

114TH CONGRESS
1ST SESSION

H. R. 1148

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2015

Mr. GOWDY (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. COLLINS of Georgia, Mr. POE of Texas, Mr. FORBES, Mr. CARTER of Texas, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to 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 “Michael Davis, Jr. in
5 Honor of State and Local Law Enforcement 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.

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- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
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- Sec. 107. Increased Federal detention space.
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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.

12 (c) SEVERABILITY.—If any provision of this title, or
13 the application of such provision to any person or cir-
14 cumstance, is held invalid, the remainder of this title, and
15 the application of such provision to other persons not simi-
16 larly situated or to other circumstances, shall not be af-
17 fected by such invalidation.

1 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**
2 **AND LOCALITIES.**

3 (a) IN GENERAL.—Subject to section 274A(h)(2) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1324a(h)(2)), States, or political subdivisions of States,
6 may enact, implement and enforce criminal penalties that
7 penalize the same conduct that is prohibited in the crimi-
8 nal provisions of immigration laws (as defined in section
9 101(a)(17) of the Immigration and Nationality Act (8
10 U.S.C. 1101(a)(17))), as long as the criminal penalties do
11 not exceed the relevant Federal criminal penalties (without
12 regard to ancillary issues such as the availability of proba-
13 tion or pardon). States, or political subdivisions of States,
14 may enact, implement and enforce civil penalties that pe-
15 nalize the same conduct that is prohibited in the civil pro-
16 visions of immigration laws (as defined in such section
17 101(a)(17)), as long as the civil penalties do not exceed
18 the relevant Federal civil penalties.

19 (b) LAW ENFORCEMENT PERSONNEL.—Subject to
20 section 274A(h)(2) of the Immigration and Nationality
21 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of
22 a State, or of a political subdivision of a State, may inves-
23 tigate, identify, apprehend, arrest, detain, or transfer to
24 Federal custody aliens for the purposes of enforcing the
25 immigration laws of the United States to the same extent
26 as Federal law enforcement personnel. Law enforcement

1 personnel of a State, or of a political subdivision of a
2 State, may also investigate, identify, apprehend, arrest, or
3 detain aliens for the purposes of enforcing the immigration
4 laws of a State or of a political subdivision of State, as
5 long as those immigration laws are permissible under this
6 section. Law enforcement personnel of a State, or of a po-
7 litical subdivision of a State, may not admit aliens to or
8 remove them from the United States.

9 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
10 **TIONAL CRIME INFORMATION CENTER DATA-**
11 **BASE.**

12 (a) PROVISION OF INFORMATION TO THE NCIC.—
13 Not later than 180 days after the date of the enactment
14 of this Act and periodically thereafter as updates may re-
15 quire, the Secretary shall provide the National Crime In-
16 formation Center of the Department of Justice with all
17 information that the Secretary may possess regarding any
18 alien against whom a final order of removal has been
19 issued, any alien who has entered into a voluntary depar-
20 ture agreement, any alien who has overstayed their au-
21 thorized period of stay, and any alien whose visa has been
22 revoked. The National Crime Information Center shall
23 enter such information into the Immigration Violators File
24 of the National Crime Information Center database, re-
25 gardless of whether—

1 (1) the alien received notice of a final order of
2 removal;

3 (2) the alien has already been removed; or

4 (3) sufficient identifying information is avail-
5 able with respect to the alien.

6 (b) INCLUSION OF INFORMATION IN THE NCIC
7 DATABASE.—

8 (1) IN GENERAL.—Section 534(a) of title 28,
9 United States Code, is amended—

10 (A) in paragraph (3), by striking “and” at
11 the end;

12 (B) by redesignating paragraph (4) as
13 paragraph (5); and

14 (C) by inserting after paragraph (3) the
15 following:

16 “(4) acquire, collect, classify, and preserve
17 records of violations by aliens of the immigration
18 laws of the United States, regardless of whether any
19 such alien has received notice of the violation or
20 whether sufficient identifying information is avail-
21 able with respect to any such alien or whether any
22 such alien has already been removed from the
23 United States; and”.

24 (2) EFFECTIVE DATE.—The Attorney General
25 and the Secretary shall ensure that the amendment

1 made by paragraph (1) is implemented by not later
2 than 6 months after the date of the enactment of
3 this Act.

4 **SEC. 104. TECHNOLOGY ACCESS.**

5 States shall have access to Federal programs or tech-
6 nology directed broadly at identifying inadmissible or de-
7 portable aliens.

8 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
9 **SION OF INFORMATION ABOUT APPRE-**
10 **HENDED ALIENS.**

11 (a) PROVISION OF INFORMATION.—In compliance
12 with section 642(a) of the Illegal Immigration Reform and
13 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
14 and section 434 of the Personal Responsibility and Work
15 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
16 each State, and each political subdivision of a State, shall
17 provide the Secretary of Homeland Security in a timely
18 manner with the information specified in subsection (b)
19 with respect to each alien apprehended in the jurisdiction
20 of the State, or in the political subdivision of the State,
21 who is believed to be inadmissible or deportable.

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

24 (1) The alien's name.

25 (2) The alien's address or place of residence.

1 (3) A physical description of the alien.

2 (4) The date, time, and location of the encoun-
3 ter with the alien and reason for stopping, detaining,
4 apprehending, or arresting the alien.

5 (5) If applicable, the alien's driver's license
6 number and the State of issuance of such license.

7 (6) If applicable, the type of any other identi-
8 fication document issued to the alien, any designa-
9 tion number contained on the identification docu-
10 ment, and the issuing entity for the identification
11 document.

12 (7) If applicable, the license plate number,
13 make, and model of any automobile registered to, or
14 driven by, the alien.

15 (8) A photo of the alien, if available or readily
16 obtainable.

17 (9) The alien's fingerprints, if available or read-
18 ily obtainable.

19 (c) ANNUAL REPORT ON REPORTING.—The Sec-
20 retary shall maintain and annually submit to the Congress
21 a detailed report listing the States, or the political subdivi-
22 sions of States, that have provided information under sub-
23 section (a) in the preceding year.

24 (d) REIMBURSEMENT.—The Secretary shall reim-
25 burse States, and political subdivisions of a State, for all

1 reasonable costs, as determined by the Secretary, incurred
 2 by the State, or the political subdivision of a State, as
 3 a result of providing information under subsection (a).

4 (e) CONSTRUCTION.—Nothing in this section shall re-
 5 quire law enforcement officials of a State, or of a political
 6 subdivision of a State, to provide the Secretary with infor-
 7 mation related to a victim of a crime or witness to a crimi-
 8 nal offense.

9 (f) EFFECTIVE DATE.—This section shall take effect
 10 on the date that is 120 days after the date of the enact-
 11 ment of this Act and shall apply with respect to aliens
 12 apprehended on or after such date.

13 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
 14 **POLICE AGENCIES THAT ASSIST IN THE EN-**
 15 **FORCEMENT OF IMMIGRATION LAWS.**

16 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING
 17 AND PROCESSING CERTAIN ALIENS.—From amounts
 18 made available to make grants under this section, the Sec-
 19 retary shall make grants to States, and to political subdivi-
 20 sions of States, for procurement of equipment, technology,
 21 facilities, and other products that facilitate and are di-
 22 rectly related to investigating, apprehending, arresting,
 23 detaining, or transporting aliens who are inadmissible or
 24 deportable, including additional administrative costs in-
 25 curred under this title.

1 (b) ELIGIBILITY.—To be eligible to receive a grant
2 under this section, a State, or a political subdivision of
3 a State, must have the authority to, and shall have a writ-
4 ten policy and a practice to, assist in the enforcement of
5 the immigration laws of the United States in the course
6 of carrying out the routine law enforcement duties of such
7 State or political subdivision of a State. Entities covered
8 under this section may not have any policy or practice that
9 prevents local law enforcement from inquiring about a sus-
10 pect’s immigration status.

11 (c) GAO AUDIT.—Not later than 3 years after the
12 date of the enactment of this Act, the Comptroller General
13 of the United States shall conduct an audit of funds dis-
14 tributed to States, and to political subdivisions of a State,
15 under subsection (a).

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

17 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
18 FACILITIES.—

19 (1) IN GENERAL.—The Secretary shall con-
20 struct or acquire, in addition to existing facilities for
21 the detention of aliens, detention facilities in the
22 United States, for aliens detained pending removal
23 from the United States or a decision regarding such
24 removal. Each facility shall have a number of beds
25 necessary to effectuate the purposes of this title.

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

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 5 Section 241(g)(1) of the Immigration and Nationality Act
 6 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
 7 pend” and inserting “shall expend”.

8 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
 9 **PORTABLE ALIENS IN THE UNITED STATES**
 10 **APPREHENDED BY STATE OR LOCAL LAW EN-**
 11 **FORCEMENT.**

12 (a) STATE APPREHENSION.—

13 (1) IN GENERAL.—Title II of the Immigration
 14 and Nationality Act (8 U.S.C. 1151 et seq.) is
 15 amended by inserting after section 240C the fol-
 16 lowing:

17 “CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS
 18 PRESENT IN THE UNITED STATES

19 “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE
 20 AND LOCAL OFFICIALS.—If a State, or a political subdivi-
 21 sion of the State, exercising authority with respect to the
 22 apprehension or arrest of an inadmissible or deportable
 23 alien submits to the Secretary of Homeland Security a re-
 24 quest that the alien be taken into Federal custody, not-
 25 withstanding any other provision of law, regulation, or pol-
 26 icy the Secretary—

1 “(1) shall take the alien into custody not later
2 than 48 hours (excluding Saturdays, Sundays, and
3 holidays) after the detainer has been issued following
4 the conclusion of the State or local charging process
5 or dismissal process, or if no State or local charging
6 or dismissal process is required, the Secretary
7 should issue a detainer and take the alien into cus-
8 tody not later than 48 hours (excluding Saturdays,
9 Sundays, and holidays) after the alien is appre-
10 hended, in order to determine whether the alien
11 should be detained, placed in removal proceedings,
12 released, or removed; and

13 “(2) shall request that the relevant State or
14 local law enforcement agency temporarily hold the
15 alien in their custody or transport the alien for
16 transfer to Federal custody.

17 “(b) POLICY ON DETENTION IN FEDERAL, CON-
18 TRACT, STATE, OR LOCAL DETENTION FACILITIES.—In
19 carrying out section 241(g)(1), the Attorney General or
20 Secretary of Homeland Security shall ensure that an alien
21 arrested under this title shall be held in custody, pending
22 the alien’s examination under this section, in a Federal,
23 contract, State, or local prison, jail, detention center, or
24 other comparable facility. Notwithstanding any other pro-

1 vision of law, regulation or policy, such facility is adequate
2 for detention, if—

3 “(1) such a facility is the most suitably located
4 Federal, contract, State, or local facility available for
5 such purpose under the circumstances;

6 “(2) an appropriate arrangement for such use
7 of the facility can be made; and

8 “(3) the facility satisfies the standards for the
9 housing, care, and security of persons held in cus-
10 tody by a United States Marshal.

11 “(c) REIMBURSEMENT.—The Secretary of Homeland
12 Security shall reimburse a State, and a political subdivi-
13 sion of a State, for all reasonable expenses, as determined
14 by the Secretary, incurred by the State, or political sub-
15 division, as a result of the incarceration and transpor-
16 tation of an alien who is inadmissible or deportable as de-
17 scribed in subsections (a) and (b). Compensation provided
18 for costs incurred under such subsections shall be the av-
19 erage cost of incarceration of a prisoner in the relevant
20 State, as determined by the chief executive officer of a
21 State, or of a political subdivision of a State, plus the cost
22 of transporting the alien from the point of apprehension
23 to the place of detention, and to the custody transfer point
24 if the place of detention and place of custody are different.

1 “(d) SECURE FACILITIES.—The Secretary of Home-
 2 land Security shall ensure that aliens incarcerated pursu-
 3 ant to this title are held in facilities that provide an appro-
 4 priate level of security.

5 “(e) TRANSFER.—

6 “(1) IN GENERAL.—In carrying out this sec-
 7 tion, the Secretary of Homeland Security shall es-
 8 tablish a regular circuit and schedule for the prompt
 9 transfer of apprehended aliens from the custody of
 10 States, and political subdivisions of a State, to Fed-
 11 eral custody.

12 “(2) CONTRACTS.—The Secretary may enter
 13 into contracts, including appropriate private con-
 14 tracts, to implement this subsection.”.

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

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

18 (b) GAO AUDIT.—Not later than 3 years after the
 19 date of the enactment of this Act, the Comptroller General
 20 of the United States shall conduct an audit of compensa-
 21 tion to States, and to political subdivisions of a State, for
 22 the incarceration of inadmissible or deportable aliens
 23 under section 240D(a) of the Immigration and Nationality
 24 Act (as added by subsection (a)(1)).

1 (c) EFFECTIVE DATE.—Section 240D of the Immi-
2 gration and Nationality Act, as added by subsection (a),
3 shall take effect on the date of the enactment of this Act,
4 except that subsection (e) of such section shall take effect
5 on the date that is 120 day after the date of the enactment
6 of this Act.

7 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
8 **MENT PERSONNEL RELATING TO THE EN-**
9 **FORCEMENT OF IMMIGRATION LAWS.**

10 (a) ESTABLISHMENT OF TRAINING MANUAL AND
11 POCKET GUIDE.—Not later than 180 days after the date
12 of the enactment of this Act, the Secretary shall estab-
13 lish—

14 (1) a training manual for law enforcement per-
15 sonnel of a State, or of a political subdivision of a
16 State, to train such personnel in the investigation,
17 identification, apprehension, arrest, detention, and
18 transfer to Federal custody of inadmissible and de-
19 portable aliens in the United States (including the
20 transportation of such aliens across State lines to
21 detention centers and the identification of fraudulent
22 documents); and

23 (2) an immigration enforcement pocket guide
24 for law enforcement personnel of a State, or of a po-

1 litical subdivision of a State, to provide a quick ref-
2 erence for such personnel in the course of duty.

3 (b) AVAILABILITY.—The training manual and pocket
4 guide established in accordance with subsection (a) shall
5 be made available to all State and local law enforcement
6 personnel.

7 (c) APPLICABILITY.—Nothing in this section shall be
8 construed to require State or local law enforcement per-
9 sonnel to carry the training manual or pocket guide with
10 them while on duty.

11 (d) COSTS.—The Secretary shall be responsible for
12 any costs incurred in establishing the training manual and
13 pocket guide.

14 (e) TRAINING FLEXIBILITY.—

15 (1) IN GENERAL.—The Secretary shall make
16 training of State and local law enforcement officers
17 available through as many means as possible, includ-
18 ing through residential training at the Center for
19 Domestic Preparedness, onsite training held at State
20 or local police agencies or facilities, online training
21 courses by computer, teleconferencing, and video-
22 tape, or the digital video display (DVD) of a train-
23 ing course or courses. E-learning through a secure,
24 encrypted distributed learning system that has all its
25 servers based in the United States, is scalable, sur-

1 vivable, and can have a portal in place not later than
2 30 days after the date of the enactment of this Act,
3 shall be made available by the Federal Law Enforce-
4 ment Training Center Distributed Learning Pro-
5 gram for State and local law enforcement personnel.

6 (2) FEDERAL PERSONNEL TRAINING.—The
7 training of State and local law enforcement per-
8 sonnel under this section shall not displace the train-
9 ing of Federal personnel.

10 (3) CLARIFICATION.—Nothing in this title or
11 any other provision of law shall be construed as
12 making any immigration-related training a require-
13 ment for, or prerequisite to, any State or local law
14 enforcement officer to assist in the enforcement of
15 Federal immigration laws.

16 (4) PRIORITY.—In carrying out this subsection,
17 priority funding shall be given for existing web-based
18 immigration enforcement training systems.

19 **SEC. 110. IMMUNITY.**

20 Notwithstanding any other provision of law, a law en-
21 forcement officer of a State or local law enforcement agen-
22 cy who is acting within the scope of the officer's official
23 duties shall be immune, to the same extent as a Federal
24 law enforcement officer, from personal liability arising out
25 of the performance of any duty described in this title, in-

cluding the authorities to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody, an alien for the purposes of enforcing the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) or the immigration laws of a State or a political subdivision of a State.

SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.

(a) CONTINUATION AND EXPANSION.—

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

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

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

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

(2) EXPANSION.—The program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens (pursuant to the State Criminal Alien Assistance Program authorized under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) or other similar program) shall—

(A) cooperate with officials of the program;

1 (B) expeditiously and systematically iden-
2 tify criminal aliens in its prison and jail popu-
3 lations; and

4 (C) promptly convey such information to
5 officials of such program as a condition of re-
6 ceiving such funds.

7 (b) AUTHORIZATION FOR DETENTION AFTER COM-
8 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
9 enforcement officers of a State, or of a political subdivision
10 of a State, are authorized to—

11 (1) hold a criminal alien for a period of up to
12 48 hours (excluding Saturdays, Sundays, and holi-
13 days) after the alien has completed the alien’s sen-
14 tence under State or local law in order to effectuate
15 the transfer of the alien to Federal custody when the
16 alien is inadmissible or deportable; or

17 (2) issue a detainer that would allow aliens who
18 have served a prison sentence under State or local
19 law to be detained by the State or local prison or jail
20 until the Secretary can take the alien into custody.

21 (c) TECHNOLOGY USAGE.—Technology, such as video
22 conferencing, shall be used to the maximum extent prac-
23 ticable in order to make the program available in remote
24 locations. Mobile access to Federal databases of aliens and
25 live scan technology shall be used to the maximum extent

1 practicable in order to make these resources available to
2 State and local law enforcement agencies in remote loca-
3 tions.

4 (d) EFFECTIVE DATE.—This section shall take effect
5 of the date of the enactment of this Act, except that sub-
6 section (a)(2) shall take effect on the date that is 180 days
7 after such date.

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

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

11 (1) in paragraph (1) by striking “may enter”
12 and all that follows through the period at the end
13 and inserting the following: “shall enter into a writ-
14 ten agreement with a State, or any political subdivi-
15 sion of a State, upon request of the State or political
16 subdivision, pursuant to which an officer or em-
17 ployee of the State or subdivision, who is determined
18 by the Secretary to be qualified to perform a func-
19 tion of an immigration officer in relation to the in-
20 vestigation, apprehension, or detention of aliens in
21 the United States (including the transportation of
22 such aliens across State lines to detention centers),
23 may carry out such function at the expense of the
24 State or political subdivision and to extent consistent
25 with State and local law. No request from a bona

1 fide State or political subdivision or bona fide law
2 enforcement agency shall be denied absent a compel-
3 ling reason. No limit on the number of agreements
4 under this subsection may be imposed. The Sec-
5 retary shall process requests for such agreements
6 with all due haste, and in no case shall take not
7 more than 90 days from the date the request is
8 made until the agreement is consummated.”;

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

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

14 “(2) An agreement under this subsection shall accom-
15 modate a requesting State or political subdivision with re-
16 spect to the enforcement model or combination of models,
17 and shall accommodate a patrol model, task force model,
18 jail model, any combination thereof, or any other reason-
19 able model the State or political subdivision believes is best
20 suited to the immigration enforcement needs of its juris-
21 diction.

22 “(3) No Federal program or technology directed
23 broadly at identifying inadmissible or deportable aliens
24 shall substitute for such agreements, including those es-

1 tablishing a jail model, and shall operate in addition to
2 any agreement under this subsection.

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

5 “(B)(i) The Secretary shall provide a State or polit-
6 ical subdivision written notice of intent to terminate at
7 least 180 days prior to date of intended termination, and
8 the notice shall fully explain the grounds for termination,
9 along with providing evidence substantiating the Sec-
10 retary’s allegations.

11 “(ii) The State or political subdivision shall have the
12 right to a hearing before an administrative law judge and,
13 if the ruling is against the State or political subdivision,
14 to appeal the ruling to the Federal Circuit Court of Ap-
15 peals and, if the ruling is against the State or political
16 subdivision, to the Supreme Court.

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

19 (4) by inserting after paragraph (5) (as redesign-
20 nated) the following:

21 “(6) The Secretary of Homeland Security shall make
22 training of State and local law enforcement officers avail-
23 able through as many means as possible, including
24 through residential training at the Center for Domestic
25 Preparedness and the Federal Law Enforcement Training

1 Center, onsite training held at State or local police agen-
2 cies or facilities, online training courses by computer, tele-
3 conferencing, and videotape, or the digital video display
4 (DVD) of a training course or courses. Distance learning
5 through a secure, encrypted distributed learning system
6 that has all its servers based in the United States, is scal-
7 able, survivable, and can have a portal in place not later
8 than 30 days after the date of the enactment of this Act,
9 shall be made available by the COPS Office of the Depart-
10 ment of Justice and the Federal Law Enforcement Train-
11 ing Center Distributed Learning Program for State and
12 local law enforcement personnel. Preference shall be given
13 to private sector-based web-based immigration enforce-
14 ment training programs for which the Federal Govern-
15 ment has already provided support to develop.”.

