



1 “(A) murder;

2 “(B) illicit trafficking in a controlled sub-  
3 stance (as defined in section 102 of the Con-  
4 trolled Substances Act), including a drug traf-  
5 ficking crime (as defined in section 924(c) of  
6 title 18, United States Code);

7 “(C) illicit trafficking in firearms or de-  
8 structive devices (as defined in section 921 of  
9 title 18, United States Code) or in explosive  
10 materials (as defined in section 841(c) of that  
11 title);

12 “(D) an offense described in section 1956  
13 of title 18, United States Code (relating to  
14 laundering of monetary instruments) or section  
15 1957 of that title (relating to engaging in mon-  
16 etary transactions in property derived from spe-  
17 cific unlawful activity) if the amount of the  
18 funds exceeded \$100,000;

19 “(E) an offense described in—

20 “(i) section 842 (h) or (i) of title 18,  
21 United States Code, or section 844 (d),  
22 (e), (f), (g), (h), or (i) of that title (relat-  
23 ing to explosive materials offenses);

24 “(ii) section 922(g) (1), (2), (3), (4),  
25 or (5), (j), (n), (o), (p), or (r) or 924 (b)

1 or (h) of title 18, United States Code (re-  
2 relating to firearms offenses); or

3 “(iii) section 5861 of the Internal  
4 Revenue Code of 1986 (relating to fire-  
5 arms offenses);

6 “(F) a crime of violence (as defined in sec-  
7 tion 16 of title 18, United States Code, but not  
8 including a purely political offense) for which  
9 the term of imprisonment imposed (regardless  
10 of any suspension of imprisonment) is at least  
11 5 years;

12 “(G) a theft offense (including receipt of  
13 stolen property) or burglary offense for which  
14 the term of imprisonment imposed (regardless  
15 of any suspension of such imprisonment) is at  
16 least 33 months;

17 “(H) an offense described in section 875,  
18 876, 877, or 1202 of title 18, United States  
19 Code (relating to the demand for or receipt of  
20 ransom);

21 “(I) an offense described in section 2251,  
22 2251A, or 2252 of title 18, United States Code  
23 (relating to child pornography);

24 “(J) an offense described in section 1962  
25 of title 18, United States Code (relating to

1 racketeer influenced corrupt organizations) for  
2 which a sentence of 5 years' imprisonment or  
3 more may be imposed;

4 “(K) an offense that—

5 “(i) relates to the owning, controlling,  
6 managing, or supervising of a prostitution  
7 business; or

8 “(ii) is described in section 1581,  
9 1582, 1583, 1584, 1585, or 1588, of title  
10 18, United States Code (relating to peon-  
11 age, slavery, and involuntary servitude);

12 “(L) an offense relating to perjury or sub-  
13 ornation of perjury if the offense involved caus-  
14 ing or threatening to cause physical injury to a  
15 person or damage to property;

16 “(M) an offense described in—

17 “(i) section 793 (relating to gathering  
18 or transmitting national defense informa-  
19 tion), 798 (relating to disclosure of classi-  
20 fied information), 2153 (relating to sabo-  
21 tage) or 2381 or 2382 (relating to treason)  
22 of title 18, United States Code; or

23 “(ii) section 601 of the National Secu-  
24 rity Act of 1947 (50 U.S.C. 421) (relating

1 to protecting the identity of undercover in-  
2 telligence agents);

3 “(N) an offense that—

4 “(i) involves fraud or deceit in which  
5 the loss to the victim or victims exceeds  
6 \$200,000; or

7 “(ii) is described in section 7201 of  
8 the Internal Revenue Code of 1986 (relat-  
9 ing to tax evasion) in which the revenue  
10 loss to the Government exceeds \$200,000;

11 “(O) an offense described in section  
12 274(a)(1) of title 18, United States Code (relat-  
13 ing to alien smuggling) for the purpose of com-  
14 mercial advantage;

15 “(P) an offense described in section  
16 1546(a) of title 18, United States Code (relat-  
17 ing to document fraud) which constitutes traf-  
18 ficking in the documents described in such sec-  
19 tion;

20 “(Q) an offense relating to a failure to ap-  
21 pear by a defendant for service of sentence if  
22 the underlying offense is punishable by impris-  
23 onment for a term of 15 years or more; and

24 “(R) an attempt or conspiracy to commit  
25 an offense described in this paragraph.

