

103^D CONGRESS
2^D SESSION

H. R. 3860

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 10, 1994

Mr. SMITH of Texas (for himself, Mr. ARMEY, Mr. BAKER of California, Mr. BARTON of Texas, Mr. BURTON of Indiana, Mr. CANADY, Mr. COLLINS of Georgia, Mr. CUNNINGHAM, Mr. DELAY, Mr. DOOLITTLE, Mr. FISH, Mr. GALLEGLY, Mr. GILMAN, Mr. GINGRICH, Mr. GOODLATTE, Mr. GOSS, Mr. GREENWOOD, Mr. HUNTER, Mr. SAM JOHNSON of Texas, Mr. KIM, Mr. KINGSTON, Mr. LEVY, Mr. LEWIS of Florida, Mr. MCCOLLUM, Mr. MCKEON, Mrs. MEYERS of Kansas, Mr. MILLER of Florida, Ms. MOLINARI, Mr. MOORHEAD, Mr. ROHRABACHER, Mr. ROYCE, Mr. SHAW, Mr. STEARNS, and Mr. SHAYS) introduced the following bill; which was referred jointly to the Committees on the Judiciary, Ways and Means, Energy and Commerce, Banking, Finance and Urban Affairs, Foreign Affairs, and Government Operations

A BILL

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, 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 “Illegal Immigration
5 Control Act of 1994”.

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

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—INTERDICTION

- Sec. 101. Physical barriers.
- Sec. 102. Border patrol agents.
- Sec. 103. Interior repatriation program.
- Sec. 104. Detention facilities.
- Sec. 105. Notice to service of port of entry arrivals.
- Sec. 106. Border crossing fee.
- Sec. 107. Border control trust fund.

TITLE II—ALIEN SMUGGLING

- Sec. 201. Expanded forfeiture for smuggling or harboring illegal aliens.
- Sec. 202. Including alien smuggling as a racketeering activity for purposes of racketeering influenced and corrupt organizations (RICO) enforcement authority.
- Sec. 203. Enhanced penalties for alien smuggling and for employers who knowingly employ smuggled aliens.
- Sec. 204. Wiretap authority for alien smuggling investigations.

TITLE III—EMPLOYMENT

- Sec. 301. Improvement of work eligibility documents.
- Sec. 302. Immigration and Naturalization Service investigators.

TITLE IV—GOVERNMENT BENEFITS

- Sec. 401. Prohibition of benefits for certain categories of aliens.
- Sec. 402. Unemployment benefits.
- Sec. 403. Housing benefits.
- Sec. 404. Save system.
- Sec. 405. Limitation on Federal financial assistance to localities that refuse to cooperate in the arrest and deportation of unlawful aliens.
- Sec. 406. Uniform vital statistics.

TITLE V—CRIMINAL ALIENS

- Sec. 501. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 502. Expansion in definition of “aggravated felony”.

- Sec. 503. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 504. Judicial deportation.
- Sec. 505. Restricting defenses to deportation for certain criminal aliens.
- Sec. 506. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 507. Miscellaneous and technical changes.
- Sec. 508. Criminal alien tracking center.
- Sec. 509. Prisoner transfer treaty study.
- Sec. 510. Expediting criminal alien deportation and exclusion.

TITLE VI—TERRORIST ALIENS

- Sec. 601. Removal of alien terrorists.
- Sec. 602. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE VII—INSPECTIONS

- Sec. 701. Preinspection at foreign airports.
- Sec. 702. Training of airline personnel in detection of fraudulent documents.
- Sec. 703. Passport and visa offenses penalties improvement.

TITLE VIII—ASYLUM

- Sec. 801. Inspection and exclusion by immigration officers.
- Sec. 802. Asylum.
- Sec. 803. Failure to appear for provisional asylum hearing; judicial review.
- Sec. 804. Conforming amendments.
- Sec. 805. Effective dates.

1 **TITLE I—INTERDICTION**

2 **SEC. 101. PHYSICAL BARRIERS.**

3 The Attorney General, in consultation with the Com-
 4 missioner of the Immigration and Naturalization Service,
 5 shall take action to install additional physical barriers at
 6 the United States border to deter unauthorized crossings
 7 in areas of high illegal entry into the United States. Such
 8 additional barriers shall include barriers similar to those
 9 in use in the San Diego, California, vicinity.

10 **SEC. 102. BORDER PATROL AGENTS.**

11 In addition to such amounts as are otherwise author-
 12 ized to be appropriated, there is authorized to be appro-

1 priated for each of the fiscal years 1995, 1996, 1997,
2 1998, and 1999 for salaries and expenses of the Border
3 Patrol such amounts as may be necessary to provide for
4 an increase in the number of agents of the Border Patrol
5 by 6,000 full-time equivalent agent positions (and nec-
6 essary support personnel positions) beyond the number of
7 such positions authorized for the Border Patrol as of Octo-
8 ber 1, 1993.

9 **SEC. 103. INTERIOR REPATRIATION PROGRAM.**

10 Not later than 180 days after the date of enactment
11 of this Act, the Attorney General and the Commissioner
12 of the Immigration and Naturalization Service shall de-
13 velop and implement a program in which aliens who pre-
14 viously have illegally entered the United States not less
15 than 3 times and are deported or returned to a country
16 contiguous to the United States will be returned to loca-
17 tions not less than 500 kilometers from that country's bor-
18 der with the United States.

19 **SEC. 104. DETENTION FACILITIES.**

20 (a) **BORDER DETENTION FACILITIES.**—Not later
21 than 180 days after the date of enactment of this Act,
22 the Attorney General and the Commissioner of the Immi-
23 gration and Naturalization Service shall take appropriate
24 action to increase the capability of the Immigration and

1 Naturalization Service to detain individuals who have ille-
2 gally entered the United States at a border area.

3 (b) TRANSFER OF CLOSED MILITARY BASES FOR
4 FEDERAL ILLEGAL ALIEN INCARCERATION FACILI-
5 TIES.—

6 (1) PRIORITY AVAILABILITY TO DEPARTMENT
7 OF JUSTICE.—Notwithstanding any other provision
8 of law, a military installation or facility of the De-
9 partment of Defense to be closed under a base clo-
10 sure law may be made available, as determined by
11 the Attorney General, to the Bureau of Prisons of
12 the Department of Justice for use as a facility for
13 the incarceration of aliens who are subject to exclu-
14 sion or deportation from the United States.

15 (2) DEFINITION.—For purposes of this sub-
16 section, the term “base closure law” means each of
17 the following:

18 (A) The Defense Base Closure and Re-
19 alignment Act of 1990 (part A of title XXIX of
20 Public Law 101–510; 10 U.S.C. 2687 note).

21 (B) Title II of the Defense Authorization
22 Amendments and Base Closure and Realign-
23 ment Act (Public Law 100–526; 10 U.S.C.
24 2687 note).

1 (C) Section 2687 of title 10, United States
2 Code.

3 (D) Any other similar law enacted after
4 the date of the enactment of this Act.

5 **SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY ARRIV-**
6 **ALS.**

7 The Attorney General is authorized to require, by
8 regulation, not less than 24 hour advance notice to the
9 Immigration and Naturalization Service of the intention
10 of any vessel to arrive at any port of entry.

11 **SEC. 106. BORDER CROSSING FEE.**

12 The Commissioner shall collect a user fee for each
13 entry into the United States by land after December 31,
14 1994. The amount of the fee to be charged shall be deter-
15 mined by the Commission and the Attorney General and
16 such amount (rounded to the nearest whole dollar) shall
17 not exceed the current fee charged to persons entering the
18 United States by air. The Commissioner by regulation
19 may establish a reduced fee or a multiple-crossing fee for
20 frequent border crossers.

21 **SEC. 107. BORDER CONTROL TRUST FUND.**

22 There is established a Border Control Trust Fund
23 (“Fund”) under the control of the Commissioner. The fees
24 collected under section 106 shall be deposited into the
25 Fund. Amounts deposited into the Fund and the earnings

1 thereon shall be expended by the Commissioner exclusively
2 for (1) measures, personnel, structures, and devices to
3 deter and prevent illegal entry of persons and contraband
4 into the United States by land or by sea, (2) construction
5 and operation of facilities to expedite lawful border traffic
6 and reduce, where practical, extensive delays in the time
7 required for lawful entry of goods and persons, (3) depor-
8 tation of aliens, (4) construction and operation of facilities
9 used to detain individuals who have entered the United
10 States illegally at the border including the mandate costs
11 necessary to fully utilize INS Service Processing Center
12 facilities, available local and State facilities, and available
13 contract facilities, and (5) financial and other assistance
14 to State and local law enforcement agencies that have en-
15 tered into cooperative arrangements with the Immigration
16 and Naturalization Service. Not less than 80 percent of
17 the sum of (a) amounts deposited into the Fund during
18 a fiscal year and (b) the earnings of the Fund during that
19 fiscal year shall be expended during that or the subsequent
20 fiscal year.

1 **TITLE II—ALIEN SMUGGLING**

2 **SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR** 3 **HARBORING ILLEGAL ALIENS.**

4 (a) IN GENERAL.—Paragraph (1) of section 274(b)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1324(b)) is amended to read as follows:

7 “(1)(A) Except as provided in subparagraph (B), the
8 following property shall be subject to seizure and forfeit-
9 ure:

10 “(i) Any conveyance, including any vessel, vehi-
11 cle, or aircraft, which has been or is being used in
12 the commission of a violation of subsection (a).

13 “(ii) Any property, real or personal, which—

14 “(I) constitutes, or is derived from or
15 traceable to, the proceeds obtained directly or
16 indirectly from the commission of a violation of
17 subsection (a), or

18 “(II) is used to facilitate, or is intended to
19 be so used in the commission of, a violation of
20 subsection (a)(1)(A).

21 “(B)(i) No property used by any person as a common
22 carrier in the transaction of business as a common carrier
23 shall be forfeited under this section, unless the owner or
24 other person with lawful custody of the property was a

1 consenting party to or privy to the violation of subsection
2 (a) or of section 274A(a)(1) or 274A(a)(2).