16 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
17 **(SCAAP).**

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

- 20 (1) by striking “Attorney General” the first
21 place such term appears and inserting “Secretary of
22 Homeland Security”;
- 23 (2) by striking “Attorney General” each place
24 such term appears thereafter and inserting “Sec-
25 retary”; and

1 (3) in paragraph (3)(A), by inserting “charged
2 with or” before “convicted”.

3 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**
4 **GRATION LAWS.**

5 (a) IN GENERAL.—Section 642 of the Illegal Immi-
6 gration Reform and Immigrant Responsibility Act of 1996
7 (8 U.S.C. 1373) is amended—

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

11 (2) in subsection (a), by striking “may” and in-
12 serting “shall”;

13 (3) in subsection (b)—

14 (A) by striking “no person or agency may”
15 and inserting “a person or agency shall not”;

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

20 (C) by striking paragraphs (1) through (3)
21 and inserting the following:

22 “(1) Notifying the Federal Government regard-
23 ing the presence of inadmissible and deportable
24 aliens who are encountered by law enforcement per-
25 sonnel of a State or political subdivision of a State.

1 “(2) Complying with requests for information
2 from Federal law enforcement.

3 “(3) Issuing policies in the form of a resolu-
4 tions, ordinances, administrative actions, general or
5 special orders, or departmental policies that violate
6 Federal law or restrict a State or political subdivi-
7 sion of a State from complying with Federal law or
8 coordinating 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, pol-
13 icy, or practice that prohibits law enforcement offi-
14 cers of the State, or of a political subdivision of the
15 State, from assisting or cooperating with Federal
16 immigration law enforcement in the course of car-
17 rying out the officers’ routine law enforcement du-
18 ties shall not be 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
22 Nationality Act (8 U.S.C. 1231(i)) or the ‘Cops
23 on the Beat’ program under part Q of title I of
24 the Omnibus Crime Control and Safe Streets
25 Act of 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
5 subdivision of a State are not in compliance with
6 this section and shall report such determinations to
7 Congress 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 ju-
12 risdiction that is found to be out of compliance shall
13 be ineligible to receive Federal financial assistance
14 as provided in paragraph (1) for a minimum period
15 of 1 year, and shall only become eligible again after
16 the Attorney General certifies that the jurisdiction is
17 in compliance.

18 “(4) REALLOCATION.—Any funds that are not
19 allocated to a State or to a political subdivision of
20 a State, due to the failure of the State, or of the po-
21 litical 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
2 require law enforcement officials from States, or from po-
3 litical subdivisions of States, to report or arrest victims
4 or witnesses of a criminal offense.”.

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

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

13 (a) IN GENERAL.—Except as otherwise provided by
14 Federal law or rule of procedure, the Secretary of Home-
15 land Security shall execute all lawful writs, process, and
16 orders issued under the authority of the United States,
17 and shall command all necessary assistance to execute the
18 Secretary’s duties.

19 (b) STATE AND LOCAL COOPERATION WITH DHS
20 DETAINERS.—A State, or a political subdivision of a
21 State, that has in effect a statute or policy or practice
22 providing that it not comply with any Department of
23 Homeland Security detainer ordering that it temporarily
24 hold an alien in their custody so that the alien may be
25 taken into Federal custody, or transport the alien for

1 transfer to Federal custody, shall not be eligible to re-
2 ceive—

3 (1) any of the funds that would otherwise be al-
4 located to the State or political subdivision under
5 section 241(i) of the Immigration and Nationality
6 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
7 program under part Q of title I of the Omnibus
8 Crime Control and Safe Streets Act of 1968 (42
9 U.S.C. 3796dd et seq.); or

10 (2) any other law enforcement or Department
11 of Homeland Security grant.

12 (c) IMMUNITY.—A State or a political subdivision of
13 a State acting in compliance with a Department of Home-
14 land Security detainer who temporarily holds aliens in its
15 custody so that they may be taken into Federal custody,
16 or transports the aliens for transfer to Federal custody,
17 shall be considered to be acting under color of Federal
18 authority for purposes of determining its liability, and im-
19 munity from suit, in civil actions brought by the aliens
20 under Federal or State law.

21 (d) PROBABLE CAUSE.—It is the sense of Congress
22 that the Department of Homeland Security has probable
23 cause to believe that an alien is inadmissible or deportable
24 when it issues a detainer regarding such alien under the
25 standards in place on the date of introduction of this Act.

1 **TITLE II—NATIONAL SECURITY**

2 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
3 **RORIST ALIENS.**

4 (a) ASYLUM.—Section 208(b)(2)(A) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
6 amended—

7 (1) by inserting “or the Secretary of Homeland
8 Security” after “if the Attorney General”; and

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

10 “(v) the alien is described in subpara-
11 graph (B)(i) or (F) of section 212(a)(3),
12 unless, in the case of an alien described in
13 subparagraph (IV), (V), or (IX) of section
14 212(a)(3)(B)(i), the Secretary of Home-
15 land Security or the Attorney General de-
16 termines, in the discretion of the Secretary
17 or the Attorney General, that there are not
18 reasonable grounds for regarding the alien
19 as a danger to the security of the United
20 States; or”.

21 (b) CANCELLATION OF REMOVAL.—Section
22 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-
23 ed—

24 (1) by striking “inadmissible under” and insert-
25 ing “described in”; and

1 (2) by striking “deportable under” and insert-
2 ing “described in”.

3 (c) VOLUNTARY DEPARTURE.—Section
4 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is
5 amended by striking “deportable under section
6 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-
7 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

8 (d) RESTRICTION ON REMOVAL.—Section
9 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
10 amended—

11 (1) in the matter preceding clause (i), by insert-
12 ing “or the Secretary of Homeland Security” after
13 “Attorney General” each place it appears;

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

15 (3) in clause (iv), by striking the period at the
16 end and inserting a semicolon;

17 (4) by striking the flush matter that follows
18 after clause (iv); and

19 (5) by inserting after clause (iv) the following:

20 “(v) the alien is described in subpara-
21 graph (B)(i) or (F) of section 212(a)(3),
22 unless, in the case of an alien described in
23 subparagraph (IV), (V), or (IX) of section
24 212(a)(3)(B)(i), the Secretary of Home-
25 land Security or the Attorney General de-

1 termines, in discretion of the Secretary or
2 the Attorney General, that there are not
3 reasonable grounds for regarding the alien
4 as a danger to the security of the United
5 States; or”.

6 (e) RECORD OF ADMISSION.—

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

9 “RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN
10 THE CASE OF CERTAIN ALIENS WHO ENTERED THE
11 UNITED STATES PRIOR TO JANUARY 1, 1972

12 “SEC. 249. The Secretary of Homeland Security, in
13 the discretion of the Secretary and under such regulations
14 as the Secretary may prescribe, may enter a record of law-
15 ful admission for permanent residence in the case of any
16 alien, if no such record is otherwise available and the
17 alien—

18 “(1) entered the United States before January
19 1, 1972;

20 “(2) has continuously resided in the United
21 States since such entry;

22 “(3) has been a person of good moral character
23 since such entry;

24 “(4) is not ineligible for citizenship;

25 “(5) is not described in paragraph (1)(A)(iv),
26 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

1 “(6) did not, at any time, without reasonable
2 cause fail or refuse to attend or remain in attend-
3 ance at a proceeding to determine the alien’s inad-
4 missibility or deportability.

5 Such recordation shall be effective as of the date of ap-
6 proval of the application or as of the date of entry if such
7 entry occurred prior to July 1, 1924.”.

8 (2) CLERICAL AMENDMENT.—The table of con-
9 tents for such Act is amended by amending the item
10 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.”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of enactment of
13 this Act and sections 208(b)(2)(A), 212(a), 240A, 240B,
14 241(b)(3), and 249 of the Immigration and Nationality
15 Act, as so amended, shall apply to—

16 (1) all aliens in removal, deportation, or exclu-
17 sion proceedings;

18 (2) all applications pending on, or filed after,
19 the date of the enactment of this Act; and

20 (3) with respect to aliens and applications de-
21 scribed in paragraph (1) or (2) of this subsection,
22 acts and conditions constituting a ground for exclu-
23 sion, deportation, or removal occurring or existing

1 before, on, or after the date of the enactment of this
2 Act.

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

4 (a) DEFINITION OF GOOD MORAL CHARACTER.—
5 Section 101(f) of the Immigration and Nationality Act (8
6 U.S.C. 1101(f)) is amended—

7 (1) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) one who the Secretary of Homeland Secu-
10 rity or Attorney General determines to have been at
11 any time an alien described in section 212(a)(3) or
12 237(a)(4), which determination may be based upon
13 any relevant information or evidence, including clas-
14 sified, sensitive, or national security information;”;

15 (2) in paragraph (8), by inserting “, regardless
16 whether the crime was classified as an aggravated
17 felony at the time of conviction, except that the Sec-
18 retary of Homeland Security or Attorney General
19 may, in the unreviewable discretion of the Secretary
20 or Attorney General, determine that this paragraph
21 shall not apply in the case of a single aggravated fel-
22 ony conviction (other than murder, manslaughter,
23 homicide, rape, or any sex offense when the victim
24 of such sex offense was a minor) for which comple-
25 tion of the term of imprisonment or the sentence

1 (whichever is later) occurred 10 or more years prior
2 to the date of application” after “(as defined in sub-
3 section (a)(43))”; and

4 (3) in the matter following paragraph (9), by
5 striking the first sentence and inserting the fol-
6 lowing: “The fact that any person is not within any
7 of the foregoing classes shall not preclude a discre-
8 tionary finding for other reasons that such a person
9 is or was not of good moral character. The Secretary
10 or the Attorney General shall not be limited to the
11 applicant’s conduct during the period for which good
12 moral character is required, but may take into con-
13 sideration as a basis for determination the appli-
14 cant’s conduct and acts at any time.”.

15 (b) AGGRAVATED FELONS.—Section 509(b) of the
16 Immigration Act of 1990 (8 U.S.C. 1101 note) is amended
17 to read as follows:

18 “(b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on November 29, 1990,
20 and shall apply to convictions occurring before, on or after
21 such date.”.

22 (c) TECHNICAL CORRECTION TO THE INTELLIGENCE
23 REFORM ACT.—Section 5504(2) of the Intelligence Re-
24 form and Terrorism Prevention Act of 2004 (Public Law

1 108–458) is amended by striking “adding at the end” and
2 inserting “inserting after paragraph (8)”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 subsections (a) and (b) shall take effect on the date of
5 enactment of this Act, shall apply to any act that occurred
6 before, on, or after such date and shall apply to any appli-
7 cation for naturalization or any other benefit or relief, or
8 any other case or matter under the immigration laws
9 pending on or filed after such date. The amendments
10 made by subsection (c) shall take effect as if enacted in
11 the Intelligence Reform and Terrorism Prevention Act of
12 2004 (Public Law 108–458).

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

14 (a) **NATURALIZATION OF PERSONS ENDANGERING**
15 **THE NATIONAL SECURITY.**—Section 316 of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1426) is amended by
17 adding at the end the following:

18 “(g) **PERSONS ENDANGERING THE NATIONAL SECU-**
19 **RITY.**—No person shall be naturalized who the Secretary
20 of Homeland Security determines to have been at any time
21 an alien described in section 212(a)(3) or 237(a)(4). Such
22 determination may be based upon any relevant informa-
23 tion or evidence, including classified, sensitive, or national
24 security information.”.

1 (b) CONCURRENT NATURALIZATION AND REMOVAL
2 PROCEEDINGS.—Section 318 of the Immigration and Na-
3 tionality Act (8 U.S.C. 1429) is amended by striking
4 “other Act;” and inserting “other Act; and no application
5 for naturalization shall be considered by the Secretary of
6 Homeland Security or any court if there is pending
7 against the applicant any removal proceeding or other pro-
8 ceeding to determine the applicant’s inadmissibility or de-
9 portability, or to determine whether the applicant’s lawful
10 permanent resident status should be rescinded, regardless
11 of when such proceeding was commenced: *Provided*, That
12 the findings of the Attorney General in terminating re-
13 moval proceedings or in canceling the removal of an alien
14 pursuant to the provisions of this Act, shall not be deemed
15 binding in any way upon the Secretary of Homeland Secu-
16 rity with respect to the question of whether such person
17 has established his eligibility for naturalization as required
18 by this title;”.

19 (c) PENDING DENATURALIZATION OR REMOVAL
20 PROCEEDINGS.—Section 204(b) of the Immigration and
21 Nationality Act (8 U.S.C. 1154(b)) is amended by adding
22 at the end the following: “No petition shall be approved
23 pursuant to this section if there is any administrative or
24 judicial proceeding (whether civil or criminal) pending
25 against the petitioner that could (whether directly or indi-

1 rectly) result in the petitioner’s denaturalization or the
2 loss of the petitioner’s lawful permanent resident status.”.

3 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sec-
4 tions 216(e) and section 216A(e) of the Immigration and
5 Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are
6 each amended by striking the period at the end and insert-
7 ing “, if the alien has had the conditional basis removed
8 pursuant to this section.”.

9 (e) **DISTRICT COURT JURISDICTION.**—Subsection
10 336(b) of the Immigration and Nationality Act (8 U.S.C.
11 1447(b)) is amended to read as follows:

12 “(b) If there is a failure to render a final administra-
13 tive decision under section 335 before the end of the 180-
14 day period after the date on which the Secretary of Home-
15 land Security completes all examinations and interviews
16 conducted under such section, as such terms are defined
17 by the Secretary of Homeland Security pursuant to regu-
18 lations, the applicant may apply to the district court for
19 the district in which the applicant resides for a hearing
20 on the matter. Such court shall only have jurisdiction to
21 review the basis for delay and remand the matter to the
22 Secretary of Homeland Security for the Secretary’s deter-
23 mination on the application.”.

1 (f) CONFORMING AMENDMENT.—Section 310(c) of
2 the Immigration and Nationality Act (8 U.S.C. 1421(c))
3 is amended—

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

7 (2) by striking the second sentence and insert-
8 ing the following: “The burden shall be upon the pe-
9 titioner to show that the Secretary’s denial of the
10 application was not supported by facially legitimate
11 and bona fide reasons. Except in a proceeding under
12 section 340, notwithstanding any other provision of
13 law (statutory or nonstatutory), including section
14 2241 of title 28, United States Code, or any other
15 habeas corpus provision, and sections 1361 and
16 1651 of such title, no court shall have jurisdiction
17 to determine, or to review a determination of the
18 Secretary made at any time regarding, whether, for
19 purposes of an application for naturalization, an
20 alien is a person of good moral character, whether
21 the alien understands and is attached to the prin-
22 ciples of the Constitution of the United States, or
23 whether an alien is well disposed to the good order
24 and happiness of the United States.”.

1 (g) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of enactment of
3 this Act, shall apply to any act that occurred before, on,
4 or after such date, and shall apply to any application for
5 naturalization or any other case or matter under the immi-
6 gration laws pending on, or filed after, such date.

7 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

8 (a) IN GENERAL.—Section 340 of the Immigration
9 and Nationality Act is amended—

10 (1) by redesignating subsections (f) through (h)
11 as subsections (g) through (i), respectively; and

12 (2) by inserting after subsection (e) the fol-
13 lowing:

14 “(f)(1) If a person who has been naturalized partici-
15 pates in any act described in paragraph (2), the Attorney
16 General is authorized to find that, as of the date of such
17 naturalization, such person was not attached to the prin-
18 ciples of the Constitution of the United States and was
19 not well disposed to the good order and happiness of the
20 United States at the time of naturalization, and upon such
21 finding shall set aside the order admitting such person to
22 citizenship and cancel the certificate of naturalization as
23 having been obtained by concealment of a material fact
24 or by willful misrepresentation, and such revocation and
25 setting aside of the order admitting such person to citizen-

1 ship and such canceling of certificate of naturalization
2 shall be effective as of the original date of the order and
3 certificate, respectively.

4 “(2) The acts described in this paragraph are the fol-
5 lowing:

6 “(A) Any activity a purpose of which is the op-
7 position to, or the control or overthrow of, the Gov-
8 ernment of the United States by force, violence, or
9 other unlawful means.

10 “(B) Engaging in a terrorist activity (as de-
11 fined in clauses (iii) and (iv) of section
12 212(a)(3)(B)).

13 “(C) Incitement of terrorist activity under cir-
14 cumstances indicating an intention to cause death or
15 serious bodily harm.

16 “(D) Receiving military-type training (as de-
17 fined in section 2339D(c)(1) of title 18, United
18 States Code) from or on behalf of any organization
19 that, at the time the training was received, was a
20 terrorist organization (as defined in section
21 212(a)(3)(B)(vi)).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to acts that occur on
25 or after such date.

1 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
2 **FOR NATIONAL SECURITY PURPOSES.**

3 (a) SPECIAL AGRICULTURAL WORKERS.—Section
4 210(b)(6) of the Immigration and Nationality Act (8
5 U.S.C. 1160(b)(6)) is amended—

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

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

12 (3) by redesignating subparagraphs (C) and
13 (D) as subparagraphs (D) and (E), respectively;

14 (4) by inserting after subparagraph (B) the fol-
15 lowing:

16 “(C) AUTHORIZED DISCLOSURES.—

17 “(i) CENSUS PURPOSE.—The Sec-
18 retary of Homeland Security may provide,
19 in his discretion, for the furnishing of in-
20 formation furnished under this section in
21 the same manner and circumstances as
22 census information may be disclosed under
23 section 8 of title 13, United States Code.

24 “(ii) NATIONAL SECURITY PUR-
25 POSE.—The Secretary of Homeland Secu-
26 rity may provide, in his discretion, for the

1 furnishing, use, publication, or release of
 2 information furnished under this section in
 3 any investigation, case, or matter, or for
 4 any purpose, relating to terrorism, national
 5 intelligence or the national security.”; and

6 (5) in subparagraph (D), as redesignated, by
 7 striking “Service” and inserting “Department of
 8 Homeland Security”.

9 (b) ADJUSTMENT OF STATUS UNDER THE IMMIGRA-
 10 TION REFORM AND CONTROL ACT OF 1986.—Section
 11 245A(c)(5) of the Immigration and Nationality Act (8
 12 U.S.C. 1255a(c)(5)), is amended—

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

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

19 (3) by amending subparagraph (C) to read as
 20 follows:

21 “(C) AUTHORIZED DISCLOSURES.—

22 “(i) CENSUS PURPOSE.—The Sec-
 23 retary of Homeland Security may provide,
 24 in his discretion, for the furnishing of in-
 25 formation furnished under this section in

1 the same manner and circumstances as
2 census information may be disclosed under
3 section 8 of title 13, United States Code.

4 “(ii) NATIONAL SECURITY PUR-
5 POSE.—The Secretary of Homeland Secu-
6 rity may provide, in his discretion, for the
7 furnishing, use, publication, or release of
8 information furnished under this section in
9 any investigation, case, or matter, or for
10 any purpose, relating to terrorism, national
11 intelligence or the national security.”; and

12 (4) in subparagraph (D)(i), striking “Service”

13 and inserting “Department of Homeland Security”.

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

15 (a) REQUIREMENT TO COMPLETE BACKGROUND AND
16 SECURITY CHECKS.—Section 103 of the Immigration and
17 Nationality Act (8 U.S.C. 1103) is amended by adding
18 at the end the following:

19 “(h) Notwithstanding any other provision of law
20 (statutory or nonstatutory), including but not limited to
21 section 309 of Public Law 107–173, sections 1361 and
22 1651 of title 28, United States Code, and section 706(1)
23 of title 5, United States Code, neither the Secretary of
24 Homeland Security, the Attorney General, nor any court
25 may—

1 “(1) grant, or order the grant of or adjudica-
2 tion of an application for adjustment of status to
3 that of an alien lawfully admitted for permanent res-
4 idence;

5 “(2) grant, or order the grant of or adjudica-
6 tion of an application for United States citizenship
7 or any other status, relief, protection from removal,
8 employment authorization, or other benefit under
9 the immigration laws;

10 “(3) grant, or order the grant of or adjudica-
11 tion of, any immigrant or nonimmigrant petition; or

12 “(4) issue or order the issuance of any docu-
13 mentation evidencing or related to any such grant,
14 until such background and security checks as the
15 Secretary may in his discretion require have been
16 completed or updated to the satisfaction of the Sec-
17 retary.