1 The term applies to an offense described in this  
2 paragraph whether in violation of Federal or State  
3 law and applies to such an offense in violation of the  
4 law of a foreign country for which the term of im-  
5 prisonment was completed within the previous 15  
6 years.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to convictions entered on or after  
9 the date of enactment of this Act.

10 **SEC. 2. DEPORTATION PROCEDURES FOR CERTAIN CRIMI-**  
11 **NAL ALIENS WHO ARE NOT PERMANENT**  
12 **RESIDENTS.**

13 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR  
14 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-  
15 gration and Nationality Act (8 U.S.C. 1252a) is amended  
16 by adding at the end the following new subsection:

17 “(f) DEPORTATION OF ALIENS WHO ARE NOT PER-  
18 MANENT RESIDENTS.—

19 “(1) Notwithstanding section 242, and subject  
20 to paragraph (5), the Attorney General may issue a  
21 final order of deportation against any alien described  
22 in paragraph (2) whom the Attorney General deter-  
23 mines to be deportable under section  
24 241(a)(2)(A)(iii) (relating to conviction of an aggra-  
25 vated felony).

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

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

6           “(B) had permanent resident status on a  
7 conditional basis (as described in section 216 or  
8 216A) at the time that proceedings under this  
9 section commenced.

10          “(3) No alien described in this section shall be  
11 eligible for any relief from deportation that the At-  
12 torney General may grant in his discretion.

13          “(4) The Attorney General may not execute any  
14 order described in paragraph (1) until 14 calendar  
15 days have passed from the date that such order was  
16 issued, unless waived by the alien, in order that the  
17 alien has an opportunity to apply for judicial review  
18 under section 106.

19          “(5) Pending a determination of deportability  
20 under this section, the Attorney General shall not  
21 release the alien. An order of deportation entered  
22 pursuant to this section shall be executed by the At-  
23 torney General in accordance with section 243. Pro-  
24 ceedings before the Attorney General under this sec-  
25 tion shall be in accordance with such regulations as

1 the Attorney General shall prescribe and shall in-  
2 clude requirements that provide that—

3 “(A) the alien is given reasonable notice of  
4 the charges;

5 “(B) the alien has an opportunity to have  
6 assistance of counsel at no expense to the gov-  
7 ernment and in a manner that does not unduly  
8 delay the proceedings;

9 “(C) the alien has a reasonable oppor-  
10 tunity to inspect the evidence and rebut the  
11 charges;

12 “(D) the determination of deportability is  
13 supported by reasonable, substantial, and pro-  
14 bative evidence; and

15 “(E) the final order of deportation is not  
16 adjudicated by the same person who issued  
17 such order.”.

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

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

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

4           (3) by adding at the end the following new sub-  
5           section:

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

11          (c) TECHNICAL AMENDMENTS.—Section 242A of the  
12          Immigration and Nationality Act (8 U.S.C. 1252a) is  
13          amended—

14                 (1) in subsection (a)—

15                         (A) by striking “(a) IN GENERAL.—” and  
16                         inserting the following:

17           “(b) DEPORTATION OF PERMANENT RESIDENT  
18          ALIENS.—

19                 “(1) IN GENERAL.—”; and

20                         (B) by inserting in the first sentence “per-  
21                         manent resident” after “correctional facilities  
22                         for”;

23                 (2) in subsection (b)—

24                         (A) by striking “(b) IMPLEMENTATION.—”  
25                         and inserting “(2) IMPLEMENTATION.—”; and

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

3 (3) by striking subsection (c);

4 (4) in subsection (d)—

5 (A) by striking “(d) EXPEDITED PRO-  
6 CEEDINGS.—(1)” and inserting “(3) EXPE-  
7 DITED PROCEEDINGS.—(A)”;

