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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. GOWDY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# 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.

TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

- Sec. 101. Definitions and severability.
- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
- Sec. 104. Technology access.
- Sec. 105. State and local law enforcement provision of information about apprehended aliens.
- Sec. 106. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 107. Increased Federal detention space.
- Sec. 108. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 109. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 110. Immunity.
- Sec. 111. Criminal alien identification program.
- Sec. 112. Clarification of congressional intent.
- Sec. 113. State criminal alien assistance program (SCAAP).
- Sec. 114. State violations of enforcement of immigration laws.
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TITLE II—NATIONAL SECURITY

- Sec. 201. Removal of, and denial of benefits to, terrorist aliens.
- Sec. 202. Terrorist bar to good moral character.
- Sec. 203. Terrorist bar to naturalization.
- Sec. 204. Denaturalization for terrorists.
- Sec. 205. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 206. Background and security checks.
- Sec. 207. Technical amendments relating to the Intelligence Reform and Terrorism Prevention Act of 2004.

TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony.
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.
- Sec. 303. Espionage clarification.
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 306. Conforming amendment to the definition of racketeering activity.
- Sec. 307. Conforming amendments for the aggravated felony definition.
- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.
- Sec. 309. Precluding withholding of removal for aggravated felons.
- Sec. 310. Inadmissibility, deportability, and detention of drunk drivers.
- Sec. 311. Detention of dangerous aliens.
- Sec. 312. Grounds of inadmissibility and deportability for alien gang members.

- Sec. 313. Extension of identity theft offenses.
- Sec. 314. Laundering of monetary instruments.
- Sec. 315. Penalties for illegal entry or presence.
- Sec. 316. Illegal reentry.
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.
- Sec. 318. Forfeiture.
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
- Sec. 321. Protecting immigrants from convicted sex offenders.
- Sec. 322. Clarification to crimes of violence and crimes involving moral turpitude.
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- Sec. 324. Pardons.
- Sec. 325. Convictions.

#### TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.
- Sec. 402. Visa information sharing.
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#### TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

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#### TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS

- Sec. 601. Timely repatriation.

- Sec. 602. Encouraging aliens to depart voluntarily.  
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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-

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

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

9 (a) CONTINUATION AND EXPANSION.—

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

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

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

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

18 (2) EXPANSION.—The program shall be ex-  
19 tended to all States. Any State that receives Federal  
20 funds for the incarceration of criminal aliens (pursu-  
21 ant to the State Criminal Alien Assistance Program  
22 authorized under section 241(i) of the Immigration  
23 and Nationality Act (8 U.S.C. 1231(i)) or other  
24 similar program) shall—

25 (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(e))  
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           tie 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)



1           whether obtained by filing an independent  
2           action or as a independent order in an-  
3           other proceeding.

4           “(iii) WAIVER AUTHORIZED.—The  
5           waiver authority available under section  
6           237(a)(7) with respect to section  
7           237(a)(2)(E)(i) shall be available on a  
8           comparable basis with respect to this sub-  
9           paragraph.

10          “(iv) CLARIFICATION.—If the convic-  
11          tion records do not conclusively establish  
12          whether a crime of domestic violence con-  
13          stitutes a crime of violence (as defined in  
14          section 16 of title 18, United States Code),  
15          the Attorney General may consider other  
16          evidence related to the conviction that  
17          clearly establishes that the conduct for  
18          which the alien was engaged constitutes a  
19          crime of violence.”; and

20          (3) in subsection (h)—

21                 (A) by striking “The Attorney General  
22                 may, in his discretion, waive the application of  
23                 subparagraphs (A)(i)(I), (B), (D), and (E) of  
24                 subsection (a)(2)” and inserting “The Attorney  
25                 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;”;

23 (3) in subsection (y)—

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

1 ing “NOT LAWFULLY ADMITTED FOR PERMA-  
2 NENT RESIDENCE.—”;

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

5 “(B) the term ‘lawfully admitted for per-  
6 manent residence’ has the same meaning as in  
7 section 101(a)(20) of the Immigration and Na-  
8 tionality Act (8 U.S.C. 1101(a)(20)).”.

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

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

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

20 Section 3291 of title 18, United States Code, is  
21 amended by striking “No person” and all that follows  
22 through the period at the end and inserting the following:  
23 “No person shall be prosecuted, tried, or punished for a  
24 violation of any section of chapters 69 (relating to nation-  
25 ality 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-

1           riod” the following: “or is not detained pursu-  
2           ant to paragraph (6) of this subsection”; and

3                   (B) by striking subparagraph (D) and in-  
4           serting the following:

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

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

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

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

17                   “(A) DETENTION REVIEW PROCESS FOR  
18          COOPERATIVE ALIENS ESTABLISHED.—For an  
19          alien who is not otherwise subject to mandatory  
20          detention, who has made all reasonable efforts  
21          to comply with a removal order and to cooper-  
22          ate fully with the Secretary of Homeland Secu-  
23          rity’s efforts to establish the alien’s identity and  
24          carry out the removal order, including making  
25          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 subparagraph (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;

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,  
2 That such surcharges shall be 10 percent of the fee as-  
3 sessed 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 Immi-  
14 gration 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 of  
12 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; and

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; and

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 10 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 an recommenda-

1 tions on how the pilot program should work in the first  
2 quarterly report of the Council, and shall include assess-  
3 ments of the program and recommendations for improve-  
4 ment in 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           ture, 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 DEPART-  
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.”.