3 “(ii) No property shall be forfeited under the provi-
4 sions of this section by reason of any act or omission es-
5 tablished by the owner to have been committed or omitted
6 by a person other than the owner while the property was
7 unlawfully in the possession of a person other than the
8 owner in violation of the criminal laws of the United
9 States or of any State.

10 “(iii) No property shall be forfeited under the provi-
11 sions of this section to the extent of an interest of the
12 owner, by reason of any act or omission established by
13 the owner to have been committed or omitted without the
14 knowledge, consent, or willful disregard of the owner, un-
15 less the act or omission was committed or omitted by an
16 employee or agent of the owner or other person with lawful
17 custody of the property with the intent of furthering the
18 business interests of, or to confer any other benefit upon,
19 the owner or other person with lawful custody of the prop-
20 erty.”.

21 (b) CONFORMING AMENDMENTS.—Section 274(b) of
22 such Act (8 U.S.C. 1324(b)) is amended—

23 (1) in paragraph (2)—

24 (A) by striking “conveyance” and inserting

25 “property” each place it appears, and

1 (B) by striking “is being used in” and in-
2 serting “is being used in, is facilitating, has fa-
3 cilitated, is facilitating or was intended to facili-
4 tate”; and

5 (2) in paragraphs (4) and (5), by striking “a
6 conveyance”, “any conveyance”, and “conveyance”
7 and inserting “property” each place it appears.

8 **SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**
9 **ING ACTIVITY FOR PURPOSES OF RACK-**
10 **ETEERING INFLUENCED AND CORRUPT OR-**
11 **GANIZATIONS (RICO) ENFORCEMENT AU-**
12 **THORITY.**

13 Section 1961(1) of title 18, United States Code, is
14 amended—

15 (1) by striking “or” before “(E) any act”, and

16 (2) by inserting before the period at the end the
17 following: “, or (F) any act which is indictable under
18 section 274(a)(1) of the Immigration and National-
19 ity Act (relating to alien smuggling)”.

20 **SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN**
21 **SMUGGLING AND FOR EMPLOYERS WHO**
22 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

23 Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amend-
24 ed—

1 (1) by striking “or” at the end of subparagraph
2 (C),

3 (2) by striking the comma at the end of sub-
4 paragraph (D) and inserting “; or”,

5 (3) by inserting after subparagraph (D) the fol-
6 lowing:

7 “(E) contracts or agrees with another party for
8 that party to provide, for employment by the person
9 or another, an alien who is not authorized to be em-
10 ployed in the United States, knowing that such
11 party intends to cause such alien to be brought into
12 the United States in violation of the laws of the
13 United States,” and

14 (4) by striking “five years” and inserting “ten
15 years”.

16 **SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
17 **VESTIGATIONS.**

18 Section 2516(1) of title 18, United State Code, is
19 amended—

20 (1) in paragraph (c) by inserting after “weap-
21 ons),” the following: “or a felony violation of section
22 1028 (relating to production of false identification
23 documentation), section 1542 (relating to false
24 statements in passport applications), section 1546

1 (relating to fraud and misuse of visas, permits, and
2 other documents),”;

3 (2) by striking out “or” after paragraph (l) and
4 redesignating paragraphs (m), (n), and (o) as para-
5 graphs (n), (o), and (p), respectively; and

6 (3) by inserting after paragraph (l) the follow-
7 ing new paragraph:

8 “(m) a violation of section 274 of the Immigration
9 and Nationality Act (8 U.S.C. 1324) (relating to alien
10 smuggling), of section 277 of the Immigration and Nation-
11 ality Act (8 U.S.C. 1327) (relating to the smuggling of
12 aliens convicted of aggravated felonies or of aliens subject
13 to exclusion on grounds of national security), or of section
14 278 of the Immigration and Nationality Act (8 U.S.C.
15 1328) (relating to smuggling of aliens for the purpose of
16 prostitution or other immoral purpose);”.

17 **TITLE III—EMPLOYMENT**

18 **SEC. 301. IMPROVEMENT OF WORK ELIGIBILITY DOCU-** 19 **MENTS.**

20 (a) WORK ELIGIBILITY DOCUMENTS AND VERIFICA-
21 TION OF ELIGIBILITY TO WORK.—Section 274A(b) of the
22 Immigration and Nationality Act is amended—

23 (1) by striking paragraph (1) of subsection (b)
24 and inserting:

1 “(1) ATTESTATION AFTER EXAMINATION AND
2 VERIFICATION OF DOCUMENTATION.—The person or
3 entity must attest, under penalty or perjury and on
4 a form designated or established by the Attorney
5 General by regulation, that it has verified that the
6 individual is not an unauthorized alien by—

7 “(A) examining the individual’s Social Se-
8 curity account number card issued pursuant to
9 subsection (d)(1), and

10 “(B) verifying the individual’s Social Secu-
11 rity account number through the verification
12 system established pursuant to subsection
13 (d)(4).”,

14 (2) by inserting the following paragraph and re-
15 designating the subsequent paragraphs accordingly:

16 “(2) VERIFICATION OF CONTINUED WORK ELI-
17 GIBILITY FOR ALIENS WITH LIMITED WORK AU-
18 THORIZATION.—In the case of an alien whose work
19 authorization has an expiration date, a person or en-
20 tity who continues to employ such an alien after the
21 date the employment authorization expires must ver-
22 ify, through the verification system established pur-
23 suant to subsection (d)(4), that the alien’s work au-
24 thorization has been extended.”, and

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

1 “(7) Notwithstanding any other provision of
2 law, a person or entity may not be considered to dis-
3 criminate by requesting the production of the docu-
4 mentation required under this subsection in the hir-
5 ing, recruiting, or referring of an individual for em-
6 ployment in the United States.”.

7 (b) EFFECTIVE DATES.—(1) Subsection (a)(1) shall
8 be effective as of July 1, 1995.

9 (2) Paragraphs (2) and (3) of subsection (a) shall
10 be effective upon enactment of this Act.

11 (c) ENHANCEMENT OF SOCIAL SECURITY CARDS
12 AND ESTABLISHMENT OF EMPLOYMENT VERIFICATION
13 SYSTEM.—Section 274A(d) of the Immigration and Na-
14 tionality Act is amended to read as follows:

15 “(d) EMPLOYMENT VERIFICATION SYSTEM.—

16 “(1) ENHANCEMENT OF SOCIAL SECURITY
17 CARDS.—

18 “(A) ISSUANCE OF ENHANCED CARD FOR
19 CITIZENS.—The Secretary shall cause to be is-
20 sued enhanced Social Security account number
21 cards to United States citizens and United
22 States nationals who are 16 years of age or
23 older upon application, proof of identity, proof
24 of citizenship or nationality, and payment of a
25 reasonable fee.

1 “(B) ISSUANCE OF ENHANCED CARD FOR
2 ALIENS.—The Secretary shall cause to be is-
3 sued enhanced Social Security account number
4 cards to aliens lawfully admitted for permanent
5 residence or who are otherwise authorized to
6 work in the United States and who are 16 years
7 of age or older upon application, proof of iden-
8 tity, verification of status by the Immigration
9 and Naturalization Service, and payment of a
10 reasonable fee.

11 “(2) REQUIREMENTS OF NEW CARDS.—(A) The
12 cards issued pursuant to paragraph (1) shall—

13 “(i) be uniform in appearance,

14 “(ii) be as tamper-proof and counterfeit-re-
15 sistant as is practicable,

16 “(iii) contain a photograph and such other
17 identifying information that is specific to each
18 person as the Secretary shall determine,

19 “(iv) contain the name, sex, date of birth,
20 citizenship status, and Social Security account
21 number of the issuee, and

22 “(v) incorporate a machine-readable encod-
23 ing of the information contained in the card.

24 “(B) The cards issued pursuant to paragraph
25 (1)(B) to aliens who are not permanent resident

1 aliens shall indicate whether the work authorization
2 granted to the alien has an expiration date.

3 “(3) IMPLEMENTATION.—(A) All Social Secu-
4 rity account number cards issued after July 1, 1995,
5 must be issued pursuant to the requirements under
6 this subsection.

7 “(B) After July 1, 1995, individuals applying
8 for employment shall be required to apply for en-
9 hanced Social Security account cards to be issued
10 pursuant to paragraph (1).

11 “(C) By January 1, 1999, all individuals who
12 are 16 years of age or older and who have a Social
13 Security account number must apply for Social Se-
14 curity account number card issued pursuant to para-
15 graph (1).

16 “(4) VERIFICATION SYSTEM.—

17 “(A) IN GENERAL.—The Secretary, in con-
18 sultation with the Attorney General, shall make
19 such modifications and improvements as are
20 necessary to current data bases and systems to
21 develop and implement a verification system
22 that a person or entity can access by telephone
23 or other electronic means. Such system shall
24 allow for verification that an individual’s Social
25 Security account number—

1 “(i) has been issued,

2 “(ii) was issued to an individual au-
3 thorized to work in the United States, and

4 “(iii) is not a number issued to a de-
5 ceased individual that has not been re-
6 issued.

7 The system shall also provide any other infor-
8 mation that the Secretary and Attorney General
9 determine is needed to verify that the number
10 is a number issued validly to the individual and
11 that such individual is authorized to work in
12 the United States.

13 “(B) ACCESS FEE.—A fee, not to exceed
14 \$2 plus any line charges payable to a telephone
15 carrier or equivalent entity, shall be charged for
16 each instance of accessing the verification sys-
17 tem to pay for the costs of operating the sys-
18 tem.

19 “(C) EFFECTIVE DATE.—The verification
20 system required by this paragraph shall be
21 operational by July 1, 1995.

22 “(5) FUNDING OF EMPLOYMENT VERIFICATION
23 SYSTEM.—

24 “(A) The amount of the fee that is to be
25 charged under paragraph (1) shall be the

1 amount (rounded to the nearest whole dollar),
2 not exceeding \$40, required to cover the costs
3 of issuing the cards. The Secretary shall pro-
4 vide for the waiver of any fee for persons un-
5 able to pay.