18 “(i) Notwithstanding any other provision of law (stat-
19 utory or nonstatutory), including but not limited to section
20 309 of Public Law 107–173, sections 1361 and 1651 of
21 title 28, United States Code, and section 706(1) of title
22 5, United States Code, neither the Secretary of Homeland
23 Security nor the Attorney General may be required to—

24 “(1) grant, or order the grant of or adjudica-
25 tion of an application for adjustment of status to

1 that of an alien lawfully admitted for permanent res-
2 idence,

3 “(2) grant, or order the grant of or adjudica-
4 tion of an application for United States citizenship
5 or any other status, relief, protection from removal,
6 employment authorization, or other benefit under
7 the immigration laws,

8 “(3) grant, or order the grant of or adjudica-
9 tion of, any immigrant or nonimmigrant petition, or

10 “(4) issue or order the issuance of any docu-
11 mentation evidencing or related to any such grant,
12 until any suspected or alleged materially false infor-
13 mation, material misrepresentation or omission, con-
14 cealment of a material fact, fraud or forgery, coun-
15 terfeiting, or alteration, or falsification of a docu-
16 ment, as determined by the Secretary, relating to
17 the adjudication of an application or petition for any
18 status (including the granting of adjustment of sta-
19 tus), relief, protection from removal, or other benefit
20 under this subsection has been investigated and re-
21 solved to the Secretary’s satisfaction.

22 “(j) Notwithstanding any other provision of law (stat-
23 utory or nonstatutory), including section 309 of the En-
24 hanced Border Security and Visa Entry Reform Act (8
25 U.S.C. 1738), sections 1361 and 1651 of title 28, United

1 States Code, and section 706(1) of title 5, United States
2 Code, no court shall have jurisdiction to require any of
3 the acts in subsection (h) or (i) to be completed by a cer-
4 tain time or award any relief for failure to complete or
5 delay in completing such acts.”.

6 (b) CONSTRUCTION.—

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

10 “CONSTRUCTION

11 “SEC. 362. (a) IN GENERAL.—Nothing in this Act
12 or any other law, except as provided in subsection (d),
13 shall be construed to require the Secretary of Homeland
14 Security, the Attorney General, the Secretary of State, the
15 Secretary of Labor, or a consular officer to grant any ap-
16 plication, approve any petition, or grant or continue any
17 relief, protection from removal, employment authorization,
18 or any other status or benefit under the immigration laws
19 by, to, or on behalf of—

20 “(1) any alien deemed by the Secretary to be
21 described in section 212(a)(3) or section 237(a)(4);
22 or

23 “(2) any alien with respect to whom a criminal
24 or other proceeding or investigation is open or pend-
25 ing (including, but not limited to, issuance of an ar-
26 rest warrant, detainer, or indictment), where such

1 proceeding or investigation is deemed by the official
2 described in subsection (a) to be material to the
3 alien's eligibility for the status or benefit sought.

4 “(b) DENIAL OR WITHHOLDING OF ADJUDICA-
5 TION.—An official described in subsection (a) may, in the
6 discretion of the official, deny (with respect to an alien
7 described in paragraph (1) or (2) of subsection (a)) or
8 withhold adjudication of pending resolution of the inves-
9 tigation or case (with respect to an alien described in sub-
10 section (a)(2) of this section) any application, petition, re-
11 lief, protection from removal, employment authorization,
12 status or benefit.

13 “(c) JURISDICTION.—Notwithstanding any other pro-
14 vision of law (statutory or nonstatutory), including section
15 309 of the Enhanced Border Security and Visa Entry Re-
16 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title
17 28, United States Code, and section 706(1) of title 5,
18 United States Code, no court shall have jurisdiction to re-
19 view a decision to deny or withhold adjudication pursuant
20 to subsection (b) of this section.

21 “(d) WITHHOLDING OF REMOVAL AND TORTURE
22 CONVENTION.—This section does not limit or modify the
23 applicability of section 241(b)(3) or the United Nations
24 Convention Against Torture and Other Cruel, Inhuman or
25 Degrading Treatment or Punishment, subject to any res-

1 ervations, understandings, declarations and provisos con-
 2 tained in the United States Senate resolution of ratifica-
 3 tion of the Convention, as implemented by section 2242
 4 of the Foreign Affairs Reform and Restructuring Act of
 5 1998 (Public Law 105–277) with respect to an alien oth-
 6 erwise eligible for protection under such provisions.”.

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

“Sec. 362. Construction.”.

10 (c) EFFECTIVE DATE.—The amendments made by
 11 this section shall take effect on the date of the enactment
 12 of this Act and shall apply to applications for immigration
 13 benefits pending on or after such date.

14 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
 15 **TELLIGENCE REFORM AND TERRORISM PRE-**
 16 **VENTION ACT OF 2004.**

17 (a) TRANSIT WITHOUT VISA PROGRAM.—Section
 18 7209(d) of the Intelligence Reform and Terrorism Preven-
 19 tion Act of 2004 (8 U.S.C. 1185 note) is amended by
 20 striking “the Secretary, in conjunction with the Secretary
 21 of Homeland Security,” and inserting “the Secretary of
 22 Homeland Security, in consultation with the Secretary of
 23 State,”.

24 (b) TECHNOLOGY ACQUISITION AND DISSEMINATION
 25 PLAN.—Section 7201(c)(1) of such Act is amended by in-

1 serting “and the Department of State” after “used by the
2 Department of Homeland Security”.

3 **TITLE III—REMOVAL OF** 4 **CRIMINAL ALIENS**

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

6 (a) DEFINITION OF AGGRAVATED FELONY.—Section
7 101(a)(43) of the Immigration and Nationality Act (8
8 U.S.C. 1101(a)(43)) is amended—

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

21 (2) in subparagraph (A), by striking “murder,
22 rape, or sexual abuse of a minor;” and inserting
23 “murder, manslaughter, homicide, rape (whether the
24 victim was conscious or unconscious), or any offense

1 of a sexual nature involving a victim under the age
2 of 18 years;”;

3 (3) in subparagraph (I), by striking “or 2252”
4 and inserting “2252, or 2252A”;

5 (4) in subparagraph (F), by striking “at least
6 one year;” and inserting “is at least one year, except
7 that if the conviction records do not conclusively es-
8 tablish whether a crime constitutes a crime of vio-
9 lence, the Attorney General may consider other evi-
10 dence related to the conviction that clearly estab-
11 lishes that the conduct for which the alien was en-
12 gaged constitutes a crime of violence;”;

13 (5) in subparagraph (N)—

14 (A) by striking “paragraph (1)(A) or (2)
15 of”; and

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

17 (6) in subparagraph (O), by striking “section
18 275(a) or 276 committed by an alien who was pre-
19 viously deported on the basis of a conviction for an
20 offense described in another subparagraph of this
21 paragraph” and inserting “section 275 or 276 for
22 which the term of imprisonment is at least 1 year”;

23 (7) in subparagraph (U), by striking “an at-
24 tempt or conspiracy to commit an offense described
25 in this paragraph” and inserting “attempting or

1 conspiring to commit an offense described in this
2 paragraph, or aiding, abetting, counseling, pro-
3 curing, commanding, inducing, or soliciting the com-
4 mission of such an offense”; and

5 (8) by striking the undesignated matter fol-
6 lowing subparagraph (U).

7 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
8 MENTS.—

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

11 (A) shall take effect on the date of the en-
12 actment of this Act; and

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

15 (2) APPLICATION OF IIRIRA AMENDMENTS.—

16 The amendments to section 101(a)(43) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1101(a)(43))
18 made by section 321 of the Illegal Immigration Re-
19 form and Immigrant Responsibility Act of 1996 (di-
20 vision C of Public Law 104–208; 110 Stat. 3009–
21 627) shall continue to apply, whether the conviction
22 was entered before, on, or after September 30, 1996.

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

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

7 (1) in subsection (a)(2)(A)(i)—

8 (A) in subclause (I), by striking “or” at
9 the end;

10 (B) in subclause (II), by adding “or” at
11 the end; and

12 (C) by inserting after subclause (II) the
13 following:

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

25 (2) by adding at the end of subsection (a)(2)
26 the following:

1 “(J) PROCUREMENT OF CITIZENSHIP OR
2 NATURALIZATION UNLAWFULLY.—Any alien
3 convicted of, or who admits having committed,
4 or who admits committing acts which constitute
5 the essential elements of, a violation of, or an
6 attempt or a conspiracy to violate, subsection
7 (a) or (b) of section 1425 of title 18, United
8 States Code (relating to the procurement of
9 citizenship or naturalization unlawfully) is inad-
10 missible.

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

1 “(L) AGGRAVATED FELONS.—Any alien
2 who has been convicted of an aggravated felony
3 at 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
11 which constitute the essential elements of,
12 a crime of domestic violence, a crime of
13 stalking, or a crime of child abuse, child
14 neglect, or child abandonment is inadmis-
15 sible. For purposes of this clause, the term
16 ‘crime of domestic violence’ means any
17 crime of violence (as defined in section 16
18 of title 18, United States Code) against a
19 person committed by a current or former
20 spouse of the person, by an individual with
21 whom the person shares a child in com-
22 mon, by an individual who is cohabiting
23 with or has cohabited with the person as a
24 spouse, by an individual similarly situated
25 to a spouse of the person under the domes-

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

9 “(ii) VIOLATORS OF PROTECTION OR-
10 DERS.—Any alien who at any time is en-
11 joined under a protection order issued by
12 a court and whom the court determines
13 has engaged in conduct that violates the
14 portion of a protection order that involves
15 protection against credible threats of vio-
16 lence, repeated harassment, or bodily in-
17 jury to the person or persons for whom the
18 protection order was issued is inadmissible.
19 For purposes of this clause, the term ‘pro-
20 tection order’ means any injunction issued
21 for the purpose of preventing violent or
22 threatening acts of domestic violence, in-
23 cluding temporary or final orders issued by
24 civil or criminal courts (other than support
25 or child custody orders or provisions)

whether obtained 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

1 may, in the discretion of the Attorney General
2 or the Secretary, waive the application of sub-
3 paragraphs (A)(i)(I), (III), (B), (D), (E), (K),
4 and (M) of subsection (a)(2)”;

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

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

14 (D) by inserting “or Secretary of Home-
15 land Security” after “the Attorney General”
16 each place it appears.

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

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

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

22 and

23 (3) by inserting after clause (iii) the following:

24 “(iv) of a violation of, or an attempt
25 or a conspiracy to violate, section 1425(a)

1 or (b) of title 18 (relating to the procure-
2 ment of citizenship or naturalization un-
3 lawfully),”.

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

8 “(G) FRAUD AND RELATED ACTIVITY AS-
9 SOCIATED WITH SOCIAL SECURITY ACT BENE-
10 FITS AND IDENTIFICATION DOCUMENTS.—Any
11 alien who at any time after admission has been
12 convicted of a violation of (or a conspiracy or
13 attempt to violate) section 208 of the Social Se-
14 curity Act (42 U.S.C. 408) (relating to social
15 security account numbers or social security
16 cards) or section 1028 of title 18, United States
17 Code (relating to fraud and related activity in
18 connection with identification) is deportable.”.

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

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

23 (2) to all aliens who are required to establish
24 admissibility on or after such date, and in all re-

1 moval, deportation, or exclusion proceedings that are
2 filed, pending, or reopened, on or after such date.

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

8 **SEC. 303. ESPIONAGE CLARIFICATION.**

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

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

20 “(i) any activity—

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

24 “(II) to violate or evade any law
25 prohibiting the export from the

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

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

13 Section 922 of title 18, United States Code, is
 14 amended—

15 (1) in subsection (d)(5), in subparagraph (B),
 16 by striking “(y)(2)” and all that follows and insert-
 17 ing “(y), is in the United States not as an alien law-
 18 fully admitted for permanent residence;”;

19 (2) in subsection (g)(5), in subparagraph (B),
 20 by striking “(y)(2)” and all that follows and insert-
 21 ing “(y), is in the United States not as an alien law-
 22 fully admitted for permanent residence;” and

23 (3) in subsection (y)—

24 (A) in the header, by striking “ADMITTED
 25 UNDER NONIMMIGRANT VISAS.—” and insert-

ing “NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—”;

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) the term ‘lawfully admitted for permanent residence’ has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).”;

(C) in paragraph (2), by striking “under a nonimmigrant visa” and inserting “but not lawfully admitted for permanent residence”; and

(D) in paragraph (3)(A), by striking “admitted to the United States under a nonimmigrant visa” and inserting “lawfully admitted to the United States but not as an alien lawfully admitted for permanent residence”.

SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

Section 3291 of title 18, United States Code, is amended by striking “No person” and all that follows through the period at the end and inserting the following: “No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses) and 75 (relating to pass-

1 port, visa, and immigration offenses), or for a violation
2 of any criminal provision of sections 243, 266, 274, 275,
3 276, 277, or 278 of the Immigration and Nationality Act,
4 or for an attempt or conspiracy to violate any such section,
5 unless the indictment is returned or the information is
6 filed within ten years after the commission of the of-
7 fense.”.

8 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
9 **OF RACKETEERING ACTIVITY.**

10 Section 1961(1) of title 18, United States Code, is
11 amended by striking “section 1542” through “section
12 1546 (relating to fraud and misuse of visas, permits, and
13 other documents)” and inserting “sections 1541–1548 (re-
14 lating to passports and visas)”.

15 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**
16 **VATED FELONY DEFINITION.**

17 (a) IN GENERAL.—Subparagraph (P) of section
18 101(a)(43) of the Immigration and Nationality Act (8
19 U.S.C. 1101(a)(43)) is amended—

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

1 any section of chapter 75 of title 18, United States
2 Code,”; and

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

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall take effect on the date of the enact-
8 ment of this Act and shall apply to acts that occur before,
9 on, or after the date of the enactment of this Act.

10 **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**
11 **OF STATUS FOR AGGRAVATED FELONS.**

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

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) 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
23 admissibility on or after such date, and in all re-
24 moval, deportation, or exclusion proceedings that are
25 filed, pending, or reopened, on or after such date.

1 **SEC. 309. PRECLUDING WITHHOLDING OF REMOVAL FOR**
2 **AGGRAVATED FELONS.**

3 (a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.
4 1231(b)(3)(B)), as amended by section 201, is further
5 amended by inserting after clause (v), as inserted by sec-
6 tion 201, the following:

7 “(vi) the alien is convicted of an ag-
8 gravated felony.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 subsection (a) shall apply—

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

13 (2) to all aliens who are required to establish
14 admissibility on or after such date, and in all re-
15 moval, deportation, or exclusion proceedings that are
16 filed, pending, or reopened on or after such date.

17 **SEC. 310. INADMISSIBILITY, DEPORTABILITY, AND DETEN-**
18 **TION OF DRUNK DRIVERS.**

19 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
21 amended by this Act) is further amended—

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

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

25 (3) by inserting after subparagraph (U) the fol-
26 lowing:

1 “(V) a second or subsequent conviction for
2 driving while intoxicated (including a conviction
3 for driving while under the influence of or im-
4 paired by alcohol or drugs) without regard to
5 whether the conviction is classified as a mis-
6 demeanor or felony under State law.”.

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

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

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

14 (3) by inserting after subparagraph (D) the fol-
15 lowing:

16 “(E) is unlawfully present in the United
17 States and has been convicted one or multiple
18 times for driving while intoxicated (including a
19 conviction for driving while under the influence
20 or impaired by alcohol or drugs) without regard
21 to whether the conviction is classified as a mis-
22 demeanor or felony under State law,”.

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

1 of this Act and apply to convictions entered on or after
2 such date.

3 **SEC. 311. DETENTION OF DANGEROUS ALIENS.**

4 (a) IN GENERAL.—Section 241(a) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—

6 (1) by striking “Attorney General” each place
7 it appears, except for the first reference in para-
8 graph (4)(B)(i), and inserting “Secretary of Home-
9 land Security”;

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

12 “(B) BEGINNING OF PERIOD.—The re-
13 moval period begins on the latest of the fol-
14 lowing:

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

17 “(ii) If the alien is not in the custody
18 of the Secretary on the date the order of
19 removal becomes administratively final, the
20 date the alien is taken into such custody.

21 “(iii) If the alien is detained or con-
22 fined (except under an immigration proc-
23 ess) on the date the order of removal be-
24 comes administratively final, the date the
25 alien is taken into the custody of the Sec-

1 retary, after the alien is released from such
2 detention or confinement.”;

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

5 “(C) SUSPENSION OF PERIOD.—

6 “(i) EXTENSION.—The removal period
7 shall be extended beyond a period of 90
8 days and the Secretary may, in the Sec-
9 retary’s sole discretion, keep the alien in
10 detention during such extended period if—

11 “(I) the alien fails or refuses to
12 make all reasonable efforts to comply
13 with the removal order, or to fully co-
14 operate with the Secretary’s efforts to
15 establish the alien’s identity and carry
16 out the removal order, including mak-
17 ing timely application in good faith
18 for travel or other documents nec-
19 essary to the alien’s departure or con-
20 spires or acts to prevent the alien’s
21 removal that is subject to an order of
22 removal;

23 “(II) a court, the Board of Immi-
24 gration Appeals, or an immigration
25 judge orders a stay of removal of an

1 alien who is subject to an administra-
2 tively final order of removal;

3 “(III) the Secretary transfers
4 custody of the alien pursuant to law
5 to another Federal agency or a State
6 or local government agency in connec-
7 tion with the official duties of such
8 agency; or

9 “(IV) a court or the Board of
10 Immigration Appeals orders a remand
11 to an immigration judge or the Board
12 of Immigration Appeals, during the
13 time period when the case is pending
14 a decision on remand (with the re-
15 moval period beginning anew on the
16 date that the alien is ordered removed
17 on remand).

18 “(ii) RENEWAL.—If the removal pe-
19 riod has been extended under clause (C)(i),
20 a new removal period shall be deemed to
21 have begun on the date—

22 “(I) the alien makes all reason-
23 able efforts to comply with the re-
24 moval order, or to fully cooperate with
25 the Secretary’s efforts to establish the

1 alien's identity and carry out the re-
2 moval order;

3 “(II) the stay of removal is no
4 longer in effect; or

5 “(III) the alien is returned to the
6 custody of the Secretary.

7 “(iii) MANDATORY DETENTION FOR
8 CERTAIN ALIENS.—In the case of an alien
9 described in subparagraphs (A) through
10 (D) of section 236(c)(1), the Secretary
11 shall keep that alien in detention during
12 the extended period described in clause (i).

13 “(iv) SOLE FORM OF RELIEF.—An
14 alien may seek relief from detention under
15 this subparagraph only by filing an appli-
16 cation for a writ of habeas corpus in ac-
17 cordance with chapter 153 of title 28,
18 United States Code. No alien whose period
19 of detention is extended under this sub-
20 paragraph shall have the right to seek re-
21 lease on bond.”;

22 (4) in paragraph (3)—

23 (A) by adding after “If the alien does not
24 leave or is not removed within the removal pe-

riod” the following: “or is not detained pursuant to paragraph (6) of this subsection”; and

(B) by striking subparagraph (D) and inserting the following:

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

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

(6) by striking paragraph (6) and inserting the following:

“(6) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS.—

“(A) DETENTION REVIEW PROCESS FOR COOPERATIVE ALIENS ESTABLISHED.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary of Homeland Security’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or

1 other documents necessary to the alien's depar-
2 ture, and who has not conspired or acted to
3 prevent removal, the Secretary shall establish
4 an administrative review process to determine
5 whether the alien should be detained or released
6 on conditions. The Secretary shall make a de-
7 termination whether to release an alien after
8 the removal period in accordance with subpara-
9 graph (B). The determination shall include con-
10 sideration of any evidence submitted by the
11 alien, and may include consideration of any
12 other evidence, including any information or as-
13 sistance provided by the Secretary of State or
14 other Federal official and any other information
15 available to the Secretary of Homeland Security
16 pertaining to the ability to remove the alien.

17 “(B) AUTHORITY TO DETAIN BEYOND RE-
18 MOVAL PERIOD.—

19 “(i) IN GENERAL.—The Secretary of
20 Homeland Security, in the exercise of the
21 Secretary's sole discretion, may continue to
22 detain an alien for 90 days beyond the re-
23 moval period (including any extension of
24 the removal period as provided in para-
25 graph (1)(C)). An alien whose detention is

1 extended under this subparagraph shall
2 have no right to seek release on bond.

