16 of title 18, United States Code),*  
 18                   *the Attorney General may consider other*  
 19                   *evidence related to the conviction that clear-*  
 20                   *ly establishes that the conduct for which the*  
 21                   *alien was engaged constitutes a crime of vi-*  
 22                   *olence.”.*

23                   (c) *EFFECTIVE DATE.—The amendments made by this*  
 24                   *section shall take effect on the date of the enactment of this*

1 *Act and shall apply to acts that occur before, on, or after*  
2 *the date of the enactment of this Act.*

3 **SEC. 323. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**  
4 **DERs.**

5 *(a) IN GENERAL.—Section 243(a) of the Immigration*  
6 *and Nationality Act (8 U.S.C. 1253(a)) is amended—*

7 *(1) in the matter preceding subparagraph (A) of*  
8 *paragraph (1), by inserting “212(a) or” before*  
9 *“237(a),” ; and*

10 *(2) by striking paragraph (3).*

11 *(b) EFFECTIVE DATE.—The amendments made by sub-*  
12 *section (a) shall take effect on the date of the enactment*  
13 *of this Act and shall apply to acts that are described in*  
14 *subparagraphs (A) through (D) of section 243(a)(1) of the*  
15 *Immigration and Nationality Act (8 U.S.C. 1253(a)(1))*  
16 *that occur on or after the date of the enactment of this Act.*

17 **SEC. 324. PARDONS.**

18 *(a) DEFINITION.—Section 101(a) of the Immigration*  
19 *and Nationality Act (8 U.S.C. 1101(a)), as amended by sec-*  
20 *tion 311(a) of this Act, is further amended by adding at*  
21 *the end the following:*

22 *“(54) The term ‘pardon’ means a full and uncondi-*  
23 *tional pardon granted by the President of the United States,*  
24 *Governor of any of the several States or constitutionally rec-*  
25 *ognized body.”.*

1       (b) *DEPORTABILITY*.—Section 237(a) of such Act (8  
2   U.S.C. 1227(a)) is amended—

3           (1) in paragraph (2)(A), by striking clause (vi);  
4       and

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

6           “(8) *PARDONS*.—In the case of an alien who has  
7       been convicted of a crime and is subject to removal  
8       due to that conviction, if the alien, subsequent to re-  
9       ceiving the criminal conviction, is granted a pardon,  
10      the alien shall not be deportable by reason of that  
11      criminal conviction.”.

12      (c) *EFFECTIVE DATE*.—The amendments made by this  
13      section shall take effect on the date of the enactment of this  
14      Act and shall apply to a pardon granted before, on, or after  
15      such date.

## 16           ***TITLE IV—VISA SECURITY***

### 17      ***SEC. 401. CANCELLATION OF ADDITIONAL VISAS.***

18      (a) *IN GENERAL*.—Section 222(g) of the Immigration  
19      and Nationality Act (8 U.S.C. 1202(g)) is amended—

20           (1) in paragraph (1)—

21                   (A) by striking “Attorney General” and in-  
22                   serting “Secretary”; and

23                   (B) by inserting “and any other non-  
24                   immigrant visa issued by the United States that

1           *is in the possession of the alien” after “such*  
 2           *visa”; and*

3           (2) *in paragraph (2)(A), by striking “(other*  
 4           *than the visa described in paragraph (1)) issued in*  
 5           *a consular office located in the country of the alien’s*  
 6           *nationality” and inserting “(other than a visa de-*  
 7           *scribed in paragraph (1)) issued in a consular office*  
 8           *located in the country of the alien’s nationality or*  
 9           *foreign residence”.*

10          (b) *EFFECTIVE DATE.—The amendment made by sub-*  
 11          *section (a) shall take effect on the date of the enactment*  
 12          *of this Act and shall apply to a visa issued before, on, or*  
 13          *after such date.*

14          **SEC. 402. VISA INFORMATION SHARING.**

15          (a) *IN GENERAL.—Section 222(f) of the Immigration*  
 16          *and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—*

17                  (1) *by striking “issuance or refusal” and insert-*  
 18                  *ing “issuance, refusal, or revocation”;*

19                  (2) *in paragraph (2), in the matter preceding*  
 20                  *subparagraph (A), by striking “and on the basis of*  
 21                  *reciprocity”;*

22                  (3) *in paragraph (2)(A)—*

23                          (A) *by inserting “(i)” after “for the purpose*  
 24                          *of”; and*

1           (B) by striking “illicit weapons; or” and  
 2           inserting “illicit weapons, or (ii) determining a  
 3           person’s deportability or eligibility for a visa,  
 4           admission, or other immigration benefit;”;  
 5           (4) in paragraph (2)(B)—

6           (A) by striking “for the purposes” and in-  
 7           serting “for one of the purposes”; and

8           (B) by striking “or to deny visas to persons  
 9           who would be inadmissible to the United States.”  
 10          and inserting “; or”; and

11          (5) in paragraph (2), by adding at the end the  
 12          following:

13               “(C) with regard to any or all aliens in the  
 14               database specified data elements from each  
 15               record, if the Secretary of State determines that  
 16               it is in the national interest to provide such in-  
 17               formation to a foreign government.”.

18          (b) *EFFECTIVE DATE.*—The amendments made by sub-  
 19          section (a) shall take effect 60 days after the date of the  
 20          enactment of the Act.

21      **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

22          Section 222(h) of the Immigration and Nationality  
 23          Act (8 U.S.C. 1202(h)(1)(B)) is amended—

1           (1) in paragraph (1)(C), by inserting “, in con-  
2           sultation with the Secretary of Homeland Security,”  
3           after “if the Secretary”;

4           (2) in paragraph (1)(C)(i), by inserting “, where  
5           such national interest shall not include facilitation of  
6           travel of foreign nationals to the United States, reduc-  
7           tion of visa application processing times, or the allo-  
8           cation of consular resources” before the semicolon at  
9           the end;

10          (3) in paragraph (2)—

11               (A) by striking “or” at the end of subpara-  
12               graph (E);

13               (B) by striking the period at the end of sub-  
14               paragraph (F) and inserting “; or”; and

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

16               “(G) is an individual—

17                       “(i) determined to be in a class of  
18                       aliens determined by the Secretary of  
19                       Homeland Security to be threats to national  
20                       security;

21                       “(ii) identified by the Secretary of  
22                       Homeland Security as a person of concern;  
23                       or

24                       “(iii) applying for a visa in a visa  
25                       category with respect to which the Secretary

1                   *of Homeland Security has determined that*  
2                   *a waiver of the visa interview would create*  
3                   *a high risk of degradation of visa program*  
4                   *integrity.”.*

5   **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**  
6                   **NOT INTERVIEW CERTAIN INELIGIBLE VISA**  
7                   **APPLICANTS.**

8           *(a) IN GENERAL.—Section 222(h)(1) of the Immigra-*  
9           *tion and Nationality Act (8 U.S.C. 1202(h)(1)) is amended*  
10           *by inserting “the alien is determined by the Secretary of*  
11           *State to be ineligible for a visa based upon review of the*  
12           *application or” after “unless”.*

13           *(b) GUIDANCE.—Not later than 90 days after the date*  
14           *of the enactment of this Act, the Secretary of State shall*  
15           *issue guidance to consular officers on the standards and*  
16           *processes for implementing the authority to deny visa ap-*  
17           *plications without interview in cases where the alien is de-*  
18           *termined by the Secretary of State to be ineligible for a*  
19           *visa based upon review of the application.*

20           *(c) REPORTS.—Not less frequently than once each*  
21           *quarter, the Secretary of State shall submit to the Congress*  
22           *a report on the denial of visa applications without inter-*  
23           *view, including—*

24                   *(1) the number of such denials; and*

25                   *(2) a post-by-post breakdown of such denials.*

1 **SEC. 405. VISA REFUSAL AND REVOCATION.**

2       (a) *AUTHORITY OF THE SECRETARY OF HOMELAND*  
3 *SECURITY AND THE SECRETARY OF STATE.*—

4           (1) *IN GENERAL.*—*Section 428 of the Homeland*  
5 *Security Act of 2002 (6 U.S.C. 236) is amended by*  
6 *striking subsections (b) and (c) and inserting the fol-*  
7 *lowing:*

8       “(b) *AUTHORITY OF THE SECRETARY OF HOMELAND*  
9 *SECURITY.*—

10           “(1) *IN GENERAL.*—*Notwithstanding section*  
11 *104(a) of the Immigration and Nationality Act (8*  
12 *U.S.C. 1104(a)) or any other provision of law, and*  
13 *except as provided in subsection (c) and except for the*  
14 *authority of the Secretary of State under subpara-*  
15 *graphs (A) and (G) of section 101(a)(15) of the Immi-*  
16 *gration and Nationality Act (8 U.S.C. 1101(a)(15)),*  
17 *the Secretary—*

18           “(A) *shall have exclusive authority to issue*  
19 *regulations, establish policy, and administer and*  
20 *enforce the provisions of the Immigration and*  
21 *Nationality Act (8 U.S.C. 1101 et seq.) and all*  
22 *other immigration or nationality laws relating*  
23 *to the functions of consular officers of the United*  
24 *States in connection with the granting and re-*  
25 *fusal of a visa; and*



1           “(B) may refuse or revoke any visa to any  
 2           alien or class of aliens if the Secretary, or des-  
 3           ignee, determines that such refusal or revocation  
 4           is necessary or advisable in the security interests  
 5           of the United States.

6           “(2) *EFFECT OF REVOCATION.*—The revocation  
 7           of any visa under paragraph (1)(B)—

8           “(A) shall take effect immediately; and

9           “(B) shall automatically cancel any other  
 10          valid visa that is in the alien’s possession.