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

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

11 (5) in subsection (e)—

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

14 (B) by striking the second sentence; and

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

16 (6) by redesignating subsection (f), as added by  
17 subsection (a) of this section, as subsection (c);

18 (7) by inserting after the section heading the  
19 following new subsection:

20 “(a) PRESUMPTION OF DEPORTABILITY.—An alien  
21 convicted of an aggravated felony shall be deportable from  
22 the United States.”; and

23 (8) by amending the section heading to read as  
24 follows:

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

1 (d) 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. 3. JUDICIAL DEPORTATION.**

6 (a) JUDICIAL DEPORTATION.—Section 242A of the  
7 Immigration and Nationality Act (8 U.S.C. 1252a) is  
8 amended by adding at the end the following new sub-  
9 section:

10 “(d) JUDICIAL DEPORTATION.—

11 “(1) AUTHORITY.—Notwithstanding any other  
12 provision of this Act, a United States district court  
13 shall have jurisdiction to enter a judicial order of de-  
14 portation at the time of sentencing against an alien  
15 whose criminal conviction causes such alien to be de-  
16 portable under section 241(a)(2)(A)(iii) (relating to  
17 conviction of an aggravated felony), if such an order  
18 has been requested prior to sentencing by the United  
19 States Attorney with the concurrence of the Com-  
20 missioner.

21 “(2) PROCEDURE.—

22 “(A) The United States Attorney shall pro-  
23 vide notice of intent to request judicial deporta-

1           tion promptly after the entry in the record of  
2           an adjudication of guilt or guilty plea. Such no-  
3           tice shall be provided to the court, to the Serv-  
4           ice, to the alien, and to the alien’s counsel of  
5           record.

6           “(B) Notwithstanding section 242B, the  
7           United States Attorney, with the concurrence of  
8           the Commissioner, shall file at least 20 days  
9           prior to the date set for sentencing a charge  
10          containing factual allegations regarding the  
11          alienage of the defendant and satisfaction by  
12          the defendant of the definition of aggravated  
13          felony.

14          “(C) If the court determines that the de-  
15          fendant has presented substantial evidence to  
16          establish prima facie eligibility for relief from  
17          deportation under section 212(c), the Commis-  
18          sioner shall provide the court with a rec-  
19          ommendation and report regarding the alien’s  
20          eligibility for relief under such section. The  
21          court shall either grant or deny the relief  
22          sought.

23          “(D)(i) The alien shall have a reasonable  
24          opportunity to examine the evidence against  
25          him or her, to present evidence on his or her

1 own behalf, and to cross-examine witnesses pre-  
2 sented by the Government.

3 “(ii) The court, for the purposes of deter-  
4 mining whether to enter an order described in  
5 paragraph (1), shall only consider evidence that  
6 would be admissible in proceedings conducted  
7 pursuant to section 242(b).

8 “(iii) Nothing in this subsection shall limit  
9 the information a court of the United States  
10 may receive or consider for the purposes of im-  
11 posing an appropriate sentence.

12 “(iv) The court may order the alien de-  
13 ported if the Attorney General demonstrates by  
14 clear and convincing evidence that the alien is  
15 deportable under this Act.

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

18 “(A)(i) A judicial order of deportation or  
19 denial of such order may be appealed by either  
20 party to the court of appeals for the circuit in  
21 which the district court is located.

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

1           “(iii) Upon execution by the defendant of  
2 a valid waiver of the right to appeal the convic-  
3 tion on which the order of deportation is based,  
4 the expiration of the period described in section  
5 106(a)(1), or the final dismissal of an appeal  
6 from such conviction, the order of deportation  
7 shall become final and shall be executed at the  
8 end of the prison term in accordance with the  
9 terms of the order. If the conviction is reversed  
10 on direct appeal, the order entered pursuant to  
11 this section shall be void.