6 “(B) Any costs incurred in developing and
7 implementing the new Social Security account
8 number cards and verification system estab-
9 lished under this subsection that exceed the fees
10 collected under paragraph (1) shall not be paid
11 for out of any trust fund established under the
12 Social Security Act.

13 “(6) PRIVACY PROTECTIONS.—

14 “(A) Any personal information utilized by
15 the system may not be made available to Gov-
16 ernment agencies, employers, and other persons
17 except to the extent necessary to verify that an
18 individual is not an unauthorized alien.

19 “(B) The system must protect the privacy
20 and security of personal information and identi-
21 fiers utilized in the system.

22 “(C) A verification that an employee or
23 prospective employee is eligible to be employed
24 in the United States may not be withheld or re-
25 voked under the system for any reason other

1 than that the employee or prospective employee
2 is an unauthorized alien.

3 “(D) The system may not be used for law
4 enforcement purposes, other than for enforce-
5 ment of this Act or section 1001, 1028, 1546,
6 and 1621 of title 18, United States Code.

7 “(E) The cards issued pursuant to this
8 subsection may not be required to be presented
9 for any purpose other than under this Act (or
10 enforcement of sections 1001, 1028, 1546, and
11 1621 of title 18, United States Code) nor to be
12 carried on one’s person.

13 “(F) Unauthorized use or disclosure of the
14 information or identifiers contained in the em-
15 ployment verification system shall be punishable
16 by civil and criminal penalties.

17 “(7) MONITORING AND IMPROVEMENTS IN SYS-
18 TEM.—(A) The Attorney General shall provide for
19 the monitoring and evaluation of the degree to which
20 the employment verification system established
21 under subsection (b) provides a secure system to de-
22 termine employment eligibility in the United States.

23 “(B) To the extent that the system established
24 under this subsection and subsection (b) is found
25 not to be a secure system to determine employment

1 eligibility in the United States, the Attorney General
2 shall recommend such changes in (including addi-
3 tions to) the system as may be necessary to establish
4 such a system.

5 “(8) DEFINITIONS.—For purposes of this sub-
6 section—

7 “(A) the term ‘Secretary’ means the Sec-
8 retary of Health and Human Services, and

9 “(B) the term ‘State’ means one of the
10 United States, the District of Columbia, or
11 Puerto Rico.”.

12 (d) CONFORMING AMENDMENTS.—(1) Section 274A
13 of the Immigration and Nationality Act is amended—

14 (A) in subsection (b), by striking “following
15 three paragraphs” and inserting “following four
16 paragraphs”, and

17 (B) by striking subsections (i), (j), (k), (l), (m),
18 and (n).

19 (2) This subsection shall be effective on July 1, 1995.

20 **SEC. 302. IMMIGRATION AND NATURALIZATION SERVICE**
21 **INVESTIGATORS.**

22 In addition to such amounts as are otherwise author-
23 ized to be appropriated, there is authorized to be appro-
24 priated for each of the fiscal years 1995, 1996, 1997,
25 1998, and 1999 for salaries and expenses of the Immigra-

1 tion and Naturalization Service such amounts as may be
2 necessary to provide for an increase in the number of in-
3 vestigators of the Immigration and Naturalization Service
4 by 1,000 full-time equivalent investigator positions (and
5 such support personnel as are necessary) beyond the num-
6 ber of such positions authorized as of October 1, 1993.

7 **TITLE IV—GOVERNMENT** 8 **BENEFITS**

9 **SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CAT-** 10 **EGORIES OF ALIENS.**

11 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Sub-
12 ject to subsection (b) and the Immigration and Nationality
13 Act, and notwithstanding any other provision of law, an
14 alien not lawfully within the United States as a permanent
15 resident, a refugee, an asylee, or a parolee is not eligible
16 for any direct Federal financial benefit or social insurance
17 benefit (whether through grant, loan, guarantee, or other-
18 wise) as such benefits are identified by the Attorney Gen-
19 eral in consultation with other appropriate heads of the
20 various departments and agencies of the Federal Govern-
21 ment.

22 (b) EMERGENCY MEDICAL CARE.—Subsection (a)
23 shall not apply with respect to the Federal reimbursement
24 of emergency medical care for aliens, as determined by the
25 Secretary of Health and Human Services by regulation.

1 **SEC. 402. UNEMPLOYMENT BENEFITS.**

2 (a) An alien who has not been granted employment
3 authorization pursuant to the Immigration and National-
4 ity Act or other Federal law shall be ineligible for unem-
5 ployment compensation under an unemployment com-
6 pensation law of a State or the United States.

7 (b) An alien granted temporary work authorization
8 shall be eligible only for unemployment compensation
9 under an employment compensation law of a State or the
10 United States that accrued during such time as the alien
11 was authorized to work.

12 **SEC. 403. HOUSING BENEFITS.**

13 (a) LIMITATION.—Notwithstanding section 401 or
14 any other provision of law, no alien who is not a perma-
15 nent resident, a refugee, an asylee, or a parolee shall be
16 eligible for benefits under the following provisions of law:

17 (1) The program of rental assistance on behalf
18 of low-income families provided under section 8 of
19 the United States Housing Act of 1937 (42 U.S.C.
20 1437f).

21 (2) The program of assistance to public housing
22 under title I of the United States Housing Act of
23 1937 (42 U.S.C. 1437 et seq.).

24 (3) The loan program under section 502 of the
25 Housing Act of 1949 (42 U.S.C. 1472).

1 (4) The program of interest reduction payments
2 pursuant to contracts entered into by the Secretary
3 of Housing and Urban Development under section
4 236 of the National Housing Act (12 U.S.C. 1715z-
5 1).

6 (5) The program of loans for rental and cooper-
7 ative housing under section 515 of the Housing Act
8 of 1949 (42 U.S.C. 1485).

9 (6) The program of rental assistance payments
10 pursuant to contracts entered into under section
11 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C.
12 1490a(a)(2)(A)).

13 (7) The program of assistance payments on be-
14 half of homeowners under section 235 of the Na-
15 tional Housing Act (12 U.S.C. 1715z).

16 (8) The program of rent supplement payments
17 on behalf of qualified tenants pursuant to contracts
18 entered into under section 101 of the Housing and
19 Urban Development Act of 1965 (12 U.S.C. 1701s).

20 (9) The loan and grant programs under section
21 504 of the Housing Act of 1949 (42 U.S.C. 1474)
22 for repairs and improvements to rural dwellings.

23 (10) The loan and assistance programs under
24 sections 514 and 516 of the Housing Act of 1949
25 (42 U.S.C. 1484, 1486) for housing for farm labor.

1 local government on and after such date as the Attorney
2 General certifies that the local government has an official
3 policy of refusing to cooperate with officers or employees
4 of the Department of Justice (including the Immigration
5 and Naturalization Service) with respect to the arrest and
6 deportation of aliens who are not lawfully present within
7 the United States. Such reduction in assistance is not re-
8 imburseable and shall continue for as long as the policy
9 of noncooperation remains in effect.

10 **SEC. 406. UNIFORM VITAL STATISTICS.**

11 (a) PILOT PROGRAM.—The Secretary of Health and
12 Human Services shall consult with the State agency re-
13 sponsible for registration and certification of births and
14 deaths and, within 3 years of the date of enactment of
15 this Act, shall establish a pilot program for 3 of the 5
16 States with the largest number of undocumented aliens
17 of an electronic network linking the vital statistics records
18 of such States. The network shall provide, where practical,
19 for the matching of deaths with births and shall enable
20 the confirmation of births and deaths of citizens of such
21 States, or of aliens within such States, by any Federal
22 or State agency or official in the performance of official
23 duties. The Secretary and participating State agencies
24 shall institute measures to achieve uniform and accurate
25 reporting of vital statistics into the pilot program network,

1 to protect the integrity of the registration and certification
2 process, and to prevent fraud against the Government and
3 other persons through the use of false birth or death cer-
4 tificates.

5 (b) REPORT.—Not later than 180 days after the es-
6 tablishment of the pilot program under subsection (a), the
7 Secretary shall issue a written report to Congress with rec-
8 ommendations on how the pilot program could effectively
9 be instituted as a national network for the United States.

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated for fiscal year 1994 and
12 for subsequent fiscal years such sums as may be necessary
13 to carry out this section.

14 **TITLE V—CRIMINAL ALIENS**

15 **SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON** 16 **CRIMINAL PROBATION OR CRIMINAL PA-** 17 **ROLE.**

18 Section 263(a) of the Immigration and Nationality
19 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”
20 and inserting “(5) aliens who are or have been on criminal
21 probation or criminal parole pursuant to the laws of the
22 United States or of any State, and (6)”.