3 “(ii) SPECIFIC CIRCUMSTANCES.—The
4 Secretary of Homeland Security, in the ex-
5 ercise of the Secretary’s sole discretion,
6 may continue to detain an alien beyond the
7 90 days authorized in clause (i)—

8 “(I) until the alien is removed, if
9 the Secretary, in the Secretary’s sole
10 discretion, determines that there is a
11 significant likelihood that the alien—

12 “(aa) will be removed in the
13 reasonably foreseeable future; or

14 “(bb) would be removed in
15 the reasonably foreseeable future,
16 or would have been removed, but
17 for the alien’s failure or refusal
18 to make all reasonable efforts to
19 comply with the removal order,
20 or to cooperate fully with the
21 Secretary’s efforts to establish
22 the alien’s identity and carry out
23 the removal order, including
24 making timely application in
25 good faith for travel or other doc-

1 uments necessary to the alien’s
2 departure, or conspires or acts to
3 prevent removal;

4 “(II) until the alien is removed,
5 if the Secretary of Homeland Security
6 certifies in writing—

7 “(aa) in consultation with
8 the Secretary of Health and
9 Human Services, that the alien
10 has a highly contagious disease
11 that poses a threat to public safe-
12 ty;

13 “(bb) after receipt of a writ-
14 ten recommendation from the
15 Secretary of State, that release
16 of the alien is likely to have seri-
17 ous adverse foreign policy con-
18 sequences for the United States;

19 “(cc) based on information
20 available to the Secretary of
21 Homeland Security (including
22 classified, sensitive, or national
23 security information, and without
24 regard to the grounds upon
25 which the alien was ordered re-

1 moved), that there is reason to
2 believe that the release of the
3 alien would threaten the national
4 security of the United States; or

5 “(dd) that the release of the
6 alien will threaten the safety of
7 the community or any person,
8 conditions of release cannot rea-
9 sonably be expected to ensure the
10 safety of the community or any
11 person, and either (AA) the alien
12 has been convicted of one or
13 more aggravated felonies (as de-
14 fined in section 101(a)(43)(A))
15 or of one or more crimes identi-
16 fied by the Secretary of Home-
17 land Security by regulation, or of
18 one or more attempts or conspir-
19 acies to commit any such aggra-
20 vated felonies or such identified
21 crimes, if the aggregate term of
22 imprisonment for such attempts
23 or conspiracies is at least 5
24 years; or (BB) the alien has com-
25 mitted one or more crimes of vio-

1 lence (as defined in section 16 of
2 title 18, United States Code, but
3 not including a purely political
4 offense) and, because of a mental
5 condition or personality disorder
6 and behavior associated with that
7 condition or disorder, the alien is
8 likely to engage in acts of vio-
9 lence in the future; or

10 “(III) pending a certification
11 under subclause (II), so long as the
12 Secretary of Homeland Security has
13 initiated the administrative review
14 process not later than 30 days after
15 the expiration of the removal period
16 (including any extension of the re-
17 moval period, as provided in para-
18 graph (1)(C)).

19 “(iii) NO RIGHT TO BOND HEARING.—
20 An alien whose detention is extended under
21 this subparagraph shall have no right to
22 seek release on bond, including by reason
23 of a certification under clause (ii)(II).

24 “(C) RENEWAL AND DELEGATION OF CER-
25 TIFICATION.—

1 “(i) RENEWAL.—The Secretary of
2 Homeland Security may renew a certifi-
3 cation under subparagraph (B)(ii)(II)
4 every 6 months, after providing an oppor-
5 tunity for the alien to request reconsider-
6 ation of the certification and to submit
7 documents or other evidence in support of
8 that request. If the Secretary does not
9 renew a certification, the Secretary may
10 not continue to detain the alien under sub-
11 paragraph (B)(ii)(II).

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

20 “(iii) HEARING.—The Secretary of
21 Homeland Security may request that the
22 Attorney General or the Attorney General’s
23 designee provide for a hearing to make the
24 determination described in item (dd)(BB)
25 of subparagraph (B)(ii)(II).

1 “(D) RELEASE ON CONDITIONS.—If it is
2 determined that an alien should be released
3 from detention by a Federal court, the Board of
4 Immigration Appeals, or if an immigration
5 judge orders a stay of removal, the Secretary of
6 Homeland Security, in the exercise of the Sec-
7 retary’s discretion, may impose conditions on
8 release as provided in paragraph (3).

9 “(E) REDETENTION.—The Secretary of
10 Homeland Security, in the exercise of the Sec-
11 retary’s discretion, without any limitations
12 other than those specified in this section, may
13 again detain any alien subject to a final re-
14 moval order who is released from custody, if re-
15 moval becomes likely in the reasonably foresee-
16 able future, the alien fails to comply with the
17 conditions of release, or to continue to satisfy
18 the conditions described in subparagraph (A),
19 or if, upon reconsideration, the Secretary, in
20 the Secretary’s sole discretion, determines that
21 the alien can be detained under subparagraph
22 (B). This section shall apply to any alien re-
23 turned to custody pursuant to this subpara-
24 graph, as if the removal period terminated on
25 the day of the redetention.

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

5 (b) DETENTION OF ALIENS DURING REMOVAL PRO-
6 CEEDINGS.—

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

13 (B) Section 236(a) of such Act (8 U.S.C.
14 1226(a)) is amended by inserting “the Secretary of
15 Homeland Security or” before “the Attorney Gen-
16 eral—”.

17 (C) Section 236(e) of such Act (8 U.S.C.
18 1226(e)) is amended by striking “Attorney Gen-
19 eral’s” and inserting “Secretary of Homeland Secu-
20 rity’s”.

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

24 “(f) LENGTH OF DETENTION.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of this section, an alien may be detained,
3 and for an alien described in subsection (c) shall be
4 detained, under this section without time limitation,
5 except as provided in subsection (h), during the
6 pendency of removal proceedings.

7 “(2) CONSTRUCTION.—The length of detention
8 under this section shall not affect detention under
9 section 241.”.

10 (3) DETENTION OF CRIMINAL ALIENS.—Section
11 236(c)(1) of the Immigration and Nationality Act (8
12 U.S.C. 1226(c)(1)) (as amended by section 310(b))
13 is further amended, in the matter following subpara-
14 graph (E) to read as follows:

15 “any time after the alien is released, without regard
16 to whether an alien is released related to any activ-
17 ity, offense, or conviction described in this para-
18 graph; to whether the alien is released on parole, su-
19 pervised release, or probation; or to whether the
20 alien may be arrested or imprisoned again for the
21 same offense. If the activity described in this para-
22 graph does not result in the alien being taken into
23 custody by any person other than the Secretary,
24 then when the alien is brought to the attention of
25 the Secretary or when the Secretary determines it is

1 practical to take such alien into custody, the Sec-
 2 retary shall take such alien into 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.—

19 “(h) RELEASE ON BOND.—

20 “(1) IN GENERAL.—An alien detained under
 21 subsection (a) may seek release on bond. No bond
 22 may be granted except to an alien who establishes
 23 by clear and convincing evidence that the alien is not
 24 a flight risk or a risk to another person or the com-
 25 munity.

1 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
2 detained under subsection (c) may seek release on
3 bond.”.

4 (5) CLERICAL AMENDMENTS.—(A) Section
5 236(a)(2)(B) of the Immigration and Nationality
6 Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-
7 ing “conditional parole” and inserting “recog-
8 nizance”.

9 (B) Section 236(b) of such Act (8 U.S.C.
10 1226(b)) is amended by striking “parole” and in-
11 serting “recognizance”.

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

20 (d) EFFECTIVE DATES.—

21 (1) The amendments made by subsection (a)
22 shall take effect upon the date of enactment of this
23 Act, and section 241 of the Immigration and Na-
24 tionality Act, as so amended, shall in addition apply
25 to—

1 (A) all aliens subject to a final administra-
 2 tive removal, deportation, or exclusion order
 3 that was issued before, on, or after the date of
 4 the enactment of this Act; and

5 (B) acts and conditions occurring or exist-
 6 ing before, on, or after such date.

7 (2) The amendments made by subsection (b)
 8 shall take effect upon the date of the enactment of
 9 this Act, and section 236 of the Immigration and
 10 Nationality Act, as so amended, shall in addition
 11 apply to any alien in detention under provisions of
 12 such section on or after such date.

13 **SEC. 312. GROUNDS OF INADMISSIBILITY AND DEPORT-**
 14 **ABILITY FOR ALIEN GANG MEMBERS.**

15 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
 16 of the Immigration and Nationality Act (8 U.S.C.
 17 1101(a)) is amended by adding at the end the following:

18 “(53)(A) The term ‘criminal gang’ means an ongoing
 19 group, club, organization, or association of 5 or more per-
 20 sons that has as one of its primary purposes the commis-
 21 sion of 1 or more of the following criminal offenses and
 22 the members of which engage, or have engaged within the
 23 past 5 years, in a continuing series of such offenses, or
 24 that has been designated as a criminal gang by the Sec-
 25 retary of Homeland Security, in consultation with the At-

1 torney General, as meeting these criteria. The offenses de-
2 scribed, whether in violation of Federal or State law or
3 foreign law and regardless of whether the offenses oc-
4 curred before, on, or after the date of the enactment of
5 this paragraph, are the following:

6 “(i) A ‘felony drug offense’ (as defined in sec-
7 tion 102 of the Controlled Substances Act (21
8 U.S.C. 802)).

9 “(ii) An offense under section 274 (relating to
10 bringing in and harboring certain aliens), section
11 277 (relating to aiding or assisting certain aliens to
12 enter the United States), or section 278 (relating to
13 importation of alien for immoral purpose).

14 “(iii) A crime of violence (as defined in section
15 16 of title 18, United States Code).

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

19 “(v) Any conduct punishable under sections
20 1028 and 1029 of title 18, United States Code (re-
21 lating to fraud and related activity in connection
22 with identification documents or access devices), sec-
23 tions 1581 through 1594 of such title (relating to
24 peonage, slavery and trafficking in persons), section
25 1952 of such title (relating to interstate and foreign

1 travel or transportation in aid of racketeering enter-
2 prises), section 1956 of such title (relating to the
3 laundering of monetary instruments), section 1957
4 of such title (relating to engaging in monetary trans-
5 actions in property derived from specified unlawful
6 activity), or sections 2312 through 2315 of such title
7 (relating to interstate transportation of stolen motor
8 vehicles or stolen property).

9 “(vi) A conspiracy to commit an offense de-
10 scribed in clauses (i) through (v).

11 “(B) Notwithstanding any other provision of law (in-
12 cluding any effective date), the term applies regardless of
13 whether the conduct occurred before, on, or after the date
14 of the enactment of this paragraph.”.

15 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
16 (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
17 of this Act, is further amended by adding at the end the
18 following:

19 “(N) ALIENS ASSOCIATED WITH CRIMINAL
20 GANGS.—Any alien is inadmissible who a con-
21 sular officer, the Secretary of Homeland Secu-
22 rity, or the Attorney General knows or has rea-
23 son to believe—

1 “(i) to be or to have been a member
 2 of a criminal gang (as defined in section
 3 101(a)(53)); or

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

10 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
 11 migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
 12 amended by section 302(c) of this Act, is further amended
 13 by adding at the end the following:

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

18 “(i) is or has been a member of a
 19 criminal gang (as defined in section
 20 101(a)(53)); or

21 “(ii) has participated in the activities
 22 of a criminal gang (as so defined), knowing
 23 or having reason to know that such activi-
 24 ties will promote, further, aid, or support
 25 the illegal activity of the criminal gang.”.

1 (d) DESIGNATION.—

2 (1) IN GENERAL.—Chapter 2 of title II of the
3 Immigration and Nationality Act (8 U.S.C. 1182) is
4 amended by inserting after section 219 the fol-
5 lowing:

6 “DESIGNATION

7 “SEC. 220. (a) IN GENERAL.—The Secretary of
8 Homeland Security, in consultation with the Attorney
9 General, and the Secretary of State may designate a group
10 or association as a criminal street gang if their conduct
11 is described in section 101(a)(53) or if the group or asso-
12 ciation conduct poses a significant risk that threatens the
13 security and the public safety of United States nationals
14 or the national security, homeland security, foreign policy,
15 or economy of the United States.

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

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

“220. Designation.”.

24 (e) MANDATORY DETENTION OF CRIMINAL STREET
25 GANG MEMBERS.—

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

4 (A) by inserting “or 212(a)(2)(N)” after
 5 “212(a)(3)(B)”; and

6 (B) by inserting “237(a)(2)(H) or” before
 7 “237(a)(4)(B)”.

8 (2) ANNUAL REPORT.—Not later than March 1
 9 of each year (beginning 1 year after the date of the
 10 enactment of this Act), the Secretary of Homeland
 11 Security, after consultation with the appropriate
 12 Federal agencies, shall submit a report to the Com-
 13 mittees on the Judiciary of the House of Represent-
 14 atives and of the Senate on the number of aliens de-
 15 tained under the amendments made by paragraph
 16 (1).

17 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
 18 ATION.—

19 (1) INAPPLICABILITY OF RESTRICTION ON RE-
 20 MOVAL TO CERTAIN COUNTRIES.—Section
 21 241(b)(3)(B) of the Immigration and Nationality
 22 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
 23 matter preceding clause (i), by inserting “who is de-
 24 scribed in section 212(a)(2)(N)(i) or section
 25 237(a)(2)(H)(i) or 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))
3 (as 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
15 of such Act (8 U.S.C. 1254a) is amended—

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

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 crimi-
3 nal gang (as defined in section
4 101(a)(53)).”; 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 Se-
9 curity may detain an alien provided temporary
10 protected status under this section whenever
11 appropriate under any other provision of law.”.

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

16 **SEC. 313. EXTENSION OF IDENTITY THEFT OFFENSES.**

17 Section 1028A of title 18, United States Code, is
18 amended by adding at the end the following:

19 “(d) STATE OF MIND PROOF REQUIREMENT.—In a
20 prosecution for a violation of subsection (a)(1) predicated
21 on a violation described in subsection (c)(2), (6), (7), (9),
22 or (10) of this section, the Government need not prove
23 that the defendant knew the means of identification was
24 of another person.”.

1 **SEC. 314. LAUNDERING OF MONETARY INSTRUMENTS.**

2 (a) ADDITIONAL PREDICATE OFFENSES.—Section
3 1956(c)(7)(D) of title 18, United States Code, is amend-
4 ed—

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

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

15 (b) INTENT TO CONCEAL OR DISGUISE.—Section
16 1956(a) of title 18, United States Code, is amended—

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

19 “(B) knowing that the transaction—

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

24 “(ii) avoids, or is intended to avoid, a
25 transaction reporting requirement under State
26 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,
5 or transfer represent the proceeds of some form of
6 unlawful activity, and knowing that such transpor-
7 tation, 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. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

16 (a) IN GENERAL.—Section 275 of the Immigration
17 and Nationality Act (8 U.S.C. 1325) is amended to read
18 as follows:

19 “SEC. 275. (a) IN GENERAL.—

20 “(1) ILLEGAL ENTRY OR PRESENCE.—An alien
21 shall be subject to the penalties set forth in para-
22 graph (2) if the alien—

23 “(A) knowingly enters or crosses the bor-
24 der into the United States at any time or place

1 other than as designated by the Secretary of
2 Homeland Security;

3 “(B) knowingly eludes, at any time or
4 place, examination or inspection by an author-
5 ized immigration, customs, or agriculture offi-
6 cer (including by failing to stop at the com-
7 mand of such officer);

8 “(C) knowingly enters or crosses the bor-
9 der to the United States and, upon examination
10 or inspection, knowingly makes a false or mis-
11 leading representation or the knowing conceal-
12 ment of a material fact (including such rep-
13 resentation or concealment in the context of ar-
14 rival, reporting, entry, or clearance require-
15 ments of the customs laws, immigration laws,
16 agriculture laws, or shipping laws);

17 “(D) knowingly violates the terms or con-
18 ditions of the alien’s admission or parole into
19 the United States; or

20 “(E) knowingly is unlawfully present in the
21 United States (as defined in section
22 212(a)(9)(B)(ii) subject to the exceptions set
23 for in section 212(a)(9)(B)(iii)).

24 “(2) CRIMINAL PENALTIES.—Any alien who
25 violates any provision under paragraph (1)—

1 “(A) shall, for the first violation, be fined
2 under title 18, United States Code, imprisoned
3 not more than 6 months, or both;

4 “(B) shall, for a second or subsequent vio-
5 lation, or following an order of voluntary depar-
6 ture, be fined under such title, imprisoned not
7 more than 2 years (or not more than 6 months
8 in the case of a second or subsequent violation
9 of paragraph (1)(E)), or both;

10 “(C) if the violation occurred after the
11 alien had been convicted of 3 or more mis-
12 demeanors or for a felony, shall be fined under
13 such title, imprisoned not more than 10 years,
14 or both;

15 “(D) if the violation occurred after the
16 alien had been convicted of a felony for which
17 the alien received a term of imprisonment of
18 not less than 30 months, shall be fined under
19 such title, imprisoned not more than 15 years,
20 or both; and

21 “(E) if the violation occurred after the
22 alien had been convicted of a felony for which
23 the alien received a term of imprisonment of
24 not less than 60 months, such alien shall be

1 fined under such title, imprisoned not more
2 than 20 years, or both.

3 “(3) PRIOR CONVICTIONS.—The prior convic-
4 tions described in subparagraphs (C) through (E) of
5 paragraph (2) are elements of the offenses described
6 and the penalties in such subparagraphs shall apply
7 only in cases in which the conviction or convictions
8 that form the basis for the additional penalty are—

9 “(A) alleged in the indictment or informa-
10 tion; and

11 “(B) proven beyond a reasonable doubt at
12 trial or admitted by the defendant.

13 “(4) DURATION OF OFFENSE.—An offense
14 under this subsection continues until the alien is dis-
15 covered within the United States by an immigration,
16 customs, or agriculture officer.

17 “(5) ATTEMPT.—Whoever attempts to commit
18 any offense under this section shall be punished in
19 the same manner as for a completion of such of-
20 fense.

21 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
22 ALTIES.—Any alien who is apprehended while entering, at-
23 tempting to enter, or knowingly crossing or attempting to
24 cross the border to the United States at a time or place
25 other than as designated by immigration officers shall be

1 subject to a civil penalty, in addition to any criminal or
 2 other civil penalties that may be imposed under any other
 3 provision of law, in an amount equal to—

4 “(1) not less than \$50 or more than \$250 for
 5 each such entry, crossing, attempted entry, or at-
 6 tempted crossing; or

7 “(2) twice the amount specified in paragraph
 8 (1) if the alien had previously been subject to a civil
 9 penalty under this subsection.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
 11 for the Immigration and Nationality Act is amended by
 12 striking the item relating to section 275 and inserting the
 13 following:

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

14 **SEC. 316. ILLEGAL REENTRY.**

15 Section 276 of the Immigration and Nationality Act
 16 (8 U.S.C. 1326) is amended to read as follows:

17 “REENTRY OF REMOVED ALIEN

18 “SEC. 276. (a) REENTRY AFTER REMOVAL.—Any
 19 alien who has been denied admission, excluded, deported,
 20 or removed, or who has departed the United States while
 21 an order of exclusion, deportation, or removal is out-
 22 standing, and subsequently enters, attempts to enter,
 23 crosses the border to, attempts to cross the border to, or
 24 is at any time found in the United States, shall be fined

1 under title 18, United States Code, imprisoned not more
2 than 2 years, or both.

3 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
4 withstanding the penalty provided in subsection (a), if an
5 alien described in that subsection was convicted before
6 such removal or departure—

7 “(1) for 3 or more misdemeanors or for a fel-
8 ony, the alien shall be fined under title 18, United
9 States Code, imprisoned not more than 10 years, or
10 both;

11 “(2) for a felony for which the alien was sen-
12 tenced to a term of imprisonment of not less than
13 30 months, the alien shall be fined under such title,
14 imprisoned not less than 2 years and not more than
15 15 years, or both;

16 “(3) for a felony for which the alien was sen-
17 tenced to a term of imprisonment of not less than
18 60 months, the alien shall be fined under such title,
19 imprisoned not less than 4 years and not more than
20 20 years, or both; or

21 “(4) for murder, rape, kidnapping, or a felony
22 offense described in chapter 77 (relating to peonage
23 and slavery) or 113B (relating to terrorism) of such
24 title, or for 3 or more felonies of any kind, the alien

1 shall be fined under such title, imprisoned not less
2 than 5 years and not more than 25 years, or both.