12           “(B) As soon as is practicable after entry  
13 of a judicial order of deportation, the Commis-  
14 sioner shall provide the defendant with written  
15 notice of the order or deportation, which shall  
16 designate the defendant’s country of choice for  
17 deportation and any alternate country pursuant  
18 to section 243(a).

19           “(4) 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 AMENDMENT.—The ninth sentence  
2 of section 242(b) of the Immigration and Nationality Act  
3 (8 U.S.C. 1252(b)) is amended by striking “The” and in-  
4 serting “Except as provided in section 242A(d), the”.

5 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
6 tion may be construed to alter the privilege of being rep-  
7 resented at no expense to the Government set forth in sec-  
8 tion 292 of the Immigration and Nationality Act.

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

13 **SEC. 4. RESTRICTING DEFENSES TO DEPORTATION FOR**  
14 **CERTAIN CRIMINAL ALIENS.**

15 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-  
16 NENT RESIDENCE.—The last sentence of section 212(c)  
17 of the Immigration and Nationality Act (8 U.S.C.  
18 1182(c)) is amended by striking “has served for such fel-  
19 ony or felonies” and all that follows through the period  
20 and inserting “has been sentenced for such felony or felo-  
21 nies to a term of imprisonment of at least 5 years, if the  
22 time for appealing such conviction or sentence has expired  
23 and the sentence has become final. For purposes of this  
24 section, the term ‘sentence’ does not include a sentence  
25 the execution of which was suspended in its entirety.”.

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

4 (1) by striking the final sentence and inserting  
5 the following new subparagraph:

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

8 (2) by striking “or” at the end of subparagraph  
9 (C) and inserting “or” at the end of subparagraph  
10 (D).

11 **SEC. 5. MISCELLANEOUS AND TECHNICAL CHANGES.**

12 (a) FORM OF DEPORTATION HEARINGS.—The sec-  
13 ond sentence of section 242(b) of the Immigration and  
14 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-  
15 ing before the period the following: “; except that nothing  
16 in this subsection shall preclude the Attorney General  
17 from authorizing proceedings by electronic or telephonic  
18 media, in the discretion of the special inquiry officer, or,  
19 where waived or agreed to by the parties, in the absence  
20 of the alien.”.

21 (b) CONSTRUCTION OF EXPEDITED DEPORTATION  
22 REQUIREMENTS.—No amendment made by this Act and  
23 nothing in section 242(i) of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1252(i)) shall be construed to create  
25 any substantive or procedural right or benefit that is le-

1 gally enforceable by any party against the United States  
2 or its agencies or officers or any other person.

3 **SEC. 6. CRIMINAL ALIEN TRACKING CENTER.**

4 (a) OPERATION.—The Attorney General shall, under  
5 the authority of section 242(a)(3)(A) of the Immigration  
6 and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a  
7 criminal alien tracking center.

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

13 **SEC. 7. EXTENSION OF VISA WAIVER PILOT PROGRAM.**

14 Section 217(f) of the Immigration and Nationality  
15 Act (8 U.S.C. 1187(f)) is amended by striking “ending”  
16 and all that follows through the period and inserting “end-  
17 ing on October 7, 1994”.

18 **SEC. 8. CREATION OF PROBATIONARY STATUS FOR PARTIC-**  
19 **IPANT COUNTRIES IN THE VISA WAIVER PRO-**  
20 **GRAM.**

21 Section 217 of the Immigration and Nationality Act  
22 (8 U.S.C. 1187) is amended—

23 (1) in subsection (a)(2)(B) by inserting before  
24 the period “or is designated as a pilot program

1 country with probationary status under subsection  
2 (g)”;

3 (2) by adding at the end the following new sub-  
4 section:

5 “(g) PILOT PROGRAM COUNTRY WITH PROBATION-  
6 ARY STATUS.—

7 “(1) IN GENERAL.—The Attorney General and  
8 the Secretary of State acting jointly may designate  
9 any country as a pilot program country with proba-  
10 tionary status if it meets the requirements of para-  
11 graph (2).