1 **SEC. 502. EXPANSION IN DEFINITION OF “AGGRAVATED**
2 **FELONY”.**

3 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)(43)) is amended to read as follows:

6 “(43) The term ‘aggravated felony’ means—

7 “(A) murder;

8 “(B) any illicit trafficking in any con-
9 trolled substance (as defined in section 102 of
10 the Controlled Substances Act), including any
11 drug trafficking crime as defined in section
12 924(c) of title 18, United States Code;

13 “(C) any illicit trafficking in any firearms
14 or destructive devices as defined in section 921
15 of title 18, United States Code, or in explosive
16 materials as defined in section 841(c) of title
17 18, United States Code;

18 “(D) any offense described in sections
19 1951 through 1963 of title 18, United States
20 Code;

21 “(E) any offense described in—

22 “(i) subsections (h) or (i) of section
23 842, title 18, United States Code, or sub-
24 section (d), (e), (f), (g), (h), or (i) of sec-
25 tion 844 of title 18, United States Code
26 (relating to explosive materials offenses),

1 “(ii) paragraph (1), (2), (3), (4), or
2 (5) of section 922(g), or section 922(j),
3 section 922(n), section 922(o), section
4 922(p), section 922(r), section 924(b), or
5 section 924(h) of title 18, United States
6 Code (relating to firearms offenses), or

7 “(iii) section 5861 of title 26, United
8 States Code (relating to firearms offenses);

9 “(F) any crime of violence (as defined in
10 section 16 of title 18, United States Code, not
11 including a purely political offense) for which
12 the term of imprisonment imposed (regardless
13 of any suspension of such imprisonment) is at
14 least 5 years;

15 “(G) any theft offense (including receipt of
16 stolen property) or any burglary offense, where
17 a sentence of 5 years imprisonment or more
18 may be imposed;

19 “(H) any offense described in section 875,
20 section 876, section 877, or section 1202 of
21 title 18, United States Code (relating to the de-
22 mand for or receipt of ransom);

23 “(I) any offense described in section 2251,
24 section 2251A or section 2252 of title 18,

1 United States Code (relating to child pornog-
2 raphy);

3 “(J) any offense described in section 1084
4 of title 18, United States Code, where a sen-
5 tence of 5 years imprisonment or more may be
6 imposed;

7 “(K) any offense relating to commercial
8 bribery, counterfeiting, forgery or trafficking in
9 vehicles whose identification numbers have been
10 altered, where a sentence of 5 years imprison-
11 ment or more may be imposed;

12 “(L) any offense—

13 “(i) relating to the owning, control-
14 ling, managing or supervising of a pros-
15 titution business,

16 “(ii) described in section 2421
17 through 2424 of title 18, United States
18 Code, for commercial advantage, or

19 “(iii) described in sections 1581
20 through 1585, or section 1588, of title 18,
21 United States Code (relating to peonage,
22 slavery, and involuntary servitude);

23 “(M) any offense relating to perjury or
24 subornation of perjury where a sentence of 5
25 years imprisonment or more may be imposed;

1 “(N) any offense described in—

2 “(i) section 793 (relating to gathering
3 or transmitting national defense informa-
4 tion), section 798 (relating to disclosure of
5 classified information), section 2153 (relat-
6 ing to sabotage) or section 2381 or section
7 2382 (relating to treason) of title 18,
8 United States Code, or

9 “(ii) section 421 of title 50, United
10 States Code (relating to protecting the
11 identity of undercover intelligence agents);

12 “(O) any offense—

13 “(i) involving fraud or deceit where
14 the loss to the victim or victims exceeded
15 \$200,000; or

16 “(ii) described in section 7201 of title
17 26, United States Code (relating to tax
18 evasion), where the tax loss to the Govern-
19 ment exceeds \$200,000;

20 “(P) any offense described in section
21 274(a)(1) of the Immigration and Nationality
22 Act (relating to alien smuggling) for the pur-
23 pose of commercial advantage;

24 “(Q) any violation of section 1546(a) of
25 title 18, United States Code (relating to docu-

1 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
2 MANENT RESIDENTS.—

3 “(1) Notwithstanding section 242, and subject
4 to paragraph (5), the Attorney General may issue a
5 final order of deportation against any alien described
6 in paragraph (2) whom the Attorney General deter-
7 mines to be deportable under section
8 241(a)(2)(A)(iii) (relating to conviction of an aggra-
9 vated felony).

10 “(2) An alien is described in this paragraph if
11 the alien—

12 “(A) was not lawfully admitted for perma-
13 nent residence at the time that proceedings
14 under this section commenced, or

15 “(B) had permanent resident status on a
16 conditional basis (as described in section 216)
17 at the time that proceedings under this section
18 commenced.

19 “(3) The Attorney General may delegate the
20 authority in this section to the Commissioner or to
21 any District Director of the Service.

22 “(4) No alien described in this section shall be
23 eligible for—

1 “(A) any relief from deportation that the
2 Attorney General may grant in his discretion,
3 or

4 “(B) relief under section 243(h).

5 “(5) The Attorney General may not execute any
6 order described in paragraph (1) until 14 calendar
7 days have passed from the date that such order was
8 issued, in order that the alien has an opportunity to
9 apply for judicial review under section 106.”.

10 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the
11 Immigration and Nationality Act (8 U.S.C. 1105a) is
12 amended—

13 (1) in the first sentence of subsection (a), by in-
14 serting “or pursuant to section 242A” after “under
15 section 242(b)”;

16 (2) in subsection (a)(1) and subsection (a)(3),
17 by inserting “(including an alien described in section
18 242A)” after “aggravated felony”; and

19 (3) by adding at the end the following new sub-
20 section:

21 “(d) Notwithstanding subsection (c), a petition for
22 review or for habeas corpus on behalf of an alien described
23 in section 242A(c) may only challenge whether the alien
24 is in fact an alien described in such section, and no court
25 shall have jurisdiction to review any other issue.”.

1 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-
2 tion 242A of the Immigration and Nationality Act (8
3 U.S.C. 1252a) is amended as follows:

4 (1) In subsection (a)—

5 (A) by striking “(a) IN GENERAL.—” and
6 inserting “(b) DEPORTATION OF PERMANENT
7 RESIDENT ALIENS.—(1) IN GENERAL.—”; and

8 (B) by inserting in the first sentence “per-
9 manent resident” after “correctional facilities
10 for”;

11 (2) In subsection (b)—

12 (A) by striking “(b) IMPLEMENTATION.—”
13 and inserting “(2) IMPLEMENTATION.—”; and

14 (B) by striking “respect to an” and insert-
15 ing “respect to a permanent resident”;

16 (3) By striking out subsection (c);

17 (4) In subsection (d)—

18 (A) by striking “(d) EXPEDITED PRO-
19 CEEDINGS.—(1)” and inserting “(3) EXPE-
20 DITED PROCEEDINGS.—(A)”;

21 (B) by inserting “permanent resident”
22 after “in the case of any”; and

23 (C) by striking “(2)” and inserting “(B)”;

24 (5) In subsection (e)—

1 (A) by striking “(e) REVIEW.—(1)” and
2 inserting “(4) REVIEW.—(A)”;

3 (B) by striking the second sentence; and

4 (C) by striking “(2)” and inserting “(B)”;

5 (6) By inserting after the section heading the
6 following new subsection:

7 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
8 convicted of an aggravated felony shall be conclusively pre-
9 sumed to be deportable from the United States.”; and

10 (7) The heading of such section is amended to
11 read as follows:

“EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
COMMITTING AGGRAVATED FELONIES”.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to all aliens against whom deporta-
14 tion proceedings are initiated after the date of enactment
15 of this Act.

16 **SEC. 504. JUDICIAL DEPORTATION.**

17 (a) JUDICIAL DEPORTATION.—Section 242A of the
18 Immigration and Nationality Act (8 U.S.C. 1252a) is
19 amended by inserting at the end the following new sub-
20 section:

21 “(d) JUDICIAL DEPORTATION.—

22 “(1) AUTHORITY.—Notwithstanding any other
23 provision of this Act, a United States district court
24 shall have jurisdiction to enter a judicial order of de-

1 portation at the time of sentencing against an alien
2 whose criminal conviction causes such alien to be de-
3 portable under section 241(a)(2)(A)(iii) (relating to
4 conviction of an aggravated felony), if such an order
5 has been requested prior to sentencing by the United
6 States Attorney with the concurrence of the Com-
7 missioner.

8 “(2) PROCEDURE.—

9 “(A) The United States Attorney shall pro-
10 vide notice of intent to request judicial deporta-
11 tion promptly after the entry in the record of
12 an adjudication of guilt or guilty plea. Such no-
13 tice shall be provided to the court, to the alien,
14 and to the alien’s counsel of record.

15 “(B) Notwithstanding section 242B, the
16 United States Attorney, with the concurrence of
17 the Commissioner, shall file at least 20 days
18 prior to the date set for sentencing a charge
19 containing factual allegations regarding the
20 alienage of the defendant and satisfaction by
21 the defendant of the definition of aggravated
22 felony.

23 “(C) If the court determines that the de-
24 fendant has presented substantial evidence to
25 establish prima facie eligibility for relief from

1 deportation under section 212(c), the Commis-
2 sioner shall provide the court with a rec-
3 ommendation and report regarding the alien’s
4 eligibility for relief under such section. The
5 court shall either grant or deny the relief
6 sought.

7 “(D)(i) The alien shall have a reasonable
8 opportunity to examine the evidence against
9 him or her, to present evidence on his or her
10 own behalf, and to cross-examine witnesses pre-
11 sented by the Government.

12 “(ii) The court, for the purposes of deter-
13 mining whether to enter an order described in
14 paragraph (1), shall only consider evidence that
15 would be admissible in proceedings conducted
16 pursuant to section 242(b).

17 “(iii) Nothing in this subsection shall limit
18 the information a court of the United States
19 may receive or consider for the purposes of im-
20 posing an appropriate sentence.

21 “(iv) The court may order the alien de-
22 ported if the Attorney General demonstrates by
23 clear and convincing evidence that the alien is
24 deportable under this Act.

1 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-
2 DICIAL ORDER OF DEPORTATION.—

3 “(A)(i) A judicial order of deportation or
4 denial of such order may be appealed by either
5 party to the court of appeals for the circuit in
6 which the district court is located.

7 “(ii) Except as provided in clause (iii),
8 such appeal shall be considered consistent with
9 the requirements described in section 106.

10 “(iii) Upon execution by the defendant of
11 a valid waiver of the right to appeal the convic-
12 tion on which the order of deportation is based,
13 the expiration of the period described in section
14 106(a)(1), or the final dismissal of an appeal
15 from such conviction, the order of deportation
16 shall become final and shall be executed at the
17 end of the prison term in accordance with the
18 terms of the order.

19 “(B) As soon as is practicable after entry
20 of a judicial order of deportation, the Commis-
21 sioner shall provide the defendant with written
22 notice of the order of deportation, which shall
23 designate the defendant’s country of choice for
24 deportation and any alternate country pursuant
25 to section 243(a).

1 5 years, provided that the time for appealing such convic-
2 tion or sentence has expired and the sentence has become
3 final.”.

