

103^D CONGRESS
2^D SESSION

S. 1923

To amend the Immigration and Nationality Act to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 10 (legislative day, FEBRUARY 22), 1994

Mr. REID (for himself and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

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 “Immigration Stabiliza-
5 tion Act of 1994”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents of this Act is as follows:

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

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- Sec. 101. Reduction in annual immigration ceilings.
- Sec. 102. Redefinition of immediate relatives.
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- Sec. 201. Numerical limitation on the admission of refugees.
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TITLE III—ASYLUM REFORM

- Sec. 301. Inspection and exclusion by immigration officers.
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TITLE IV—CRIMINAL ALIENS

- Sec. 401. Expansion in definition of “aggravated felony”.
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- Sec. 404. Defenses to deportation.
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- Sec. 406. Deportation of imprisoned aliens.
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- Sec. 409. Increased penalty for visa fraud.
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- Sec. 411. Excludability of unlawful entrants.
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TITLE IX—EFFECTIVE DATE

Sec. 901. Effective date.

1 **TITLE I—ADMISSION OF**
 2 **IMMIGRANTS**

3 **SEC. 101. REDUCTION IN ANNUAL IMMIGRATION CEILINGS.**

4 (a) FAMILY-SPONSORED IMMIGRATION.—Section
 5 201(c)(1) of the Immigration and Nationality Act (8
 6 U.S.C. 1151(c)(1)(A)(i)) is amended to read as follows:

7 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
 8 IMMIGRANTS.—(1) The worldwide level of family-spon-
 9 sored immigrants under this subsection for a fiscal year
 10 is equal to—

11 “(A) 325,000, minus

12 “(B) the number computed under paragraph
 13 (2), plus

14 “(C) the number computed under paragraph
 15 (3).”.

1 (b) EMPLOYMENT-BASED IMMIGRATION.—Section
2 201(d)(1)(A) of the Immigration and Nationality Act (8
3 U.S.C. 1151(d)(1)(A)) is amended by striking “140,000”
4 and inserting “50,000”.

5 (c) DIVERSITY IMMIGRATION.—(1) Section 201(a) of
6 the Immigration and Nationality Act (8 U.S.C. 1151(a))
7 is amended—

8 (A) by inserting “and” at the end of paragraph
9 (1);

10 (B) by striking “; and” at the end of paragraph
11 (2) and inserting a period; and

12 (C) by striking paragraph (3).

13 (2) Sections 201(e) (8 U.S.C. 1151(e)) and 203(c)
14 (8 U.S.C. 1153(c)) of the Immigration and Nationality
15 Act are hereby repealed.

16 **SEC. 102. REDEFINITION OF IMMEDIATE RELATIVES.**

17 Section 201(b)(2)(A)(i) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by
19 striking “children, spouses, and parents of a citizen of the
20 United States, except that, in the case of parents, such
21 citizens shall be at least 21 years of age” and inserting
22 “children and spouses”.

1 **SEC. 103. REVISION OF PREFERENCE ALLOCATIONS FOR**
2 **FAMILY-SPONSORED IMMIGRANTS.**

3 Paragraphs (1) through (4) of section 203(a) of the
4 Immigration and Nationality Act are amended to read as
5 follows:

6 “(1) SPOUSES AND CHILDREN OF PERMANENT
7 RESIDENT ALIENS.—Qualified immigrants who are
8 the spouses or children of an alien lawfully admitted
9 for permanent residence shall be allocated visas in a
10 number equal to 40 percent of the difference be-
11 tween such worldwide level and the number of imme-
12 diate relative visas required, plus any visas not re-
13 quired for the class specified in paragraph (1).

14 “(2) PARENTS OF ADULT UNITED STATES CITI-
15 ZENS.—Qualified immigrants who are the parents of
16 citizens of the United States who are at least 21
17 years of age shall be allocated visas in a number
18 equal to 60 percent of the difference between such
19 worldwide level and the number of immediate rel-
20 ative visas required, plus any visas not required for
21 the class specified in paragraph (1).

22 “(3) SONS AND DAUGHTERS OF UNITED
23 STATES CITIZENS.—Qualified immigrants holding
24 priority dates as of the effective date of this Act who
25 are the sons and daughters of citizens of the United
26 States shall be allocated visas in a number equal to

1 75 percent of the maximum number of visas avail-
2 able but not issued under paragraphs (1) and (2).

3 “(4) SONS AND DAUGHTERS OF PERMANENT
4 RESIDENT ALIENS.—Qualified immigrants holding
5 priority dates as of the effective date of this Act who
6 are the sons and daughters of permanent resident
7 aliens shall be allocated visas in a number equal to
8 25 percent of the maximum number of visas avail-
9 able but not issued under paragraphs (1) and (2).

10 “(5) BROTHERS AND SISTERS OF CITIZENS.—
11 Qualified immigrants holding priority dates as of the
12 effective date of this Act who are the brothers or sis-
13 ters of citizens of the United States, if such citizens
14 are at least 21 years of age, shall be allocated visas
15 in a number equal to the number of visas not re-
16 quired for the classes specified in paragraphs (3)
17 and (4).”.

18 **SEC. 104. REVISION OF PREFERENCE ALLOCATIONS FOR**
19 **EMPLOYMENT-BASED IMMIGRANTS.**

20 (a) ADJUSTMENT IN ALLOCATIONS AS PERCENTAGE
21 OF WORLDWIDE LEVEL.—(1) Section 203(b)(1) of such
22 Act is amended by striking “28.6 percent” and inserting
23 “50 percent”.

24 (2) Section 203(b)(2)(A) of such Act is amended by
25 striking “28.6 percent” and inserting “50 percent”.

1 (3) Section 203(b)(1) of such Act is amended by
2 striking “, plus any visas not required for the classes spec-
3 ified in paragraphs (4) and (5),”.

4 (b) ALLOCATIONS FOR BACKLOGGED PREVIOUS
5 PREFERENCES.—(1) Section 203(b)(3)(A) of such Act (8
6 U.S.C. 1153(b)(3)(A)), in the text above clause (i), is
7 amended to read as follows:

8 “(A) IN GENERAL.—Visas shall be made
9 available in a number equal to the number of
10 visas not required for the classes specified in
11 paragraphs (1) and (2) to the following classes
12 of aliens not described in paragraph (2) who
13 are qualified immigrants holding priority dates
14 as of the effective date of this Act:”.

15 (2) Section 203(b)(4) of such Act (8 U.S.C.
16 1153(b)(4)) is amended by striking “in a number not to
17 exceed 7.1 percent of such worldwide level, to qualified
18 special immigrants” and inserting “in a number equal to
19 the number of visas not required for the classes specified
20 in paragraphs (1) through (3), to qualified special immi-
21 grants holding priority dates as of the effective date of
22 this Act who are”.

23 (3) Section 203(b)(5)(A) of such Act (8 U.S.C.
24 1153(b)(5)(A)), in the text above clause (i), is amended
25 to read as follows:

1 “(A) IN GENERAL.—Visas shall be made
2 available in a number equal to the number of
3 visas not required for paragraphs (1) through
4 (4) to qualified immigrants holding priority
5 dates as of the effective date of this Act who
6 are seeking to enter the United States for the
7 purpose of engaging in a new commercial enter-
8 prise—”.

9 (4) Section 203(b)(6) of such Act (8 U.S.C.
10 1153(b)(6)) is repealed.

11 **SEC. 105. CONFORMING AMENDMENTS.**

12 Section 204 of the Immigration and Nationality Act
13 (8 U.S.C. 1154) is amended—

14 (1) in subsection (a)(1)—

15 (A) in subparagraph (A), by striking
16 “paragraph (1), (3), or (4)” and inserting
17 “paragraph (1) or (3)”;

18 (B) in subparagraph (D), by striking
19 “203(b)(2), or 203(b)(3)” and inserting “or
20 203(b)(2)”;

21 (C) by redesignating subparagraph (E)(ii)
22 as subparagraph (E);

23 (D) by striking subparagraph (E)(i);

24 (E) by striking subparagraph (F); and

1 (F) by redesignating subparagraph (G) as
2 subparagraph (F); and

3 (2) in subsection (b), by striking “or
4 203(b)(3)”.

5 **SEC. 106. TRANSITION.**

6 (a) PARENTS OF CITIZENS; UNMARRIED SONS AND
7 DAUGHTERS OF CITIZENS.—Any petition filed under sec-
8 tion 204(a) of the Immigration and Nationality Act before
9 the effective date of this Act for—

10 (1) immediate relative status as a parent of a
11 United States citizen who is at least 21 years of age,

12 (2) preference status under section 203(a)(1) of
13 such Act (as in effect before such date),

14 (3) preference status under section 203(a)(2)
15 by virtue of being the spouse or child of a perma-
16 nent resident alien, or

17 (4) preference status under section 203(a)(2)
18 by virtue of being the son or daughter of a perma-
19 nent resident alien,

20 shall be deemed, as of such date, to be a petition filed
21 under such section for preference status under section
22 203(a)(2), section 203(a)(3), 203(a)(1), or 203(a)(4), re-
23 spectively, of such Act (as amended by this Act).

24 (b) ELIMINATED PREFERENCE CLASSIFICATIONS.—
25 Beginning on the effective date of this Act—

1 (1) the Attorney General may not accept any
2 petition filed under section 204(a) for classification
3 under section 203(a)(4), 203(b)(3), 203(b)(4), or
4 203(b)(5), as in effect before the effective date of
5 this Act; and

6 (2) each priority date established before the ef-
7 fective date of this Act shall be maintained with re-
8 spect to any petition filed under section 204(a) of
9 the Immigration and Nationality Act before such
10 date for preference status under paragraph (1), (2),
11 (3), or (4) of section 203(a) (as in effect before such
12 date) or paragraph (3), (4), or (5) of section 203(b)
13 of such Act (as in effect before such date).