11          “(3) *JUDICIAL REVIEW.*—Notwithstanding any  
 12          other provision of law, including section 2241 of title  
 13          28, United States Code, or any other habeas corpus  
 14          provision, and sections 1361 and 1651 of such title,  
 15          no court shall have jurisdiction to review a decision  
 16          by the Secretary of Homeland Security to refuse or  
 17          revoke a visa, and no court shall have jurisdiction to  
 18          hear any claim arising from, or any challenge to,  
 19          such a refusal or revocation.

20          “(c) *AUTHORITY OF THE SECRETARY OF STATE.*—

21          “(1) *IN GENERAL.*—The Secretary of State may  
 22          direct a consular officer to refuse a visa requested by  
 23          an alien if the Secretary of State determines such re-  
 24          fusal to be necessary or advisable in the interests of  
 25          the United States.

1           “(2) *LIMITATION.*—No decision by the Secretary  
2           of State to approve a visa may override a decision by  
3           the Secretary of Homeland Security under subsection  
4           (b).”.

5           (2)       *CONFORMING        AMENDMENT.*—Section  
6           237(a)(1)(B) of the Immigration and Nationality Act  
7           (8 U.S.C. 1227(a)(1)(B)) is amended by striking  
8           “under section 221(i)”.

9           (3) *EFFECTIVE DATE.*—The amendment made by  
10          paragraph (1) shall take effect on the date of the en-  
11          actment of this Act and shall apply to visa refusals  
12          and revocations occurring before, on, or after such  
13          date.

14          (b) *TECHNICAL CORRECTIONS TO THE HOMELAND SE-*  
15          *CURITY ACT.*—Section 428(a) of the Homeland Security Act  
16          of 2002 (6 U.S.C. 236(a)) is amended by—

17               (1) striking “subsection” and inserting “section”;  
18          and

19               (2) striking “consular office” and inserting “con-  
20          sular officer”.

21   **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

22          (a) *IN GENERAL.*—The Department of State and Re-  
23          lated Agency Appropriations Act, 2005 (title IV of division  
24          B of Public Law 108–447) is amended, in the fourth para-  
25          graph under the heading “Diplomatic and Consular Pro-

1 grams”, by striking “Beginning” and all that follows  
2 through the period at the end and inserting the following:  
3 “Beginning in fiscal year 2005 and thereafter, the Sec-  
4 retary of State is authorized to charge surcharges related  
5 to consular services in support of enhanced border security  
6 that are in addition to the immigrant visa fees in effect  
7 on January 1, 2004: Provided, That funds collected pursu-  
8 ant to this authority shall be credited to the appropriation  
9 for U.S. Immigration and Customs Enforcement for the fis-  
10 cal year in which the fees were collected, and shall be avail-  
11 able until expended for the funding of the Visa Security  
12 Program established by the Secretary of Homeland Security  
13 under section 428(e) of the Homeland Security Act of 2002  
14 (Public Law 107–296): Provided further, That such sur-  
15 charges shall be 10 percent of the fee assessed on immigrant  
16 visa applications.”.

17 (b) *REPAYMENT OF APPROPRIATED FUNDS.*—Twenty  
18 percent of the funds collected each fiscal year under the  
19 heading “Diplomatic and Consular Programs” in the De-  
20 partment of State and Related Agency Appropriations Act,  
21 2005 (title IV of division B of Public Law 108–447), as  
22 amended by subsection (a), shall be deposited into the gen-  
23 eral fund of the Treasury as repayment of funds appro-  
24 priated pursuant to section 407(c) of this Act until the en-  
25 tire appropriated sum has been repaid.

1 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**  
2 **PROGRAM TO HIGH-RISK POSTS.**

3 (a) *IN GENERAL.*—Section 428(i) of the Homeland Se-  
4 curity Act of 2002 (6 U.S.C. 236(i)) is amended to read  
5 as follows:

6 “(i) *VISA ISSUANCE AT DESIGNATED HIGH-RISK*  
7 *POSTS.*—Notwithstanding any other provision of law, the  
8 Secretary of Homeland Security shall conduct an on-site  
9 review of all visa applications and supporting documenta-  
10 tion before adjudication at the top 30 visa-issuing posts des-  
11 ignated jointly by the Secretaries of State and Homeland  
12 Security as high-risk posts.”.

13 (b) *ASSIGNMENT OF PERSONNEL.*—Not later than one  
14 year after the date of enactment of this section, the Sec-  
15 retary of Homeland Security shall assign personnel to the  
16 visa-issuing posts referenced in section 428(i) of the Home-  
17 land Security Act of 2002 (6 U.S.C. 236(i)), as amended  
18 by this section, and communicate such assignments to the  
19 Secretary of State.

20 (c) *APPROPRIATIONS.*—There is authorized to be ap-  
21 propriated \$60,000,000 for each of the fiscal years 2014 and  
22 2015, which shall be used to expedite the implementation  
23 of section 428(i) of the Homeland Security Act, as amended  
24 by this section.

1 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**  
 2 **PARTMENT OF HOMELAND SECURITY PER-**  
 3 **SONNEL AT OVERSEAS EMBASSIES AND CON-**  
 4 **SULAR POSTS.**

5 *Section 428 of the Homeland Security Act of 2002 (6*  
 6 *U.S.C. 236) is amended by adding at the end the following:*

7 *“(j) EXPEDITED CLEARANCE AND PLACEMENT OF DE-*  
 8 *PARTMENT OF HOMELAND SECURITY PERSONNEL AT OVER-*  
 9 *SEAS EMBASSIES AND CONSULAR POSTS.—Notwith-*  
 10 *standing any other provision of law, and the processes set*  
 11 *forth in National Security Defense Directive 38 (dated June*  
 12 *2, 1982) or any successor Directive, the Chief of Mission*  
 13 *of a post to which the Secretary of Homeland Security has*  
 14 *assigned personnel under subsection (e) or (i) shall ensure,*  
 15 *not later than one year after the date on which the Sec-*  
 16 *retary of Homeland Security communicates such assign-*  
 17 *ment to the Secretary of State, that such personnel have*  
 18 *been stationed and accommodated at post and are able to*  
 19 *carry out their duties.”.*

20 **SEC. 409. ACCREDITATION REQUIREMENTS.**

21 *(a) COLLEGES, UNIVERSITIES, AND LANGUAGE TRAIN-*  
 22 *ING PROGRAMS.—Section 101(a) of the Immigration and*  
 23 *Nationality Act (8 U.S.C. 1101(a)) is amended—*

24 *(1) in paragraph (15)(F)(i)—*

25 *(A) by striking “section 214(l) at an estab-*  
 26 *lished college, university, seminary, conservatory,*

1        *academic high school, elementary school, or other*  
2        *academic institution or in an accredited lan-*  
3        *guage training program in the United States”*  
4        *and inserting “section 214(m) at an accredited*  
5        *college, university, or language training pro-*  
6        *gram, or at an established seminary, conserv-*  
7        *atory, academic high school, elementary school,*  
8        *or other academic institution in the United*  
9        *States”;*

10        *(B) by striking “Attorney General” each*  
11        *place such term appears and inserting “Sec-*  
12        *retary of Homeland Security”;* and

13        *(C) by striking “and if any such institution*  
14        *of learning or place of study fails to make re-*  
15        *ports promptly the approval shall be with-*  
16        *drawn,” and inserting “and if any such institu-*  
17        *tion of learning of place of study fails to make*  
18        *reports promptly or fails to comply with any ac-*  
19        *creditation requirement (including deadlines for*  
20        *submitting accreditation applications or obtain-*  
21        *ing accreditation) the approval shall be with-*  
22        *drawn,”;* and

23        *(2) by amending paragraph (52) to read as fol-*  
24        *lows:*

1       “(52) *Except as provided in section 214(m)(4), the*  
 2 *term ‘accredited college, university, or language training*  
 3 *program’ means a college, university, or language training*  
 4 *program that is accredited by an accrediting agency recog-*  
 5 *nized by the Secretary of Education.*”.

6       (b) *OTHER ACADEMIC INSTITUTIONS.*—Section  
 7 214(m) of the *Immigration and Nationality Act* (8 U.S.C.  
 8 1184(m)) is amended by adding at the end the following:  
 9       “(3) *The Secretary of Homeland Security shall require*  
 10 *accreditation of an academic institution (except for sem-*  
 11 *inaries or other religious institutions) for purposes of sec-*  
 12 *tion 101(a)(15)(F) if—*

13               “(A) *that institution is not already required to*  
 14 *be accredited under section 101(a)(15)(F)(i); and*

15               “(B) *an appropriate accrediting agency recog-*  
 16 *nized by the Secretary of Education is able to provide*  
 17 *such accreditation.*

18       “(4) *The Secretary of Homeland Security, in the Sec-*  
 19 *retary’s discretion, may waive the accreditation require-*  
 20 *ment in paragraph (3) or section 101(a)(15)(F)(i) with re-*  
 21 *spect to an institution if such institution—*

22               “(A) *is otherwise in compliance with the require-*  
 23 *ments of section 101(a)(15)(F)(i); and*

24               “(B) *has been a candidate for accreditation for*  
 25 *at least 1 year and continues to progress toward ac-*

1       *creditation by an accrediting agency recognized by*  
2       *the Secretary of Education.”.*

3       *(c) EFFECTIVE DATE.—*

4               *(1) IN GENERAL.—Except as provided in para-*  
5       *graph (2), the amendments made by this section*  
6       *shall—*

7                       *(A) take effect on the date that is 180 days*  
8                       *after the date of enactment of this Act; and*

9                       *(B) apply with respect to applications for*  
10                      *nonimmigrant visas that are filed on or after the*  
11                      *effective date described in subparagraph (A).*

12               *(2) TEMPORARY EXCEPTION.—During the 3-year*  
13       *period beginning on the effective date described in*  
14       *paragraph (1)(A), an institution that is newly re-*  
15       *quired to be accredited under this section may con-*  
16       *tinue to participate in the Student and Exchange*  
17       *Visitor Program notwithstanding the institution’s*  
18       *lack of accreditation if the institution—*

19                      *(A) was certified under the Student and*  
20                      *Exchange Visitor Program on such date;*

21                      *(B) submitted an application for accredita-*  
22                      *tion to an accrediting agency recognized by the*  
23                      *Secretary of Education during the 6-month pe-*  
24                      *riod ending on such date; and*



1                   (C) continues to progress toward accredita-  
2                   tion by such accrediting agency.