4 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
5 TATION.—Section 243(h)(2) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

7 (1) striking out the final sentence and inserting
8 in lieu thereof the following new subparagraph:

9 “(E) the alien has been convicted of an ag-
10 gravated felony.”; and

11 (2) striking out the “or” at the end of subpara-
12 graph (C) and inserting “or” at the end of subpara-
13 graph (D).

14 **SEC. 506. ENHANCING PENALTIES FOR FAILING TO DE-**
15 **PART, OR REENTERING, AFTER FINAL ORDER**
16 **OF DEPORTATION.**

17 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
18 migration and Nationality Act (8 U.S.C. 1252(e)) is
19 amended—

20 (1) by striking out “paragraph (2), (3), or 4
21 of” the first time it appears, and

22 (2) by striking out “shall be imprisoned not
23 more than ten years” and inserting in lieu thereof,
24 “shall be imprisoned not more than two years, or
25 shall be imprisoned not more than ten years if the

1 alien is a member of any of the classes described in
2 paragraph (2), (3), or (4) of section 241(a).”.

3 (b) REENTRY.—Section 276(b) of the Immigration
4 and Nationality Act (8 U.S.C. 1326(b)) is amended—

5 (1) in paragraph (1), by (A) inserting after
6 “commission of” the following: “three or more mis-
7 demeanors or”, and (B) striking out “5” and insert-
8 ing in lieu thereof “10”,

9 (2) in paragraph (2), by striking out “15” and
10 inserting in lieu thereof “20”, and

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

12 “For the purposes of this subsection, the term ‘depor-
13 tation’ shall include any agreement where an alien stipu-
14 lates to deportation during a criminal trial under either
15 Federal or State law.”.

16 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
17 TATION ORDER.—Section 276 of the Immigration and Na-
18 tionality Act (8 U.S.C. 1326) is amended by inserting
19 after subsection (b) the following new subsection:

20 “(c) In any criminal proceeding under this section,
21 no alien may challenge the validity of the deportation
22 order described in subsection (a)(1) or subsection (b) un-
23 less the alien demonstrates—

1 “(1) that the alien exhausted the administrative
2 remedies (if any) that may have been available to
3 seek relief against such order,

4 “(2) that the deportation proceedings at which
5 such order was issued improperly deprived the alien
6 of the opportunity for judicial review, and

7 “(3) that the entry of such order was fun-
8 damentally unfair.”.

9 **SEC. 507. MISCELLANEOUS AND TECHNICAL CHANGES.**

10 (a) FORM OF DEPORTATION HEARINGS.—The sec-
11 ond sentence of section 242(b) of the Immigration and
12 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
13 ing before the period the following: “; except that nothing
14 in this subsection shall preclude the Attorney General
15 from authorizing proceedings by electronic or telephonic
16 media (with or without the consent of the alien) or, where
17 waived or agreed to by the parties, in the absence of the
18 alien.”.

19 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
20 REQUIREMENTS.— No amendment made by this Act and
21 nothing in section 242(i) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1252(i)), shall be construed to create
23 any right or benefit, substantive or procedural, which is
24 legally enforceable by any party against the United States,
25 its agencies, its officers or any other person.

1 **SEC. 508. CRIMINAL ALIEN TRACKING CENTER.**

2 (a) OPERATION.—The Commissioner of Immigration
3 and Naturalization, with the cooperation of the Director
4 of the Federal Bureau of Investigation and the heads of
5 other agencies, shall, under the authority of section
6 242(a)(3)(A) of the Immigration and Nationality Act (8
7 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking
8 center.

9 (b) PURPOSE.—The criminal alien tracking center
10 shall be used to assist Federal, State, and local law en-
11 forcement agencies in identifying and locating aliens who
12 may be subject to deportation by reason of their conviction
13 of aggravated felonies.

14 (c) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to carry out this section
16 \$2,000,000 for fiscal year 1995 and \$5,000,000 for each
17 of the fiscal years 1996, 1997, 1998, and 1999.

18 **SEC. 509. PRISONER TRANSFER TREATY STUDY.**

19 (a) REPORT TO CONGRESS.—Not later than 180 days
20 after the date of the enactment of this Act, the Secretary
21 of State and the Attorney General shall submit to the Con-
22 gress a report that describes the use and effectiveness of
23 the Prisoner Transfer Treaty (in this section referred to
24 as the “Treaty”) with Mexico to remove from the United
25 States aliens who have been convicted of crimes in the
26 United States.

1 (b) USE OF TREATY.—The report under subsection
2 (a) shall include the following information:

3 (1) The number of aliens convicted of a crimi-
4 nal offense in the United States since November 30,
5 1977, who would have been or are eligible for trans-
6 fer pursuant to the Treaty.

7 (2) The number of aliens described in para-
8 graph (1) who have been transferred pursuant to the
9 Treaty.

10 (3) The number of aliens described in para-
11 graph (2) who have been incarcerated in full compli-
12 ance with the Treaty.

13 (4) The number of aliens who are incarcerated
14 in a penal institution in the United States who are
15 eligible for transfer pursuant to the Treaty.

16 (5) The number of aliens described in para-
17 graph (4) who are incarcerated in State and local
18 penal institutions.

19 (c) EFFECTIVENESS OF TREATY.—The report under
20 subsection (a) shall include the recommendations of the
21 Secretary of State and the Attorney General to increase
22 the effectiveness and use of, and full compliance with, the
23 Treaty. In considering the recommendations under this
24 subsection, the Secretary and the Attorney General shall
25 consult with such State and local officials in areas dis-

1 proportionately impacted by aliens convicted of criminal
2 offenses as the Secretary and the Attorney General con-
3 sider appropriate. Such recommendations shall address
4 the following areas:

5 (1) Changes in Federal laws, regulations, and
6 policies affecting the identification, prosecution, and
7 deportation of aliens who have committed a criminal
8 offense in the United States.

9 (2) Changes in State and local laws, regulations,
10 and policies affecting the identification, prosecution,
11 and deportation of aliens who have committed a
12 criminal offense in the United States.

13 (3) Changes in the Treaty that may be nec-
14 essary to increase the number of aliens convicted of
15 crimes who may be transferred pursuant to the
16 Treaty.

17 (4) Methods for preventing the unlawful re-
18 entry into the United States of aliens who have been
19 convicted of criminal offenses in the United States
20 and transferred pursuant to the Treaty.

21 (5) Any recommendations of appropriate offi-
22 cials of the Mexican Government on programs to
23 achieve the goals of, and ensure full compliance
24 with, the Treaty.

1 (6) An assessment of whether the recommenda-
2 tions under this subsection require the renegotiation
3 of the Treaty.

4 (7) The additional funds required to implement
5 each recommendation under this subsection.

6 **SEC. 510. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
7 **EXCLUSION.**

8 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
9 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
10 is amended by adding at the end the following new sub-
11 paragraph:

12 “(E) CONVICTED DEFINED.—In this para-
13 graph, the term ‘convicted’ means a judge or
14 jury has found the alien guilty or the alien has
15 entered a plea of guilty or nolo contendere,
16 whether or not the alien appeals therefrom.”.

17 (b) DEPORTATION OF CONVICTED ALIENS.—

18 (1) IMMEDIATE DEPORTATION.—Section 242(h)
19 of such Act (8 U.S.C. 1252(h)) is amended—

20 (A) by striking “(h) An alien” and insert-
21 ing “(h)(1) Subject to paragraph (2), an alien”;
22 and

23 (B) by adding at the end the following new
24 paragraph:

1 “(2) An alien sentenced to imprisonment may be de-
2 ported prior to the termination of such imprisonment by
3 the release of the alien from confinement, if the Service
4 petitions the appropriate court or other entity with author-
5 ity concerning the alien to release the alien into the cus-
6 tody of the Service for execution of an order of deporta-
7 tion.”.

8 (2) PROHIBITION OF REENTRY INTO THE
9 UNITED STATES.—Section 212(a)(2) of such Act (8
10 U.S.C. 1182(a)(2)) is amended—

11 (A) by redesignating subparagraph (F) as
12 subparagraph (G); and

13 (B) by inserting after subparagraph (E)
14 the following new subparagraph:

15 “(F) ALIENS DEPORTED BEFORE SERVING
16 MINIMUM PERIOD OF CONFINEMENT.—In addi-
17 tion to any other period of exclusion which may
18 apply an alien deported pursuant to section
19 242(h)(2) is excludable during the minimum pe-
20 riod of confinement to which the alien was sen-
21 tenced.”.

22 (c) EXECUTION OF DEPORTATION ORDERS.—Section
23 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
24 ing at the end the following: “An order of deportation may
25 not be executed until all direct appeals relating to the con-

1 viction which is the basis of the deportation order have
2 been exhausted.”.

3 **TITLE VI—TERRORIST ALIENS**

4 **SEC. 601. REMOVAL OF ALIEN TERRORISTS.**

5 The Immigration and Nationality Act (8 U.S.C. 1101
6 et seq.) is amended by inserting the following new section:

7 “REMOVAL OF ALIEN TERRORISTS

8 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
9 tion—

10 “(1) the term ‘alien terrorist’ means any alien
11 described in section 241(a)(4)(B);

12 “(2) the term ‘classified information’ has the
13 same meaning as defined in section 1(a) of the Clas-
14 sified Information Procedures Act (18 U.S.C. App.
15 IV);

16 “(3) the term ‘national security’ has the same
17 meaning as defined in section 1(b) of the Classified
18 Information Procedures Act (18 U.S.C. App. IV);

19 “(4) the term ‘special court’ means the court
20 described in subsection (c) of this section; and

21 “(5) the term ‘special removal hearing’ means
22 the hearing described in subsection (e) of this sec-
23 tion.

24 “(b) APPLICATION FOR USE OF PROCEDURES.—The
25 provisions of this section shall apply whenever the Attor-
26 ney General certifies under seal to the special court that—

1 “(1) the Attorney General or Deputy Attorney
2 General has approved of the proceeding under this
3 section;

4 “(2) an alien terrorist is physically present in
5 the United States; and

6 “(3) removal of such alien terrorist by deporta-
7 tion proceedings described in sections 242, 242A, or
8 242B would pose a risk to the national security of
9 the United States because such proceedings would
10 disclose classified information.