14 **SEC. 107. REPEALS.**

15 The following provisions of law are repealed:

16 (1) Section 584 of the Foreign Operations, Ex-
17 port Financing, and Related Programs Appropria-
18 tions Act, 1988 (as contained in section 101(e) of
19 Public Law 100–202; 101 Stat. 1329–183) (relating
20 to the admission of Amerasians).

21 (2) Section 132 of the Immigration Act of 1990
22 (Public Law 101–649) (relating to the admission of
23 aliens from adversely affected foreign countries).

1 (3) Section 301 of the Immigration Act of 1990
2 (Public Law 101–649) (relating to admission of de-
3 pendents of legalized aliens).

4 **TITLE II—ADMISSION OF**
5 **REFUGEES**

6 **SEC. 201. NUMERICAL LIMITATION ON THE ADMISSION OF**
7 **REFUGEES.**

8 Section 207(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1157(a)) is amended—

10 (1) by amending paragraph (1) to read as fol-
11 lows: “(1) Except as provided in subsection (b), the
12 number of refugees who may be admitted under this
13 section in any fiscal year may not exceed 50,000.”;

14 (2) by striking paragraph (2); and

15 (3) by redesignating paragraphs (3) and (4) as
16 paragraphs (2) and (3), respectively.

17 **SEC. 202. CONGRESSIONAL REVIEW.**

18 Section 207(b) of the Immigration and Nationality
19 Act (8 U.S.C. 1157(b)) is amended—

20 (1) by redesignating paragraphs (1), (2), and
21 (3) as clauses (A), (B), and (C), respectively;

22 (2) by striking “(b) If” and inserting “(b)(1)
23 Subject to paragraph (2), if”;

1 (3) by striking “may fix a number” and insert-
2 ing “may recommend to the Congress a number”;
3 and

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

5 “(2)(A) The number of refugee admissions proposed
6 under paragraph (1) shall be effective only if the Con-
7 gress, within 30 days of receipt of such recommendation,
8 enacts a joint resolution approving the number of refugees
9 to be admitted.

10 “(B) The President may waive the application of sub-
11 paragraph (A) if he certifies to the Congress that it is
12 important to the national interest to do so.

13 “(3) A joint resolution described in paragraph (2)
14 shall be considered in accordance with paragraphs (3)
15 through (7) of section 8066(c) of the Department of De-
16 fense Appropriation Act, 1985 (as contained in Public
17 Law 98-473), except that references in such paragraphs
18 to the Committee on Appropriations shall be deemed to
19 be references to the Committee on the Judiciary.”.

20 **SEC. 203. REPEAL OF CUBAN ADJUSTMENT ACT.**

21 Public Law 89-732, as amended by Public Law 94-
22 571, is repealed.

1 **TITLE III—ASYLUM REFORM**

2 **SEC. 301. INSPECTION AND EXCLUSION BY IMMIGRATION**

3 **OFFICERS.**

4 (a) INSPECTION OF ALIENS.—Section 235(b) of the
5 Immigration and Nationality Act (8 U.S.C. 1225(b)) is
6 amended to read as follows:

7 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
8 OFFICERS.—(1) An immigration officer shall inspect each
9 alien who is seeking entry to the United States.

10 “(2)(A) If the examining immigration officer deter-
11 mines that an alien seeking entry—

12 “(i) does not present the documentation re-
13 quired (if any) to obtain legal entry to the United
14 States; and

15 “(ii) does not indicate either an intention to
16 apply for asylum (under section 208) or a fear of
17 persecution, the officer shall order the alien excluded
18 from the United States without further hearing or
19 review.

20 “(B) The examining immigration officer shall refer
21 for immediate inspection at a port of entry by an asylum
22 officer under subparagraph (C) any alien who has indi-
23 cated an intention to apply for asylum or a fear of perse-
24 cution.

1 “(C)(i) If an asylum officer determines that an alien
2 has a credible fear of persecution, the alien shall be enti-
3 tled to apply for asylum under section 208.

4 “(ii) If an asylum officer determines that an alien
5 does not have a credible fear of persecution the officer
6 shall order the alien excluded from the United States with-
7 out further hearing or review.

8 “(3)(A) Except as provided in subparagraph (B), if
9 the examining immigration officer determines that an
10 alien seeking entry is not clearly and beyond a doubt enti-
11 tled to enter, the alien shall be detained for a hearing be-
12 fore a special inquiry officer.

13 “(B) The provisions of subparagraph (A) shall not
14 apply—

15 “(i) to an alien crewman,

16 “(ii) to an alien described in paragraph (2)(A)
17 or (2)(C)(ii), or

18 “(iii) if the conditions described in section
19 273(d) exist.

20 “(4) The decision of the examining immigration offi-
21 cer, if favorable to the admission of any alien, shall be
22 subject to challenge by any other immigration officer and
23 such challenge shall operate to take the alien, whose privi-
24 lege to enter is so challenged, before a special inquiry offi-
25 cer for a hearing on exclusion of the alien.

1 “(5)(A) Subject to subparagraph (B), an alien has
2 not entered the United States for purposes of this Act un-
3 less and until such alien has been inspected and admitted
4 by an immigration officer pursuant to this subsection.

5 “(B) An alien who (i) is physically present in the
6 United States, (ii) has been physically present in the Unit-
7 ed States for a continuous period of 1 year, and (iii) has
8 not been inspected and admitted by an immigration officer
9 shall be deemed to have entered the United States without
10 inspection.”.

11 (b) GROUND FOR EXCLUSION.—Section 212(a)(6)
12 of the Immigration and Nationality Act (8 U.S.C.
13 1182(a)(6)) is amended by adding at the end the following
14 new subparagraphs:

15 “(G)(i) Any alien who, in seeking entry to the United
16 States or boarding a common carrier for the purpose of
17 coming to the United States, presents any document which
18 is forged, counterfeit, altered, falsely made, stolen, or in-
19 applicable to the alien presenting the document, or other-
20 wise contains a misrepresentation of a material fact, is
21 excludable.

22 “(ii) Clause (i) shall not apply to an alien if, in the
23 determination of the asylum officer, the document or docu-
24 ments to which that clause refers were presented by the
25 alien solely to enable the alien to depart directly from—

1 “(I) a country in which the alien had a credible
2 fear of persecution; or

3 “(II) a country in which there was a significant
4 danger that the alien would be returned to a country
5 in which the alien would have a credible fear of per-
6 secution.

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

15 “(H) Any alien who, in boarding a common carrier
16 for the purpose of coming to the United States, presents
17 a document that relates or purports to relate to the alien’s
18 eligibility to enter the United States, and fails to present
19 such document to an immigration officer upon arrival at
20 a port of entry into the United States, is excludable.”.

21 (c) CONFORMING AMENDMENTS.—Section 237(a) (8
22 U.S.C. 1227(a)) is amended—

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

1 (2) in the first sentence of paragraph (2) by
2 striking “If” and inserting “Subject to section
3 235(b)(2), if”.

4 **SEC. 302. ASYLUM.**

5 Section 208 (8 U.S.C. 1158) is amended to read as
6 follows:

7 “SEC. 208. (a) ASYLUM.—

8 “(1) RIGHT TO APPLY.—An alien physically
9 present in the United States or at a land border or
10 port of entry may apply for asylum in accordance
11 with this section.

12 “(2) CONDITIONS FOR GRANTING.—

13 “(A) GRANTS BY ATTORNEY GENERAL.—

14 The Attorney General may grant asylum to an
15 alien if the alien applies for asylum in accord-
16 ance with the requirements of this section and
17 establishes that it is more probable than not
18 that in the alien’s country of nationality (or, in
19 the case of a person having no nationality, the
20 country in which such alien last habitually re-
21 sided) such alien would be arrested and incar-
22 cerated or such alien’s life would be threatened
23 on account of race, religion, nationality, mem-
24 bership in a particular social group, or political
25 opinion.

1 “(B) EXCEPTION.—Subparagraph (A)
2 shall not apply to an alien if the Attorney Gen-
3 eral determines that—

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

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

13 “(iii) there are serious reasons for be-
14 lieving that the alien has committed a seri-
15 ous nonpolitical crime outside the United
16 States prior to the arrival of the alien in
17 the United States;

18 “(iv) there are reasonable grounds for
19 regarding the alien as a danger to the se-
20 curity of the United States; or

21 “(v) a country willing to accept the
22 alien has been identified (other than the
23 country described in subparagraph (A)) to
24 which the alien can be deported or re-
25 turned and the alien does not establish

1 that it is more likely than not that the
2 alien would be incarcerated or the alien's
3 life would be threatened in such country on
4 account of race, religion, nationality, mem-
5 bership of a particular social group, or po-
6 litical opinion.

7 For purposes of clause (ii), an alien who has been
8 convicted of an aggravated felony shall be considered
9 to have committed a particularly serious crime. The
10 Attorney General shall promulgate regulations that
11 specify additional crimes that will be considered to
12 be a crime described in clause (ii) or clause (iii).

13 “(3) ASYLUM STATUS.—In the case of any alien
14 granted asylum under paragraph (2), the Attorney
15 General, in accordance with this section—

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

18 “(B) shall authorize the alien to engage in
19 employment in the United States and provide
20 the alien with an ‘employment authorized’ en-
21 dorsement or other appropriate work permit;
22 and

23 “(C) may allow the alien to travel abroad
24 with the prior consent of the Attorney General,
25 except that such travel may not be authorized

1 to the country from which the alien claimed to
2 be fleeing persecution.

3 “(4) TERMINATION.—Asylum granted under
4 paragraph (2) shall be terminated if the Attorney
5 General, pursuant to such regulations as the Attor-
6 ney General may prescribe, determines that—

7 “(A) the alien no longer meets the condi-
8 tions described in paragraph (2) owing to a
9 change in circumstances in the alien’s country
10 of nationality or, in the case of an alien having
11 no nationality, in the country in which the alien
12 last habitually resided;

13 “(B) the alien meets a condition described
14 in paragraph (2)(B);

15 “(C) a country willing to accept the alien
16 has been identified (other than the country de-
17 scribed in paragraph (2)) to which the alien can
18 be deported or returned and the alien cannot
19 establish that it is more likely than not that the
20 alien would be arrested or incarcerated in such
21 country on account of race, religion, nationality,
22 membership in a particular social group, or po-
23 litical opinion; or

24 “(D) the alien returns to the country from
25 which the alien claimed to be fleeing persecu-

1 tion or makes application with the Attorney
2 General to return to the country from which the
3 alien claimed to fleeing persecution.