3 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
4 alien who has been denied admission, excluded, deported,
5 or removed 3 or more times and thereafter enters, at-
6 tempts to enter, crosses the border to, attempts to cross
7 the border to, or is at any time found in the United States,
8 shall be fined under title 18, United States Code, impris-
9 oned not more than 10 years, or both.

10 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
11 convictions described in subsection (b) are elements of the
12 crimes described, and the penalties in that subsection shall
13 apply only in cases in which the conviction or convictions
14 that form the basis for the additional penalty are—

15 “(1) alleged in the indictment or information;
16 and

17 “(2) proven beyond a reasonable doubt at trial
18 or admitted by the defendant.

19 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
20 firmative defense to a violation of this section that—

21 “(1) prior to the alleged violation, the alien had
22 sought and received the express consent of the Sec-
23 retary of Homeland Security to reapply for admis-
24 sion into the United States; or

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

3 “(A) was not required to obtain such ad-
4 vance consent under the Immigration and Na-
5 tionality Act or any prior Act; and

6 “(B) had complied with all other laws and
7 regulations governing the alien’s admission into
8 the United States.

9 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
10 DERLYING REMOVAL ORDER.—In a criminal proceeding
11 under this section, an alien may not challenge the validity
12 of any prior removal order concerning the alien.

13 “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-
14 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
15 moved pursuant to section 241(a)(4) who enters, attempts
16 to enter, crosses the border to, attempts to cross the bor-
17 der to, or is at any time found in, the United States shall
18 be incarcerated for the remainder of the sentence of im-
19 prisonment which was pending at the time of deportation
20 without any reduction for parole or supervised release un-
21 less the alien affirmatively demonstrates that the Sec-
22 retary of Homeland Security has expressly consented to
23 the alien’s reentry. Such alien shall be subject to such
24 other penalties relating to the reentry of removed aliens

1 as may be available under this section or any other provi-
2 sion of law.

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

5 “(1) CROSSES THE BORDER TO THE UNITED
6 STATES.—The term ‘crosses the border’ refers to the
7 physical act of crossing the border, regardless of
8 whether the alien is free from official restraint.

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

13 “(3) MISDEMEANOR.—The term ‘misdemeanor’
14 means any criminal offense punishable by a term of
15 imprisonment of not more than 1 year under the ap-
16 plicable laws of the United States, any State, or a
17 foreign government.

18 “(4) REMOVAL.—The term ‘removal’ includes
19 any denial of admission, exclusion, deportation, or
20 removal, or any agreement by which an alien stipu-
21 lates or agrees to exclusion, deportation, or removal.

22 “(5) STATE.—The term ‘State’ means a State
23 of the United States, the District of Columbia, and
24 any commonwealth, territory, or possession of the
25 United States.”.

1 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**

2 **FRAUD OFFENSES.**

3 Chapter 75 of title 18, United States Code, is amend-
4 ed to read as follows:

5 **“CHAPTER 75—PASSPORTS AND VISAS**

“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.

6 **“§ 1541. Issuance without authority**

7 “(a) IN GENERAL.—Whoever—

8 “(1) acting or claiming to act in any office or
9 capacity under the United States, or a State, with-
10 out lawful authority grants, issues, or verifies any
11 passport or other instrument in the nature of a
12 passport to or for any person; or

13 “(2) being a consular officer authorized to
14 grant, issue, or verify passports, knowingly grants,
15 issues, or verifies any such passport to or for any
16 person not owing allegiance, to the United States,
17 whether a citizen or not;

18 shall be fined under this title or imprisoned not more than
19 15 years, or both.

20 “(b) DEFINITION.—In this section, the term ‘State’
21 means a State of the United States, the District of Colum-

1 bia, and any commonwealth, territory, or possession of the
2 United States.

3 **“§ 1542. False statement in application and use of**
4 **passport**

5 “Whoever knowingly—

6 “(1) makes any false statement in an applica-
7 tion for passport with intent to induce or secure the
8 issuance of a passport under the authority of the
9 United States, either for his own use or the use of
10 another, contrary to the laws regulating the issuance
11 of passports or the rules prescribed pursuant to such
12 laws; or

13 “(2) uses or attempts to use, or furnishes to
14 another for use any passport the issue of which was
15 secured in any way by reason of any false statement;
16 shall be fined under this title or imprisoned not more than
17 15 years, or both.

18 **“§ 1543. Forgery or false use of passport**

19 “Whoever—

20 “(1) falsely makes, forges, counterfeits, muti-
21 lates, or alters any passport or instrument pur-
22 porting to be a passport, with intent that the same
23 may be used; or

24 “(2) knowingly uses, or attempts to use, or fur-
25 nishes to another for use any such false, forged,

1 counterfeited, mutilated, or altered passport or in-
2 strument purporting to be a passport, or any pass-
3 port validly issued which has become void by the oc-
4 currence of any condition therein prescribed invali-
5 dating the same;

6 shall be fined under this title or imprisoned not more than
7 15 years, or both.

8 **“§ 1544. Misuse of a passport**

9 “Whoever knowingly—

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

12 “(2) uses any passport in violation of the condi-
13 tions or restrictions therein contained, or in violation
14 of the laws, regulations, or rules governing the
15 issuance and use of the passport;

16 “(3) secures, possesses, uses, receives, buys,
17 sells, or distributes any passport knowing it to be
18 forged, counterfeited, altered, falsely made, procured
19 by fraud, stolen, or produced or issued without law-
20 ful authority; or

21 “(4) violates the terms and conditions of any
22 safe conduct duly obtained and issued under the au-
23 thority of the United States;

24 shall be fined under this title, imprisoned not more than
25 15 years, or both.

1 **“§ 1545. Schemes to defraud aliens**

2 “Whoever inside the United States, or in or affecting
3 interstate or foreign commerce, in connection with any
4 matter that is authorized by or arises under the immigra-
5 tion laws of the United States or any matter the offender
6 claims or represents is authorized by or arises under the
7 immigration laws of the United States, knowingly executes
8 a scheme or artifice—

9 “(1) to defraud any person, or

10 “(2) to obtain or receive money or anything else
11 of value from any person by means of false or fraud-
12 ulent pretenses, representations, or promises;
13 shall be fined under this title, imprisoned not more than
14 15 years, or both.

15 **“§ 1546. Immigration and visa fraud**

16 “Whoever knowingly—

17 “(1) uses any immigration document issued or
18 designed for the use of another;

19 “(2) forges, counterfeits, alters, or falsely
20 makes any immigration document;

21 “(3) mails, prepares, presents, or signs any im-
22 migration document knowing it to contain any mate-
23 rially false statement or representation;

24 “(4) secures, possesses, uses, transfers, re-
25 ceives, buys, sells, or distributes any immigration
26 document knowing it to be forged, counterfeited, al-

1 tered, falsely made, stolen, procured by fraud, or
2 produced or issued without lawful authority;

3 “(5) adopts or uses a false or fictitious name to
4 evade or to attempt to evade the immigration laws;

5 “(6) transfers or furnishes, without lawful au-
6 thority, an immigration document to another person
7 for use by a person other than the person for whom
8 the immigration document was issued or designed;
9 or

10 “(7) produces, issues, authorizes, or verifies,
11 without lawful authority, an immigration document;
12 shall be fined under this title, imprisoned not more than
13 15 years, or both.

14 **“§ 1547. Attempts and conspiracies**

15 “Whoever attempts or conspires to violate this chap-
16 ter shall be punished in the same manner as a person who
17 completes that violation.

18 **“§ 1548. Alternative penalties for certain offenses**

19 “(a) **TERRORISM.**—Whoever violates any section in
20 this chapter to facilitate an act of international terrorism
21 or domestic terrorism (as such terms are defined in section
22 2331), shall be fined under this title or imprisoned not
23 more than 25 years, or both.

24 “(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-
25 lates any section in this chapter to facilitate a drug traf-

1 ficking crime (as defined in section 929(a)) shall be fined
2 under this title or imprisoned not more than 20 years, or
3 both.

4 **“§ 1549. Definitions**

5 “In this chapter:

6 “(1) An ‘application for a United States pass-
7 port’ includes any document, photograph, or other
8 piece of evidence attached to or submitted in support
9 of the application.

10 “(2) The term ‘immigration document’ means
11 any instrument on which is recorded, by means of
12 letters, figures, or marks, matters which may be
13 used to fulfill any requirement of the Immigration
14 and Nationality Act.”.

15 **SEC. 318. FORFEITURE.**

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

18 “(I) Any property, real or personal, that has
19 been used to commit or facilitate the commission of
20 a violation of chapter 75, the gross proceeds of such
21 violation, and any property traceable to any such
22 property or proceeds.”.

1 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
2 **ON CRIMINAL OR SECURITY GROUNDS.**

3 (a) IN GENERAL.—Section 238(b) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1228(b)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “Attorney General” and in-
7 serting “Secretary of Homeland Security in the
8 exercise of discretion”; and

9 (B) by striking “set forth in this sub-
10 section or” and inserting “set forth in this sub-
11 section, in lieu of removal proceedings under”;

12 (2) in paragraph (3), by striking “paragraph
13 (1) until 14 calendar days” and inserting “para-
14 graph (1) or (3) until 7 calendar days”;

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

18 (4) in paragraph (5)—

19 (A) by striking “described in this section”
20 and inserting “described in paragraph (1) or
21 (2)”; and

22 (B) by striking “the Attorney General may
23 grant in the Attorney General’s discretion” and
24 inserting “the Secretary of Homeland Security
25 or the Attorney General may grant, in the dis-

1 cretion of the Secretary or Attorney General, in
2 any proceeding”;

3 (5) by redesignating paragraphs (3), (4), and
4 (5) as paragraphs (4), (5), and (6), respectively; and
5 (6) by inserting after paragraph (2) the fol-
6 lowing new paragraph:

7 “(3) The Secretary of Homeland Security in
8 the exercise of discretion may determine inadmis-
9 sibility under section 212(a)(2) (relating to criminal
10 offenses) or section 212(a)(3)(related to security
11 grounds) and issue an order of removal pursuant to
12 the procedures set forth in this subsection, in lieu of
13 removal proceedings under section 240, with respect
14 to an alien who—

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

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

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

21 (b) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall take effect on the date of the enact-
23 ment of this Act but shall not apply to aliens who are
24 in removal proceedings under section 240 of the Immigra-
25 tion and Nationality Act as of such date.

1 **SEC. 320. INCREASED PENALTIES BARRING THE ADMIS-**
2 **SION OF CONVICTED SEX OFFENDERS FAIL-**
3 **ING TO REGISTER AND REQUIRING DEPORTA-**
4 **TION OF SEX OFFENDERS FAILING TO REG-**
5 **ISTER.**

6 (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1182(a)(2)(A)(i)), as amended by section 302(a) of this
9 Act, is further amended—

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

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

14 (3) by inserting after subclause (III) the fol-
15 lowing:

16 “(IV) a violation of section 2250
17 of title 18, United States Code (relat-
18 ing to failure to register as a sex of-
19 fender),”.

20 (b) DEPORTABILITY.—Section 237(a)(2) of such Act
21 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and
22 311(c) of this Act, is further amended—

23 (1) in subparagraph (A), by striking clause (v);
24 and

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

1 “(I) FAILURE TO REGISTER AS A SEX OF-
2 FENDER.—Any alien convicted of, or who ad-
3 mits having committed, or who admits commit-
4 ting acts which constitute the essential elements
5 of a violation of section 2250 of title 18, United
6 States Code (relating to failure to register as a
7 sex offender) is deportable.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect on the date of the enactment
10 of this Act and shall apply to acts that occur before, on,
11 or after the date of the enactment of this Act.

12 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED**
13 **SEX OFFENDERS.**

14 (a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-
16 ed—

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

19 “(viii) Clause (i) shall not apply to a citizen of the
20 United States who has been convicted of an offense de-
21 scribed in subparagraph (A), (I), or (K) of section
22 101(a)(43), unless the Secretary of Homeland Security,
23 in the Secretary’s sole and unreviewable discretion, deter-
24 mines that the citizen poses no risk to the alien with re-

1 spect to whom a petition described in clause (i) is filed.”;

2 and

3 (2) in subparagraph (B)(i)—

4 (A) by redesignating the second subclause

5 (I) as subclause (II); and

6 (B) by amending such subclause (II) to

7 read as follows:

8 “(II) Subclause (I) shall not apply in the case of an
9 alien admitted for permanent residence who has been con-
10 victed of an offense described in subparagraph (A), (I),
11 or (K) of section 101(a)(43), unless the Secretary of
12 Homeland Security, in the Secretary’s sole and
13 unreviewable discretion, determines that the alien lawfully
14 admitted for permanent residence poses no risk to the
15 alien with respect to whom a petition described in sub-
16 clause (I) is filed.”.

17 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of
18 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-
19 ing “204(a)(1)(A)(viii)(I)” each place such term appears
20 and inserting “204(a)(1)(A)(viii)”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply to petitions filed on or after
24 such date.

1 **SEC. 322. CLARIFICATION TO CRIMES OF VIOLENCE AND**
2 **CRIMES INVOLVING MORAL TURPITUDE.**

3 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
4 the Immigration and Nationality Act (8 U.S.C.
5 1182(a)(2)(A)) is amended by adding at the end the fol-
6 lowing:

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

16 (b) DEPORTABLE ALIENS.—

17 (1) GENERAL CRIMES.—Section 237(a)(2)(A)
18 of such Act (8 U.S.C. 1227(a)(2)(A)), as amended
19 by section 320(b) of this Act, is further amended by
20 inserting after clause (iv) the following:

21 “(v) CRIMES INVOLVING MORAL TUR-
22 PITUDE.—If the conviction records do not
23 conclusively establish whether a crime con-
24 stitutes a crime involving moral turpitude,
25 the Attorney General may consider other
26 evidence related to the conviction that

1 clearly establishes that the conduct for
2 which the alien was engaged constitutes a
3 crime involving moral turpitude.”.

4 (2) DOMESTIC VIOLENCE.—Section
5 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))
6 is amended by adding at the end the following:

7 “(iii) CRIMES OF VIOLENCE.—If the
8 conviction records do not conclusively es-
9 tablish whether a crime of domestic vio-
10 lence constitutes a crime of violence (as de-
11 fined in section 16 of title 18, United
12 States Code), the Attorney General may
13 consider other evidence related to the con-
14 viction that clearly establishes that the
15 conduct for which the alien was engaged
16 constitutes a crime of violence.”.

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

21 **SEC. 323. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
22 **DERS.**

23 (a) IN GENERAL.—Section 243(a) of the Immigra-
24 tion and Nationality Act (8 U.S.C. 1253(a)) is amended—

1 (1) in the matter preceding subparagraph (A)
2 of paragraph (1), by inserting “212(a) or” before
3 “237(a),”; and

4 (2) by striking paragraph (3).

5 (b) **EFFECTIVE DATE.**—The amendments made by
6 subsection (a) shall take effect on the date of the enact-
7 ment of this Act and shall apply to acts that are described
8 in subparagraphs (A) through (D) of section 243(a)(1) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1253(a)(1)) that occur on or after the date of the enact-
11 ment of this Act.

12 **SEC. 324. PARDONS.**

13 (a) **DEFINITION.**—Section 101(a) of the Immigration
14 and Nationality Act (8 U.S.C. 1101(a)), as amended by
15 section 312(a) of this Act, is further amended by adding
16 at the end the following:

17 “(54) The term ‘pardon’ means a full and uncondi-
18 tional pardon granted by the President of the United
19 States, Governor of any of the several States or constitu-
20 tionally recognized body.”.

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

23 (1) in paragraph (2)(A), by striking clause (vi);
24 and

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

1 “(8) PARDONS.—In the case of an alien who
2 has been convicted of a crime and is subject to re-
3 moval due to that conviction, if the alien, subsequent
4 to receiving the criminal conviction, is granted a
5 pardon, the alien shall not be deportable by reason
6 of that criminal conviction.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of the enactment
9 of this Act and shall apply to a pardon granted before,
10 on, or after such date.

11 **SEC. 325. CONVICTIONS.**

12 (a) Section 212(a)(2) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1182(a)(2)) is amended by adding at
14 the end the following subparagraph:

15 “(J) CONVICTIONS.—

16 “(i) IN GENERAL.—For purposes of
17 determining whether an underlying crimi-
18 nal offense constitutes a ground of inad-
19 missibility under this subsection, all stat-
20 utes or common law offenses are divisible
21 so long as any of the conduct encompassed
22 by the statute constitutes an offense that
23 is a ground of inadmissibility.

24 “(ii) OTHER EVIDENCE.—If the con-
25 viction records do not conclusively establish

1 whether a crime constitutes a ground of in-
2 admissibility, the Attorney General or the
3 Secretary of Homeland Security may con-
4 sider other evidence related to the convic-
5 tion that clearly establishes that the con-
6 duct for which the alien was engaged con-
7 stitutes a ground of inadmissibility.”.

8 (b) Section 237(a)(2) of the Immigration and Nation-
9 ality Act (8 U.S.C. 1227(a)(2)) is amended by adding at
10 the end the following subparagraph:

11 “(G) CRIMINAL OFFENSES.—

12 “(i) IN GENERAL.—For purposes of
13 determining whether an underlying crimi-
14 nal offense constitutes a ground of deport-
15 ability under this subsection, all statutes or
16 common law offenses are divisible so long
17 as any of the conduct encompassed by the
18 statute constitutes an offense that is a
19 ground of deportability.

20 “(ii) OTHER EVIDENCE.—If the con-
21 viction records do not conclusively establish
22 whether a crime constitutes a ground of
23 deportability, the Attorney General or the
24 Secretary of Homeland Security may con-
25 sider other evidence related to the convic-

1 tion that clearly establishes that the con-
 2 duct for which the alien was engaged con-
 3 stitutes a ground of deportability.”.

4 **TITLE IV—VISA SECURITY**

5 **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

6 (a) IN GENERAL.—Section 222(g) of the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

8 (1) in paragraph (1)—

9 (A) by striking “Attorney General” and in-
 10 serting “Secretary”; and

11 (B) by inserting “and any other non-
 12 immigrant visa issued by the United States that
 13 is in the possession of the alien” after “such
 14 visa”; and

15 (2) in paragraph (2)(A), by striking “(other
 16 than the visa described in paragraph (1)) issued in
 17 a consular office located in the country of the alien’s
 18 nationality” and inserting “(other than a visa de-
 19 scribed in paragraph (1)) issued in a consular office
 20 located in the country of the alien’s nationality or
 21 foreign residence”.

22 (b) EFFECTIVE DATE.—The amendment made by
 23 subsection (a) shall take effect on the date of the enact-
 24 ment of this Act and shall apply to a visa issued before,
 25 on, or after such date.

1 **SEC. 402. VISA INFORMATION SHARING.**

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

4 (1) by striking “issuance or refusal” and insert-
5 ing “issuance, refusal, or revocation”;

6 (2) in paragraph (2), in the matter preceding
7 subparagraph (A), by striking “and on the basis of
8 reciprocity”;

9 (3) in paragraph (2)(A)—

10 (A) by inserting “(i)” after “for the pur-
11 pose of”; and

12 (B) by striking “illicit weapons; or” and
13 inserting “illicit weapons, or (ii) determining a
14 person’s deportability or eligibility for a visa,
15 admission, or other immigration benefit;”;

16 (4) in paragraph (2)(B)—

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

19 (B) by striking “or to deny visas to per-
20 sons who would be inadmissible to the United
21 States.” and inserting “; or”; and

22 (5) in paragraph (2), by adding at the end the
23 following:

24 “(C) with regard to any or all aliens in the
25 database specified data elements from each
26 record, if the Secretary of State determines that

1 it is in the national interest to provide such in-
2 formation to a foreign government.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect 60 days after the date of
5 the enactment of the Act.

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

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

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

12 (2) in paragraph (1)(C)(i), by inserting “,
13 where such national interest shall not include facili-
14 tation of travel of foreign nationals to the United
15 States, reduction of visa application processing
16 times, or the allocation of consular resources” before
17 the semicolon at the end; and

18 (3) in paragraph (2)—

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

21 (B) by striking the period at the end of
22 subparagraph (F) and inserting “; or”; and

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

24 “(G) is an individual—

1 “(i) determined to be in a class of
2 aliens determined by the Secretary of
3 Homeland Security to be threats to na-
4 tional security;

5 “(ii) identified by the Secretary of
6 Homeland Security as a person of concern;
7 or

8 “(iii) applying for a visa in a visa cat-
9 egory with respect to which the Secretary
10 of Homeland Security has determined that
11 a waiver of the visa interview would create
12 a high risk of degradation of visa program
13 integrity.”.