11 “(c) SPECIAL COURT.—(1) The Chief Justice of the
12 United States shall publicly designate up to 7 judges from
13 up to 7 United States judicial districts to hear and decide
14 cases arising under this section, in a manner consistent
15 with the designation of judges described in section 103(a)
16 of the Foreign Intelligence Surveillance Act (50 U.S.C.
17 1803(a)).

18 “(2) The Chief Justice may, in the Chief Justice’s
19 discretion, designate the same judges under this section
20 as are designated pursuant to 50 U.S.C. 1803(a).

21 “(d) INVOCATION OF SPECIAL COURT PROCE-
22 DURE.—(1) When the Attorney General makes the appli-
23 cation described in subsection (b), a single judge of the
24 special court shall consider the application in camera and
25 ex parte.

1 “(2) The judge shall invoke the procedures of sub-
2 section (e), if the judge determines that there is probable
3 cause to believe that—

4 “(A) the alien who is the subject of the applica-
5 tion has been correctly identified;

6 “(B) a deportation proceeding described in sec-
7 tions 242, 242A, or 242B would pose a risk to the
8 national security of the United States because such
9 proceedings would disclose classified information;
10 and

11 “(C) the threat posed by the alien’s physical
12 presence is immediate and involves the risk of death
13 or serious bodily harm.

14 “(e) SPECIAL REMOVAL HEARING.—(1) Except as
15 provided in paragraph (4), the special removal hearing au-
16 thorized by a showing of probable cause described in sub-
17 section (d)(2) shall be open to the public.

18 “(2) The alien shall have a right to be present at such
19 hearing and to be represented by counsel. Any alien finan-
20 cially unable to obtain counsel shall be entitled to have
21 counsel assigned to represent such alien. Counsel may be
22 appointed as described in section 3006A of title 18, United
23 States Code.

24 “(3) The alien shall have a right to introduce evi-
25 dence on his own behalf, and except as provided in para-

1 graph (4), shall have a right to cross-examine any witness
2 or request that the judge issue a subpoena for the pres-
3 ence of a named witness.

4 “(4) The judge shall authorize the introduction in
5 camera and ex parte of any item of evidence for which
6 the judge determines that public disclosure would pose a
7 risk to the national security of the United States because
8 it would disclose classified information.

9 “(5) With respect to any evidence described in para-
10 graph (4), the judge shall cause to be delivered to the alien
11 either—

12 “(A)(i) the substitution for such evidence of a
13 statement admitting relevant facts that the specific
14 evidence would tend to prove, or (ii) the substitution
15 for such evidence of a summary of the specific evi-
16 dence; or

17 “(B) if disclosure of even the substituted evi-
18 dence described in subparagraph (A) would create a
19 substantial risk of death or serious bodily harm to
20 any person, a statement informing the alien that no
21 such summary is possible.

22 “(6) If the judge determines—

23 “(A) that the substituted evidence described in
24 paragraph (4)(B) will provide the alien with sub-

1 stantially the same ability to make his defense as
2 would disclosure of the specific evidence, or

3 “(B) that disclosure of even the substituted evi-
4 dence described in paragraph (5)(A) would create a
5 substantial risk of death or serious bodily harm to
6 any person,

7 then the determination of deportation (described in sub-
8 section (f)) may be made pursuant to this section.

9 “(f) DETERMINATION OF DEPORTATION.—(1) If the
10 determination in subsection (e)(6)(A) has been made, the
11 judge shall, considering the evidence on the record as a
12 whole, require that the alien be deported if the Attorney
13 General proves, by clear and convincing evidence, that the
14 alien is subject to deportation because he is an alien as
15 described in section 241(a)(4)(B).

16 “(2) If the determination in subsection (e)(6)(B) has
17 been made, the judge shall, considering the evidence re-
18 ceived (in camera and otherwise), require that the alien
19 be deported if the Attorney General proves, by clear, con-
20 vincing, and unequivocal evidence, that the alien is subject
21 to deportation because he is an alien as described in sec-
22 tion 241(a)(4)(B).

23 “(g) APPEALS.—(1) The alien may appeal a deter-
24 mination under subsection (f) to the court of appeals for
25 the Federal Circuit, by filing a notice of appeal with such

1 court within 20 days of the determination under such sub-
2 section.

3 “(2)(A) The Attorney General may appeal a deter-
4 mination under subsection (d), (e), or (f) to the court of
5 appeals for the Federal Circuit, by filing a notice of appeal
6 with such court within 20 days of the determination under
7 any one of such subsections.

8 “(B) When requested by the Attorney General, the
9 entire record of the proceeding under this section shall be
10 transmitted to the court of appeals under seal. If the At-
11 torney General is appealing a determination under sub-
12 section (d) or (e), the court of appeals shall consider such
13 appeal in camera and ex parte.”.

14 **SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**
15 **A BASIS FOR EXCLUSION FROM THE UNITED**
16 **STATES UNDER THE IMMIGRATION AND NA-**
17 **TIONALITY ACT.**

18 Section 212(a)(3)(B) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

20 (1) in clause (i)(II) by inserting “or” at the
21 end;

22 (2) by adding after clause (i)(II) the following:

23 “(III) is a member of an organi-
24 zation that engages in, or has engaged
25 in, terrorist activity or who actively

1 supports or advocates terrorist activ-
2 ity,”; and

3 (3) by adding after clause (iii) the following:

4 “(iv) TERRORIST ORGANIZATION DE-
5 FINED.—As used in this Act, the term ‘ter-
6 rorist organization’ means an organization
7 which commits terrorist activity as deter-
8 mined by the Attorney General, in con-
9 sultation with the Secretary of State.”.

10 **TITLE VII—INSPECTIONS**

11 **SEC. 701. PREINSPECTION AT FOREIGN AIRPORTS.**

12 (a) IN GENERAL.—The Immigration and Nationality
13 Act is amended by inserting after section 235 the following
14 new section:

15 “PREINSPECTION AT FOREIGN AIRPORTS
16 “SEC. 235A. (a) ESTABLISHMENT OF
17 PREINSPECTION STATIONS.—(1) Subject to paragraph
18 (4), not later than 2 years after the date of the enactment
19 of this section, the Attorney General, in consultation with
20 the Secretary of State, shall establish and maintain
21 preinspection stations in at least 5 of the foreign airports
22 that are among the 10 foreign airports which the Attorney
23 General identifies as serving as last points of departure
24 for the greatest numbers of passengers who arrive from
25 abroad by air at ports of entry within the United States.
26 Such preinspection stations shall be in addition to any

1 preinspection stations established prior to the date of the
2 enactment of this section.

3 “(2) Not later than November 1, 1994, and each sub-
4 sequent November 1, the Attorney General shall compile
5 data identifying—

6 “(A) the foreign airports which served as last
7 points of departure for aliens who arrived by air at
8 United States ports of entry without valid docu-
9 mentation during the preceding fiscal years,

10 “(B) the number and nationality of such aliens
11 arriving from each such foreign airport, and

12 “(C) the primary routes such aliens followed
13 from their country of origin to the United States.

14 “(3) Subject to paragraph (4), not later than 4 years
15 after the date of enactment of this section, the Attorney
16 General, in consultation with the Secretary of State, shall
17 establish preinspection stations in at least 5 additional for-
18 eign airports which the Attorney General, in consultation
19 with the Secretary of State, determines based on the data
20 compiled under paragraph (2) and such other information
21 as may be available would most effectively reduce the
22 number of aliens who arrive from abroad by air at points
23 of entry within the United States without valid docu-
24 mentation. Such preinspection stations shall be in addition
25 to those established prior to or pursuant to paragraph (1).

1 “(4) Prior to the establishment of a preinspection
2 station the Attorney General, in consultation with the Sec-
3 retary of State, shall ensure that—

4 “(A) employees of the United States stationed
5 at the preinspection station and their accompanying
6 family members will receive appropriate protection,

7 “(B) such employees and their families will not
8 be subject to unreasonable risks to their welfare and
9 safety, and

10 “(C) the country in which the preinspection sta-
11 tion is to be established maintains practices and pro-
12 cedures with respect to asylum seekers and refugees
13 in accordance with the Convention Relating to the
14 Status of Refugees (done at Geneva, July 28, 1951),
15 or the Protocol Relating to the Status of Refugees
16 (done at New York, January 31, 1967).

17 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
18 PROGRAM.—The Attorney General shall assign additional
19 immigration officers to assist air carriers in the detection
20 of fraudulent documents at foreign airports which, based
21 on the records maintained pursuant to subsection (a)(2),
22 served as a point of departure for a significant number
23 of arrivals at United States ports of entry without valid
24 documentation, but where no preinspection station exists.

1 tion), the Attorney General may suspend the entry of some
2 or all aliens transported to the United States by such air-
3 line.”.

4 (c) EFFECTIVE DATES.—

5 (1) The amendments made by subsection (a)
6 shall apply to expenses incurred during or after fis-
7 cal year 1994.

8 (2) The Attorney General shall first issue, in
9 proposed form, regulations referred to in the second
10 sentence of section 212(f) of the Immigration and
11 Nationality Act, as added by the amendment made
12 by subsection (b), by not later than 90 days after
13 the date of the enactment of this Act.