4 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
5 the case of an alien described in paragraph (2)(B)(v)
6 or paragraph (4)(C), the alien’s deportation or re-
7 turn shall be directed by the Attorney General in the
8 sole discretion of the Attorney General, to any coun-
9 try which is willing to accept the alien into its terri-
10 tory (other than the country described in paragraph
11 (2)).

12 “(b) ASYLUM PROCEDURE.—

13 “(1) APPLICATIONS.—

14 “(A) IN GENERAL.—

15 “(i) DEADLINE.—Subject to clause
16 (ii), an alien’s application for asylum shall
17 not be considered under this section un-
18 less—

19 “(I) the alien has filed, not later
20 than 30 days after entering or coming
21 to the United States, notice of inten-
22 tion to file such an application, and

23 “(II) such application is actually
24 filed not later than 45 days after en-
25 tering or coming to the United States.

1 “(ii) EXCEPTION.—An application for
2 asylum may be considered, notwithstanding
3 that the requirements of clause (i) have
4 not been met, only if the alien dem-
5 onstrates by clear and convincing evidence
6 changed circumstances in the alien’s coun-
7 try of nationality (or in the case of an
8 alien with no nationality, in the country
9 where the alien last habitually resided) af-
10 fecting eligibility for asylum.

11 “(B) REQUIREMENTS.—An application for
12 asylum shall not be considered unless the alien
13 submits to the taking of fingerprints and a pho-
14 tograph in a manner determined by the Attor-
15 ney General.

16 “(C) FEES.—The Attorney General may
17 provide for a reasonable fee for the consider-
18 ation of an application for asylum or for any
19 employment authorization under subsection
20 (a)(3)(B).

21 “(D) NOTICE OF PRIVILEGE OF COUNSEL
22 AND CONSEQUENCES OF FRIVOLOUS APPLICA-
23 TION.—At the time of filing a notice of inten-
24 tion to apply for asylum, the alien shall be ad-
25 vised of the privilege of being represented (at

1 no expense to the government) by such counsel,
2 authorized to practice in such proceedings, as
3 the alien shall choose and of the consequences,
4 under subsection (d), of filing a frivolous appli-
5 cation for asylum.

6 “(2) CONSIDERATION OF APPLICATIONS; HEAR-
7 INGS.—

8 “(A) ASYLUM OFFICERS.—Applications for
9 asylum shall be considered by officers of the
10 Service (referred to in this Act as ‘asylum offi-
11 cers’) who are specially designated by the Serv-
12 ice as having special training and knowledge of
13 international conditions and human rights
14 records of foreign countries. Pending the des-
15 ignation of such officers, individuals who as of
16 the date of the enactment of the Immigration
17 Stabilization Act of 1994 are authorized to per-
18 form duties as asylum officers shall be deemed
19 to be qualified to be asylum officers for pur-
20 poses of this Act.

21 “(B) SCHEDULING OF HEARINGS.—

22 “(i) IN GENERAL.—Upon the filing of
23 an application for asylum, an asylum offi-
24 cer, at the earliest practicable time and
25 after consultation with the attorney for the

1 Government and the attorney (if any) for
2 the applicant, shall set the application for
3 hearing on a day certain or list it on a
4 weekly or other short-term calendar, so as
5 to assure a speedy hearing.

6 “(ii) DEADLINE.—Unless the appli-
7 cant (or an attorney for the applicant) con-
8 sents in writing to the contrary, the hear-
9 ing on the temporary asylum application
10 shall commence not later than 45 days
11 after the date the application was filed.

12 “(C) PUBLIC HEARINGS.—A hearing on an
13 asylum application shall be open to the public
14 unless the applicant requests that it be closed
15 to the public.

16 “(D) RIGHTS IN HEARINGS.—The officer
17 shall, to the extent practicable, conduct the
18 hearing in a nonadversarial manner. During
19 such hearing, the applicant shall have the privi-
20 lege of the assistance and participation of coun-
21 sel (as provided under paragraph (1)(D)) and
22 both the government and the applicant shall be
23 entitled to present evidence and witnesses, to
24 examine and object to evidence, and to cross-ex-
25 amine all witnesses.

1 “(E) COUNTRY CONDITIONS.—An officer
2 may request opinions regarding country condi-
3 tions from the Secretary of State, but shall not
4 request or consider recommendations from the
5 Secretary of State as to whether a particular
6 named individual should or should not be grant-
7 ed asylum.

8 “(F) TRANSCRIPT OF HEARINGS.—A com-
9 plete record of the proceedings and of all testi-
10 mony and evidence produced at the hearing
11 shall be kept. The hearing shall be recorded
12 verbatim. The Attorney General and the Service
13 shall provide that a transcript of a hearing held
14 under this section is made available not later
15 than 10 days after the date of completion of the
16 hearing.

17 “(G) DEADLINE FOR DETERMINATIONS ON
18 APPLICATIONS.—The officer shall render a de-
19 termination on the application not later than 30
20 days after the date of completion of the hear-
21 ing. The determination of the officer shall be
22 based only on the officer’s knowledge of inter-
23 national conditions and human rights records of
24 foreign countries, and evidence produced at the
25 hearing.

1 “(H) RESOURCE ALLOCATION.—The At-
2 torney General shall allocate sufficient re-
3 sources so as to assure that applications for
4 asylum are heard and determined on a timely
5 basis. However, nothing in this paragraph relat-
6 ing to scheduling or deadlines shall be con-
7 strued as creating any right or benefit, sub-
8 stantive or procedural, which is legally enforce-
9 able by any party against the United States, its
10 agencies, its officers, or any other person.

11 “(I) SANCTIONS FOR FAILURE TO AP-
12 PEAR.—

13 “(i) Subject to clause (ii), the applica-
14 tion for asylum of an alien who does not
15 appear for a hearing on such application
16 shall be summarily dismissed unless the
17 alien can show exceptional circumstances
18 (as defined in section 242B(f)(2)) as deter-
19 mined by the asylum officer.

20 “(ii) Clause (i) shall not apply if writ-
21 ten and oral notice were not provided as
22 required by section 242B(e)(4)(B).

23 “(iii) Except in exceptional cir-
24 cumstances (as defined in section
25 242B(f)(2)), an application summarily dis-

1 missed in accordance with clause (i) shall
2 not be reopened or reconsidered nor shall
3 a new application for asylum be enter-
4 tained by the Attorney General at any
5 time.

6 “(J) FINALITY OF DETERMINATIONS.—

7 “(i) IN GENERAL.—The decision of
8 the asylum officer shall be the final admin-
9 istrative determination of a claim for asy-
10 lum.

11 “(ii) TREATMENT OF CASES IN EX-
12 CLUSION OR DEPORTATION.—If proceed-
13 ings are instituted against an alien under
14 section 235 or 242 of this Act and the
15 alien files an application for asylum based
16 on circumstances described in subsection
17 (b)(1)(A)(ii), the asylum officer shall
18 render, on an expedited basis, a decision
19 on the application.

20 “(c) ASYLUM STATUS ADJUSTMENTS.—

21 “(1) ADJUSTMENT OF STATUS.—Under such
22 regulations as the Attorney General may prescribe,
23 the Attorney General shall adjust to the status of an
24 alien granted asylum the status of any alien granted
25 asylum under subsection (a)(2)(A) who—

1 “(A) applies for such adjustment;

2 “(B) has been physically present in the
3 United States for at least 3 years after being
4 granted asylum;

5 “(C) continues to be eligible for asylum
6 under this section; and

7 “(D) is admissible under this Act at the
8 time of examination for adjustment of status
9 under this subsection.

10 “(2) TREATMENT OF SPOUSE AND CHIL-
11 DREN.—A spouse or child (as defined in section
12 101(b)(A), (B), (C), (D), or (E)) of an alien whose
13 status is adjusted to that of an alien granted asylum
14 under subsection (a)(2) may be granted the same
15 status as the alien if accompanying, or following to
16 join, such alien.

17 “(3) APPLICATION FEES.—The Attorney Gen-
18 eral may impose a reasonable fee for the filing of an
19 application for adjustment to the status of an alien
20 granted asylum under this subsection.

21 “(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
22 OLOUS APPLICATIONS.—

23 “(1) IN GENERAL.—If the asylum officer deter-
24 mines that an alien has made a frivolous application
25 for asylum under this section and the alien has re-

1 ceived the notice under subsection (b)(1)(D)(i), the
2 alien shall be permanently ineligible for any benefits
3 under this Act, effective as of the date of a final de-
4 termination on such application.

5 “(2) TREATMENT OF FRAUDULENT OR MATE-
6 RIAL MISREPRESENTATIONS.—For purposes of this
7 subsection, an application considered to be ‘frivolous’
8 includes, but is not limited to, an application which
9 is fraudulent or otherwise contains a willful mis-
10 representation or concealment of a material fact.”.

11 **SEC. 303. FAILURE TO APPEAR FOR ASYLUM HEARING.**

12 Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is amend-
13 ed in subparagraph (A)—

14 (1) by inserting “and” at the end of clause (i);
15 and

16 (2) by striking all after clause (iii) and insert-
17 ing “shall not be eligible for any benefits under this
18 Act.”.