3 **SEC. 410. VISA FRAUD.**

4           (a) *TEMPORARY SUSPENSION OF SEVIS ACCESS.*—  
5   Section 641(d) of the Illegal Immigration Reform and Im-  
6   migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is  
7   amended—

8           (1) in paragraph (1)(A), by striking “institu-  
9           tion,,” and inserting “institution,”; and

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

11           “(3) *EFFECT OF REASONABLE SUSPICION OF*  
12   *FRAUD.*—If the Secretary of Homeland Security has  
13   reasonable suspicion that an owner of, or a des-  
14   ignated school official at, an approved institution of  
15   higher education, an other approved educational in-  
16   stitution, or a designated exchange visitor program  
17   has committed fraud or attempted to commit fraud  
18   relating to any aspect of the Student and Exchange  
19   Visitor Program, the Secretary may immediately sus-  
20   pend, without notice, such official’s or such school’s  
21   access to the Student and Exchange Visitor Informa-  
22   tion System (SEVIS), including the ability to issue  
23   Form I–20s, pending a final determination by the  
24   Secretary with respect to the institution’s certification  
25   under the Student and Exchange Visitor Program.”.

1       (b) *EFFECT OF CONVICTION FOR VISA FRAUD.*—Such  
 2       section 641(d), as amended by subsection (a)(2), is further  
 3       amended by adding at the end the following:

4               “(4)   *PERMANENT   DISQUALIFICATION   FOR*  
 5       *FRAUD.*—A designated school official at, or an owner  
 6       of, an approved institution of higher education, an  
 7       other approved educational institution, or a des-  
 8       ignated exchange visitor program who is convicted for  
 9       fraud relating to any aspect of the Student and Ex-  
 10      change Visitor Program shall be permanently dis-  
 11      qualified from filing future petitions and from having  
 12      an ownership interest or a management role, includ-  
 13      ing serving as a principal, owner, officer, board mem-  
 14      ber, general partner, designated school official, or any  
 15      other position of substantive authority for the oper-  
 16      ations or management of the institution, in any  
 17      United States educational institution that enrolls  
 18      nonimmigrant alien students described in subpara-  
 19      graph (F) or (M) of section 101(a)(15) the Immigra-  
 20      tion and Nationality Act (8 U.S.C. 1101(a)(15)).”.

21   **SEC. 411. BACKGROUND CHECKS.**

22       (a) *IN GENERAL.*—Section 641(d) of the Illegal Immi-  
 23      gration Reform and Immigrant Responsibility Act of 1996  
 24      (8 U.S.C. 1372(d)), as amended by section 411(b) of this  
 25      Act, is further amended by adding at the end the following:

1 “(5) *BACKGROUND CHECK REQUIREMENT.*—

2 “(A) *IN GENERAL.*—*An individual may not*  
3 *serve as a designated school official or be granted*  
4 *access to SEVIS unless the individual is a na-*  
5 *tional of the United States or an alien lawfully*  
6 *admitted for permanent residence and during the*  
7 *most recent 3-year period—*

8 “(i) *the Secretary of Homeland Secu-*  
9 *rity has—*

10 “(I) *conducted a thorough back-*  
11 *ground check on the individual, includ-*  
12 *ing a review of the individual’s crimi-*  
13 *nal and sex offender history and the*  
14 *verification of the individual’s immi-*  
15 *gration status; and*

16 “(II) *determined that the indi-*  
17 *vidual has not been convicted of any*  
18 *violation of United States immigration*  
19 *law and is not a risk to national secu-*  
20 *rity of the United States; and*

21 “(ii) *the individual has successfully*  
22 *completed an on-line training course on*  
23 *SEVP and SEVIS, which has been devel-*  
24 *oped by the Secretary.*

1                   “(B) *INTERIM DESIGNATED SCHOOL OFFI-*  
2                   *CIAL.*—

3                   “(i) *IN GENERAL.*—*An individual may*  
4                   *serve as an interim designated school offi-*  
5                   *cial during the period that the Secretary is*  
6                   *conducting the background check required*  
7                   *by subparagraph (A)(i)(I).*

8                   “(ii) *REVIEWS BY THE SECRETARY.*—  
9                   *If an individual serving as an interim des-*  
10                  *ignated school official under clause (i) does*  
11                  *not successfully complete the background*  
12                  *check required by subparagraph (A)(i)(I),*  
13                  *the Secretary shall review each Form I-20*  
14                  *issued by such interim designated school of-*  
15                  *ficial.*

16                  “(6) *FEE.*—*The Secretary is authorized to collect*  
17                  *a fee from an approved school for each background*  
18                  *check conducted under paragraph (6)(A)(i). The*  
19                  *amount of such fee shall be equal to the average*  
20                  *amount expended by the Secretary to conduct such*  
21                  *background checks.”.*

22                  “(b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
23                  *section (a) shall take effect on the date that is 1 year after*  
24                  *the date of the enactment of this Act.*

1 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

2       Section 641(d) of the *Illegal Immigration Reform and*  
3 *Immigrant Responsibility Act of 1996* (8 U.S.C. 1372(d)),  
4 *as amended by section 412(a) of this Act*, is further amend-  
5 *ed by adding at the end the following:*

6           “(7) *NUMBER OF DESIGNATED SCHOOL OFFI-*  
7 *CIALS.—School officials may nominate as many Des-*  
8 *ignated School Officials (DSOs) in addition to the*  
9 *school’s Principal Designated School Official (PDSO)*  
10 *as they determine necessary to adequately provide rec-*  
11 *ommendations to students enrolled at the school re-*  
12 *garding maintenance of nonimmigrant status under*  
13 *subparagraph (F) or (M) of section 101(a)(15) and to*  
14 *support timely and complete recordkeeping and re-*  
15 *porting to the Secretary of Homeland Security, as re-*  
16 *quired by this section, except that a school may not*  
17 *have less than one DSO per every 200 students who*  
18 *have nonimmigrant status pursuant to subparagraph*  
19 *(F), (J), or (M) of such section. School officials shall*  
20 *not permit a DSO or PDSO nominee access to*  
21 *SEVIS until the Secretary approves the nomina-*  
22 *tion.”.*

23 **SEC. 413. REPORTING REQUIREMENT.**

24       Section 442(a) of the *Homeland Security Act of 2002*  
25 *(6 U.S.C. 252(a)) is amended—*

1           (1) *by redesignating paragraph (5) as para-*  
2 *graph (6); and*

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

5           “(5) *STUDENT AND EXCHANGE VISITOR PRO-*  
6 *GRAM.—In administering the program under para-*  
7 *graph (4), the Secretary shall, not later than one year*  
8 *after the date of the enactment of this paragraph, pre-*  
9 *scribe regulations to require an institution or ex-*  
10 *change visitor program sponsor participating in the*  
11 *Student Exchange Visitor Program to ensure that*  
12 *each student or exchange visitor who has non-*  
13 *immigrant status pursuant to subparagraph (F), (J),*  
14 *or (M) of section 101(a)(15) of the Immigration and*  
15 *Nationality Act (8 U.S.C. 1101(a)(15)) enrolled at*  
16 *the institution or attending the exchange visitor pro-*  
17 *gram is reported to the Department within 10 days*  
18 *of—*

19                 *“(A) transferring to another institution or*  
20 *program;*

21                 *“(B) changing academic majors; or*

22                 *“(C) any other changes to information re-*  
23 *quired to be maintained in the system described*  
24 *in paragraph (4).”.*

1 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

2       (a) *IN GENERAL.*—*Except as provided in subsection*  
3 *(b), the Secretary of Homeland Security shall prohibit any*  
4 *flight school in the United States from accessing SEVIS or*  
5 *issuing a Form I–20 to an alien seeking a student visa pur-*  
6 *suant to subparagraph (F)(i) or (M)(i) of section*  
7 *101(a)(15) of the Immigration and Nationality Act (8*  
8 *U.S.C. 1101(a)(15)) if the flight school has not been cer-*  
9 *tified to the satisfaction of the Secretary and by the Federal*  
10 *Aviation Administration pursuant to part 141 or part 142*  
11 *of title 14, Code of Federal Regulations (or similar successor*  
12 *regulations).*

13       (b) *TEMPORARY EXCEPTION.*—*During the 5-year pe-*  
14 *riod beginning on the date of the enactment of this Act,*  
15 *the Secretary may waive the requirement under subsection*  
16 *(a) that a flight school be certified by the Federal Aviation*  
17 *Administration if such flight school—*

18               (1) *was certified under the Student and Ex-*  
19 *change Visitor Program on the date of the enactment*  
20 *of this Act;*

21               (2) *submitted an application for certification*  
22 *with the Federal Aviation Administration during the*  
23 *1-year period beginning on such date; and*

24               (3) *continues to progress toward certification by*  
25 *the Federal Aviation Administration.*