14 **SEC. 703. PASSPORT AND VISA OFFENSES PENALTIES IM-**
15 **PROVEMENT.**

16 (a) IN GENERAL.—Chapter 75 of title 18, United
17 States Code, is amended—

18 (1) in section 1541, by striking “not more than
19 \$500 or imprisoned not more than one year” and in-
20 sserting “under this title or imprisoned not more
21 than 10 years”;

22 (2) in each of sections 1542, 1543, and 1544,
23 by striking “not more than \$2,000 or imprisoned
24 not more than five years” and inserting “under this
25 title or imprisoned not more than 10 years”;

1 (3) in section 1545, by striking “not more than
2 \$2,000 or imprisoned not more than three years”
3 and inserting “under this title or imprisoned not
4 more than 10 years”;

5 (4) in section 1546(a), by striking “five years”
6 and inserting “10 years”;

7 (5) in section 1546(b), by striking “in accord-
8 ance with this title, or imprisoned not more than two
9 years” and inserting “under this title or imprisoned
10 not more than 10 years”; and

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

12 **“§ 1547. Alternative imprisonment maximum for cer-**
13 **tain offenses**

14 “Notwithstanding any other provision of this title,
15 the maximum term of imprisonment that may be imposed
16 for an offense under this chapter (other than an offense
17 under section 1545)—

18 “(1) if committed to facilitate a drug traffick-
19 ing crime (as defined in 929(a) of this title) is 15
20 years; and

21 “(2) if committed to facilitate an act of inter-
22 national terrorism (as defined in section 2331 of this
23 title) is 20 years.”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 75 of title 18, United States

1 Code, is amended by adding at the end the following new
2 item:

“1547. Alternative imprisonment maximum for certain offenses.”.

3 (c) ASSET FORFEITURE.—Section 981(a)(1) of title
4 18, United States Code, is amended by inserting after sub-
5 paragraph (F) the following:

6 “(G) Any property used in committing an of-
7 fense under section 1543 or 1546 of this title or for
8 which the maximum authorized imprisonment is set
9 by section 1547 of this title.”.

10 **TITLE VIII—ASYLUM**

11 **SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION**

12 **OFFICERS.**

13 (a) IN GENERAL.—Section 235(b) (8 U.S.C.
14 1225(b)) is amended to read as follows:

15 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
16 OFFICERS.—

17 “(1) An immigration officer shall inspect each
18 alien who is seeking entry to the United States.

19 “(2)(A) If the examining immigration officer
20 determines that an alien seeking entry—

21 “(i) does not present the documentation
22 required (if any) to obtain legal entry to the
23 United States; and

1 “(ii) does not indicate either an intention
2 to apply for provisional asylum (under section
3 208) or a fear of persecution,
4 the officer shall order the alien excluded from the
5 United States without further hearing or review.

6 “(B) The examining immigration officer shall
7 refer for immediate inspection at the port of entry
8 by an asylum officer under subparagraph (C) any
9 alien who (i) does not present the documentation re-
10 quired (if any) to obtain legal entry to the United
11 States, and (ii) has indicated an intention to apply
12 for provisional asylum or a fear of persecution. Such
13 an alien shall not be considered to have been in-
14 spected and admitted for purposes of this Act.

15 “(C)(i) If an asylum officer determines that an
16 alien has a credible fear of persecution, the alien
17 shall be entitled to apply for provisional asylum
18 under section 208.

19 “(ii)(I) Subject to subclause (II), if an asylum
20 officer determines that an alien does not have a
21 credible fear of persecution the officer shall order
22 the alien excluded from the United States without
23 further hearing or review.

24 “(II) The Attorney General shall promulgate
25 regulations to provide for the immediate review by

1 another asylum officer at the port of entry of a deci-
2 sion under subclause (I).

3 “(iii) For the purposes of this subparagraph,
4 the term ‘credible fear of persecution’ means (I) that
5 it is more probable than not that the statements
6 made by the alien in support of his or her claim are
7 true, and (II) that there is a significant possibility,
8 in light of such statements and of such other facts
9 as are known to the officer that the alien could es-
10 tablish eligibility for provisional asylum under sec-
11 tion 208.

12 “(iv) Notwithstanding any other provision of
13 law, no court shall have jurisdiction to review, except
14 by petition for habeas corpus, any determination
15 made with respect to an alien found excludable pur-
16 suant to this paragraph. In any such case, review by
17 habeas corpus shall be limited to examination of
18 whether the petitioner (I) is an alien, and (II) was
19 ordered excluded from the United States pursuant to
20 this paragraph.

21 “(v) Notwithstanding any other provision of
22 law, no court shall have jurisdiction (I) to review the
23 procedures established by the Attorney General for
24 the determination of exclusion pursuant to this para-
25 graph, or (II) to enter declaratory or injunctive re-

1 lief with respect to the implementation of this para-
2 graph. Regardless of the nature of the suit or claim,
3 no court shall have jurisdiction except by habeas cor-
4 pus petition as provided in clause (iv) to consider
5 the validity of any adjudication or determination
6 under this paragraph or to provide declaratory or in-
7 junctive relief with respect to the exclusion of any
8 alien pursuant to this paragraph.

9 “(vi) In any action brought for the assessment
10 of penalties for improper entry or re-entry of an
11 alien under section 275 or 276, no court shall have
12 jurisdiction to hear claims collaterally attacking the
13 validity of orders of exclusion or deportation entered
14 under sections 235, 236, and 242.

15 “(3)(A) Except as provided in subparagraph
16 (B), if the examining immigration officer determines
17 that an alien seeking entry is not clearly and beyond
18 a doubt entitled to enter, the alien shall be detained
19 for a hearing before a special inquiry officer.

20 “(B) The provisions of subparagraph (A) shall
21 not apply—

22 “(i) to an alien crewman,

23 “(ii) to an alien described in paragraph
24 (2)(A) or 2(B), or

1 “(iii) if the conditions described in section
2 273(d) exist.

3 “(4) The decision of the examining immigration
4 officer, if favorable to the admission of any alien,
5 shall be subject to challenge by any other immigra-
6 tion officer and such challenge shall operate to take
7 the alien, whose privilege to enter is so challenged,
8 before a special inquiry officer for a hearing on ex-
9 clusion of the alien.

10 “(5) An alien has not entered the United States
11 for purposes of this Act unless and until such alien
12 has been inspected and admitted by an immigration
13 officer pursuant to this subsection.

14 (b) CONFORMING AMENDMENTS.—Section 237(a) (8
15 U.S.C. 1227(a)) is amended—

16 (1) in the second sentence of paragraph (1) by
17 striking “Deportation” and inserting “Subject to
18 section 235(b)(2), deportation”; and

19 (2) in the first sentence of paragraph (2) by
20 striking “If” and inserting “Subject to section
21 235(b)(2), if”.

22 **SEC. 802. ASYLUM.**

23 (a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is
24 amended to read as follows:

1 **“SEC. 208. ASYLUM.—**

2 (a) **PROVISIONAL ASYLUM.—**

3 “(1) **RIGHT TO APPLY.—**The Attorney General
4 shall establish a procedure for an alien physically
5 present in the United States or at a land border or
6 port of entry, irrespective of such alien’s status, to
7 apply for provisional asylum in accordance with this
8 section.

9 “(2) **CONDITIONS FOR GRANTING.—**

10 “(A) **MANDATORY CASES.—**The Attorney
11 General shall grant provisional asylum to an
12 alien if the alien applies for provisional asylum
13 in accordance with the requirements of this sec-
14 tion and establishes that it is more likely than
15 not that in the alien’s country of nationality
16 (or, in the case of a person having no national-
17 ity, the country in which such alien last habit-
18 ually resided) such alien’s life or freedom would
19 be threatened on account of race, religion, na-
20 tionality, membership in a particular social
21 group, or political opinion.

22 “(B) **DISCRETIONARY CASES.—**The Attor-
23 ney General may grant provisional asylum to an
24 alien if the alien applies for provisional asylum
25 in accordance with the requirements of this sec-

1 tion and establishes that the alien is a refugee
2 within the meaning of section 101(a)(42).

3 “(C) EXCEPTIONS.—(i) Subparagraphs
4 (A) and (B) shall not apply to an alien if the
5 Attorney General determines that—

6 “(I) the alien ordered, incited, as-
7 sisted, or otherwise participated in the per-
8 secution of any person on account of race,
9 religion, nationality, membership in a par-
10 ticular social group, or political opinion;

11 “(II) the alien, having been convicted
12 by a final judgment of a particularly seri-
13 ous crime, constitutes a danger to the com-
14 munity of the United States;

15 “(III) there are serious reasons for
16 believing that the alien has committed a
17 serious nonpolitical crime outside the
18 United States prior to the arrival of the
19 alien in the United States;

20 “(IV) there are reasonable grounds
21 for regarding the alien as a danger to the
22 security of the United States; or

23 “(V) a country willing to accept the
24 alien has been identified (other than the
25 country described in subparagraph (A)) to

1 which the alien can be deported or re-
2 turned and the alien does not establish
3 that it is more likely than not that the
4 alien’s life or freedom would be threatened
5 in such country on account of race, reli-
6 gion, nationality, membership in a particu-
7 lar social group, or political opinion.

8 “(ii)(I) For purposes of clause (i)(II), an
9 alien who has been convicted of an aggravated
10 felony shall be considered to have committed a
11 particularly serious crime.

12 “(II) The Attorney General shall promul-
13 gate regulations that specify additional crimes
14 that will be considered to be a crime described
15 in clause (i)(II) or (i)(III).

16 “(III) The Attorney General shall promul-
17 gate regulations establishing such additional
18 limitations and conditions as the Attorney Gen-
19 eral considers appropriate under which an alien
20 shall be ineligible to apply for provisional asy-
21 lum under subparagraph (B).

22 “(3) PROVISIONAL ASYLUM STATUS.—In the
23 case of any alien granted provisional asylum under
24 paragraph (2)(A), the Attorney General, in accord-
25 ance with this section—

1 “(A) shall not deport or return the alien to
2 the country described under paragraph (2)(A);

3 “(B) shall authorize the alien to engage in
4 employment in the United States and provide
5 the alien with an ‘employment authorized’ en-
6 dorsement or other appropriate work permit;
7 and

8 “(C) may allow the alien to travel abroad
9 with the prior consent of the Attorney General.