19 **SEC. 304. JUDICIAL REVIEW.**

20 Section 235 of the Immigration and Nationality Act
21 (8 U.S.C. 1225) is amended by adding at the end thereof:

22 “(d) Notwithstanding any other provision of law, no
23 court shall have jurisdiction to review, except by petition
24 for habeas corpus, any determination made with respect
25 to an alien found excludable pursuant to titles I or II of

1 this Act. In any such case, review by habeas corpus shall
2 be limited to examination of whether the petitioner (1) is
3 an alien, and (2) was ordered excluded from the United
4 States pursuant to the provisions of this Act. Notwith-
5 standing the nature of the suit or claim, no court shall
6 have jurisdiction except as provided in this subsection to
7 consider the validity of any adjudication or determination
8 of exclusion, to certify a class in an action challenging the
9 exclusion provisions of this Act or any portion or imple-
10 mentation thereof, or to provide declaratory or injunctive
11 relief with respect to the exclusion of any alien.

12 “(e) In any action brought for the assessment of pen-
13 alties for improper entry or reentry of an alien under sec-
14 tion 275, 276, 277, or 278 of this Act, no court shall have
15 jurisdiction to hear claims collaterally attacking the valid-
16 ity of orders of exclusion, or deportation entered under
17 section 235, 236, or 242 of this Act.”.

18 **SEC. 305. CONFORMING AMENDMENTS.**

19 Section 209(b) of the Immigration and Nationality
20 Act (8 U.S.C. 1159(b)) is amended—

21 (1) in paragraph (2), by striking “one year”
22 and inserting “5 years”; and

23 (2) by amending paragraph (3) to read as fol-
24 lows:

1 “(3) continues to be eligible for asylum under
2 section 208,”.

3 **SEC. 306. EFFECTIVE DATES.**

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

7 (b) EXCEPTIONS.—(1) The amendments made by
8 this title shall not apply to applications for asylum or with-
9 holding of deportation made before the first day of the
10 first month that begins more than 180 days after the date
11 of the enactment of this Act and no application for asylum
12 under section 208 of the Immigration and Nationality Act
13 (as amended by section 201 of this Act) shall be consid-
14 ered before such first day.

15 (2) In applying section 208(b)(1)(A) of the Immigra-
16 tion and Nationality Act (as amended by this title) in the
17 case of an alien who has entered or came to the United
18 States before the first day described in paragraph (1), not-
19 withstanding the deadlines specified in such section—

20 (A) the deadline for the filing of a notice of in-
21 tention to file an application for asylum is 30 days
22 after such first day, and

23 (B) the deadline for the filing of the application
24 for asylum is 45 days after the date of filing such
25 notice.

1 to laundering of monetary instruments) or (ii)
2 section 1957 of such title (relating to engaging
3 in monetary transactions in property derived
4 from specific unlawful activity) if the value of
5 the funds exceeded \$100,000;

6 “(E) any offense described in—

7 “(i) subsection (h) or (i) of section
8 842, title 18, United States Code, or sub-
9 section (d), (e), (f), (g), (h), or (i) of sec-
10 tion 844 of title 18, United States Code
11 (relating to explosive materials offenses),

12 “(ii) paragraph (1), (2), (3), (4), or
13 (5) of section 922(g), or section 922(j),
14 section 922(n), section 922(o), section
15 922(p), section 922(r), section 924(b), or
16 section 924(h) of title 18, United States
17 Code (relating to firearms offenses), or

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

20 “(F) any crime of violence (as defined in
21 section 16 of title 18, United States Code, not
22 including a purely political offense) for which a
23 sentence of 5 years imprisonment or more may
24 be imposed;

1 “(G) any theft offense (including receipt of
2 stolen property) or any burglary offense, where
3 a sentence of 5 years imprisonment or more
4 may be imposed;

5 “(H) any offense described in section 875,
6 section 876, section 877, or section 1202 of
7 title 18, United States Code (relating to the de-
8 mand for or receipt of ransom);

9 “(I) any offense described in section 2251,
10 section 2251A or section 2252 of title 18, Unit-
11 ed States Code (relating to child pornography);

12 “(J) any offense described in—

13 “(i) section 1962 of title 18, United
14 States Code (relating to racketeer influ-
15 enced corrupt organizations), or

16 “(ii) section 1084 (if it is a second or
17 subsequent offense) or section 1955 of
18 such title (relating to gambling offenses),
19 where a sentence of 5 years imprisonment
20 or more may be imposed;

21 “(K) any offense relating to the bribery or
22 attempted bribery of an official or agent of the
23 Government of the United States or of an offi-
24 cial or agent of any political subdivision of the
25 United States;

1 “(L) any offense relating to commercial
2 bribery, counterfeiting, forgery or trafficking in
3 vehicles whose identification numbers have been
4 altered, where a sentence of 5 years imprison-
5 ment or more may be imposed;

6 “(M) any offense—

7 “(i) described in section 2421, section
8 2422, or section 2423 of title 18, United
9 States Code (relating to transportation for
10 the purpose of prostitution), or

11 “(ii) described in section 1581
12 through 1585, or section 1588, of title 18,
13 United States Code (relating to peonage,
14 slavery, and involuntary servitude);

15 “(N) any offense relating to perjury or
16 subornation of perjury where a sentence of 5
17 years imprisonment or more may be imposed;

18 “(O) any offense described in—

19 “(i) section 793 (relating to gathering
20 or transmitting national defense informa-
21 tion), section 798 (relating to disclosure of
22 classified information), section 2153 (relat-
23 ing to sabotage) or section 2381 or section
24 2382 (relating to treason) of title 18, Unit-
25 ed States Code, or

1 “(ii) section 421 of title 50, United
2 States Code (relating to protecting the
3 identity of undercover intelligence agents);
4 “(P) any offense—
5 “(i) involving fraud or deceit where
6 the loss to the victim or victims exceeded
7 \$200,000; or
8 “(ii) described in section 7201 of title
9 26, United States Code (relating to tax
10 evasion), where the tax loss to the Govern-
11 ment exceeds \$200,000;
12 “(Q) any offense described in section
13 1324(a)(1) of title 8, United States Code (relat-
14 ing to alien smuggling) for the purpose of com-
15 mercial advantage;
16 “(R) any violation of section 1546(a) of
17 title 18, United States Code (relating to docu-
18 ment fraud), for the purpose of commercial ad-
19 vantage;
20 “(S) any offense relating to failing to ap-
21 pear before a court pursuant to a court order
22 to answer to or dispose of a charge of a felony,
23 where a sentence of 2 years or more may be im-
24 posed; or any attempt or conspiracy to commit
25 any such act; or

1 “(T) any felony committed by an alien on
2 or after the date that alien had received a waiv-
3 er of deportation under section 212 or 241 of
4 this Act (8 U.S.C. 1182 or 1251) after commis-
5 sion of a prior felony.”.

6 Such term applies to offenses described in this paragraph
7 whether in violation of Federal or State law and applies
8 to such offenses in violation of the laws of a foreign coun-
9 try for which the term of imprisonment was completed
10 within the previous 15 years.

11 (b) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to all convictions entered before,
13 on, or after the date of enactment of this Act.

14 **SEC. 402. DEPORTATION PROCEDURES.**

15 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR
16 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
17 gration and Nationality Act (8 U.S.C. 1252a) is amend-
18 ed—

19 (1) in subsection (a)—

20 (A) by inserting “DEPORTATION OF PER-
21 MANENT RESIDENT ALIENS.—(1)” after “(a)”;
22 and

23 (B) by inserting in the first sentence “per-
24 manent resident” after “correctional facilities
25 for”;

1 (2) in subsection (b)—

2 (A) by striking “(b) IMPLEMENTATION.—”

3 and inserting “(2) IMPLEMENTATION.—”; and

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

6 (3) by adding the following after subsection (a),

7 as amended herein:

8 “(b) DEPORTATION OF ALIENS WHO ARE NOT PER-
9 MANENT RESIDENTS.—(1) Notwithstanding section 242,
10 and subject to paragraph (5), the Attorney General may
11 issue a final order of deportation against any alien de-
12 scribed in paragraph (2) whom the Attorney General de-
13 termines to be deportable under section 241(a)(2)(A)(iii)
14 (relating to conviction of an aggravated felony).

15 “(2) An alien is described in this paragraph if the
16 alien—

17 “(A) was not lawfully admitted for permanent
18 residence at the time that proceedings under this
19 section commenced, or

20 “(B) had permanent resident status on a condi-
21 tional basis (as described in section 216) at the time
22 that proceedings under this section commenced.

23 “(3) The Attorney General may delegate the author-
24 ity in this section to the Commissioner or to any District
25 Director of the Service.

1 “(4) No alien described in this section shall be eligible
2 for any relief from deportation that the Attorney General
3 may grant in his discretion.

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

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

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

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

18 (3) by adding at the end the following new sub-
19 section;

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

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to all aliens against whom deporta-
3 tion proceedings are initiated after the date of enactment
4 of this Act.

5 **SEC. 403. JUDICIAL DEPORTATION.**

6 (a) JUDICIAL DEPORTATION.—Section 242A of the
7 Immigration and Nationality Act (8 U.S.C. 1252a), as
8 amended by section 402, is further amended by inserting
9 at the end the following new subsection:

10 “(c) JUDICIAL DEPORTATION.—

11 “(1) AUTHORITY.—In any criminal case subject
12 to the jurisdiction of any court of the United States
13 or of any State, such court may enter a judicial
14 order of deportation at the time of sentencing
15 against an alien whose criminal conviction causes
16 such alien to be deportable under section
17 241(a)(2)(A)(iii) (relating to conviction of an aggra-
18 vated felony).

19 “(2) DENIAL OF JUDICIAL ORDER.—Denial of a
20 request for a judicial order of deportation shall not
21 preclude the Attorney General from initiating depor-
22 tation proceedings pursuant to section 242 upon the
23 same ground of deportability or upon any other
24 ground of deportability provided under section
25 241(a).”.

1 (b) TECHNICAL AND CONFORMING CHANGES.—The
2 ninth sentence of section 242(b) of the Immigration and
3 Nationality Act (8 U.S.C. 1252(b)) is amended by striking
4 out “The” and inserting in lieu thereof, “Except as pro-
5 vided in section 242A(c), the”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to all aliens whose adjudication of
8 guilt or guilty plea is entered in the record after the date
9 of enactment of this Act.