1 **SEC. 415. REVOCATION OF ACCREDITATION.**

2       *At the time an accrediting agency or association is re-*  
3 *quired to notify the Secretary of Education and the appro-*  
4 *priate State licensing or authorizing agency of the final de-*  
5 *nial, withdrawal, suspension, or termination of accredita-*  
6 *tion of an institution pursuant to section 496 of the Higher*  
7 *Education Act of 1965 (20 U.S.C. 1099b), such accrediting*  
8 *agency or association shall notify the Secretary of Home-*  
9 *land Security of such determination and the Secretary of*  
10 *Homeland Security shall immediately withdraw the school*  
11 *from the SEVP and prohibit the school from accessing*  
12 *SEVIS.*

13 **SEC. 416. REPORT ON RISK ASSESSMENT.**

14       *Not later than 180 days after the date of the enactment*  
15 *of this Act, the Secretary of Homeland Security shall sub-*  
16 *mit to the Committee on the Judiciary of the Senate and*  
17 *the Committee on the Judiciary of the House of Representa-*  
18 *tives a report that contains the risk assessment strategy that*  
19 *will be employed by the Secretary to identify, investigate,*  
20 *and take appropriate action against schools and school offi-*  
21 *cials that are facilitating the issuance of Form I-20 and*  
22 *the maintenance of student visa status in violation of the*  
23 *immigration laws of the United States.*

24 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

25       *Not later than 180 days after the date of the enactment*  
26 *of this act, the Secretary of Homeland Security shall submit*



1 *to the Committee on the Judiciary of the Senate and the*  
2 *Committee on the Judiciary of the House of Representatives*  
3 *a report that describes—*

4           (1) *the process in place to identify and assess*  
5 *risks in the SEVP;*

6           (2) *a risk assessment process to allocate SEVP's*  
7 *resources based on risk;*

8           (3) *the procedures in place for consistently en-*  
9 *surving a school's eligibility, including consistently*  
10 *verifying in lieu of letters;*

11           (4) *how SEVP identified and addressed missing*  
12 *school case files;*

13           (5) *a plan to develop and implement a process*  
14 *to monitor state licensing and accreditation status of*  
15 *all SEVP-certified schools;*

16           (6) *whether all flight schools that have not been*  
17 *certified to the satisfaction of the Secretary and by*  
18 *the Federal Aviation Administration have been re-*  
19 *moved from the program and have been restricted*  
20 *from accessing SEVIS;*

21           (7) *the standard operating procedures that gov-*  
22 *ern coordination among SEVP, Counterterrorism and*  
23 *Criminal Exploitation Unit, and U.S. Immigration*  
24 *and Customs Enforcement field offices; and*

1           (8) *the established criteria for referring cases of*  
 2           *a potentially criminal nature from SEVP to the*  
 3           *counterterrorism and intelligence community.*

4 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

5           *Not later than 2 years after the date of the enactment*  
 6           *of this Act, the Secretary of Homeland Security shall com-*  
 7           *plete the deployment of both phases of the 2nd generation*  
 8           *Student and Exchange Visitor Information System (com-*  
 9           *monly known as “SEVIS II”).*

10 **SEC. 419. DEFINITIONS.**

11           (a) *DEFINITIONS.—For purposes of this title:*

12                   (1) *SEVIS.—The term “SEVIS” means the Stu-*  
 13                   *dent and Exchange Visitor Information System of the*  
 14                   *Department of Homeland Security.*

15                   (2) *SEVP.—The term “SEVP” means the Stu-*  
 16                   *dent and Exchange Visitor Program of the Depart-*  
 17                   *ment of Homeland Security.*

18 **TITLE V—AID TO U.S. IMMIGRA-**  
 19 **TION AND CUSTOMS EN-**  
 20 **FORCEMENT OFFICERS**

21 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

22           (a) *IN GENERAL.—The Secretary of Homeland Secu-*  
 23           *rity shall authorize all immigration enforcement agents and*  
 24           *deportation officers of the Department of Homeland Secu-*

1 rity who have successfully completed basic immigration law  
 2 enforcement training to exercise the powers conferred by—

3 (1) section 287(a)(5)(A) of the Immigration and  
 4 Nationality Act to arrest for any offense against the  
 5 United States;

6 (2) section 287(a)(5)(B) of such Act to arrest for  
 7 any felony;

8 (3) section 274(a) of such Act to arrest for bring-  
 9 ing in, transporting, or harboring certain aliens, or  
 10 inducing them to enter;

11 (4) section 287(a) of such Act to execute war-  
 12 rants of arrest for administrative immigration viola-  
 13 tions issued under section 236 of the Act or to execute  
 14 warrants of criminal arrest issued under the author-  
 15 ity of the United States; and

16 (5) section 287(a) of such Act to carry firearms,  
 17 provided that they are individually qualified by  
 18 training and experience to handle and safely operate  
 19 the firearms they are permitted to carry, maintain  
 20 proficiency in the use of such firearms, and adhere to  
 21 the provisions of the enforcement standard governing  
 22 the use of force.

23 (b) *ARREST POWERS.*—Section 287(a)(2) of the Immi-  
 24 gration and Nationality Act (8 U.S.C. 1357(a)(2)) is  
 25 amended by striking “regulation and is likely to escape be-

1 *fore a warrant can be obtained for his arrest,” and insert-*  
 2 *ing “regulation,”.*

3 (c) *PAY.—Immigration enforcement agents shall be*  
 4 *paid on the same scale as Immigration and Customs En-*  
 5 *forcement deportation officers and shall receive the same*  
 6 *benefits.*

7 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

8 (a) *AUTHORIZATION.—The Secretary of Homeland Se-*  
 9 *curity is authorized to hire 2,500 Immigration and Cus-*  
 10 *toms Enforcement detention enforcement officers.*

11 (b) *DUTIES.—Immigration and Customs Enforcement*  
 12 *detention enforcement officers who have successfully com-*  
 13 *pleted detention enforcement officers’ basic training shall*  
 14 *be responsible for—*

15 (1) *taking and maintaining custody of any per-*  
 16 *son who has been arrested by an immigration officer;*

17 (2) *transporting and guarding immigration de-*  
 18 *tainees;*

19 (3) *securing Department of Homeland Security*  
 20 *detention facilities; and*

21 (4) *assisting in the processing of detainees.*

22 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**  
 23 **AGENTS.**

24 (a) *BODY ARMOR.—The Secretary of Homeland Secu-*  
 25 *rity shall ensure that every Immigration and Customs En-*

1 *forcement deportation officer and immigration enforcement*  
2 *agent on duty is issued high-quality body armor that is*  
3 *appropriate for the climate and risks faced by the agent.*  
4 *Enough body armor must be purchased to cover every agent*  
5 *in the field.*

6 (b) *WEAPONS.—Such Secretary shall ensure that Im-*  
7 *migration and Customs Enforcement deportation officers*  
8 *and immigration enforcement agents are equipped with*  
9 *weapons that are reliable and effective to protect themselves,*  
10 *their fellow agents, and innocent third parties from the*  
11 *threats posed by armed criminals. Such weapons shall in-*  
12 *clude, at a minimum, standard-issue handguns, M–4 (or*  
13 *equivalent) rifles, and Tasers.*

14 (c) *EFFECTIVE DATE.—This section shall take effect*  
15 *90 days after the date of the enactment of this Act.*

16 **SEC. 504. ICE ADVISORY COUNCIL.**

17 (a) *ESTABLISHMENT.—An ICE Advisory Council shall*  
18 *be established not later than 3 months after the date of the*  
19 *enactment of this Act.*

20 (b) *MEMBERSHIP.—The ICE Advisor Council shall be*  
21 *comprised of 7 members.*

22 (c) *APPOINTMENT.—Members shall to be appointed in*  
23 *the following manner:*

24 (1) *One member shall be appointed by the Presi-*  
25 *dent;*

1           (2) *One member shall be appointed by the Chair-*  
2           *man of the Judiciary Committee of the House of Rep-*  
3           *resentatives;*

4           (3) *One member shall be appointed by the Chair-*  
5           *man of the Judiciary Committee of the Senate;*

6           (4) *One member shall be appointed by the Local*  
7           *511, the ICE prosecutor's union; and*

8           (5) *Three members shall be appointed by the Na-*  
9           *tional Immigration and Customs Enforcement Coun-*  
10          *cil.*

11          (d) *TERM.—Members shall serve renewable, 2-year*  
12          *terms.*

13          (e) *VOLUNTARY.—Membership shall be voluntary and*  
14          *non-remunerated, except that members will receive reim-*  
15          *bursement from the Secretary of Homeland Security for*  
16          *travel and other related expenses.*

17          (f) *RETALIATION PROTECTION.—Members who are em-*  
18          *ployed by the Secretary of Homeland Security shall be pro-*  
19          *tected from retaliation by their supervisors, managers, and*  
20          *other Department of Homeland Security employees for their*  
21          *participation on the Council.*

22          (g) *PURPOSE.—The purpose of the Council is to advise*  
23          *the Congress and the Secretary of Homeland Security on*  
24          *issues including the following:*

1           (1) *The current status of immigration enforce-*  
2           *ment efforts, including prosecutions and removals, the*  
3           *effectiveness of such efforts, and how enforcement*  
4           *could be improved;*

5           (2) *The effectiveness of cooperative efforts between*  
6           *the Secretary of Homeland Security and other law*  
7           *enforcement agencies, including additional types of*  
8           *enforcement activities that the Secretary should be en-*  
9           *gaged in, such as State and local criminal task forces;*

10          (3) *Personnel, equipment, and other resource*  
11          *needs of field personnel;*

12          (4) *Improvements that should be made to the or-*  
13          *ganizational structure of the Department of Home-*  
14          *land Security, including whether the position of im-*  
15          *migration enforcement agent should be merged into*  
16          *the deportation officer position; and*