10 “(4) TERMINATION.—Provisional asylum grant-
11 ed under paragraph (2) may be terminated if the At-
12 torney General, pursuant to such regulations as the
13 Attorney General may prescribe, determines that—

14 “(A) the alien no longer meets the condi-
15 tions described in paragraph (2) owing to a
16 change in circumstances in the alien’s country
17 of nationality or, in the case of an alien having
18 no nationality, in the country in which the alien
19 last habitually resided;

20 “(B) the alien meets a condition described
21 in paragraph (2)(C); or

22 “(C) a country willing to accept the alien
23 has been identified (other than the country de-
24 scribed in paragraph (2)) to which the alien can
25 be deported or returned and the alien cannot

1 establish that it is more likely than not that the
2 alien's life or freedom would be threatened in
3 such country on account of race, religion, na-
4 tionality, membership in a particular social
5 group, or political opinion.

6 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
7 the case of an alien described in paragraph
8 (2)(C)(i)(V) or paragraph (4)(C), the alien's depor-
9 tation or return shall be directed by the Attorney
10 General in the sole discretion of the Attorney Gen-
11 eral, to any country which is willing to accept the
12 alien into its territory (other than the country de-
13 scribed in paragraph (2)(A)).

14 “(b) PROVISIONAL ASYLUM APPLICATIONS.—

15 “(1) IN GENERAL.—

16 “(A) DEADLINE.—Subject to subpara-
17 graph (B), an alien's application for provisional
18 asylum shall not be considered under this sec-
19 tion unless—

20 “(i) the alien has filed, not later than
21 30 days after entering or coming to the
22 United States, notice of intention to file
23 such an application, and

1 “(ii) such application is actually filed
2 not later than 60 days after entering or
3 coming to the United States.

4 “(B) EXCEPTION.—An application for pro-
5 visional asylum may be considered, not with-
6 standing that the requirements of subparagraph
7 (A) have not been met, only if the alien dem-
8 onstrates by clear and convincing evidence
9 changed circumstances in the alien’s country of
10 nationality (or in the case of an alien with no
11 nationality, in the country where the alien last
12 habitually resided) affecting eligibility for provi-
13 sional asylum.

14 “(2) REQUIREMENTS.—An application for pro-
15 visional asylum shall not be considered unless the
16 alien submits to the taking of fingerprints and a
17 photograph in a manner determined by the Attorney
18 General.

19 “(3) PREVIOUS DENIAL OF ASYLUM.—An appli-
20 cation for provisional asylum shall not be considered
21 if the alien has been denied asylum by a country in
22 which the alien had access to a full and fair proce-
23 dure for determining his or her asylum claim in ac-
24 cordance with a bilateral or multilateral agreement
25 between that country and the United States.

1 “(4) FEES.—In the discretion of the Attorney
2 General, the Attorney General may impose reason-
3 able fees for the consideration of an application for
4 provisional asylum, for employment authorization
5 under this section, and for adjustment of status
6 under section 209(b). The Attorney General is au-
7 thorized to provide for the assessment and payment
8 of any such fee over a period of time or by install-
9 ments.

10 “(5) EMPLOYMENT.—An applicant for provi-
11 sional asylum is not entitled to engage in employ-
12 ment in the United States. The Attorney General
13 may authorize an alien who has filed an application
14 for provisional asylum to engage in employment in
15 the United States, in the discretion of the Attorney
16 General.

17 “(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS
18 APPLICATIONS.—At the time of filing a notice of in-
19 tention to apply for provisional asylum, the alien
20 shall be advised of the consequences, under sub-
21 section (e), of filing a frivolous application for provi-
22 sional asylum.

23 “(c) SANCTIONS FOR FAILURE TO APPEAR.—

24 “(1) Subject to paragraph (2), the application
25 for provisional asylum of an alien who does not ap-

1 appear for a hearing on such application shall be sum-
2 marily dismissed unless the alien can show excep-
3 tional circumstances (as defined in section
4 242B(f)(2)) as determined by an asylum officer or
5 immigration judge.

6 “(2) Paragraph (1) shall not apply if written
7 and oral notice were not provided to the alien of the
8 time and place at which the asylum hearing was to
9 be held, and in the case of any change or postpone-
10 ment in such time or place, written and oral notice
11 were provided to the alien of the new time or place
12 of the hearing.

13 “(d) ASYLUM.—

14 “(1) ADJUSTMENT OF STATUS.—Under such
15 regulations as the Attorney General may prescribe,
16 the Attorney General shall adjust to the status of an
17 alien granted asylum the status of any alien granted
18 provisional asylum under subsection (a)(2)(A) or
19 (a)(2)(B) who—

20 “(A) applies for such adjustment;

21 “(B) has been physically present in the
22 United States for at least 1 year after being
23 granted provisional asylum;

24 “(C) continues to be eligible for provisional
25 asylum under this section; and

1 “(D) is admissible under this Act at the
2 time of examination for adjustment of status
3 under this subsection.

4 “(2) TREATMENT OF SPOUSE AND CHIL-
5 DREN.—A spouse or child (as defined in section
6 101(b)(A), (B), (C), (D), or (E)) of an alien whose
7 status is adjusted to that of an alien granted asylum
8 under paragraph (a)(2) may be granted the same
9 status as the alien if accompanying, or following to
10 join, such alien.

11 “(3) APPLICATION FEES.—The Attorney Gen-
12 eral may impose a reasonable fee for the filing of an
13 application for asylum under this subsection.

14 “(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
15 OLOUS APPLICATIONS.—

16 “(1) IN GENERAL.—If the Attorney General de-
17 termines that an alien has made a frivolous applica-
18 tion for provisional asylum under this section and
19 the alien has received the notice under subsection
20 (b)(5), the alien shall be permanently ineligible for
21 any benefits under this Act, effective as of the date
22 of a final determination on such application.

23 “(2) TREATMENT OF MATERIAL MISREPRESENTEN-
24 TATIONS.—For purposes of this subsection, an appli-
25 cation considered to be ‘frivolous’ includes, but is

1 not limited to, an application which contains a will-
2 ful misrepresentation or concealment of a material
3 fact.”.

4 (b) CLERICAL AMENDMENT.—The item in the table
5 of contents relating to section 208 is amended to read as
6 follows:

“Sec. 208. Asylum.”.

7 **SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**
8 **HEARING; JUDICIAL REVIEW.**

9 (a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM
10 HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is
11 amended—

12 (1) in the heading, by striking “ASYLUM” and
13 inserting “PROVISIONAL ASYLUM”;

14 (2) by striking “asylum” each place it appears
15 and inserting “provisional asylum”; and

16 (3) in subparagraph (A), by striking all after
17 clause (iii) and inserting “shall not be eligible for
18 any benefits under this Act.”.

19 (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.
20 1105a) is amended by adding at the end the following sub-
21 section:

22 “(d) The procedure prescribed by, and all the provi-
23 sions of chapter 158 of title 28, United States Code, shall
24 apply to, and shall be the sole and exclusive procedure for,

1 the judicial review of all final orders granting or denying
2 provisional asylum, except that—

3 “(1) a petition for review may be filed not later
4 than 90 days after the date of the issuance of the
5 final order granting or denying provisional asylum;

6 “(2) the venue of any petition for review under
7 this subsection shall be in the judicial circuit in
8 which the administrative proceedings were conducted
9 in whole or in part, or in the judicial circuit wherein
10 is the residence, as defined in this Act, of the peti-
11 tioner, but not in more than one circuit; and

12 “(3) notwithstanding any other provision of
13 law, a determination granting or denying provisional
14 asylum based on changed circumstances pursuant to
15 section 208(b)(1)(A)(ii) shall be in the sole discre-
16 tion of the officer conducting the administrative pro-
17 ceeding.”.

18 **SEC. 804. CONFORMING AMENDMENTS.**

19 (a) LIMITATION ON DEPORTATION.—Section 243 (8
20 U.S.C. 1253) is amended by striking subsection (h).

21 (b) ADJUSTMENT OF STATUS.—Section 209(b) (8
22 U.S.C. 1159(b)) is amended—

23 (1) in paragraph (2) by striking “one year” and
24 inserting “2 years”; and

1 (2) by amending paragraph (3) to read as
2 follows:

3 “(3) continues to be eligible for provisional asy-
4 lum under section 208.”.

5 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-
6 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.
7 1254a(c)(2)(B)(ii)) is amended by striking “section
8 243(h)(2)” and inserting “section 208(a)(2)(C)”.

9 (d) ELIGIBILITY FOR NATURALIZATION.—Section
10 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking
11 “subparagraphs (A) through (D) of paragraph 243(h)(2)”
12 and inserting “section 208(a)(2)(C).”.

13 (e) FAMILY UNITY.—Section 301(e) of the Immigra-
14 tion Act of 1990 (Public Law 101–649) is amended by
15 striking “section 243(h)(2)” and inserting “section
16 208(a)(2)(C).”.

17 **SEC. 805. EFFECTIVE DATES.**

18 (a) IN GENERAL.—Except as otherwise provided, the
19 amendments made by this title shall take effect on the
20 date of the enactment of this Act.

21 (b) EXCEPTIONS.—

22 (1) The amendments made by this title shall
23 not apply to applications for asylum or withholding
24 of deportation made before the first day of the first
25 month that begins more than 180 days after the

1 date of the enactment of this Act and no application
2 for provisional asylum under section 208 of the Im-
3 migration and Nationality Act (as amended by sec-
4 tion 801 of this title) shall be considered before such
5 first day.

6 (2) In applying section 208(b)(1)(A) of the Im-
7 migration and Nationality Act (as amended by this
8 title) in the case of an alien who has entered or
9 came to the United States before the first day de-
10 scribed in paragraph (1), notwithstanding the dead-
11 lines specified in such section—

12 (A) the deadline for the filing of a notice
13 of intention to file an application for provisional
14 asylum is 30 days after such first day, and

15 (B) the deadline for the filing of the appli-
16 cation for provisional asylum is 30 days after
17 the date of filing such notice.

18 (3) The amendments made by section 803(b)
19 (relating to adjustment of status) shall not apply to
20 aliens granted asylum under section 208 of the Im-
21 migration and Nationality Act, as in effect before
22 the date of the enactment of this Act.

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HR 3860 IH—2

HR 3860 IH—3

HR 3860 IH—4

HR 3860 IH—5