10 **SEC. 404. DEFENSES TO DEPORTATION.**

11 (a) DEFENSES BASES ON SEVEN YEARS OF PERMA-
12 NENT RESIDENCE.—The last sentence of section 212(c)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1182(c)) is amended by striking out “has served for such
15 felony or felonies” and all that follows through the period
16 and inserting in lieu thereof “has been sentenced for such
17 felony or felonies to a term of imprisonment of at least
18 5 years if the time for appealing such conviction or sen-
19 tence has expired and the sentence has become final.”.

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

23 (1) in the first sentence—

24 (A) by striking “or” at the end of subpara-
25 graph (C);

1 (B) by striking the period at the end of
2 subparagraph (D) and inserting “; or”; and

3 (C) by adding at the end the following new
4 subparagraph:

5 “(E) the alien has been convicted of a felony.”;

6 and

7 (2) by striking the last sentence.

8 **SEC. 405. ENHANCED PENALTIES FOR REENTRY OR FAIL-**
9 **URE TO DEPART.**

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

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

15 (2) by striking out “shall be imprisoned not
16 more than ten years” and inserting in lieu thereof,
17 “shall be imprisoned not more than two years, or
18 shall be imprisoned not more than ten years if the
19 alien is a member of any of the classes described in
20 paragraph (2), (3), or (4) of section 241(a)”.

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

23 (1) in paragraph (1)—

24 (A) by inserting after “commission of” the
25 following: “two or more misdemeanors or”; and

1 (B) by striking out “5” and inserting in
2 lieu thereof “10”;

3 (2) in paragraph (2), by striking out “15” and
4 inserting in lieu thereof “20”; and

5 (3) by adding at the end the following sentence:
6 “For the purposes of this subsection, the term ‘de-
7 portation’ includes any agreement where an alien
8 stipulates to deportation during a criminal trial
9 under either Federal or State law.”.

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

14 “(c) In any criminal proceeding under this section,
15 no alien may challenge the validity of the deportation
16 order described in subsection (a)(1) or subsection (b).”.

17 **SEC. 406. DEPORTATION OF IMPRISONED ALIENS.**

18 Section 242(h) of the Immigration and Nationality
19 Act (8 U.S.C. 1252(h)) is amended to read as follows:

20 “(h)(1) Except as provided in paragraph (2), an alien
21 sentenced to imprisonment may not be deported until such
22 imprisonment has been terminated by the release of the
23 alien from confinement. Parole, supervised release, proba-
24 tion, or possibility of rearrest or further confinement in

1 respect of the same offense shall not be a ground for defer-
2 ral of deportation.

3 “(2) The Attorney General may deport an alien prior
4 to the completion of a sentence of imprisonment—

5 “(A) in the case of an alien in the custody of
6 the Attorney General, if the Attorney General deter-
7 mines that the alien has been adequately punished
8 and that such deportation of the alien is appro-
9 priate; or

10 “(B) in the case of an alien in the custody of
11 a State, if the chief State official exercising author-
12 ity with respect to the incarceration of the alien de-
13 termines (i) that the alien has been adequately pun-
14 ished and that such deportation is appropriate, and
15 (ii) submits a written request to the Attorney Gen-
16 eral that such alien be so deported.”.

17 **SEC. 407. JUDICIAL ORDER OF DEPORTATION.**

18 (a) **IN GENERAL.**—Subchapter A of chapter 227 of
19 title 18, United States Code, is amended by adding at the
20 end the following:

21 **“§ 3560. Order of deportation for certain aliens**

22 “The court, upon sentencing an individual who is an
23 alien for an aggravated felony (as defined in section
24 101(a)(43) of the Immigration and Nationality Act, shall
25 include in a sentencing order a declaration that the indi-

1 vidual is deportable. Any presentence report required
2 under the Rules of Criminal Procedure with respect to the
3 sentencing of any individual for such a felony shall include
4 whether or not such individual is an alien.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of subchapter A of chapter 227 of title
7 18, United States Code, is amended by adding at the end
8 the following new item:

“3560. Order of deportation for certain aliens.”.

9 (c) DEPORTATION PROCEDURES.—Section 242A of
10 the Immigration and Nationality Act (18 U.S.C. 1252a)
11 is amended by adding at the end the following:

12 “(f) DEPORTATION PURSUANT TO A JUDICIAL
13 ORDER.—An alien subject to a judicial order of deporta-
14 tion under section 3560 of title 18, United States Code,
15 shall be deported consistent with section 242(h).”.

16 **SEC. 408. FEDERAL INCARCERATION.**

17 Section 242 of the Immigration and Nationality Act
18 (8 U.S.C. 1252) is amended by adding at the end the fol-
19 lowing:

20 “(j)(1) The Attorney General shall take into the cus-
21 tody of the Federal Government, and shall incarcerate for
22 a determinate sentence of imprisonment, a criminal alien
23 described in paragraph (3) if—

24 “(A) the chief State official exercising authority
25 with respect to the incarceration of the undocu-

1 mented criminal alien submits a written request to
2 the Attorney General;

3 “(B) the undocumented criminal is sentenced to
4 a determinate term of imprisonment;

5 “(C) the State in which the official described in
6 subparagraph (A) exercises authority cooperates,
7 and requires local governments or agencies in such
8 State to cooperate, with Federal immigration au-
9 thorities with respect to the identification, location,
10 arrest, prosecution, detention, and deportation of
11 aliens who are not lawfully present in the United
12 States; and

13 “(D) adequate Federal facilities are available
14 for the incarceration of the criminal alien.

15 “(2) Criminal aliens taken into the custody of the At-
16 torney General under paragraph (1) may be deported
17 under subsection (h)(2)(A).

18 “(3) An alien is described in this paragraph if the
19 alien—

20 “(A) has been convicted of a felony and sen-
21 tenced to a term of imprisonment, and

22 “(B)(i) had entered the United States without
23 inspection or at any time or place other than as des-
24 ignated by the Attorney General, or

1 “(ii) was the subject of exclusion or deportation
2 proceedings at the time he or she was taken into
3 custody by the State.”.

4 **SEC. 409. INCREASED PENALTY FOR VISA FRAUD.**

5 (a) FALSE STATEMENT.—Section 1542 of title 18,
6 United States Code, is amended by striking “fined not
7 more than \$2,000 or imprisoned not more than five years,
8 or both” and inserting “fined under this title or impris-
9 oned not more than 10 years, or both”.

10 (b) FORGERY.—Section 1543 of title 18, United
11 States Code, is amended by striking “fined not more than
12 \$2,000 or imprisoned not more than five years, or both”
13 and inserting “fined under this title or imprisoned not
14 more than 10 years, or both”.

15 (c) MISUSE OF PASSPORT.—Section 1544 of title 18,
16 United States Code, is amended by striking “fined not
17 more than \$2,000 or imprisoned not more than five years,
18 or both” and inserting “fined under this title or impris-
19 oned not more than 10 years, or both”.

20 (d) SAFE CONDUCT VIOLATION.—Section 1545 of
21 title 18, United States Code, is amended by striking
22 “fined not more than \$2,000 or imprisoned not more than
23 three years, or both” and inserting “fined under this title
24 or imprisoned not more than 10 years, or both”.

1 (e) FRAUD AND MISUSE OF VISAS.—Section 1546(a)
2 of title 18, United States Code, is amended by striking
3 “fined not more than \$2,000 or imprisoned not more than
4 five years, or both” and inserting “fined under this title
5 or imprisoned not more than 10 years, or both”.

6 **SEC. 410. NOTIFICATION OF ALIEN ARREST.**

7 Whenever a State or local law enforcement agency ar-
8 rests an alien for the commission of a felony, that State
9 or local law enforcement agency shall provide the District
10 Director of the Immigration and Naturalization Service
11 for the district in which the State or local law enforcement
12 agency has jurisdiction the following information within
13 72 hours of the arrest: the name of the alien; the alien’s
14 place of birth; the alien’s date of birth; the alien’s alien
15 registration number, if any; the nature of the offense for
16 which the alien was arrested; and any available informa-
17 tion on bond, future hearings and proceedings.

18 **SEC. 411. EXCLUDABILITY OF UNLAWFUL ENTRANTS.**

19 Section 204(c) of the Immigration and Nationality
20 Act is amended—

21 (1) by striking “laws or” and inserting “laws,”;

22 and

23 (2) by inserting the following before the period:

24 “, or (3) the petition was submitted by or on behalf

25 of any alien who entered or attempted to enter the

1 United States unlawfully, who entered or attempted
2 to enter with fraudulent, forged or stolen documents,
3 who failed to present the immigration officer any
4 document produced when the alien boarded a com-
5 mon carrier for travel to the United States, or who
6 entered the United States lawfully as a non-
7 immigrant but violated the terms of his or her non-
8 immigrant visa”.

9 **SEC. 412. EXCLUSION OF IMMIGRATION LAW VIOLATORS.**

10 (a) EXCLUSION OF CRIMINAL ALIEN.—Section
11 212(a)(2)(A)(i) of the Immigration and Nationality Act
12 (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

13 (1) by striking “or” at the end of subclause (I);

14 (2) by inserting “or” at the end of subclause
15 (II); and

16 (3) by inserting after subclause (II) the follow-
17 ing:

18 “(III) any violation of any immigration law
19 or any violation of any federal or State statute
20 prohibiting fraud, including any statutes pro-
21 hibiting income tax evasion,”.

22 (b) EXCLUSION REFORM.—Section 212 of the Immi-
23 gration and Nationality Act (8 U.S.C. 1182) is amended
24 by amending subsection (c) to read as follows:

1 “(c) Aliens lawfully admitted for permanent residence
2 who temporarily proceeded abroad voluntarily and not
3 under an order of deportation shall not be admitted if that
4 alien is excludable under subsection (a), without regard
5 to the purpose or duration of the alien’s presence outside
6 the United States.”.