14 **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**
15 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
16 **APPLICANTS.**

17 (a) IN GENERAL.—Section 222(h)(1) of the Immi-
18 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is
19 amended by inserting “the alien is determined by the Sec-
20 retary of State to be ineligible for a visa based upon review
21 of the application or” after “unless”.

22 (b) GUIDANCE.—Not later than 90 days after the
23 date of the enactment of this Act, the Secretary of State
24 shall issue guidance to consular officers on the standards
25 and processes for implementing the authority to deny visa

1 applications without interview in cases where the alien is
2 determined by the Secretary of State to be ineligible for
3 a visa based upon review of the application.

4 (c) REPORTS.—Not less frequently than once each
5 quarter, the Secretary of State shall submit to the Con-
6 gress a report on the denial of visa applications without
7 interview, including—

8 (1) the number of such denials; and

9 (2) a post-by-post breakdown of such denials.

10 **SEC. 405. VISA REFUSAL AND REVOCATION.**

11 (a) AUTHORITY OF THE SECRETARY OF HOMELAND
12 SECURITY AND THE SECRETARY OF STATE.—

13 (1) IN GENERAL.—Section 428 of the Home-
14 land Security Act of 2002 (6 U.S.C. 236) is amend-
15 ed by striking subsections (b) and (c) and inserting
16 the following:

17 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
18 SECURITY.—

19 “(1) IN GENERAL.—Notwithstanding section
20 104(a) of the Immigration and Nationality Act (8
21 U.S.C. 1104(a)) or any other provision of law, and
22 except as provided in subsection (c) and except for
23 the authority of the Secretary of State under sub-
24 paragraphs (A) and (G) of section 101(a)(15) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1101(a)(15)), the Secretary—

3 “(A) shall have exclusive authority to issue
4 regulations, establish policy, and administer and
5 enforce the provisions of the Immigration and
6 Nationality Act (8 U.S.C. 1101 et seq.) and all
7 other immigration or nationality laws relating
8 to the functions of consular officers of the
9 United States in connection with the granting
10 and refusal of a visa; and

11 “(B) may refuse or revoke any visa to any
12 alien or class of aliens if the Secretary, or des-
13 ignee, determines that such refusal or revoca-
14 tion is necessary or advisable in the security or
15 foreign policy interests of the United States.

16 “(2) EFFECT OF REVOCATION.—The revocation
17 of any visa under paragraph (1)(B)—

18 “(A) shall take effect immediately; and

19 “(B) shall automatically cancel any other
20 valid visa that is in the alien’s possession.

21 “(3) JUDICIAL REVIEW.—Notwithstanding any
22 other provision of law, including section 2241 of title
23 28, United States Code, or any other habeas corpus
24 provision, and sections 1361 and 1651 of such title,
25 no court shall have jurisdiction to review a decision

1 by the Secretary of Homeland Security to refuse or
2 revoke a visa, and no court shall have jurisdiction to
3 hear any claim arising from, or any challenge to,
4 such a refusal or revocation.

5 “(c) AUTHORITY OF THE SECRETARY OF STATE.—

6 “(1) IN GENERAL.—The Secretary of State may
7 direct a consular officer to refuse a visa requested
8 by an alien if the Secretary of State determines such
9 refusal to be necessary or advisable in the security
10 or foreign policy interests of the United States.

11 “(2) LIMITATION.—No decision by the Sec-
12 retary of State to approve a visa may override a de-
13 cision by the Secretary of Homeland Security under
14 subsection (b).”.

15 (2) CONFORMING AMENDMENT.—Section
16 237(a)(1)(B) of the Immigration and Nationality
17 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-
18 ing “under section 221(i)”.

19 (3) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect on the date of the
21 enactment of this Act and shall apply to visa refus-
22 als and revocations occurring before, on, or after
23 such date.

1 (b) TECHNICAL CORRECTIONS TO THE HOMELAND
2 SECURITY ACT.—Section 428(a) of the Homeland Secu-
3 rity Act of 2002 (6 U.S.C. 236(a)) is amended by—

4 (1) striking “subsection” and inserting “sec-
5 tion”; and

6 (2) striking “consular office” and inserting
7 “consular officer”.

8 **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

9 (a) IN GENERAL.—The Department of State and Re-
10 lated Agency Appropriations Act, 2005 (title IV of division
11 B of Public Law 108–447) is amended, in the fourth para-
12 graph under the heading “Diplomatic and Consular Pro-
13 grams”, by striking “Beginning” and all that follows
14 through the period at the end and inserting the following:
15 “Beginning in fiscal year 2005 and thereafter, the Sec-
16 retary of State is authorized to charge surcharges related
17 to consular services in support of enhanced border security
18 that are in addition to the immigrant visa fees in effect
19 on January 1, 2004: *Provided*, That funds collected pursu-
20 ant to this authority shall be credited to the appropriation
21 for U.S. Immigration and Customs Enforcement for the
22 fiscal year in which the fees were collected, and shall be
23 available until expended for the funding of the Visa Secu-
24 rity Program established by the Secretary of Homeland
25 Security under section 428(e) of the Homeland Security

1 Act of 2002 (Public Law 107–296): *Provided further*, That
2 such surcharges shall be 10 percent of the fee assessed
3 on immigrant visa applications.”.

4 (b) REPAYMENT OF APPROPRIATED FUNDS.—Twen-
5 ty percent of the funds collected each fiscal year under
6 the heading “Diplomatic and Consular Programs” in the
7 Department of State and Related Agency Appropriations
8 Act, 2005 (title IV of division B of Public Law 108–447),
9 as amended by subsection (a), shall be deposited into the
10 general fund of the Treasury as repayment of funds ap-
11 propriated pursuant to section 407(c) of this Act until the
12 entire appropriated sum has been repaid.

13 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**
14 **PROGRAM TO HIGH-RISK POSTS.**

15 (a) IN GENERAL.—Section 428(i) of the Homeland
16 Security Act of 2002 (6 U.S.C. 236(i)) is amended to read
17 as follows:

18 “(i) VISA ISSUANCE AT DESIGNATED HIGH-RISK
19 POSTS.—Notwithstanding any other provision of law, the
20 Secretary of Homeland Security shall conduct an on-site
21 review of all visa applications and supporting documenta-
22 tion before adjudication at the top 30 visa-issuing posts
23 designated jointly by the Secretaries of State and Home-
24 land Security as high-risk posts.”.

1 (b) ASSIGNMENT OF PERSONNEL.—Not later than
 2 one year after the date of enactment of this section, the
 3 Secretary of Homeland Security shall assign personnel to
 4 the visa-issuing posts referenced in section 428(i) of the
 5 Homeland Security Act of 2002 (6 U.S.C. 236(i)), as
 6 amended by this section, and communicate such assign-
 7 ments to the Secretary of State.

8 (c) APPROPRIATIONS.—There is authorized to be ap-
 9 propriated \$60,000,000 for each of the fiscal years 2014
 10 and 2015, which shall be used to expedite the implementa-
 11 tion of section 428(i) of the Homeland Security Act, as
 12 amended by this section.

13 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**
 14 **PARTMENT OF HOMELAND SECURITY PER-**
 15 **SONNEL AT OVERSEAS EMBASSIES AND CON-**
 16 **SULAR POSTS.**

17 Section 428 of the Homeland Security Act of 2002
 18 (6 U.S.C. 236) is amended by adding at the end the fol-
 19 lowing:

20 “(j) EXPEDITED CLEARANCE AND PLACEMENT OF
 21 DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT
 22 OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwith-
 23 standing any other provision of law, and the processes set
 24 forth in National Security Defense Directive 38 (dated
 25 June 2, 1982) or any successor Directive, the Chief of

1 Mission of a post to which the Secretary of Homeland Se-
 2 curity has assigned personnel under subsection (e) or (i)
 3 shall ensure, not later than one year after the date on
 4 which the Secretary of Homeland Security communicates
 5 such assignment to the Secretary of State, that such per-
 6 sonnel have been stationed and accommodated at post and
 7 are able to carry out their duties.”.

8 **SEC. 409. ACCREDITATION REQUIREMENTS.**

9 (a) COLLEGES, UNIVERSITIES, AND LANGUAGE
 10 TRAINING PROGRAMS.—Section 101(a) of the Immigra-
 11 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

12 (1) in paragraph (15)(F)(i)—

13 (A) by striking “section 214(l) at an estab-
 14 lished college, university, seminary, conserv-
 15 atory, academic high school, elementary school,
 16 or other academic institution or in an accred-
 17 ited language training program in the United
 18 States” and inserting “section 214(m) at an ac-
 19 credited college, university, or language training
 20 program, or at an established seminary, con-
 21 servatory, academic high school, elementary
 22 school, or other academic institution in the
 23 United States”;

1 (B) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”; and

4 (C) by striking “and if any such institution
5 of learning or place of study fails to make re-
6 ports promptly the approval shall be with-
7 drawn,” and inserting “and if any such institu-
8 tion of learning of place of study fails to make
9 reports promptly or fails to comply with any ac-
10 creditation requirement (including deadlines for
11 submitting accreditation applications or obtain-
12 ing accreditation) the approval shall be with-
13 drawn,”; and

14 (2) by amending paragraph (52) to read as fol-
15 lows:

16 “(52) Except as provided in section 214(m)(4), the
17 term ‘accredited college, university, or language training
18 program’ means a college, university, or language training
19 program that is accredited by an accrediting agency recog-
20 nized by the Secretary of Education.”.

21 (b) OTHER ACADEMIC INSTITUTIONS.—Section
22 214(m) of the Immigration and Nationality Act (8 U.S.C.
23 1184(m)) is amended by adding at the end the following:

24 “(3) The Secretary of Homeland Security shall re-
25 quire accreditation of an academic institution (except for

1 seminaries or other religious institutions) for purposes of
2 section 101(a)(15)(F) if—

3 “(A) that institution is not already required to
4 be accredited under section 101(a)(15)(F)(i); and

5 “(B) an appropriate accrediting agency recog-
6 nized by the Secretary of Education is able to pro-
7 vide such accreditation.

8 “(4) The Secretary of Homeland Security, in the Sec-
9 retary’s discretion, may waive the accreditation require-
10 ment in paragraph (3) or section 101(a)(15)(F)(i) with
11 respect to an institution if such institution—

12 “(A) is otherwise in compliance with the re-
13 quirements of section 101(a)(15)(F)(i); and

14 “(B) has been a candidate for accreditation for
15 at least 1 year and continues to progress toward ac-
16 creditation by an accrediting agency recognized by
17 the Secretary of Education.”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—Except as provided in para-
20 graph (2), the amendments made by this section
21 shall—

22 (A) take effect on the date that is 180
23 days after the date of enactment of this Act;
24 and

1 (B) apply with respect to applications for
2 nonimmigrant visas that are filed on or after
3 the effective date described in subparagraph
4 (A).

5 (2) TEMPORARY EXCEPTION.—During the 3-
6 year period beginning on the effective date described
7 in paragraph (1)(A), an institution that is newly re-
8 quired to be accredited under this section may con-
9 tinue to participate in the Student and Exchange
10 Visitor Program notwithstanding the institution’s
11 lack of accreditation if the institution—

12 (A) was certified under the Student and
13 Exchange Visitor Program on such date;

14 (B) submitted an application for accredita-
15 tion to an accrediting agency recognized by the
16 Secretary of Education during the 6-month pe-
17 riod ending on such date; and

18 (C) continues to progress toward accredita-
19 tion by such accrediting agency.

20 **SEC. 410. VISA FRAUD.**

21 (a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—
22 Section 641(d) of the Illegal Immigration Reform and Im-
23 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is
24 amended—

1 (1) in paragraph (1)(A), by striking “institu-
2 tion,” and inserting “institution,”; and

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

4 “(3) EFFECT OF REASONABLE SUSPICION OF
5 FRAUD.—If the Secretary of Homeland Security has
6 reasonable suspicion that an owner of, or a des-
7 ignated school official at, an approved institution of
8 higher education, an other approved educational in-
9 stitution, or a designated exchange visitor program
10 has committed fraud or attempted to commit fraud
11 relating to any aspect of the Student and Exchange
12 Visitor Program, the Secretary may immediately
13 suspend, without notice, such official’s or such
14 school’s access to the Student and Exchange Visitor
15 Information System (SEVIS), including the ability
16 to issue Form I–20s, pending a final determination
17 by the Secretary with respect to the institution’s cer-
18 tification under the Student and Exchange Visitor
19 Program.”.

20 (b) EFFECT OF CONVICTION FOR VISA FRAUD.—
21 Such section 641(d), as amended by subsection (a)(2), is
22 further amended by adding at the end the following:

23 “(4) PERMANENT DISQUALIFICATION FOR
24 FRAUD.—A designated school official at, or an owner
25 of, an approved institution of higher education, an

1 other approved educational institution, or a des-
2 ignated exchange visitor program who is convicted
3 for fraud relating to any aspect of the Student and
4 Exchange Visitor Program shall be permanently dis-
5 qualified from filing future petitions and from hav-
6 ing an ownership interest or a management role, in-
7 cluding serving as a principal, owner, officer, board
8 member, general partner, designated school official,
9 or any other position of substantive authority for the
10 operations or management of the institution, in any
11 United States educational institution that enrolls
12 nonimmigrant alien students described in subpara-
13 graph (F) or (M) of section 101(a)(15) the Immig-
14 ration and Nationality Act (8 U.S.C.
15 1101(a)(15)).”.

16 **SEC. 411. BACKGROUND CHECKS.**

17 (a) IN GENERAL.—Section 641(d) of the Illegal Im-
18 migration Reform and Immigrant Responsibility Act of
19 1996 (8 U.S.C. 1372(d)), as amended by section 411(b)
20 of this Act, is further amended by adding at the end the
21 following:

22 “(5) BACKGROUND CHECK REQUIREMENT.—

23 “(A) IN GENERAL.—An individual may not
24 serve as a designated school official or be grant-
25 ed access to SEVIS unless the individual is a

1 national of the United States or an alien law-
2 fully admitted for permanent residence and dur-
3 ing the most recent 3-year period—

4 “(i) the Secretary of Homeland Secu-
5 rity has—

6 “(I) conducted a thorough back-
7 ground check on the individual, in-
8 cluding a review of the individual’s
9 criminal and sex offender history and
10 the verification of the individual’s im-
11 migration status; and

12 “(II) determined that the indi-
13 vidual has not been convicted of any
14 violation of United States immigration
15 law and is not a risk to national secu-
16 rity of the United States; and

17 “(ii) the individual has successfully
18 completed an on-line training course on
19 SEVP and SEVIS, which has been devel-
20 oped by the Secretary.

21 “(B) INTERIM DESIGNATED SCHOOL OFFI-
22 CIAL.—

23 “(i) IN GENERAL.—An individual may
24 serve as an interim designated school offi-
25 cial during the period that the Secretary is

1 conducting the background check required
2 by subparagraph (A)(i)(I).

3 “(ii) **REVIEWS BY THE SECRETARY.**—

4 If an individual serving as an interim des-
5 ignated school official under clause (i) does
6 not successfully complete the background
7 check required by subparagraph (A)(i)(I),
8 the Secretary shall review each Form I-20
9 issued by such interim designated school
10 official.

11 “(6) **FEE.**—The Secretary is authorized to col-
12 lect a fee from an approved school for each back-
13 ground check conducted under paragraph (6)(A)(i).
14 The amount of such fee shall be equal to the average
15 amount expended by the Secretary to conduct such
16 background checks.”.

17 (b) **EFFECTIVE DATE.**—The amendment made by
18 subsection (a) shall take effect on the date that is 1 year
19 after the date of the enactment of this Act.

20 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

21 Section 641(d) of the Illegal Immigration Reform and
22 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)),
23 as amended by section 412(a) of this Act, is further
24 amended by adding at the end the following:

1 “(7) NUMBER OF DESIGNATED SCHOOL OFFI-
2 CIALS.—School officials may nominate as many Des-
3 ignated School Officials (DSOs) in addition to the
4 school’s Principal Designated School Official
5 (PDSO) as they determine necessary to adequately
6 provide recommendations to students enrolled at the
7 school regarding maintenance of nonimmigrant sta-
8 tus under subparagraph (F) or (M) of section
9 101(a)(15) and to support timely and complete rec-
10 ordkeeping and reporting to the Secretary of Home-
11 land Security, as required by this section, except
12 that a school may not have less than one DSO per
13 every 200 students who have nonimmigrant status
14 pursuant to subparagraph (F), (J), or (M) of such
15 section. School officials shall not permit a DSO or
16 PDSO nominee access to SEVIS until the Secretary
17 approves the nomination.”.

18 **SEC. 413. REPORTING REQUIREMENT.**

19 Section 442(a) of the Homeland Security Act of 2002
20 (6 U.S.C. 252(a)) is amended—

21 (1) by redesignating paragraph (5) as para-
22 graph (6); and

23 (2) by inserting after paragraph (4) the fol-
24 lowing:

1 “(5) STUDENT AND EXCHANGE VISITOR PRO-
2 GRAM.—In administering the program under para-
3 graph (4), the Secretary shall, not later than one
4 year after the date of the enactment of this para-
5 graph, prescribe regulations to require an institution
6 or exchange visitor program sponsor participating in
7 the Student Exchange Visitor Program to ensure
8 that each student or exchange visitor who has non-
9 immigrant status pursuant to subparagraph (F),
10 (J), or (M) of section 101(a)(15) of the Immigration
11 and Nationality Act (8 U.S.C. 1101(a)(15)) enrolled
12 at the institution or attending the exchange visitor
13 program is reported to the Department within 10
14 days of—

15 “(A) transferring to another institution or
16 program;

17 “(B) changing academic majors; or

18 “(C) any other changes to information re-
19 quired to be maintained in the system described
20 in paragraph (4).”.

21 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (b), the Secretary of Homeland Security shall prohibit any
24 flight school in the United States from accessing SEVIS
25 or issuing a Form I-20 to an alien seeking a student visa

1 pursuant to subparagraph (F)(i) or (M)(i) of section
 2 101(a)(15) of the Immigration and Nationality Act (8
 3 U.S.C. 1101(a)(15)) if the flight school has not been cer-
 4 tified to the satisfaction of the Secretary and by the Fed-
 5 eral Aviation Administration pursuant to part 141 or part
 6 142 of title 14, Code of Federal Regulations (or similar
 7 successor regulations).

8 (b) TEMPORARY EXCEPTION.—During the 5-year pe-
 9 riod beginning on the date of the enactment of this Act,
 10 the Secretary may waive the requirement under subsection
 11 (a) that a flight school be certified by the Federal Aviation
 12 Administration if such flight school—

13 (1) was certified under the Student and Ex-
 14 change Visitor Program on the date of the enact-
 15 ment of this Act;

16 (2) submitted an application for certification
 17 with the Federal Aviation Administration during the
 18 1-year period beginning on such date; and

19 (3) continues to progress toward certification by
 20 the Federal Aviation Administration.

21 **SEC. 415. REVOCATION OF ACCREDITATION.**

22 At the time an accrediting agency or association is
 23 required to notify the Secretary of Education and the ap-
 24 propriate State licensing or authorizing agency of the final
 25 denial, withdrawal, suspension, or termination of accredi-

1 tation of an institution pursuant to section 496 of the
2 Higher Education Act of 1965 (20 U.S.C. 1099b), such
3 accrediting agency or association shall notify the Secretary
4 of Homeland Security of such determination and the Sec-
5 retary of Homeland Security shall immediately withdraw
6 the school from the SEVP and prohibit the school from
7 accessing SEVIS.

8 **SEC. 416. REPORT ON RISK ASSESSMENT.**

9 Not later than 180 days after the date of the enact-
10 ment of this Act, the Secretary of Homeland Security shall
11 submit to the Committee on the Judiciary of the Senate
12 and the Committee on the Judiciary of the House of Rep-
13 resentatives a report that contains the risk assessment
14 strategy that will be employed by the Secretary to identify,
15 investigate, and take appropriate action against schools
16 and school officials that are facilitating the issuance of
17 Form I-20 and the maintenance of student visa status
18 in violation of the immigration laws of the United States.