17          (5) *The effectiveness of specific enforcement poli-*  
18          *cies and regulations promulgated by the Secretary of*  
19          *Homeland Security, and whether other enforcement*  
20          *priorities should be considered.*

21          (h) *REPORTS.*—*The Council shall provide quarterly*  
22          *reports to the Chairmen and Ranking Members of the Judi-*  
23          *ciary Committees of the Senate and the House of Represent-*  
24          *atives and to the Secretary of Homeland Security. The*  
25          *Council members shall meet directly with the Chairmen and*

1 *Ranking Members (or their designated representatives) and*  
2 *with the Secretary to discuss their reports every 6 months.*

3 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**  
4 **ESSING.**

5 *(a) IN GENERAL.—The Secretary of Homeland Secu-*  
6 *rity shall establish a pilot program in at least five of the*  
7 *10 Immigration and Customs Enforcement field offices with*  
8 *the largest removal caseloads to allow Immigration and*  
9 *Customs deportation officers and immigration enforcement*  
10 *agents to—*

11 *(1) electronically process and serve charging doc-*  
12 *uments, including Notices to Appear, while in the*  
13 *field; and*

14 *(2) electronically process and place detainers*  
15 *while in the field.*

16 *(b) DUTIES.—The pilot program described in sub-*  
17 *section (a) shall be designed to allow deportation officers*  
18 *and immigration enforcement agents to use handheld or ve-*  
19 *hicle-mounted computers to—*

20 *(1) enter any required data, including personal*  
21 *information about the alien subject and the reason for*  
22 *issuing the document;*

23 *(2) apply the electronic signature of the issuing*  
24 *officer or agent;*



1           (3) *set the date the alien is required to appear*  
2           *before an immigration judge, in the case of Notices to*  
3           *Appear;*

4           (4) *print any documents the alien subject may*  
5           *be required to sign, along with additional copies of*  
6           *documents to be served on the alien; and*

7           (5) *interface with the ENFORCE database so*  
8           *that all data is stored and retrievable.*

9           (c) *CONSTRUCTION.—The pilot program described in*  
10          *subsection (a) shall be designed to replace, to the extent pos-*  
11          *sible, the current paperwork and data-entry process used*  
12          *for issuing such charging documents and detainers.*

13          (d) *DEADLINE.—The Secretary shall initiate the pilot*  
14          *program described in subsection (a) within 6 months of the*  
15          *date of enactment of this Act.*

16          (e) *REPORT.—The Government Accountability Office*  
17          *shall report to the Judiciary Committee of the Senate and*  
18          *the House of Representatives no later than 18 months after*  
19          *the date of enactment of this Act on the effectiveness of the*  
20          *pilot program and provide recommendations for improving*  
21          *it.*

22          (f) *ADVISORY COUNCIL.—The ICE Advisory Council*  
23          *established by section 504 shall include an recommenda-*  
24          *tions on how the pilot program should work in the first*  
25          *quarterly report of the Council, and shall include assess-*

1 *ments of the program and recommendations for improve-*  
 2 *ment in each subsequent report.*

3 *(g) EFFECTIVE DATE.—This section shall take effect*  
 4 *180 days after the date of the enactment of this Act.*

5 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**  
 6 **SUPPORT STAFF.**

7 *(a) IN GENERAL.—The Secretary of Homeland Secu-*  
 8 *rity shall, subject to the availability of appropriations for*  
 9 *such purpose, increase the number of positions for full-time*  
 10 *active-duty Immigration and Customs Enforcement depor-*  
 11 *tation officers by 5,000 above the number of full-time posi-*  
 12 *tions for which funds were appropriated for fiscal year*  
 13 *2013. The Secretary will determine the rate at which the*  
 14 *additional officers will be added with due regard to filling*  
 15 *the positions as expeditiously as possible without making*  
 16 *any compromises in the selection or the training of the ad-*  
 17 *ditional officers.*

18 *(b) SUPPORT STAFF.—The Secretary shall, subject to*  
 19 *the availability of appropriations for such purpose, increase*  
 20 *the number of positions for full-time support staff for Immi-*  
 21 *gration and Customs Enforcement deportation officers by*  
 22 *700 above the number of full-time positions for which funds*  
 23 *were appropriated for fiscal year 2013.*

1 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

2       *The Secretary of Homeland Security shall increase by*  
 3 *60 the number of full-time trial attorneys working for the*  
 4 *Immigration and Customs Enforcement Office of the Prin-*  
 5 *cipal Legal Advisor.*

6       **TITLE VI—MISCELLANEOUS**  
 7       **ENFORCEMENT PROVISIONS**

8 **SEC. 601. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.**

9       *(a) IN GENERAL.—Section 240B of the Immigration*  
 10 *and Nationality Act (8 U.S.C. 1229c) is amended—*

11               *(1) in subsection (a)—*

12                       *(A) by amending paragraph (1) to read as*  
 13 *follows:*

14                       *“(1) INSTEAD OF REMOVAL PROCEEDINGS.—If*  
 15 *an alien is not described in paragraph (2)(A)(iii) or*  
 16 *(4) of section 237(a), the Secretary of Homeland Se-*  
 17 *curity may permit the alien to voluntarily depart the*  
 18 *United States at the alien’s own expense under this*  
 19 *subsection instead of being subject to proceedings*  
 20 *under section 240.”;*

21                       *(B) by striking paragraph (3);*

22                       *(C) by redesignating paragraph (2) as*  
 23 *paragraph (3);*

24                       *(D) by adding after paragraph (1) the fol-*  
 25 *lowing:*

1           “(2) *BEFORE THE CONCLUSION OF REMOVAL*  
 2           *PROCEEDINGS.—If an alien is not described in para-*  
 3           *graph (2)(A)(iii) or (4) of section 237(a), the Attor-*  
 4           *ney General may permit the alien to voluntarily de-*  
 5           *part the United States at the alien’s own expense*  
 6           *under this subsection after the initiation of removal*  
 7           *proceedings under section 240 and before the conclu-*  
 8           *sion of such proceedings before an immigration*  
 9           *judge.”;*

10                   *(E) in paragraph (3), as redesignated—*

11                           *(i) by amending subparagraph (A) to*  
 12                           *read as follows:*

13                           “(A) *INSTEAD OF REMOVAL.—Subject to*  
 14                           *subparagraph (C), permission to voluntarily de-*  
 15                           *part under paragraph (1) shall not be valid for*  
 16                           *any period in excess of 120 days. The Secretary*  
 17                           *may require an alien permitted to voluntarily*  
 18                           *depart under paragraph (1) to post a voluntary*  
 19                           *departure bond, to be surrendered upon proof*  
 20                           *that the alien has departed the United States*  
 21                           *within the time specified.”;*

22                           *(ii) by redesignating subparagraphs*  
 23                           *(B), (C), and (D) as subparagraphs (C),*  
 24                           *(D), and (E), respectively;*

1                   (iii) by adding after subparagraph (A)  
2                   the following:

3                   “(B) BEFORE THE CONCLUSION OF RE-  
4                   MOVAL PROCEEDINGS.—Permission to volun-  
5                   tarily depart under paragraph (2) shall not be  
6                   valid for any period in excess of 60 days, and  
7                   may be granted only after a finding that the  
8                   alien has the means to depart the United States  
9                   and intends to do so. An alien permitted to vol-  
10                  untarily depart under paragraph (2) shall post  
11                  a voluntary departure bond, in an amount nec-  
12                  essary to ensure that the alien will depart, to be  
13                  surrendered upon proof that the alien has de-  
14                  parted the United States within the time speci-  
15                  fied. An immigration judge may waive the re-  
16                  quirement to post a voluntary departure bond in  
17                  individual cases upon a finding that the alien  
18                  has presented compelling evidence that the post-  
19                  ing of a bond will pose a serious financial hard-  
20                  ship and the alien has presented credible evi-  
21                  dence that such a bond is unnecessary to guar-  
22                  antee timely departure.”;

23                  (iv) in subparagraph (C), as redesign-  
24                  ated, by striking “subparagraphs (C) and

1           *(D)(ii)” and inserting “subparagraphs (D)*  
 2           *and (E)(ii)”;*

3           *(v) in subparagraph (D), as redesign-*  
 4           *ated, by striking “subparagraph (B)” each*  
 5           *place that term appears and inserting “sub-*  
 6           *paragraph (C)”;* and

7           *(vi) in subparagraph (E), as redesign-*  
 8           *ated, by striking “subparagraph (B)” each*  
 9           *place that term appears and inserting “sub-*  
 10          *paragraph (C)”;* and

11          *(F) in paragraph (4), by striking “para-*  
 12          *graph (1)” and inserting “paragraphs (1) and*  
 13          *(2)”;*

14          *(2) in subsection (b)(2), by striking “a period ex-*  
 15          *ceeding 60 days” and inserting “any period in excess*  
 16          *of 45 days”;*

17          *(3) by amending subsection (c) to read as fol-*  
 18          *lows:*

19          *“(c) CONDITIONS ON VOLUNTARY DEPARTURE.—*

20                 *“(1) VOLUNTARY DEPARTURE AGREEMENT.—Vol-*  
 21          *untary departure may only be granted as part of an*  
 22          *affirmative agreement by the alien. A voluntary de-*  
 23          *parture agreement under subsection (b) shall include*  
 24          *a waiver of the right to any further motion, appeal,*

1       *application, petition, or petition for review relating*  
2       *to removal or relief or protection from removal.*

3               “(2) *CONCESSIONS BY THE SECRETARY.*—*In con-*  
4       *nection with the alien’s agreement to depart volun-*  
5       *tarily under paragraph (1), the Secretary of Home-*  
6       *land Security may agree to a reduction in the period*  
7       *of inadmissibility under subparagraph (A) or (B)(i)*  
8       *of section 212(a)(9).*

9               “(3) *ADVISALS.*—*Agreements relating to vol-*  
10       *untary departure granted during removal proceedings*  
11       *under section 240, or at the conclusion of such pro-*  
12       *ceedings, shall be presented on the record before the*  
13       *immigration judge. The immigration judge shall ad-*  
14       *vice the alien of the consequences of a voluntary de-*  
15       *parture agreement before accepting such agreement.*

16               “(4) *FAILURE TO COMPLY WITH AGREEMENT.*—

17                       “(A) *IN GENERAL.*—*If an alien agrees to*  
18       *voluntary departure under this section and fails*  
19       *to depart the United States within the time al-*  
20       *lowed for voluntary departure or fails to comply*  
21       *with any other terms of the agreement (including*  
22       *failure to timely post any required bond), the*  
23       *alien is—*

24                               “(i) *ineligible for the benefits of the*  
25       *agreement;*

1                   “(ii) subject to the penalties described  
2                   in subsection (d); and

3                   “(iii) subject to an alternate order of  
4                   removal if voluntary departure was granted  
5                   under subsection (a)(2) or (b).