7 **SEC. 413. MISCELLANEOUS AND TECHNICAL CHANGES.**

8 (a) FORM OF DEPORTATION HEARINGS.—The sec-
9 ond sentence of section 242(b) of the Immigration and
10 Nationality Act (8 U.S.C. 1252(b)) is amended—

11 (1) by redesignating paragraphs (1), (2), (3),
12 and (4) as subparagraphs (A), (B), (C), and (D);

13 (2) by striking “(b) A special” and inserting
14 “(b)(1) Except as provided in paragraph (2), a spe-
15 cial”; and

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

17 “(2) Nothing in this subsection shall preclude the At-
18 torney General from authorizing proceedings by electronic
19 or telephonic media (with or without the consent of the
20 alien) or, where waived or agreed to by the parties, in the
21 absence of the alien.”.

22 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
23 REQUIREMENTS.—No amendment made by this Act and
24 nothing in section 242(i) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1252(i)), shall be construed to create

1 any right or benefit, substantive or procedural, which is
2 legally enforceable by any party against the United States,
3 its agencies, its officers, or any other person.

4 **TITLE V—FINANCIAL** 5 **RESPONSIBILITY**

6 **SEC. 501. PUBLIC CHARGE DEFINED.**

7 Section 212(a)(4) of the Immigration and Nationality
8 Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

9 “(4) PUBLIC CHARGE.—Any alien who cannot
10 demonstrate to the consular officer at the time of
11 application for a visa, or to the Attorney General at
12 the time of application for admission or adjustment
13 of status, that, taking into account the alien’s age
14 and medical condition, he or she has assets, edu-
15 cation, skills, or a combination thereof that make it
16 very unlikely that he or she will become eligible for
17 means-tested public assistance of any kind (includ-
18 ing, but not limited to, medical care or food and
19 housing assistance) or will otherwise become a public
20 charge is excludable.”.

21 **SEC. 502. GUARANTEE OF FINANCIAL RESPONSIBILITY.**

22 Section 213 of the Immigration and Nationality Act
23 (8 U.S.C. 1183) is amended to read as follows:

24 “FINANCIAL RESPONSIBILITY OF SPONSORS

25 “SEC. 213. (a) An alien excludable under paragraph
26 (4) of section 212(a) may, if otherwise admissible, be ad-

1 mitted in the discretion of the Attorney General upon the
2 giving of a suitable and proper bond and a guarantee of
3 financial responsibility by an individual (hereafter in this
4 section referred to as the alien's 'sponsor') who is not less
5 than 21 nor more than 60 years of age, is of good moral
6 character, has never been convicted of a felony, has never
7 filed for bankruptcy or been adjudicated a bankrupt, and
8 is a citizen of the United States or an alien lawfully admit-
9 ted for permanent residence.

10 “(b) The guarantee of financial responsibility in sub-
11 section (a) must provide (1) that the sponsor, and the
12 sponsor's spouse if the sponsor is married, agree in the
13 case of an alien under 21 years of age, to assume legal
14 custody for the alien after the alien's departure to the
15 United States and until the alien becomes 21 years of age,
16 in accordance with the law of the State where the sponsor
17 resides, and (2) that the sponsor agrees to furnish, during
18 the 5-year period beginning on the date of the alien's ac-
19 quiring the status of an alien lawfully admitted for perma-
20 nent residence, or during the period beginning on the date
21 of the alien's acquiring the status of an alien lawfully ad-
22 mitted for permanent residence and ending on the date
23 on which the alien becomes 21 years of age, whichever pe-
24 riod is longer, such financial support as is necessary to
25 prevent the alien's becoming a public charge.

1 “(c) A guarantee of financial responsibility given
2 under subsection (a) may be enforced with respect to an
3 alien by a civil suit against his sponsor by the Attorney
4 General or by any Federal or State agency that has pro-
5 vided the alien means-tested public assistance of any kind,
6 including but not limited to medical, food, and housing
7 assistance.

8 “(d) Civil suits under subsection (c) shall be brought
9 in the United States district court for the district in which
10 the defendant resides and may be brought at any time on
11 or before the date that is 5 years after the date on which
12 the sponsor’s period of financial responsibility under sub-
13 section (a) expired.

14 “(e) The bond required of an alien’s sponsor by sub-
15 section (a) shall be in favor of the United States and all
16 States, territories, countries, towns, municipalities, and
17 districts within the United States and shall hold them
18 harmless against the alien’s becoming a public charge. The
19 bond shall be in such amount and shall contain such condi-
20 tions as the Attorney General may prescribe. The bond
21 shall terminate upon (1) the alien’s permanent departure
22 from the United States, (2) the death of an alien, or (3)
23 the expiration of the period of financial responsibility de-
24 scribed in subsection (b), whichever occurs first, and any
25 sums or other security held to secure performance thereof,

1 except to the extent forfeited for violation of the terms
2 thereof, shall be returned to the person by whom fur-
3 nished, or to his legal representative.”.

4 **SEC. 503. LIMITED BENEFITS FOR ILLEGAL ALIENS.**

5 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—(1)
6 Notwithstanding any other provision of law, no direct Fed-
7 eral financial benefit or social insurance benefit may be
8 paid, conferred, or otherwise given, on or after the date
9 of enactment of this Act, to any alien not lawfully admit-
10 ted to the United States as a permanent resident or a ref-
11 ugee except pursuant to a provision of the Immigration
12 and Nationality Act.

13 (2) Federal reimbursement of emergency medical
14 care provided to such an alien may be provided under such
15 regulations as the Secretary of Health and Human Serv-
16 ices may in his or her discretion prescribe.

17 (b) UNEMPLOYMENT BENEFITS.—No alien who has
18 not been granted employment authorization pursuant to
19 Federal law shall be eligible for unemployment compensa-
20 tion under an unemployment compensation law of a State
21 or the United States.

1 **TITLE VI—EMPLOYER**
2 **SANCTIONS**

3 **SEC. 601. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

4 (a) **WORK ELIGIBILITY DOCUMENTS.**—Effective
5 January 1, 1995, section 274A of the Immigration and
6 Nationality Act (8 U.S.C. 1324a) is amended by striking
7 subparagraphs (A) through (D) of subsection (b)(1) and
8 inserting:

9 “(A) **IN GENERAL.**—The person or entity must
10 attest, under penalty of perjury and on a form des-
11 ignated or established by the Attorney General by
12 regulation, that it has verified that the individual is
13 not an unauthorized alien by—

14 “(i) examining the document described in
15 subparagraph (B) in the case of an individual
16 claiming to be a United States citizen, United
17 States national, or a permanent resident alien,

18 “(ii) examining the document described in
19 paragraph (C) in the case of an individual not
20 claiming to be a United States citizen, a United
21 States national, or a permanent resident alien,
22 and

23 “(iii) reporting the individual’s Social Se-
24 curity account number to the Social Security
25 Administration through the telephone verifica-

1 tion system established pursuant to section 602
2 of the Immigration Stabilization Act of 1994.

3 “(B) DOCUMENTS OF CITIZENS AND NATION-
4 ALS.—The document described in this subparagraph
5 is an individual’s Social Security account number
6 card issued pursuant to section 601(c) of the Immi-
7 gration Stabilization Act of 1994.

8 “(C) DOCUMENTS OF ALIENS.—The document
9 described in this subparagraph is an alien’s identi-
10 fication card issued by the Immigration and Natu-
11 ralization Service pursuant to section 601(b) of the
12 Immigration Stabilization Act of 1994.”.

13 (b) IMPROVEMENT OF ALIEN IDENTITY CARDS.—

14 (1) PERMANENT RESIDENT ALIENS.—The At-
15 torney General shall cause to be issued to every alien
16 acquiring lawful permanent residence in the United
17 States after June 30, 1994, and, upon application,
18 to any alien who acquired lawful permanent resi-
19 dence before July 1, 1994, an alien identification
20 card that shall—

21 (A) be uniform in appearance,

22 (B) be as tamperproof and counterfeit-re-
23 sistant as practicable,

24 (C) contain a photograph and fingerprint,

1 (D) display the name, sex, date of birth,
2 and such other identifying information as the
3 Attorney General shall determine, and

4 (E) incorporate a machine-readable encod-
5 ing of the information displayed on the card.

6 (2) OTHER ALIENS.—The Attorney General
7 shall cause to be issued to every alien who becomes
8 authorized to work in the United States after June
9 30, 1994, other than by reason of lawful admission
10 for permanent residence, and shall cause to be is-
11 sued, upon application, to any other alien who is au-
12 thorized to work in the United States other than by
13 reason of lawful admission for permanent residence
14 an alien identification card that shall—

15 (A) be uniform in appearance,

16 (B) be as tamperproof and counterfeit-re-
17 sistant as practicable,

18 (C) contain a photograph and fingerprint,

19 (D) display the alien's name, sex, date of
20 birth, place of birth, and such other identifying
21 information as the Attorney General shall de-
22 termine,

23 (E) show an expiration date that shall be
24 determined in accordance with regulations is-
25 sued by the Attorney General, but shall not in

1 any case be later than 3 calendar years after
2 the date of issuance, and

3 (F) incorporate a machine-readable encod-
4 ing of the information displayed on the card.

5 (c) IMPROVEMENT OF SOCIAL SECURITY CARDS.—

6 (1) IMPROVED CARD FOR CITIZENS.—The Sec-
7 retary shall cause to be issued improved Social Secu-
8 rity account number cards to United States citizens
9 and United States nationals upon application, proof
10 of identity, proof of citizenship or nationality, and
11 payment of a reasonable fee.

12 (2) IMPROVED CARD FOR ALIENS.—The Sec-
13 retary shall cause to be issued improved Social Secu-
14 rity account number cards to aliens lawfully admit-
15 ted for permanent residence upon application, proof
16 of identity, verification of status by the Immigration
17 and Naturalization Service, and payment of a rea-
18 sonable fee.