19 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

20 Not later than 180 days after the date of the enact-
21 ment of this act, the Secretary of Homeland Security shall
22 submit to the Committee on the Judiciary of the Senate
23 and the Committee on the Judiciary of the House of Rep-
24 resentatives a report that describes—

1 (1) the process in place to identify and assess
2 risks in the SEVP;

3 (2) a risk assessment process to allocate
4 SEVP's resources based on risk;

5 (3) the procedures in place for consistently en-
6 suring a school's eligibility, including consistently
7 verifying in lieu of letters;

8 (4) how SEVP identified and addressed missing
9 school case files;

10 (5) a plan to develop and implement a process
11 to monitor State licensing and accreditation status
12 of all SEVP-certified schools;

13 (6) whether all flight schools that have not been
14 certified to the satisfaction of the Secretary and by
15 the Federal Aviation Administration have been re-
16 moved from the program and have been restricted
17 from accessing SEVIS;

18 (7) the standard operating procedures that gov-
19 ern coordination among SEVP, Counterterrorism
20 and Criminal Exploitation Unit, and U.S. Immigra-
21 tion and Customs Enforcement field offices; and

22 (8) the established criteria for referring cases of
23 a potentially criminal nature from SEVP to the
24 counterterrorism and intelligence community.

1 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

2 Not later than 2 years after the date of the enact-
3 ment of this Act, the Secretary of Homeland Security shall
4 complete the deployment of both phases of the 2nd genera-
5 tion Student and Exchange Visitor Information System
6 (commonly known as “SEVIS II”).

7 **SEC. 419. DEFINITIONS.**

8 (a) DEFINITIONS.—For purposes of this title:

9 (1) SEVIS.—The term “SEVIS” means the
10 Student and Exchange Visitor Information System
11 of the Department of Homeland Security.

12 (2) SEVP.—The term “SEVP” means the Stu-
13 dent and Exchange Visitor Program of the Depart-
14 ment of Homeland Security.

15 **TITLE V—AID TO U.S. IMMIGRA-**
16 **TION AND CUSTOMS EN-**
17 **FORCEMENT OFFICERS**

18 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

19 (a) IN GENERAL.—The Secretary of Homeland Secu-
20 rity shall authorize all immigration enforcement agents
21 and deportation officers of the Department of Homeland
22 Security who have successfully completed basic immigra-
23 tion law enforcement training to exercise the powers con-
24 ferred by—

1 (1) section 287(a)(5)(A) of the Immigration
2 and Nationality Act to arrest for any offense against
3 the United States;

4 (2) section 287(a)(5)(B) of such Act to arrest
5 for any felony;

6 (3) section 274(a) of such Act to arrest for
7 bringing in, transporting, or harboring certain
8 aliens, or inducing them to enter;

9 (4) section 287(a) of such Act to execute war-
10 rants of arrest for administrative immigration viola-
11 tions issued under section 236 of the Act or to exe-
12 cute warrants of criminal arrest issued under the
13 authority of the United States; and

14 (5) section 287(a) of such Act to carry fire-
15 arms, provided that they are individually qualified by
16 training and experience to handle and safely operate
17 the firearms they are permitted to carry, maintain
18 proficiency in the use of such firearms, and adhere
19 to the provisions of the enforcement standard gov-
20 erning the use of force.

21 (b) ARREST POWERS.—Section 287(a)(2) of the Im-
22 migration and Nationality Act (8 U.S.C. 1357(a)(2)) is
23 amended by striking “regulation and is likely to escape
24 before a warrant can be obtained for his arrest,” and in-
25 serting “regulation,”.

1 (c) PAY.—Immigration enforcement agents shall be
2 paid on the same scale as Immigration and Customs En-
3 forcement deportation officers and shall receive the same
4 benefits.

5 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

6 (a) AUTHORIZATION.—The Secretary of Homeland
7 Security is authorized to hire 2,500 Immigration and Cus-
8 toms Enforcement detention enforcement officers.

9 (b) DUTIES.—Immigration and Customs Enforce-
10 ment detention enforcement officers who have successfully
11 completed detention enforcement officers' basic training
12 shall be responsible for—

13 (1) taking and maintaining custody of any per-
14 son who has been arrested by an immigration offi-
15 cer;

16 (2) transporting and guarding immigration de-
17 tainees;

18 (3) securing Department of Homeland Security
19 detention facilities; and

20 (4) assisting in the processing of detainees.

21 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**
22 **AGENTS.**

23 (a) BODY ARMOR.—The Secretary of Homeland Se-
24 curity shall ensure that every Immigration and Customs
25 Enforcement deportation officer and immigration enforce-

1 ment agent on duty is issued high-quality body armor that
2 is appropriate for the climate and risks faced by the agent.
3 Enough body armor must be purchased to cover every
4 agent in the field.

5 (b) WEAPONS.—Such Secretary shall ensure that Im-
6 migration and Customs Enforcement deportation officers
7 and immigration enforcement agents are equipped with
8 weapons that are reliable and effective to protect them-
9 selves, their fellow agents, and innocent third parties from
10 the threats posed by armed criminals. Such weapons shall
11 include, at a minimum, standard-issue handguns, M–4 (or
12 equivalent) rifles, and Tasers.

13 (c) EFFECTIVE DATE.—This section shall take effect
14 90 days after the date of the enactment of this Act.

15 **SEC. 504. ICE ADVISORY COUNCIL.**

16 (a) ESTABLISHMENT.—An ICE Advisory Council
17 shall be established not later than 3 months after the date
18 of the enactment of this Act.

19 (b) MEMBERSHIP.—The ICE Advisor Council shall
20 be comprised of 7 members.

21 (c) APPOINTMENT.—Members shall to be appointed
22 in the following manner:

23 (1) One member shall be appointed by the
24 President.

1 (2) One member shall be appointed by the
2 Chairman of the Judiciary Committee of the House
3 of Representatives.

4 (3) One member shall be appointed by the
5 Chairman of the Judiciary Committee of the Senate.

6 (4) One member shall be appointed by the
7 Local 511, the ICE prosecutor's union.

8 (5) Three members shall be appointed by the
9 National Immigration and Customs Enforcement
10 Council.

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
18 employed by the Secretary of Homeland Security shall be
19 protected from retaliation by their supervisors, managers,
20 and other Department of Homeland Security employees
21 for their participation on the Council.

22 (g) PURPOSE.—The purpose of the Council is to ad-
23 vise the Congress and the Secretary of Homeland Security
24 on issues including the following:

1 (1) The current status of immigration enforce-
2 ment efforts, including prosecutions and removals,
3 the effectiveness of such efforts, and how enforce-
4 ment could be improved.

5 (2) The effectiveness of cooperative efforts be-
6 tween the Secretary of Homeland Security and other
7 law enforcement agencies, including additional types
8 of enforcement activities that the Secretary should
9 be engaged in, such as State and local criminal task
10 forces.

11 (3) Personnel, equipment, and other resource
12 needs of field personnel.

13 (4) Improvements that should be made to the
14 organizational structure of the Department of
15 Homeland Security, including whether the position
16 of immigration enforcement agent should be merged
17 into the deportation officer position.

18 (5) The effectiveness of specific enforcement
19 policies and regulations promulgated by the Sec-
20 retary of Homeland Security, and whether other en-
21 forcement priorities should be considered.

22 (h) REPORTS.—The Council shall provide quarterly
23 reports to the Chairmen and Ranking Members of the Ju-
24 diciary Committees of the Senate and the House of Rep-
25 resentatives and to the Secretary of Homeland Security.

1 The Council members shall meet directly with the Chair-
2 men and Ranking Members (or their designated represent-
3 atives) and with the Secretary to discuss their reports
4 every 6 months.

5 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
6 **ESSING.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity shall establish a pilot program in at least five of the
9 ten Immigration and Customs Enforcement field offices
10 with the largest removal caseloads to allow Immigration
11 and Customs deportation officers and immigration en-
12 forcement agents to—

13 (1) electronically process and serve charging
14 documents, including Notices to Appear, while in the
15 field; and

16 (2) electronically process and place detainers
17 while in the field.

18 (b) DUTIES.—The pilot program described in sub-
19 section (a) shall be designed to allow deportation officers
20 and immigration enforcement agents to use handheld or
21 vehicle-mounted computers to—

22 (1) enter any required data, including personal
23 information about the alien subject and the reason
24 for issuing the document;

1 (2) apply the electronic signature of the issuing
2 officer or agent;

3 (3) set the date the alien is required to appear
4 before an immigration judge, in the case of Notices
5 to Appear;

6 (4) print any documents the alien subject may
7 be required to sign, along with additional copies of
8 documents to be served on the alien; and

9 (5) interface with the ENFORCE database so
10 that all data is stored and retrievable.

11 (c) CONSTRUCTION.—The pilot program described in
12 subsection (a) shall be designed to replace, to the extent
13 possible, the current paperwork and data-entry process
14 used for issuing such charging documents and detainers.

15 (d) DEADLINE.—The Secretary shall initiate the pilot
16 program described in subsection (a) within 6 months of
17 the date of enactment of this Act.

18 (e) REPORT.—The Government Accountability Office
19 shall report to the Judiciary Committee of the Senate and
20 the House of Representatives no later than 18 months
21 after the date of enactment of this Act on the effectiveness
22 of the pilot program and provide recommendations for im-
23 proving it.

24 (f) ADVISORY COUNCIL.—The ICE Advisory Council
25 established by section 504 shall include recommendations

1 on how the pilot program should work in the first quar-
2 terly report of the Council, and shall include assessments
3 of the program and recommendations for improvement in
4 each subsequent report.

5 (g) EFFECTIVE DATE.—This section shall take effect
6 180 days after the date of the enactment of this Act.

7 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
8 **SUPPORT STAFF.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall, subject to the availability of appropriations for
11 such purpose, increase the number of positions for full-
12 time active-duty Immigration and Customs Enforcement
13 deportation officers by 5,000 above the number of full-
14 time positions for which funds were appropriated for fiscal
15 year 2013. The Secretary will determine the rate at which
16 the additional officers will be added with due regard to
17 filling the positions as expeditiously as possible without
18 making any compromises in the selection or the training
19 of the additional officers.

20 (b) SUPPORT STAFF.—The Secretary shall, subject
21 to the availability of appropriations for such purpose, in-
22 crease the number of positions for full-time support staff
23 for Immigration and Customs Enforcement deportation
24 officers by 700 above the number of full-time positions for
25 which funds were appropriated for fiscal year 2013.

1 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

2 The Secretary of Homeland Security shall increase
3 by 60 the number of full-time trial attorneys working for
4 the Immigration and Customs Enforcement Office of the
5 Principal Legal Advisor.

6 **TITLE VI—MISCELLANEOUS**
7 **ENFORCEMENT PROVISIONS**

8 **SEC. 601. TIMELY REPATRIATION.**

9 (a) LISTING OF COUNTRIES.—Beginning on the date
10 that is 6 months after the date of enactment of this Act,
11 and every 6 months thereafter, the Secretary of Homeland
12 Security shall publish a report including the following:

13 (1) A list of the following:

14 (A) Countries that have refused or unrea-
15 sonably delayed repatriation of an alien who is
16 a national of that country since the date of en-
17 actment of this Act and the total number of
18 such aliens, disaggregated by nationality.

19 (B) Countries that have an excessive repa-
20 triation failure rate.

21 (2) A list of each country that was included
22 under subparagraph (B) or (C) of paragraph (1) in
23 both the report preceding the current report and the
24 current report.

25 (b) SANCTIONS.—Beginning on the date that a coun-
26 try is included in a list under subsection (a)(2) and ending

1 on the date that that country is not included in such list,
2 that country shall be subject to the following:

3 (1) The Secretary of State may not issue visas
4 under section 101(a)(15)(A)(iii) of the Immigration
5 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))
6 to attendants, servants, personal employees, and
7 members of their immediate families, of the officials
8 and employees of that country who receive non-
9 immigrant status under clause (i) or (ii) of section
10 101(a)(15)(A) of such Act.

11 (2) Each 6 months thereafter that the country
12 is included in that list, the Secretary of State shall
13 reduce the number of visas available under clause (i)
14 or (ii) of section 101(a)(15)(A) of the Immigration
15 and Nationality Act in a fiscal year to nationals of
16 that country by an amount equal to 10 percent of
17 the baseline visa number for that country. Except as
18 provided under section 243(d) of the Immigration
19 and Nationality Act (8 U.S.C. 1253), the Secretary
20 may not reduce the number to a level below 20 per-
21 cent of the baseline visa number.

22 (c) WAIVERS.—

23 (1) NATIONAL SECURITY WAIVER.—If the Sec-
24 retary of State submits to Congress a written deter-
25 mination that significant national security interests

1 of the United States require a waiver of the sanc-
2 tions under subsection (b), the Secretary may waive
3 any reduction below 80 percent of the baseline visa
4 number. The Secretary of Homeland Security may
5 not delegate the authority under this subsection.

6 (2) TEMPORARY EXIGENT CIRCUMSTANCES.—If
7 the Secretary of State submits to Congress a written
8 determination that temporary exigent circumstances
9 require a waiver of the sanctions under subsection
10 (b), the Secretary may waive any reduction below 80
11 percent of the baseline visa number during 6-month
12 renewable periods. The Secretary of Homeland Secu-
13 rity may not delegate the authority under this sub-
14 section.

15 (d) EXEMPTION.—The Secretary of Homeland Secu-
16 rity, in consultation with the Secretary of State, may ex-
17 empt a country from inclusion in a list under subsection
18 (a)(2) if the total number of nonrepatriations outstanding
19 is less than 10 for the preceding 3-year period.

20 (e) UNAUTHORIZED VISA ISSUANCE.—Any visa
21 issued in violation of this section shall be void.

22 (f) NOTICE.—If an alien who has been convicted of
23 a criminal offense before a Federal or State court whose
24 repatriation was refused or unreasonably delayed is to be
25 released from detention by the Secretary of Homeland Se-

1 curity, the Secretary shall provide notice to the State and
2 local law enforcement agency for the jurisdictions in which
3 the alien is required to report or is to be released. When
4 possible, and particularly in the case of violent crime, the
5 Secretary shall make a reasonable effort to provide notice
6 of such release to any crime victims and their immediate
7 family members.

8 (g) DEFINITIONS.—For purposes of this section:

9 (1) REFUSED OR UNREASONABLY DELAYED.—

10 A country is deemed to have refused or unreasonably
11 delayed the acceptance of an alien who is a citizen,
12 subject, national, or resident of that country if, not
13 later than 90 days after receiving a request to repa-
14 triate such alien from an official of the United
15 States who is authorized to make such a request, the
16 country does not accept the alien or issue valid trav-
17 el documents.

18 (2) FAILURE RATE.—The term “failure rate”
19 for a period means the percentage determined by di-
20 viding the total number of repatriation requests for
21 aliens who are citizens, subjects, nationals, or resi-
22 dents of a country that that country refused or un-
23 reasonably delayed during that period by the total
24 number of such requests during that period.

1 (3) EXCESSIVE REPATRIATION FAILURE
2 RATE.—The term “excessive repatriation failure
3 rate” means, with respect to a report under sub-
4 section (a), a failure rate greater than 10 percent
5 for any of the following:

6 (A) The period of the 3 full fiscal years
7 preceding the date of publication of the report.

8 (B) The period of 1 year preceding the
9 date of publication of the report.

10 (4) NUMBER OF NON-REPATRIATIONS OUT-
11 STANDING.—The term “number of non-repatriations
12 outstanding” means, for a period, the number of
13 unique aliens whose repatriation a country has re-
14 fused or unreasonably delayed and whose repatri-
15 ation has not occurred during that period.

16 (5) BASELINE VISA NUMBER.—The term “base-
17 line visa number” means, with respect to a country,
18 the average number of visas issued each fiscal year
19 to nationals of that country under clauses (i) and
20 (ii) of section 101(a)(15)(A) of the Immigration and
21 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3
22 full fiscal years immediately preceding the first re-
23 port under subsection (a) in which that country is
24 included in the list under subsection (a)(2).

1 (h) GAO REPORT.—On the date that is 1 day after
 2 the date that the President submits a budget under sec-
 3 tion 1105(a) of title 31, United States Code, for fiscal year
 4 2016, the Comptroller General of the United States shall
 5 submit a report to Congress regarding the progress of the
 6 Secretary of Homeland Security and the Secretary of
 7 State in implementation of this section and in making re-
 8 quests to repatriate aliens as appropriate.

9 **SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-**
 10 **TARILY.**

11 (a) IN GENERAL.—Section 240B of the Immigration
 12 and Nationality Act (8 U.S.C. 1229c) is amended—

13 (1) in subsection (a)—

14 (A) by amending paragraph (1) to read as
 15 follows:

16 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If
 17 an alien is not described in paragraph (2)(A)(iii) or
 18 (4) of section 237(a), the Secretary of Homeland Se-
 19 curity may permit the alien to voluntarily depart the
 20 United States at the alien’s own expense under this
 21 subsection instead of being subject to proceedings
 22 under section 240.”;

23 (B) by striking paragraph (3);

24 (C) by redesignating paragraph (2) as
 25 paragraph (3);

1 (D) by adding after paragraph (1) the fol-
2 lowing:

3 “(2) BEFORE THE CONCLUSION OF REMOVAL
4 PROCEEDINGS.—If an alien is not described in para-
5 graph (2)(A)(iii) or (4) of section 237(a), the Attor-
6 ney General may permit the alien to voluntarily de-
7 part the United States at the alien’s own expense
8 under this subsection after the initiation of removal
9 proceedings under section 240 and before the con-
10 clusion of such proceedings before an immigration
11 judge.”;

12 (E) in paragraph (3), as redesignated—

13 (i) by amending subparagraph (A) to
14 read as follows:

15 “(A) INSTEAD OF REMOVAL.—Subject to
16 subparagraph (C), permission to voluntarily de-
17 part under paragraph (1) shall not be valid for
18 any period in excess of 120 days. The Secretary
19 may require an alien permitted to voluntarily
20 depart under paragraph (1) to post a voluntary
21 departure bond, to be surrendered upon proof
22 that the alien has departed the United States
23 within the time specified.”;

1 (ii) by redesignating subparagraphs
2 (B), (C), and (D) as subparagraphs (C),
3 (D), and (E), respectively;

4 (iii) by adding after subparagraph (A)
5 the following:

6 “(B) BEFORE THE CONCLUSION OF RE-
7 MOVAL PROCEEDINGS.—Permission to volun-
8 tarily depart under paragraph (2) shall not be
9 valid for any period in excess of 60 days, and
10 may be granted only after a finding that the
11 alien has the means to depart the United States
12 and intends to do so. An alien permitted to vol-
13 untarily depart under paragraph (2) shall post
14 a voluntary departure bond, in an amount nec-
15 essary to ensure that the alien will depart, to be
16 surrendered upon proof that the alien has de-
17 parted the United States within the time speci-
18 fied. An immigration judge may waive the re-
19 quirement to post a voluntary departure bond
20 in individual cases upon a finding that the alien
21 has presented compelling evidence that the
22 posting of a bond will pose a serious financial
23 hardship and the alien has presented credible
24 evidence that such a bond is unnecessary to
25 guarantee timely departure.”;

1 (iv) in subparagraph (C), as redesignated,
 2 nated, by striking “subparagraphs (C) and
 3 (D)(ii)” and inserting “subparagraphs (D)
 4 and (E)(ii)”;

5 (v) in subparagraph (D), as redesignated,
 6 nated, by striking “subparagraph (B)”
 7 each place that term appears and inserting
 8 “subparagraph (C)”;

9 (vi) in subparagraph (E), as redesignated,
 10 nated, by striking “subparagraph (B)”
 11 each place that term appears and inserting
 12 “subparagraph (C)”;

13 (F) in paragraph (4), by striking “para-
 14 graph (1)” and inserting “paragraphs (1) and
 15 (2)”;

16 (2) in subsection (b)(2), by striking “a period
 17 exceeding 60 days” and inserting “any period in ex-
 18 cess of 45 days”;

19 (3) by amending subsection (c) to read as fol-
 20 lows:

21 “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

22 “(1) VOLUNTARY DEPARTURE AGREEMENT.—
 23 Voluntary departure may only be granted as part of
 24 an affirmative agreement by the alien. A voluntary
 25 departure agreement under subsection (b) shall in-

1 clude a waiver of the right to any further motion,
2 appeal, application, petition, or petition for review
3 relating to removal or relief or protection from re-
4 moval.

5 “(2) CONCESSIONS BY THE SECRETARY.—In
6 connection with the alien’s agreement to depart vol-
7 untarily under paragraph (1), the Secretary of
8 Homeland Security may agree to a reduction in the
9 period of inadmissibility under subparagraph (A) or
10 (B)(i) of section 212(a)(9).

11 “(3) ADVISALS.—Agreements relating to vol-
12 untary departure granted during removal pro-
13 ceedings under section 240, or at the conclusion of
14 such proceedings, shall be presented on the record
15 before the immigration judge. The immigration
16 judge shall advise the alien of the consequences of
17 a voluntary departure agreement before accepting
18 such agreement.