6                   “(B) EFFECT OF FILING TIMELY APPEAL.—  
7                   If, after agreeing to voluntary departure, the  
8                   alien files a timely appeal of the immigration  
9                   judge’s decision granting voluntary departure,  
10                  the alien may pursue the appeal instead of the  
11                  voluntary departure agreement. Such appeal op-  
12                  erates to void the alien’s voluntary departure  
13                  agreement and the consequences of such agree-  
14                  ment, but precludes the alien from another grant  
15                  of voluntary departure while the alien remains  
16                  in the United States.

17                  “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-  
18                  FECTED.—Except as expressly agreed to by the Sec-  
19                  retary in writing in the exercise of the Secretary’s  
20                  discretion before the expiration of the period allowed  
21                  for voluntary departure, no motion, appeal, applica-  
22                  tion, petition, or petition for review shall affect, rein-  
23                  state, enjoin, delay, stay, or toll the alien’s obligation  
24                  to depart from the United States during the period  
25                  agreed to by the alien and the Secretary.”;



1           (4) *by amending subsection (d) to read as fol-*  
2       *lows:*

3       “(d) *PENALTIES FOR FAILURE TO DEPART.—If an*  
4       *alien is permitted to voluntarily depart under this section*  
5       *and fails to voluntarily depart from the United States with-*  
6       *in the time period specified or otherwise violates the terms*  
7       *of a voluntary departure agreement, the alien will be subject*  
8       *to the following penalties:*

9           “(1) *CIVIL PENALTY.—The alien shall be liable*  
10       *for a civil penalty of \$3,000. The order allowing vol-*  
11       *untary departure shall specify this amount, which*  
12       *shall be acknowledged by the alien on the record. If*  
13       *the Secretary thereafter establishes that the alien*  
14       *failed to depart voluntarily within the time allowed,*  
15       *no further procedure will be necessary to establish the*  
16       *amount of the penalty, and the Secretary may collect*  
17       *the civil penalty at any time thereafter and by what-*  
18       *ever means provided by law. An alien will be ineli-*  
19       *gible for any benefits under this chapter until this*  
20       *civil penalty is paid.*

21           “(2) *INELIGIBILITY FOR RELIEF.—The alien*  
22       *shall be ineligible during the time the alien remains*  
23       *in the United States and for a period of 10 years*  
24       *after the alien’s departure for any further relief under*  
25       *this section and sections 240A, 245, 248, and 249.*

1     *The order permitting the alien to depart voluntarily*  
2     *shall inform the alien of the penalties under this sub-*  
3     *section.*

4             “(3) *REOPENING.*—*The alien shall be ineligible*  
5     *to reopen the final order of removal that took effect*  
6     *upon the alien’s failure to depart, or upon the alien’s*  
7     *other violations of the conditions for voluntary depart-*  
8     *ture, during the period described in paragraph (2).*  
9     *This paragraph does not preclude a motion to reopen*  
10    *to seek withholding of removal under section 241(b)(3)*  
11    *or protection against torture, if the motion—*

12            “(A) *presents material evidence of changed*  
13    *country conditions arising after the date of the*  
14    *order granting voluntary departure in the coun-*  
15    *try to which the alien would be removed; and*

16            “(B) *makes a sufficient showing to the sat-*  
17    *isfaction of the Attorney General that the alien*  
18    *is otherwise eligible for such protection.”;*

19            “(5) *by amending subsection (e) to read as fol-*  
20    *lows:*

21            “(e) *ELIGIBILITY.*—

22            “(1) *PRIOR GRANT OF VOLUNTARY DEPART-*  
23    *TURE.*—*An alien shall not be permitted to voluntarily*  
24    *depart under this section if the Secretary of Home-*

1        *land Security or the Attorney General previously per-*  
 2        *mitted the alien to depart voluntarily.*

3                *“(2) RULEMAKING.—The Secretary may promul-*  
 4        *gate regulations to limit eligibility or impose addi-*  
 5        *tional conditions for voluntary departure under sub-*  
 6        *section (a)(1) for any class of aliens. The Secretary*  
 7        *or Attorney General may by regulation limit eligi-*  
 8        *bility or impose additional conditions for voluntary*  
 9        *departure under subsections (a)(2) or (b) of this sec-*  
 10       *tion for any class or classes of aliens.”; and*

11               *(6) in subsection (f), by adding at the end the*  
 12       *following: “Notwithstanding section 242(a)(2)(D) of*  
 13       *this Act, sections 1361, 1651, and 2241 of title 28,*  
 14       *United States Code, any other habeas corpus provi-*  
 15       *sion, and any other provision of law (statutory or*  
 16       *nonstatutory), no court shall have jurisdiction to af-*  
 17       *fect, reinstate, enjoin, delay, stay, or toll the period*  
 18       *allowed for voluntary departure under this section.”.*

19               *(b) RULEMAKING.—The Secretary shall within one*  
 20       *year of the date of enactment of this Act promulgate regula-*  
 21       *tions to provide for the imposition and collection of pen-*  
 22       *alties for failure to depart under section 240B(d) of the Im-*  
 23       *migration and Nationality Act (8 U.S.C. 1229c(d)).*

24               *(c) EFFECTIVE DATES.—*

1           (1) *IN GENERAL.*—*Except as provided in para-*  
 2           *graph (2), the amendments made by this section shall*  
 3           *apply with respect to all orders granting voluntary*  
 4           *departure under section 240B of the Immigration and*  
 5           *Nationality Act (8 U.S.C. 1229c) made on or after*  
 6           *the date that is 180 days after the enactment of this*  
 7           *Act.*

8           (2) *EXCEPTION.*—*The amendment made by sub-*  
 9           *section (a)(6) shall take effect on the date of the enact-*  
 10          *ment of this Act and shall apply with respect to any*  
 11          *petition for review which is filed on or after such*  
 12          *date.*

13 **SEC. 602. DETERRING ALIENS ORDERED REMOVED FROM**  
 14                   **REMAINING IN THE UNITED STATES UNLAW-**  
 15                   **FULLY.**

16          (a) *INADMISSIBLE ALIENS.*—*Section 212(a)(9)(A) of*  
 17          *the Immigration and Nationality Act (8 U.S.C.*  
 18          *1182(a)(9)(A)) is amended—*

19               (1) *in clause (i), by striking “seeks admission*  
 20               *within 5 years of the date of such removal (or within*  
 21               *20 years” and inserting “seeks admission not later*  
 22               *than 5 years after the date of the alien’s removal (or*  
 23               *not later than 20 years after the alien’s removal”;*  
 24               *and*

1           (2) *in clause (ii), by striking “seeks admission*  
2           *within 10 years of the date of such alien’s departure*  
3           *or removal (or within 20 years of” and inserting*  
4           *“seeks admission not later than 10 years after the*  
5           *date of the alien’s departure or removal (or not later*  
6           *than 20 years after”.*

7           (b) *BAR ON DISCRETIONARY RELIEF.—Section 274D*  
8           *of such Act (8 U.S.C. 324d) is amended—*

9           (1) *in subsection (a), by striking “Commis-*  
10           *sioner” and inserting “Secretary of Homeland Secu-*  
11           *rity”; and*

12           (2) *by adding at the end the following:*

13           “(c) *INELIGIBILITY FOR RELIEF.—*

14           “(1) *IN GENERAL.—Unless a timely motion to*  
15           *reopen is granted under section 240(c)(6), an alien*  
16           *described in subsection (a) shall be ineligible for any*  
17           *discretionary relief from removal (including cancella-*  
18           *tion of removal and adjustment of status) during the*  
19           *time the alien remains in the United States and for*  
20           *a period of 10 years after the alien’s departure from*  
21           *the United States.*

22           “(2) *SAVINGS PROVISION.—Nothing in para-*  
23           *graph (1) shall preclude a motion to reopen to seek*  
24           *withholding of removal under section 241(b)(3) or*  
25           *protection against torture, if the motion—*

1           “(A) presents material evidence of changed  
 2           country conditions arising after the date of the  
 3           final order of removal in the country to which  
 4           the alien would be removed; and

5           “(B) makes a sufficient showing to the sat-  
 6           isfaction of the Attorney General that the alien  
 7           is otherwise eligible for such protection.”.

8           (c) *EFFECTIVE DATES.*—The amendments made by  
 9           this section shall take effect on the date of the enactment  
 10          of this Act with respect to aliens who are subject to a final  
 11          order of removal entered before, on, or after such date.