19 (3) REQUIREMENTS.—The cards described in
20 paragraphs (1) and (2) shall—

21 (A) be uniform in appearance,

22 (B) be as tamperproof and counterfeit-re-
23 sistant as practicable,

24 (C) contain a photograph and fingerprint,

1 (D) display the name, sex, date of birth,
2 place of birth, and Social Security account
3 number of the issuee, and such other identify-
4 ing information as the Secretary shall deter-
5 mine, and

6 (E) incorporate a machine-readable encod-
7 ing of the information displayed on the card.

8 (4) SECRETARY DEFINED.—For purposes of
9 this subsection, Secretary means the Secretary of
10 Health and Human Services.

11 (d) REASONABLE FEE.—The amount of the fee that
12 is to be charged under subsections (b) and (c) shall be
13 the amount (rounded to the nearest whole dollar), not ex-
14 ceeding \$50, required to cover the costs of issuing the
15 card.

16 (e) NO OTHER CARDS.—No Social Security account
17 number card or alien identification card shall be issued
18 after June 30, 1994, whether as an original card or as
19 a replacement, that does not satisfy the requirements of
20 this section.

21 (f) DEFINITIONS.—For purposes of this section—

22 (1) “State” means one of the United States,
23 the District of Columbia, or Puerto Rico, and

24 (2) “place of birth” means, for an individual—

1 (A) born in a State, the two-letter symbol
2 used by the United States Post Office to iden-
3 tify that State, or

4 (B) not born in a State, such two-letter
5 symbol as the Secretary shall determine by reg-
6 ulations.

7 **SEC. 602. VERIFICATION BY TELEPHONE.**

8 (a) SOCIAL SECURITY DATABASE.—By September
9 30, 1994, the Secretary of Health and Human Services
10 shall make such modifications to the Social Security ac-
11 count number data base (NUMIDENT) as are practicable
12 and enable confirmation through the telephone verification
13 system described in subsection (d) that a Social Security
14 account number has been issued to an individual identified
15 by last name, sex, year of birth, and place of birth and
16 that such individual is not known to the Secretary of
17 Health and Human Services to be an alien not authorized
18 to work in the United States. At a minimum the data base
19 shall be modified to enable confirmation that a Social Se-
20 curity account number is not assigned to an individual au-
21 thorized to work in the United States because the num-
22 ber—

23 (1) has not been issued,

1 (2) was issued to an individual known by the
2 Secretary of Health and Human Services as not au-
3 thorized to work,

4 (3) was issued to a person that is deceased and
5 has not been reissued, or

6 (4) was issued to an alien that any data base
7 of the Immigration and Naturalization Service shows
8 is not authorized to work in the United States.

9 The Attorney General shall provide such assistance as the
10 Secretary of Health and Human Services may require to
11 merge or otherwise make use of any data base of the Im-
12 migration and Naturalization Service for the purposes of
13 this section.

14 (b) EXCHANGE OF INFORMATION.—The Attorney
15 General shall notify the Secretary of Health and Human
16 Services of the expiration of an alien's authorization to
17 work in the United States not later than 14 calendar days
18 after the date of expiration. The Secretary of Health and
19 Human Services shall furnish the Attorney General with
20 a list of any aliens for whom confirmation of work eligi-
21 bility has been requested not later than 5 calendar days
22 after such request. Such list shall include the telephone
23 number from which the request was made and the em-
24 ployer identification number of the requester.

1 (c) ADULT APPLICANTS.—The Secretary of Health
2 and Human Services shall furnish to the Attorney General
3 a copy of any application (including supporting docu-
4 mentation) for a Social Security account number by an
5 alien or by an individual over 16 years of age who claims
6 to be a United States citizen or national and shall not
7 issue a number before the earlier of the following dates:

8 (1) The date on which the Attorney General
9 confirms in writing that his records do not show
10 that the applicant is an alien unauthorized to work
11 in the United States.

12 (2) 60 days after a copy of the application and
13 supporting documentation has been delivered to the
14 Attorney General.

15 (d) TELEPHONE VERIFICATION SYSTEM.—Before
16 January 1, 1995, the Secretary of Health and Human
17 Services shall test and place in operation a system whereby
18 an employer can report by touch-tone telephone his em-
19 ployer identification number and the Social Security ac-
20 count number, last name, sex, year of birth, and place of
21 birth of any individual who is to be employed and can re-
22 ceive immediate confirmation that the number was issued
23 to the individual having that identity and that such person
24 is not identified within the Social Security account number
25 data base as an individual who is not a United States citi-

1 zen, a United States national, or an alien authorized to
2 work in the United States. The charge for each call will
3 be sufficient to cover the costs of operating the system,
4 except that it shall not exceed \$2 plus any line charges
5 payable to the telephone carrier. The system shall provide
6 for access to a live operator if an entry is not accepted
7 or confirmed, shall provide a verification code to the caller,
8 and shall accommodate devices that read the magnetic
9 strip incorporated by a card issued under section 601.

10 (e) ABUSE OF SYSTEM.—The use of the telephone
11 verification system established by subsection (d) by a per-
12 son other than—

13 (1) an employer acting pursuant to section
14 274A(b)(1) of the Immigration and Nationality Act,
15 or

16 (2) an officer or employee of an agency of the
17 United States or of any State acting in the perform-
18 ance of official duties,

19 shall be punishable by a fine of not more than \$1,000 per
20 occurrence.

21 **SEC. 603. UNIFORM VITAL STATISTICS.**

22 The Secretary of Health and Human Services shall
23 consult with the State agency responsible for registration
24 and certification of births and deaths and, within 2 years
25 of the date of enactment of this Act, shall establish a na-

1 tional electronic network linking the vital statistics records
2 of such States. The network shall provide, where practical,
3 for the matching of deaths with births and shall enable
4 the confirmation of births and deaths of citizens of the
5 United States, or of aliens within the United States, by
6 any Federal or State agency or official in the performance
7 of official duties. The Secretary shall institute measures
8 to achieve uniform and accurate reporting of vital statis-
9 tics into the national network, to protect the integrity of
10 the registration and certification process, and to prevent
11 fraud against the Government and other persons through
12 the use of false birth or death certificates.

13 **TITLE VII—BORDER SECURITY**

14 **SEC. 701. BORDER PATROL PERSONNEL.**

15 The number of full-time officer positions authorized
16 for the Border Patrol of the Immigration and Naturaliza-
17 tion Service shall be increased to 5,900 in fiscal year 1994,
18 6,900 in fiscal year 1995, 7,900 in fiscal year 1996, 8,900
19 in fiscal year 1997, and 9,900 in fiscal year 1998.

20 **SEC. 702. BORDER CROSSING FEE.**

21 The Commissioner of Immigration and Naturaliza-
22 tion shall collect a user fee for each entry into the United
23 States by land or by sea after December 31, 1993. The
24 fee shall be \$3 for each person entering other than by pri-
25 vate automobile, van, or truck and \$5 for each private

1 automobile, van, or truck. The Commissioner by regula-
2 tion may establish a reduced fee or a multiple-crossing fee
3 for frequent border crossers.

4 **SEC. 703. BORDER CONTROL TRUST FUND.**

5 There is established a Border Control Trust Fund
6 (“Fund”) under the control of the Commissioner of Immi-
7 gration and Naturalization. The fees collected under sec-
8 tion 702 shall be deposited into the Fund. Amounts depos-
9 ited into the Fund and the earnings thereon shall be ex-
10 pended by the Commissioner exclusively on (1) measures,
11 personnel, structures, and devices to deter and prevent il-
12 legal entry of persons and contraband into the United
13 States by land or by sea, (2) construction and operation
14 of facilities to expedite lawful border traffic and reduce,
15 where practical, extensive delays in the time required for
16 lawful entry of goods and persons, and (3) financial and
17 other assistance to State and local law enforcement agen-
18 cies that have entered into cooperative arrangements with
19 the Immigration and Naturalization Service. Not less than
20 80 percent of the sum of—

- 21 (1) amounts deposited into the Fund during a
22 fiscal year; and
23 (2) the earnings of the Fund during that fiscal
24 year,

1 shall be expended during that or the subsequent fiscal
2 year.

3 **SEC. 704. RESPONSIBILITY OF INTERNATIONAL CARRIERS.**

4 (a) IN GENERAL.—Section 273 of the Immigration
5 and Nationality Act (8 U.S.C. 1323) is amended—

6 (1) in subsection (a), by striking “(other than
7 from foreign contiguous territory)”;

8 (2) by redesignating subsections (c) and (d) as
9 subsections (e) and (f), respectively;

10 (3) by inserting after subsection (b) the follow-
11 ing:

12 “(c) RECORDS.—The Attorney General shall main-
13 tain a record of each undocumented alien arriving on or
14 after the date of enactment of this subsection at a United
15 States port of entry and of the carrier which brought such
16 alien to that port of entry.”;

17 (4) by inserting after subsection (c) (as added
18 by paragraph (4)), the following:

19 “(d) REPEAT OFFENSES.—(1)(A) If the Attorney
20 General determines that, during the preceding calendar
21 year, any carrier has delivered an average of more than
22 0.5 undocumented aliens per arrival at United States
23 ports of entry then, for the next calendar year, in lieu of
24 the penalty of \$3,000 specified in subsection (b), such car-
25 rier shall pay to the Attorney General a penalty of

1 \$10,000 for each alien brought in violation of subsection
2 (a) or, alternatively, such carrier may choose to participate
3 in a 1-year pilot program intended to reduce the number
4 of undocumented aliens arriving at United States ports
5 of entry via international carriers.

6 “(B) If such international carrier chooses to partici-
7 pate in the 1-year pilot program, that carrier will be sub-
8 ject to the penalty levels prescribed in subsection (b), rath-
9 er than the increased penalty levels specified in this sub-
10 section, for each alien brought in violation of subsection
11 (a).