19 “(4) FAILURE TO COMPLY WITH AGREE-
20 MENT.—

21 “(A) IN GENERAL.—If an alien agrees to
22 voluntary departure under this section and fails
23 to depart the United States within the time al-
24 lowed for voluntary departure or fails to comply
25 with any other terms of the agreement (includ-

1 ing failure to timely post any required bond),
2 the alien is—

3 “(i) ineligible for the benefits of the
4 agreement;

5 “(ii) subject to the penalties described
6 in subsection (d); and

7 “(iii) subject to an alternate order of
8 removal if voluntary departure was granted
9 under subsection (a)(2) or (b).

10 “(B) EFFECT OF FILING TIMELY AP-
11 PEAL.—If, after agreeing to voluntary depart-
12 ure, the alien files a timely appeal of the immi-
13 gration judge’s decision granting voluntary de-
14 parture, the alien may pursue the appeal in-
15 stead of the voluntary departure agreement.
16 Such appeal operates to void the alien’s vol-
17 untary departure agreement and the con-
18 sequences of such agreement, but precludes the
19 alien from another grant of voluntary departure
20 while the alien remains in the United States.

21 “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-
22 FECTED.—Except as expressly agreed to by the Sec-
23 retary in writing in the exercise of the Secretary’s
24 discretion before the expiration of the period allowed
25 for voluntary departure, no motion, appeal, applica-

1 tion, petition, or petition for review shall affect, rein-
2 state, enjoin, delay, stay, or toll the alien's obligation
3 to depart from the United States during the period
4 agreed to by the alien and the Secretary.”;

5 (4) by amending subsection (d) to read as fol-
6 lows:

7 “(d) PENALTIES FOR FAILURE TO DEPART.—If an
8 alien is permitted to voluntarily depart under this section
9 and fails to voluntarily depart from the United States
10 within the time period specified or otherwise violates the
11 terms of a voluntary departure agreement, the alien will
12 be subject to the following penalties:

13 “(1) CIVIL PENALTY.—The alien shall be liable
14 for a civil penalty of \$3,000. The order allowing vol-
15 untary departure shall specify this amount, which
16 shall be acknowledged by the alien on the record. If
17 the Secretary thereafter establishes that the alien
18 failed to depart voluntarily within the time allowed,
19 no further procedure will be necessary to establish
20 the amount of the penalty, and the Secretary may
21 collect the civil penalty at any time thereafter and
22 by whatever means provided by law. An alien will be
23 ineligible for any benefits under this chapter until
24 this civil penalty is paid.

1 “(2) INELIGIBILITY FOR RELIEF.—The alien
2 shall be ineligible during the time the alien remains
3 in the United States and for a period of 10 years
4 after the alien’s departure for any further relief
5 under this section and sections 240A, 245, 248, and
6 249. The order permitting the alien to depart volun-
7 tarily shall inform the alien of the penalties under
8 this subsection.

9 “(3) REOPENING.—The alien shall be ineligible
10 to reopen the final order of removal that took effect
11 upon the alien’s failure to depart, or upon the alien’s
12 other violations of the conditions for voluntary de-
13 parture, during the period described in paragraph
14 (2). This paragraph does not preclude a motion to
15 reopen to seek withholding of removal under section
16 241(b)(3) or protection against torture, if the mo-
17 tion—

18 “(A) presents material evidence of changed
19 country conditions arising after the date of the
20 order granting voluntary departure in the coun-
21 try to which the alien would be removed; and

22 “(B) makes a sufficient showing to the sat-
23 isfaction of the Attorney General that the alien
24 is otherwise eligible for such protection.”;

1 (5) by amending subsection (e) to read as fol-
2 lows:

3 “(e) ELIGIBILITY.—

4 “(1) PRIOR GRANT OF VOLUNTARY DEPAR-
5 TURE.—An alien shall not be permitted to volun-
6 tarily depart under this section if the Secretary of
7 Homeland Security or the Attorney General pre-
8 viously permitted the alien to depart voluntarily.

9 “(2) RULEMAKING.—The Secretary may pro-
10 mulgate regulations to limit eligibility or impose ad-
11 ditional conditions for voluntary departure under
12 subsection (a)(1) for any class of aliens. The Sec-
13 retary or Attorney General may by regulation limit
14 eligibility or impose additional conditions for vol-
15 untary departure under subsections (a)(2) or (b) of
16 this section for any class or classes of aliens.”; and

17 (6) in subsection (f), by adding at the end the
18 following: “Notwithstanding section 242(a)(2)(D) of
19 this Act, sections 1361, 1651, and 2241 of title 28,
20 United States Code, any other habeas corpus provi-
21 sion, and any other provision of law (statutory or
22 nonstatutory), no court shall have jurisdiction to af-
23 fect, reinstate, enjoin, delay, stay, or toll the period
24 allowed for voluntary departure under this section.”.

1 (b) RULEMAKING.—The Secretary shall within one
2 year of the date of enactment of this Act promulgate regu-
3 lations to provide for the imposition and collection of pen-
4 alties for failure to depart under section 240B(d) of the
5 Immigration and Nationality Act (8 U.S.C. 1229c(d)).

6 (c) EFFECTIVE DATES.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply with respect to all orders granting vol-
10 untary departure under section 240B of the Immi-
11 gration and Nationality Act (8 U.S.C. 1229c) made
12 on or after the date that is 180 days after the enact-
13 ment of this Act.

14 (2) EXCEPTION.—The amendment made by
15 subsection (a)(6) shall take effect on the date of the
16 enactment of this Act and shall apply with respect
17 to any petition for review which is filed on or after
18 such date.

19 **SEC. 603. DETERRING ALIENS ORDERED REMOVED FROM**
20 **REMAINING IN THE UNITED STATES UNLAW-**
21 **FULLY.**

22 (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1182(a)(9)(A)) is amended—

1 (1) in clause (i), by striking “seeks admission
2 within 5 years of the date of such removal (or within
3 20 years” and inserting “seeks admission not later
4 than 5 years after the date of the alien’s removal (or
5 not later than 20 years after the alien’s removal”;
6 and

7 (2) in clause (ii), by striking “seeks admission
8 within 10 years of the date of such alien’s departure
9 or removal (or within 20 years of” and inserting
10 “seeks admission not later than 10 years after the
11 date of the alien’s departure or removal (or not later
12 than 20 years after”.

13 (b) BAR ON DISCRETIONARY RELIEF.—Section 274D
14 of such Act (8 U.S.C. 324d) is amended—

15 (1) in subsection (a), by striking “Commis-
16 sioner” and inserting “Secretary of Homeland Secu-
17 rity”; and

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

19 “(c) INELIGIBILITY FOR RELIEF.—

20 “(1) IN GENERAL.—Unless a timely motion to
21 reopen is granted under section 240(c)(6), an alien
22 described in subsection (a) shall be ineligible for any
23 discretionary relief from removal (including cancella-
24 tion of removal and adjustment of status) during the
25 time the alien remains in the United States and for

1 a period of 10 years after the alien's departure from
2 the United States.

3 “(2) SAVINGS PROVISION.—Nothing in para-
4 graph (1) shall preclude a motion to reopen to seek
5 withholding of removal under section 241(b)(3) or
6 protection against torture, if the motion—

7 “(A) presents material evidence of changed
8 country conditions arising after the date of the
9 final order of removal in the country to which
10 the alien would be removed; and

11 “(B) makes a sufficient showing to the sat-
12 isfaction of the Attorney General that the alien
13 is otherwise eligible for such protection.”.

14 (c) EFFECTIVE DATES.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act with respect to aliens who are subject to a final
17 order of removal entered before, on, or after such date.

18 **SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.**

19 (a) IN GENERAL.—Section 241(a)(5) of the Immi-
20 gration and Nationality Act (8 U.S.C. 1231(a)(5)) is
21 amended to read as follows:

22 “(5) REINSTATEMENT OF REMOVAL ORDERS
23 AGAINST ALIENS ILLEGALLY REENTERING.—If the
24 Secretary of Homeland Security finds that an alien
25 has entered the United States illegally after having

1 been removed, deported, or excluded or having de-
2 parted voluntarily, under an order of removal, depor-
3 tation, or exclusion, regardless of the date of the
4 original order or the date of the illegal entry—

5 “(A) the order of removal, deportation, or
6 exclusion is reinstated from its original date
7 and is not subject to being reopened or reviewed
8 notwithstanding section 242(a)(2)(D);

9 “(B) the alien is not eligible and may not
10 apply for any relief under this Act, regardless
11 of the date that an application or request for
12 such relief may have been filed or made; and

13 “(C) the alien shall be removed under the
14 order of removal, deportation, or exclusion at
15 any time after the illegal entry.

16 Reinstatement under this paragraph shall not re-
17 quire proceedings under section 240 or other pro-
18 ceedings before an immigration judge.”.

19 (b) JUDICIAL REVIEW.—Section 242 of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1252) is amended by
21 adding at the end the following:

22 “(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER
23 SECTION 241(a)(5).—

1 “(1) REVIEW OF REINSTATEMENT.—Judicial
2 review of determinations under section 241(a)(5) is
3 available in an action under subsection (a).

4 “(2) NO REVIEW OF ORIGINAL ORDER.—Not-
5 withstanding any other provision of law (statutory or
6 nonstatutory), including section 2241 of title 28,
7 United States Code, any other habeas corpus provi-
8 sion, or sections 1361 and 1651 of such title, no
9 court shall have jurisdiction to review any cause or
10 claim, arising from, or relating to, any challenge to
11 the original order.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 subsections (a) and (b) shall take effect as if enacted on
14 April 1, 1997, and shall apply to all orders reinstated or
15 after that date by the Secretary of Homeland Security (or
16 by the Attorney General prior to March 1, 2003), regard-
17 less of the date of the original order.

18 **SEC. 605. CLARIFICATION WITH RESPECT TO DEFINITION**
19 **OF ADMISSION.**

20 Section 101(a)(13)(A) of the Immigration and Na-
21 tionality Act (8 U.S.C. 1101(a)(13)(A)) is amended by
22 adding at the end the following: “An alien’s adjustment
23 of status to that of lawful permanent resident status under
24 any provision of this Act, or under any other provision
25 of law, shall be considered an ‘admission’ for any purpose

1 under this Act, even if the adjustment of status occurred
2 while the alien was present in the United States.”.

3 **SEC. 606. REPORTS TO CONGRESS ON THE EXERCISE AND**
4 **ABUSE OF PROSECUTORIAL DISCRETION.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 end of each fiscal year, the Secretary of Homeland Secu-
7 rity and the Attorney General shall each provide to the
8 Committees on the Judiciary of the House of Representa-
9 tives and of the Senate a report on the following:

10 (1) Aliens apprehended or arrested by State or
11 local law enforcement agencies who were identified
12 by the Department of Homeland Security in the pre-
13 vious fiscal year and for whom the Department of
14 Homeland Security did not issue detainers and did
15 not take into custody despite the Department of
16 Homeland Security’s findings that the aliens were
17 inadmissible or deportable.

18 (2) Aliens who were applicants for admission in
19 the previous fiscal year but not clearly and beyond
20 a doubt entitled to be admitted by an immigration
21 officer and who were not detained as required pursu-
22 ant to section 235(b)(2)(A) of the Immigration and
23 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

24 (3) Aliens who in the previous fiscal year were
25 found by Department of Homeland Security officials

1 performing duties related to the adjudication of ap-
2 plications for immigration benefits or the enforce-
3 ment of the immigration laws to be inadmissible or
4 deportable who were not issued notices to appear
5 pursuant to section 239 of such Act (8 U.S.C. 1229)
6 or placed into removal proceedings pursuant to sec-
7 tion 240 (8 U.S.C. 1229a), unless the aliens were
8 placed into expedited removal proceedings pursuant
9 to section 235(b)(1)(A)(i) (8 U.S.C.
10 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),
11 were granted voluntary departure pursuant to sec-
12 tion 240B, were granted relief from removal pursu-
13 ant to statute, were granted legal nonimmigrant or
14 immigrant status pursuant to statute, or were deter-
15 mined not to be inadmissible or deportable.

16 (4) Aliens issued notices to appear that were
17 cancelled in the previous fiscal year despite the De-
18 partment of Homeland Security's findings that the
19 aliens were inadmissible or deportable, unless the
20 aliens were granted relief from removal pursuant to
21 statute, were granted voluntary departure pursuant
22 to section 240B of such Act (8 U.S.C. 1229c), or
23 were granted legal nonimmigrant or immigrant sta-
24 tus pursuant to statute.

1 (5) Aliens who were placed into removal pro-
2 ceedings, whose removal proceedings were termi-
3 nated in the previous fiscal year prior to their con-
4 clusion, unless the aliens were granted relief from
5 removal pursuant to statute, were granted voluntary
6 departure pursuant to section 240B, were granted
7 legal nonimmigrant or immigrant status pursuant to
8 statute, or were determined not to be inadmissible or
9 deportable.

10 (6) Aliens granted parole pursuant to section
11 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

12 (7) Aliens granted deferred action, extended
13 voluntary departure or any other type of relief from
14 removal not specified in the Immigration and Na-
15 tionality Act or where determined not to be inadmis-
16 sible or deportable.

17 (b) CONTENTS OF REPORT.—The report shall include
18 a listing of each alien described in each paragraph of sub-
19 section (a), including when in the possession of the De-
20 partment of Homeland Security their names, fingerprint
21 identification numbers, alien registration numbers, and
22 reason why each was granted the type of prosecutorial dis-
23 cretion received. The report shall also include current
24 criminal histories on each alien from the Federal Bureau
25 of Investigation.

1 **SEC. 607. CERTAIN ACTIVITIES RESTRICTED.**

2 (a) IN GENERAL.—

3 (1) No funds, resources, or fees made available
4 to the Secretary of Homeland Security, or to any
5 other official of a Federal agency, by this Act or any
6 other Act for any fiscal year, including any deposits
7 into the “Immigration Examinations Fee Account”
8 established under section 286(m) of the Immigration
9 and Nationality Act (8 U.S.C. 1356(m)), may be
10 used to implement, administer, enforce, or carry out
11 (including through the issuance of any regulations)
12 any of the policy changes set forth in the following
13 memoranda (or any substantially similar policy
14 changes issued or taken on or after January 9,
15 2015, whether set forth in memorandum, Executive
16 order, regulation, directive, or by other action):

17 (A) The memorandum from the Director of
18 United States Immigration and Customs En-
19 forcement entitled “Civil Immigration Enforce-
20 ment: Priorities for the Apprehension, Deten-
21 tion, and Removal of Aliens” dated March 2,
22 2011.

23 (B) The memorandum from the Director
24 of United States Immigration and Customs En-
25 forcement entitled “Exercising Prosecutorial
26 Discretion Consistent with the Civil Immigra-

1 tion Enforcement Priorities of the Agency for
2 the Apprehension, Detention, and Removal of
3 Aliens” dated June 17, 2011.

4 (C) The memorandum from the Principal
5 Legal Advisor of United States Immigration
6 and Customs Enforcement entitled “Case-by-
7 Case Review of Incoming and Certain Pending
8 Cases” dated November 17, 2011.

9 (D) The memorandum from the Director
10 of United States Immigration and Customs En-
11 forcement entitled “Civil Immigration Enforce-
12 ment: Guidance on the Use of Detainers in the
13 Federal, State, Local, and Tribal Criminal Jus-
14 tice Systems” dated December 21, 2012.

15 (E) The memorandum from the Secretary
16 of Homeland Security entitled “Southern Bor-
17 der and Approaches Campaign” dated Novem-
18 ber 20, 2014.

19 (F) The memorandum from the Secretary
20 of Homeland Security entitled “Policies for the
21 Apprehension, Detention and Removal of Un-
22 documented Immigrants” dated November 20,
23 2014.

1 (G) The memorandum from the Secretary
2 of Homeland Security entitled “Secure Commu-
3 nities” dated November 20, 2014.

4 (H) The memorandum from the Secretary
5 of Homeland Security entitled “Exercising
6 Prosecutorial Discretion with Respect to Indi-
7 viduals Who Came to the United States as Chil-
8 dren and with Respect to Certain Individuals
9 Who Are the Parents of U.S. Citizens or Per-
10 manent Residents” dated November 20, 2014.

11 (I) The memorandum from the Secretary
12 of Homeland Security entitled “Expansion of
13 the Provisional Waiver Program” dated Novem-
14 ber 20, 2014.

15 (J) The memorandum from the Secretary
16 of Homeland Security entitled “Policies Sup-
17 porting U.S. High-Skilled Businesses and
18 Workers” dated November 20, 2014.

19 (K) The memorandum from the Secretary
20 of Homeland Security entitled “Families of
21 U.S. Armed Forces Members and Enlistees”
22 dated November 20, 2014.

23 (L) The memorandum from the Secretary
24 of Homeland Security entitled “Directive to

1 Provide Consistency Regarding Advance Pa-
2 role” dated November 20, 2014.

3 (M) The memorandum from the Secretary
4 of Homeland Security entitled “Policies to Pro-
5 mote and Increase Access to U.S. Citizenship”
6 dated November 20, 2014.

7 (N) The memorandum from the President
8 entitled “Modernizing and Streamlining the
9 U.S. Immigrant Visa System for the 21st Cen-
10 tury” dated November 21, 2014.

11 (O) The memorandum from the President
12 entitled “Creating Welcoming Communities and
13 Fully Integrating Immigrants and Refugees”
14 dated November 21, 2014.

15 (2) The memoranda referred to in subsection
16 (a) (or any substantially similar policy changes
17 issued or taken on or after January 9, 2015, wheth-
18 er set forth in memorandum, Executive order, regu-
19 lation, directive, or by other action) have no statu-
20 tory or constitutional basis and therefore have no
21 legal effect.

22 (3) No funds or fees made available to the Sec-
23 retary of Homeland Security, or to any other official
24 of a Federal agency, by this Act or any other Act
25 for any fiscal year, including any deposits into the

1 “Immigration Examinations Fee Account” estab-
2 lished under section 286(m) of the Immigration and
3 Nationality Act (8 U.S.C. 1356(m)), may be used to
4 grant any Federal benefit to any alien pursuant to
5 any of the policy changes set forth in the memo-
6 randa referred to in subsection (a) (or any substan-
7 tially similar policy changes issued or taken on or
8 after January 9, 2015, whether set forth in memo-
9 randum, Executive order, regulation, directive, or by
10 other action).

11 (b) DEFERRED ACTION FOR CHILDHOOD ARRIV-
12 ALS.—No funds, resources or fees made available to the
13 Secretary of Homeland Security, or to any other official
14 of a Federal agency, by this Act or any other Act for any
15 fiscal year, including any deposits into the “Immigration
16 Examinations Fee Account” established under section
17 286(m) of the Immigration and Nationality Act (8 U.S.C.
18 1356(m)), may be used to consider or adjudicate any new,
19 renewal or previously denied application for any alien re-
20 questing consideration of deferred action for childhood ar-
21 rivals, as authorized by the Executive memorandum dated
22 June 15, 2012, and effective on August 15, 2012 (or any
23 substantially similar policy changes issued or taken on or
24 after January 9, 2015, whether set forth in memorandum,
25 Executive order, regulation, directive, or by other action).

1 **SEC. 608. GAO STUDY ON DEATHS IN CUSTODY.**

2 The Comptroller General of the United States shall
3 submit to Congress within 6 months after the date of the
4 enactment of this Act, a report on the deaths in custody
5 of detainees held by the Department of Homeland Secu-
6 rity. The report shall include the following information
7 with respect to any such deaths and in connection there-
8 with:

9 (1) Whether any such deaths could have been
10 prevented by the delivery of medical treatment ad-
11 ministered while the detainee is in the custody of the
12 Department of Homeland Security.

13 (2) Whether Department practice and proce-
14 dures were properly followed and obeyed.

15 (3) Whether such practice and procedures are
16 sufficient to protect the health and safety of such
17 detainees.

18 (4) Whether reports of such deaths were made
19 to the Deaths in Custody Reporting Program.

20 **SEC. 609. REMOVAL PROCEEDINGS.**

21 Subsection (b) of section 240 of the Immigration and
22 Nationality Act (8 U.S.C. 1229a) is amended by adding
23 at the end the following new paragraph (8):

24 “(8) ORDER OF CONSIDERATION OF PRO-
25 CEEDINGS.—Whenever possible, proceedings shall

- 1 take place in the order in which aliens are placed in
- 2 proceedings.”.