12   **SEC. 603. REINSTATEMENT OF REMOVAL ORDERS.**

13          (a) *IN GENERAL.*—Section 241(a)(5) of the Immigra-  
 14          tion and Nationality Act (8 U.S.C. 1231(a)(5)) is amended  
 15          to read as follows:

16               “(5) *REINSTATEMENT OF REMOVAL ORDERS*  
 17          *AGAINST ALIENS ILLEGALLY REENTERING.*—If the  
 18          Secretary of Homeland Security finds that an alien  
 19          has entered the United States illegally after having  
 20          been removed, deported, or excluded or having de-  
 21          parted voluntarily, under an order of removal, depor-  
 22          tation, or exclusion, regardless of the date of the origi-  
 23          nal order or the date of the illegal entry—

24               “(A) the order of removal, deportation, or  
 25          exclusion is reinstated from its original date and

1           *is not subject to being reopened or reviewed not-*  
 2           *withstanding section 242(a)(2)(D);*

3           *“(B) the alien is not eligible and may not*  
 4           *apply for any relief under this Act, regardless of*  
 5           *the date that an application or request for such*  
 6           *relief may have been filed or made; and*

7           *“(C) the alien shall be removed under the*  
 8           *order of removal, deportation, or exclusion at*  
 9           *any time after the illegal entry.*

10          *Reinstatement under this paragraph shall not require*  
 11          *proceedings under section 240 or other proceedings be-*  
 12          *fore an immigration judge.”.*

13          *(b) JUDICIAL REVIEW.—Section 242 of the Immigra-*  
 14          *tion and Nationality Act (8 U.S.C. 1252) is amended by*  
 15          *adding at the end the following:*

16          *“(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER*  
 17          *SECTION 241(a)(5).—*

18                 *“(1) REVIEW OF REINSTATEMENT.—Judicial re-*  
 19                 *view of determinations under section 241(a)(5) is*  
 20                 *available in an action under subsection (a).*

21                 *“(2) NO REVIEW OF ORIGINAL ORDER.—Notwith-*  
 22                 *standing any other provision of law (statutory or*  
 23                 *nonstatutory), including section 2241 of title 28,*  
 24                 *United States Code, any other habeas corpus provi-*  
 25                 *sion, or sections 1361 and 1651 of such title, no court*

1       *shall have jurisdiction to review any cause or claim,*  
 2       *arising from, or relating to, any challenge to the*  
 3       *original order.”.*

4       *(c) EFFECTIVE DATE.—The amendments made by sub-*  
 5       *sections (a) and (b) shall take effect as if enacted on April*  
 6       *1, 1997, and shall apply to all orders reinstated or after*  
 7       *that date by the Secretary of Homeland Security (or by*  
 8       *the Attorney General prior to March 1, 2003), regardless*  
 9       *of the date of the original order.*

10   **SEC. 604. CLARIFICATION WITH RESPECT TO DEFINITION**  
 11                   **OF ADMISSION.**

12       *Section 101(a)(13)(A) of the Immigration and Nation-*  
 13       *ality Act (8 U.S.C. 1101(a)(13)(A)) is amended by adding*  
 14       *at the end the following: “An alien’s adjustment of status*  
 15       *to that of lawful permanent resident status under any pro-*  
 16       *vision of this Act, or under any other provision of law, shall*  
 17       *be considered an ‘admission’ for any purpose under this*  
 18       *Act, even if the adjustment of status occurred while the alien*  
 19       *was present in the United States.”.*

20   **SEC. 605. REPORTS TO CONGRESS ON THE EXERCISE AND**  
 21                   **ABUSE OF PROSECUTORIAL DISCRETION.**

22       *(a) IN GENERAL.—Not later than 180 days after the*  
 23       *end of each fiscal year, the Secretary of Homeland Security*  
 24       *and the Attorney General shall each provide to the Commit-*



1 *tees on the Judiciary of the House of Representatives and*  
2 *of the Senate a report on the following:*

3           (1) *Aliens apprehended or arrested by State or*  
4 *local law enforcement agencies who were identified by*  
5 *the Department of Homeland Security in the previous*  
6 *fiscal year and for whom the Department of Home-*  
7 *land Security did not issue detainers and did not*  
8 *take into custody despite the Department of Home-*  
9 *land Security's findings that the aliens were inadmis-*  
10 *sible or deportable.*

11           (2) *Aliens who were applicants for admission in*  
12 *the previous fiscal year but not clearly and beyond a*  
13 *doubt entitled to be admitted by an immigration offi-*  
14 *cer and who were not detained as required pursuant*  
15 *to section 235(b)(2)(A) of the Immigration and Na-*  
16 *tionality Act (8 U.S.C. 1225(b)(2)(A)).*

17           (3) *Aliens who in the previous fiscal year were*  
18 *found by Department of Homeland Security officials*  
19 *performing duties related to the adjudication of appli-*  
20 *cations for immigration benefits or the enforcement of*  
21 *the immigration laws to be inadmissible or deportable*  
22 *who were not issued notices to appear pursuant to*  
23 *section 239 of such Act (8 U.S.C. 1229) or placed into*  
24 *removal proceedings pursuant to section 240 (8*  
25 *U.S.C. 1229a), unless the aliens were placed into ex-*

1     *pedited removal proceedings pursuant to section*  
2     *235(b)(1)(A)(i) (8 U.S.C. 1225(b)(1)(A)(5)) or section*  
3     *238 (8 U.S.C. 1228), were granted voluntary depart-*  
4     *ture pursuant to section 240B, were granted relief*  
5     *from removal pursuant to statute, were granted legal*  
6     *nonimmigrant or immigrant status pursuant to stat-*  
7     *ute, or were determined not to be inadmissible or de-*  
8     *portable.*

9             *(4) Aliens issued notices to appear that were*  
10     *cancelled in the previous fiscal year despite the De-*  
11     *partment of Homeland Security's findings that the*  
12     *aliens were inadmissible or deportable, unless the*  
13     *aliens were granted relief from removal pursuant to*  
14     *statute, were granted voluntary departure pursuant to*  
15     *section 240B of such Act (8 U.S.C. 1229c), or were*  
16     *granted legal nonimmigrant or immigrant status*  
17     *pursuant to statute.*

18             *(5) Aliens who were placed into removal pro-*  
19     *ceedings, whose removal proceedings were terminated*  
20     *in the previous fiscal year prior to their conclusion,*  
21     *unless the aliens were granted relief from removal*  
22     *pursuant to statute, were granted voluntary departure*  
23     *pursuant to section 240B, were granted legal non-*  
24     *immigrant or immigrant status pursuant to statute,*

1        *or were determined not to be inadmissible or deport-*  
 2        *able.*

3            *(6) Aliens granted parole pursuant to section*  
 4        *212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).*

5            *(7) Aliens granted deferred action, extended vol-*  
 6        *untary departure or any other type of relief from re-*  
 7        *moval not specified in the Immigration and Nation-*  
 8        *ality Act or where determined not to be inadmissible*  
 9        *or deportable.*

10        *(b) CONTENTS OF REPORT.—The report shall include*  
 11        *a listing of each alien described in each paragraph of sub-*  
 12        *section (a), including when in the possession of the Depart-*  
 13        *ment of Homeland Security their names, fingerprint identi-*  
 14        *fication numbers, alien registration numbers, and reason*  
 15        *why each was granted the type of prosecutorial discretion*  
 16        *received. The report shall also include current criminal his-*  
 17        *tories on each alien from the Federal Bureau of Investiga-*  
 18        *tion.*

19        **SEC. 606. WAIVER OF FEDERAL LAWS WITH RESPECT TO**  
 20                        **BORDER SECURITY ACTIONS ON DEPART-**  
 21                        **MENT OF THE INTERIOR AND DEPARTMENT**  
 22                        **OF AGRICULTURE LANDS.**

23        *(a) PROHIBITION ON SECRETARIES OF THE INTERIOR*  
 24        *AND AGRICULTURE.—The Secretary of the Interior or the*  
 25        *Secretary of Agriculture shall not impede, prohibit, or re-*

1 *strict activities of U.S. Customs and Border Protection on*  
2 *Federal land located within 100 miles of an international*  
3 *land border that is under the jurisdiction of the Secretary*  
4 *of the Interior or the Secretary of Agriculture, to execute*  
5 *search and rescue operations and to prevent all unlawful*  
6 *entries into the United States, including entries by terror-*  
7 *ists, other unlawful aliens, instruments of terrorism, nar-*  
8 *cotics, and other contraband through the international land*  
9 *borders of the United States.*

10       **(b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND**  
11 *BORDER PROTECTION.—U.S. Customs and Border Protec-*  
12 *tion shall have immediate access to Federal land within 100*  
13 *miles of the international land border under the jurisdiction*  
14 *of the Secretary of the Interior or the Secretary of Agri-*  
15 *culture for purposes of conducting the following activities*  
16 *on such land that prevent all unlawful entries into the*  
17 *United States, including entries by terrorists, other unlaw-*  
18 *ful aliens, instruments of terrorism, narcotics, and other*  
19 *contraband through the international land borders of the*  
20 *United States:*

- 21               (1) *Construction and maintenance of roads.*  
22               (2) *Construction and maintenance of barriers.*  
23               (3) *Use of vehicles to patrol, apprehend, or res-*  
24 *cue.*

1           (4) *Installation, maintenance, and operation of*  
2           *communications and surveillance equipment and sen-*  
3           *sors.*

4           (5) *Deployment of temporary tactical infrastruc-*  
5           *ture.*