12 “(C) The 1-year pilot program, which can be ex-
13 tended for multiple years at the discretion of the Attorney
14 General, shall consist of a program whereby the inter-
15 national carrier collects the travel documents necessary for
16 entry into the United States from all passengers upon
17 their entry to the carrier and physically returns them to
18 the passengers on an individual basis only at the actual
19 point of inspection at the United States port of entry by
20 United States immigration officials.

21 “(2) If the Attorney General determines that, during
22 the preceding calendar year, any carrier has delivered an
23 average of more than 1.5 undocumented aliens per arrival
24 at United States ports of entry, then, for the next calendar
25 year, in lieu of the penalties specified in subsection (b)

1 and in paragraph (1) of this subsection, such carrier shall
2 pay to the Attorney General a penalty of \$20,000 for each
3 alien brought in violation of subsection (a).

4 “(3) If the Attorney General determines that, in the
5 preceding calendar year, any carrier has delivered an aver-
6 age of more than 2 undocumented aliens per arrival at
7 United States ports of entry, then such carrier shall forfeit
8 all landing rights in the United States for the next cal-
9 endar year.”; and

10 (5) subsection (e) (as redesignated) is amend-
11 ed—

12 (A) by inserting after “refunded,” the fol-
13 lowing: “unless the alien transported is granted
14 asylum status in the United States or”; and

15 (B) by inserting before the period at the
16 end thereof “or that the visa or other immigra-
17 tion documentation presented to the carrier was
18 forged, counterfeit, altered, falsely made, stolen,
19 or inapplicable to the alien presenting the docu-
20 ment”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 subsection (a)(4) shall take effect on January 1 of the sec-
23 ond calendar year following the date of enactment of this
24 Act.

1 **TITLE VIII—ALIEN SMUGGLING**

2 **SEC. 801. COOPERATIVE ARRANGEMENTS.**

3 The Secretary of State shall undertake to enter into,
4 on behalf of the United States, cooperative arrangements
5 with appropriate foreign governments for the purpose of
6 preventing the unlawful entry of aliens by land, air, or
7 sea.

8 **SEC. 802. COAST GUARD INSTRUCTIONS.**

9 The Secretary of Defense, in consultation, when ap-
10 propriate, with the Attorney General and the Secretary of
11 State, shall instruct the Coast Guard to deter and prevent
12 the unlawful entry of aliens into the United States by sea.
13 Such instructions shall include directives providing for
14 stopping and boarding vessels, making inquiries of persons
15 and inspecting documents and property on board such ves-
16 sels, and returning a vessel to the country from which it
17 came or to another country. In the case of vessels outside
18 the territorial sea of the United States, such instructions
19 shall be limited to vessels of the United States, vessels
20 without nationality, vessels assimilated to vessels without
21 nationality, and vessels of foreign nations with which the
22 United States has arrangements authorizing the United
23 States to stop and board such vessels. Except as otherwise
24 provided in the preceding sentence, actions pursuant to

1 this section are authorized to be undertaken both within
2 and beyond the territorial sea of the United States.

3 **SEC. 803. APPLICATION OF RICO.**

4 Section 1961(1) of title 18, United States Code, is
5 amended by striking “or” immediately prior to “(E)”, and
6 by adding: “or (F) any act which is indictable under any
7 of the following provisions of the Immigration and Nation-
8 ality Act: section 274(a)(i) (relating to prohibitions on
9 bringing in or harboring certain aliens), section 275 (relat-
10 ing to illegal entry, marriage fraud, or establishing a com-
11 mercial enterprise for the purpose of evading the immigra-
12 tion laws), section 277 (relating to aiding or assisting cer-
13 tain aliens to enter the United States), or section 1328
14 (relating to the importation of aliens for immoral pur-
15 pose).”.

16 **SEC. 804. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

17 Pursuant to section 994 of title 28, United States
18 Code, the United States Sentencing Commission shall pro-
19 mulgate guidelines, or amend existing guidelines, to pro-
20 vide that a defendant convicted of violating, or conspiring
21 to violate section 274(a) of the Immigration and National-
22 ity Act, shall be assigned not less than offense level 25
23 under section 2L1.1 of the United States Sentencing
24 Guidelines if any of the following factors exist—

1 (1) if the offense involved five or more aliens in
2 a single scheme or otherwise;

3 (2) if the offense involved other criminal activ-
4 ity including, but not limited to, violations of the
5 Controlled Substances Act, prostitution, importation
6 of aliens for immoral purposes, trafficking in fire-
7 arms, money laundering, illegal gang activities, kid-
8 napping or ransom demands, fraudulent documents,
9 or extortion;

10 (3) if the offense involves smuggling of persons
11 under the age of 18 years for the purposes of illegal
12 adoption or of sexual or commercial exploitation;

13 (4) if the offense involves the smuggling of
14 known or suspected terrorists or persons involved in
15 organized crime;

16 (5) if the offense involves dangerous or inhu-
17 mane treatment of the persons smuggled; or

18 (6) if death or serious bodily harm occurs to
19 persons smuggled.

20 Otherwise, the base offense level shall be 13, except for
21 an offense described in section 274(a)(2)(A) of the Immi-
22 gration and Nationality Act.

1 **SEC. 805. EXPANDED FORFEITURE FOR SMUGGLING OR**
2 **HARBORING.**

3 Subsection 274(b) of the Immigration and National-
4 ity Act (8 U.S.C. 1324(b)) is amended—

5 (1) by amending paragraph (1) to read as fol-
6 lows:

7 “(1) Any property, real or personal, which fa-
8 cilitates or is intended to facilitate, or which has
9 been used in or is intended to be used in the com-
10 mission of a violation of subsection (a) or of sections
11 274A(a)(1) or 274A(a)(2), or which constitutes or is
12 derived from or traceable to the proceeds obtained
13 directly or indirectly from a commission of a viola-
14 tion of subsection (a), shall be subject to seizure and
15 forfeiture, except that—

16 “(A) no property, used by any person as a
17 common carrier in the transaction of business
18 as a common carrier shall be forfeited under
19 the provisions of this section unless it shall ap-
20 pear that the owner or other person in charge
21 of such property was a consenting party or
22 privy to the illegal act;

23 “(B) no property shall be forfeited under
24 the provisions of this section by reason of any
25 act or omission established by the owner thereof
26 to have been committed or omitted by any per-

1 son other than such owner while such property
2 was unlawfully in the possession of a person
3 other than the owner in violation of the crimi-
4 nal laws of the United States or of any State;
5 and

6 “(C) no property shall be forfeited under
7 this paragraph to the extent of an interest of
8 any owner, by reason of any act or omission es-
9 tablished by that owner to have been committed
10 or omitted without the knowledge or consent of
11 the owner, unless such action or omission was
12 committed by an employee or agent of the
13 owner, and facilitated or was intended to facili-
14 tate, or was used in or intended to be used in,
15 the commission of a violation of subsection (a)
16 or of section 274A(a)(1) or 274A(a)(2) which
17 was committed by the owner or which intended
18 to further the business interests of the owner,
19 or to confer any other benefit upon the owner.”;
20 (2) by striking from paragraph (2)—

21 (A) “conveyance” both places it appears
22 and inserting in lieu thereof “property”; and

23 (B) “is being used in” and inserting in lieu
24 thereof “is being used in, is facilitating, has fa-
25 cilitated, or was intended to facilitate”;

1 (3) by striking from paragraphs (4) and (5) “a
2 conveyance” and “conveyance” each place such
3 phrase or word appears and inserting in lieu thereof
4 “property”;

5 (4) by striking from paragraph (4)—

6 (A) “or” at the end of subparagraph (C),

7 and

8 (B) the period at the end of subparagraph

9 (D) and inserting “; or”; and

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

11 “(E) transfer custody and ownership of
12 forfeited property to any Federal, State, or
13 local agency pursuant to the Tariff Act of
14 1930, as amended (19 U.S.C. 1616a(c)).”.

15 **SEC. 806. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
16 **VESTIGATIONS.**

17 (a) Section 2516(1) of title 18, United States Code,
18 is amended—

19 (1) in paragraph (c), by inserting after “weap-
20 ons),” the following: “or a felony violation of section
21 1028 (relating to production of false identification
22 documentation), section 1546 (relating to fraud and
23 misuse of visas, permits, and other documents),”;

1 (2) by striking “or” after paragraph (l) and re-
2 designating paragraphs (m), (n), and (o) as para-
3 graphs (n), (o), and (p), respectively;

4 (3) by inserting after paragraph (l) the follow-
5 ing new paragraph:

6 “(m) a violation of section 274 of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1324) (relating
8 to alien smuggling), of section 277 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1327) (relating
10 to the smuggling of aliens convicted of aggravated
11 felonies or of aliens subject to exclusion on grounds
12 of national security), or of section 278 of the Immi-
13 gration and Nationality Act (8 U.S.C. 1328) (relat-
14 ing to smuggling of aliens for the purpose of pros-
15 titution or other immoral purpose);” and

16 (4) by striking “or any Deputy Assistant Attor-
17 ney General in the Criminal Division specially des-
18 ignated by the Attorney General” and inserting “or
19 any Deputy Assistant Attorney General or acting
20 Deputy Assistant Attorney General in, or one other
21 officer or employee of, the Criminal Division spe-
22 cially designated by the Attorney General”.

23 (b) Section 2518(5) of title 18, United States Code,
24 is amended by inserting “(including personnel of a foreign

1 government or of a State or subdivision of a State)” after
 2 “Government personnel”.

3 (c) Section 2510(7) of title 18, United States Code,
 4 is amended by inserting before the semicolon “and addi-
 5 tionally, for purposes of paragraphs (1) and (2) of section
 6 2517, any person authorized to perform investigative, law
 7 enforcement, or prosecutorial functions by a foreign gov-
 8 ernment”.

9 **TITLE IX—EFFECTIVE DATE**

10 **SEC. 901. EFFECTIVE DATE.**

11 Except where otherwise specifically provided, this
 12 Act, and the amendments made by this Act, shall take
 13 effect on October 1, 1994.

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S 1923 IS—2

S 1923 IS—3

S 1923 IS—4

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