12 “(2) QUALIFICATIONS.—A country may not be  
13 designated as a pilot program country with proba-  
14 tionary status unless the following requirements are  
15 met:

16 “(A) NONIMMIGRANT VISA REFUSAL RATE  
17 FOR PREVIOUS 2-YEAR PERIOD.—The average  
18 number of refusals of nonimmigrant visitor  
19 visas for nationals of the country during the  
20 two previous full fiscal years was less than 3.5  
21 percent of the total number of nonimmigrant  
22 visitor visas for nationals of that country which  
23 were granted or refused during those years.

24 “(B) NONIMMIGRANT VISA REFUSAL RATE  
25 FOR PREVIOUS YEAR.—The number of refusals

1 of nonimmigrant visitor visas for nationals of  
2 the country during the previous full fiscal year  
3 was less than 3 percent of the total number of  
4 nonimmigrant visitor visas for nationals of that  
5 country which were granted or refused during  
6 that year.

7 “(C) LOW EXCLUSIONS AND VIOLATIONS  
8 RATE FOR PREVIOUS YEAR.—The sum of—

9 “(i) the total number of nationals of  
10 that country who were excluded from ad-  
11 mission or withdrew their application for  
12 admission during the preceding fiscal year  
13 as a nonimmigrant visitor, and

14 “(ii) the total number of nationals of  
15 that country who were admitted as non-  
16 immigrant visitors during the preceding  
17 fiscal year and who violated the terms of  
18 such admission,

19 was less than 1.5 percent of the total number  
20 of nationals of that country who applied for ad-  
21 mission as nonimmigrant visitors during the  
22 preceding fiscal year.

23 “(D) MACHINE READABLE PASSPORT PRO-  
24 GRAM.—The government of the country certifies  
25 that it has or is in the process of developing a

1 program to issue machine-readable passports to  
2 its citizens.

3 “(3) CONTINUING AND SUBSEQUENT QUALI-  
4 FICATIONS FOR PILOT PROGRAM COUNTRIES WITH  
5 PROBATIONARY STATUS.—The designation of a  
6 country as a pilot program country with probation-  
7 ary status shall terminate if either of the following  
8 occurs:

9 “(A) The sum of—

10 “(i) the total number of nationals of  
11 that country who were excluded from ad-  
12 mission or withdrew their application for  
13 admission during the preceding fiscal year  
14 as a nonimmigrant visitor, and

15 “(ii) the total number of nationals of  
16 that country who were admitted as visitors  
17 during the preceding fiscal year and who  
18 violated the terms of such admission,

19 is more than 2.0 percent of the total number of  
20 nationals of that country who applied for ad-  
21 mission as nonimmigrant visitors during the  
22 preceding fiscal year.

23 “(B) The country is not designated as a  
24 pilot program country under subsection (c)  
25 within 3 fiscal years of its designation as a pilot

1 program country with probationary status  
2 under this subsection.”.

3 “(4) DESIGNATION OF PILOT PROGRAM COUN-  
4 TRIES WITH PROBATIONARY STATUS AS PILOT PRO-  
5 GRAM COUNTRIES.—In the case of a country which  
6 was a pilot program country with probationary sta-  
7 tus in the preceding fiscal year, a country may be  
8 designated by the Attorney General and the Sec-  
9 retary of State, acting jointly, as a pilot program  
10 country under subsection (c) if—

11 “(A) the total of the number of nationals  
12 of that country who were excluded from admis-  
13 sion or withdrew their application for admission  
14 during the preceding fiscal year as a non-  
15 immigrant visitor, and

16 “(B) the total number of nationals of that  
17 country who were admitted as nonimmigrant  
18 visitors during the preceding fiscal year and  
19 who violated the terms of such admission,  
20 was less than 2 percent of the total number of na-  
21 tionals of that country who applied for admission as  
22 nonimmigrant visitors during such preceding fiscal  
23 year.”; and

1           (3) in subsection (c)(2) by striking “A country”  
2           and inserting “Except as provided in subsection  
3           (g)(4), a country”.

○

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