6           (c) *CLARIFICATION RELATING TO WAIVER AUTHOR-*  
7           *ITY.—*

8           (1) *IN GENERAL.—Notwithstanding any other*  
9           *provision of law (including any termination date re-*  
10          *lating to the waiver referred to in this subsection), the*  
11          *waiver by the Secretary of Homeland Security on*  
12          *April 1, 2008, under section 102(c)(1) of the Illegal*  
13          *Immigration Reform and Immigrant Responsibility*  
14          *Act of 1996 (8 U.S.C. 1103 note; Public Law 104–*  
15          *208) of the laws described in paragraph (2) with re-*  
16          *spect to certain sections of the international border*  
17          *between the United States and Mexico and between*  
18          *the United States and Canada shall be considered to*  
19          *apply to all Federal land under the jurisdiction of the*  
20          *Secretary of the Interior or the Secretary of Agri-*  
21          *culture within 100 miles of the international land*  
22          *borders of the United States for the activities of U.S.*  
23          *Customs and Border Protection described in sub-*  
24          *section (c).*

1           (2) *DESCRIPTION OF LAWS WAIVED.*—*The laws*  
 2       *referred to in paragraph (1) are limited to the Wil-*  
 3       *derness Act (16 U.S.C. 1131 et seq.), the National En-*  
 4       *vironmental Policy Act of 1969 (42 U.S.C. 4321 et*  
 5       *seq.), the Endangered Species Act of 1973 (16 U.S.C.*  
 6       *1531 et seq.), the National Historic Preservation Act*  
 7       *(16 U.S.C. 470 et seq.), Public Law 86–523 (16*  
 8       *U.S.C. 469 et seq.), the Act of June 8, 1906 (com-*  
 9       *monly known as the “Antiquities Act of 1906”; 16*  
 10      *U.S.C. 431 et seq.), the Wild and Scenic Rivers Act*  
 11      *(16 U.S.C. 1271 et seq.), the Federal Land Policy and*  
 12      *Management Act of 1976 (43 U.S.C. 1701 et seq.), the*  
 13      *National Wildlife Refuge System Administration Act*  
 14      *of 1966 (16 U.S.C. 668dd et seq.), the Fish and Wild-*  
 15      *life Act of 1956 (16 U.S.C. 742a et seq.), the Fish and*  
 16      *Wildlife Coordination Act (16 U.S.C. 661 et seq.),*  
 17      *subchapter II of chapter 5, and chapter 7, of title 5,*  
 18      *United States Code (commonly known as the “Admin-*  
 19      *istrative Procedure Act”), the National Park Service*  
 20      *Organic Act (16 U.S.C. 1 et seq.), the General Au-*  
 21      *thorities Act of 1970 (Public Law 91–383) (16 U.S.C.*  
 22      *1a–1 et seq.), sections 401(7), 403, and 404 of the Na-*  
 23      *tional Parks and Recreation Act of 1978 (Public Law*  
 24      *95–625, 92 Stat. 3467), and the Arizona Desert Wil-*

1        *derness Act of 1990 (16 U.S.C. 1132 note; Public Law*  
2        *101–628).*

3        *(d) PROTECTION OF LEGAL USES.—This section shall*  
4        *not be construed to provide—*

5                *(1) authority to restrict legal uses, such as graz-*  
6        *ing, hunting, mining, or public-use recreational and*  
7        *backcountry airstrips on land under the jurisdiction*  
8        *of the Secretary of the Interior or the Secretary of Ag-*  
9        *riculture; or*

10               *(2) any additional authority to restrict legal ac-*  
11        *cess to such land.*

12        *(e) EFFECT ON STATE AND PRIVATE LAND.—This Act*  
13        *shall—*

14               *(1) have no force or effect on State or private*  
15        *lands; and*

16               *(2) not provide authority on or access to State*  
17        *or private lands.*

18        *(f) TRIBAL SOVEREIGNTY.—Nothing in this section su-*  
19        *persedes, replaces, negates, or diminishes treaties or other*  
20        *agreements between the United States and Indian tribes.*

21        *(g) REPORT.—Not later than 1 year after the date of*  
22        *the enactment of this Act, and annually thereafter, the Sec-*  
23        *retary of Homeland Security shall submit to the appro-*  
24        *priate committees of Congress a report describing the extent*  
25        *to which implementation of this section has affected the op-*

1 erations of U.S. Customs and Border Protection in the year  
2 preceding the report.

3 **SEC. 607. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.**

4 (a) *IN GENERAL.*—Not later than two years after the  
5 date of the enactment of this Act, the Secretary of Homeland  
6 Security shall establish the biometric entry and exit data  
7 system required by section 7208 of the Intelligence Reform  
8 and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b).

9 (b) *REQUIREMENTS.*—In addition to the features re-  
10 quired by such section 7208, the Secretary shall ensure that  
11 the biometric entry and exit data system is established and  
12 in operation at each port of entry to the United States.

13 **SEC. 608. CERTAIN ACTIVITIES RESTRICTED.**

14 (a) *IN GENERAL.*—The Secretary of Homeland Secu-  
15 rity may not finalize, implement, administer, or enforce the  
16 documents described in subsection (b).

17 (b) *DOCUMENTS DESCRIBED.*—For purposes of this  
18 section, the documents described in this subsection are the  
19 following:

20 (1) *Policy Number 10072.1, published on March*  
21 *2, 2011.*

22 (2) *Policy Number 10075.1, published on June*  
23 *17, 2011.*

24 (3) *Policy Number 10076.1, published on June*  
25 *17, 2011.*



1           (4) *The Memorandum of November 17, 2011,*  
2           *from the Principal Legal Advisor of United States*  
3           *Immigration and Customs Enforcement pertaining to*  
4           *“Case-by-Case Review of Incoming and Certain Pend-*  
5           *ing Cases”.*

6           (5) *The Memorandum of June 15, 2012, from the*  
7           *Secretary of Homeland Security pertaining to “Exer-*  
8           *cising Prosecutorial Discretion with Respect to Indi-*  
9           *viduals Who Came to the United States as Children”.*

10          (6) *The Memorandum of December 21, 2012,*  
11          *from the Director of United States Immigration and*  
12          *Customs Enforcement pertaining to “Civil Immigra-*  
13          *tion Enforcement: Guidance on the Use of Detainers*  
14          *in the Federal, State, Local, and Tribal Criminal*  
15          *Justice Systems”.*

16          (7) *The Memorandum of June 15, 2012, from the*  
17          *Director of United States Immigration and Customs*  
18          *Enforcement pertaining to “Secretary Napolitano’s*  
19          *Memorandum Concerning the Exercise of Prosecu-*  
20          *torial Discretion for Certain Removable Individuals*  
21          *Who Entered the United States as a Child”.*

22   **SEC. 609. BORDER PATROL MOBILE AND RAPID RESPONSE**  
23           **TEAMS.**

24          (a) *FINDINGS.—The Congress finds as follows:*

1           (1) *It is possible for agents of U.S. Immigration*  
2           *and Customs Enforcement to use mobile rapid re-*  
3           *sponse teams.*

4           (2) *If such agents are in the field near the border*  
5           *and encounter trouble, they should be able to call a*  
6           *mobile response team if they cannot get help quickly*  
7           *enough by other means.*

8           (b) *PLAN.—Not later than 90 days after the date of*  
9           *the enactment of this Act, the Secretary of Homeland Secu-*  
10          *urity shall submit to the appropriate congressional commit-*  
11          *tees a plan for developing and deploying mobile rapid re-*  
12          *sponse teams to achieve the following objectives, and submit*  
13          *progress reports on the program every 90 days after it has*  
14          *been implemented:*

15               (1) *Expand the Border Control Tactical Team*  
16               *program to make emergency assistance available to*  
17               *law enforcement officers in border areas along the*  
18               *Mexican border that are not designated as high traffic*  
19               *locations, including officers who operate on Tribal*  
20               *land.*

21               (2) *Provide helicopters and other military trans-*  
22               *ports to ensure that the teams can deploy quickly to*  
23               *where they are needed.*

24               (3) *Maintain airborne patrols of these units to*  
25               *facilitate quick deployment when they are called.*

1           (4) *Provide a similar airborne force of regular*  
2           *border patrol officers who will provide the same emer-*  
3           *gency response service for ranchers, farmers, and*  
4           *other people who live or work in these border areas.*

5           (c) *IMPLEMENTATION.—The Secretary of Homeland*  
6           *Security shall implement the plan described in subsection*  
7           *(a) not later than 120 days after the date on which the*  
8           *plan is submitted.*

9           **SEC. 610. GAO STUDY ON DEATHS IN CUSTODY.**

10          *The Comptroller General of the United States shall*  
11          *submit to Congress within 6 months after the date of the*  
12          *enactment of this Act, a report on the deaths in custody*  
13          *of detainees held by the Department of Homeland Security.*  
14          *The report shall include the following information with re-*  
15          *spect to any such deaths and in connection therewith:*

16               (1) *Whether any such deaths could have been*  
17               *prevented by the delivery of medical treatment ad-*  
18               *ministered while the detainee is in the custody of the*  
19               *Department of Homeland Security.*

20               (2) *Whether Department practice and procedures*  
21               *were properly followed and obeyed.*

22               (3) *Whether such practice and procedures are*  
23               *sufficient to protect the health and safety of such de-*  
24               *tainees.*

- 1           (4) *Whether reports of such deaths were made to*
- 2       *the Deaths in Custody Reporting Program.*



Union Calendar No. 509

113<sup>TH</sup> CONGRESS  
2D Session

**H. R. 2278**

[Report No. 113-678, Part I]

**A BILL**

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

DECEMBER 16, 2014

Reported from the Committee on the Judiciary with an amendment

DECEMBER 16, 2014

The Committees on Homeland Security, Agriculture, and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed