104TH CONGRESS 2D SESSION

H. R. 4258

To establish the United States Immigration Court.

IN THE HOUSE OF REPRESENTATIVES

September 27, 1996

Mr. McCollum introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To establish the United States Immigration Court.

- Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

 SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION

 AND NATIONALITY ACT; TABLE OF CONTENTS.

 (a) SHORT TITLE.—This Act may be cited as the
 "United States Immigration Court Act of 1996".
- 8 (b) Amendments to Immigration and National-
- 9 ITY ACT.—Except as otherwise specifically provided,
- 10 whenever in this Act an amendment or repeal is expressed
- 11 as the amendment or repeal of a section or other provision,

- 1 the reference shall be considered to be made to that sec-
- 2 tion or provision in the Immigration and Nationality Act.
- 3 (c) Table of Contents.—
 - Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.
 - Sec. 2. Establishment of United States Immigration Court.
 - Sec. 3. Judicial review of Immigration Court decisions.
 - Sec. 4. Reform of asylum.
 - Sec. 5. Conforming amendments.
 - Sec. 6. Effective date; severability.

4 SEC. 2. ESTABLISHMENT OF UNITED STATES IMMIGRATION

- 5 COURT.
- 6 (a) New Chapter 2.—Title I is amended—
- 7 (1) by inserting the following after the title
- 8 heading:
- 9 "Chapter 1—Definitions and Powers" and
- 10 (2) by adding at the end the following new
- 11 chapter:
- 12 "Chapter 2—United States Immigration Court
- 13 "ESTABLISHMENT OF IMMIGRATION COURT
- 14 "Sec. 111. Article I United States Immigra-
- 15 TION COURT.—(a) There is established, under article I of
- 16 the Constitution of the United States, a court of record
- 17 to be known as the United States Immigration Court.
- 18 "(b) The Immigration Court shall consist of a trial
- 19 division and an appellate division.
- 20 "APPELLATE DIVISION
- 21 "Sec. 112. (a) Appointment of Appeals
- 22 Judges.—The appellate division of the Immigration

- 1 Court shall be composed of a chief immigration appeals
- 2 judge and five other immigration appeals judges, ap-
- 3 pointed by the President by and with the advice and con-
- 4 sent of the Senate.
- 5 "(b) Term of Office of each
- 6 immigration appeals judge shall be fifteen years, except
- 7 that—
- 8 "(1) of the judges first appointed under this
- 9 subsection, two shall each be appointed for terms of
- five, ten, and fifteen years,
- 11 "(2) a judge appointed to fill a vacancy occur-
- ring before the expiration of the term for which a
- predecessor was appointed shall be appointed only
- for the remainder of such term, and
- 15 "(3) a judge may serve after the expiration of
- the judge's term until reappointed or a successor has
- taken office.
- 18 "(c) Compensation.—Each judge of the appellate
- 19 division shall receive a salary at the rate equal to 93 per-
- 20 cent of the next to the highest rate of basic pay for the
- 21 Senior Executive Service, except that the chief immigra-
- 22 tion appeals judge shall receive a salary at the rate equal
- 23 to 94 percent of the next to the highest rate of basic pay
- 24 for the Senior Executive Service.

- 1 "(d) CHIEF IMMIGRATION APPEALS JUDGE.—The
- 2 chief immigration appeals judge shall be responsible on be-
- 3 half of the appellate division for the administrative oper-
- 4 ations of the Immigration Court and shall have the power
- 5 to appoint such administrative assistants, attorneys,
- 6 clerks, and other personnel as may be needed for that pur-
- 7 pose.
- 8 "(e) Quorum.—Three immigration appeals judges
- 9 constitute a quorum of the appellate division, except that
- 10 the chief immigration appeals judge (or any immigration
- 11 appeals judge designated by the chief judge) is empowered
- 12 to decide nondispositive motions.
- 13 "(f) Acting in Panels.—The appellate division
- 14 shall act in panels of three or more judges or in banc (as
- 15 designated by the chief immigration appeals judge in ac-
- 16 cordance with the rules of the appellate division). A final
- 17 decision of such a panel shall be considered to be a final
- 18 decision of the appellate division.
- 19 "(g) Removal of Judges for Cause.—(1) Re-
- 20 moval of an immigration appeals judge of the Immigration
- 21 Court during the term for which the judge is appointed
- 22 shall be only for incompetency, misconduct, neglect of
- 23 duty, engaging in the practice of law, or physical or mental
- 24 disability. Removal shall be by the United States Court
- 25 of Appeals for the Federal Circuit, but removal may not

- 1 occur unless a majority of all judges of such court of ap-
- 2 peals concur in the order of removal.
- 3 "(2) Before any order of removal may be entered, a
- 4 full specification of the charges shall be furnished to the
- 5 immigration appeals judge involved, and such judge shall
- 6 be accorded an opportunity to be heard on the charges.
- 7 "(3) Any cause for removal of any immigration ap-
- 8 peals judge coming to the knowledge of the Director of
- 9 the Administrative Office of the United States Courts or
- 10 to the Attorney General of the United States shall be re-
- 11 ported by the Director or the Attorney General to the
- 12 Chief Judge of the United States Court of Appeals for
- 13 the Federal Circuit, and a copy of the report shall at the
- 14 same time be transmitted to the immigration appeals
- 15 judge.
- 16 "(4) An immigration appeals judge removed from of-
- 17 fice in accordance with this subsection shall not be per-
- 18 mitted at any time to practice before the Immigration
- 19 Court.
- 20 "(h) Expenses for Travel and Subsistence.—
- 21 Immigration appeals judges shall receive necessary travel-
- 22 ing expenses and expenses actually incurred for subsist-
- 23 ence while traveling on duty and away from their des-
- 24 ignated stations, subject to the same limitations in amount

- 1 as are new or may hereafter be applicable to the United
- 2 States Court of International Trade.
- 3 "(i) Office of Court.—The principal office of the
- 4 appellate division of the Immigration Court shall be in,
- 5 or within twenty miles of, the District of Columbia, but
- 6 the Immigration Court may hold court at such times and
- 7 in such places as it may provide by rule of court.
- 8 "TRIAL DIVISION
- 9 "Sec. 113. (a) Appointment of Trial Judges.—
- 10 "(1) The trial division of the Immigration
- 11 Court shall be composed of a chief immigration trial
- judge and other immigration trial judges, appointed
- by the Chief Immigration Appeals Judge.
- 14 "(2) Every immigration judge who is serving as
- an immigration judge as of the time of enactment of
- paragraph (1) and who is qualified under this Act
- to serve as an immigration trial judge shall be ap-
- pointed by the Chief Immigration Appeals Judge to
- serve as an immigration trial judge pursuant to
- paragraph (1).
- 21 "(b) TERM OF OFFICE.—The term of office of each
- 22 immigration trial judge shall be fifteen years, except
- 23 that—
- "(1) a judge appointed to fill a vacancy occur-
- 25 ring before the expiration of the term for which a

1	predecessor was appointed shall be appointed only
2	for the remainder of such term, and
3	"(2) a judge may serve after the expiration of
4	such judge's term until reappointed or a successor
5	has taken office.
6	"(c) Compensation.—
7	"(1) In general.—There shall be four levels
8	of pay for immigration trial judges, under the Immi-
9	gration Judge Schedule, (designated as IJ-1, 2, 3,
10	and 4, respectively), and each such judge shall be
11	paid at one of those levels, in accordance with the
12	provisions of this subsection.
13	"(2) Rates of Pay.—(A) The rates of basic
14	pay for the levels established under paragraph (1)
15	shall be as follows:
	"IJ-1
	"IJ-2
	"IJ-3
	"IJ-4
16	"(B) Locality pay, where applicable, shall be
17	calculated into the basic pay for immigration trial
18	judges.
19	"(3) Appointment.—(A) Upon appointment,
20	an immigration trial judge shall be paid at IJ-1,

- 1 and shall be advanced to IJ-2 upon completion of
- 2 104 weeks of service, to IJ-3 upon completion of
- 3 104 weeks of service in the next lower rate, and to
- 4 IJ–4 upon completion of 52 weeks of service in the
- 5 next lower rate.
- 6 "(B) Notwithstanding subparagraph (A), the
- 7 chief immigration appeals judge may provide for a
- 8 newly- appointed immigration trial judge to be paid
- 9 at an advanced rate under such circumstances as the
- 10 chief immigration appeals judge may determine ap-
- 11 propriate.
- 12 "(4) Transition.—Immigration trial judges
- serving as immigration judges as of the effective
- date of this Act shall be paid at the rate that cor-
- responds to the amount of time, as provided under
- paragraph (3)(A), that they have served as an immi-
- 17 gration judge, and in no case shall such an immigra-
- tion trial judge be paid less than such judge was
- paid prior to the effective date.
- 20 "(d) Chief Immigration Trial Judge.—In ac-
- 21 cordance with rules established by the appellate division
- 22 of the Immigration Court, the chief immigration trial
- 23 judge—
- 24 "(1) shall have responsibility for the adminis-
- 25 trative activities affecting immigration trial judges

- 1 and shall have the power to appoint such adminis-
- 2 trative assistants, attorneys, clerks, and other per-
- 3 sonnel as may be needed for the purpose, and
- 4 "(2) may designate any immigration trial judge
- 5 in active service to hear and decide any cases de-
- 6 scribed in section 114.
- 7 "(e) Removal for Cause.—Immigration trial
- 8 judges may be removed from office in the same manner
- 9 as immigration appeals judges may be removed under sec-
- 10 tion 112(g), except that any reference in that section to
- 11 the United States Court of Appeals for the Federal Circuit
- 12 shall be deemed a reference to the appellate division of
- 13 the Immigration Court.
- 14 "(f) Authority of Judges.—Immigration trial
- 15 judges shall administer oaths, receive evidence, and inter-
- 16 rogate, examine, and cross-examine the alien and any wit-
- 17 nesses. Immigration trial judges may take depositions,
- 18 issue subpoenas requiring the attendance and testimony
- 19 of witnesses and the production of documentation or other
- 20 evidence from any place in the United States or any terri-
- 21 tory or possession thereof, order the taking of depositions,
- 22 and order responses to written interrogatories.
- 23 "(g) Witness Fees.—Witnesses (whether appearing
- 24 voluntarily or under subpoena) shall be paid the same fee

1	and mileage allowance as are paid subpoenaed witnesses
2	in any other court in the United States.
3	"(h) Expenses for Travel and Subsistence.—
4	Immigration trial judges shall receive necessary traveling
5	expenses, and expenses actually incurred for subsistence
6	while traveling on duty and away from their designated
7	stations, subject to the same limitations in amount as are
8	now or may hereafter be applicable to the United States
9	Court of International Trade.
10	"JURISDICTION
11	"Sec. 114. (a) The Appellate Division.—
12	"(1) In general.—The appellate division of
13	the Immigration Court shall hear and determine ap-
14	peals from—
15	"(A) final decisions of immigration trial
16	judges under this Act, other than a determina-
17	tion granting voluntary departure under section
18	244(e) within a period of at least 30 days if the
19	sole ground of appeal is that a greater period
20	of departure time should have been fixed;
21	"(B) decisions involving the imposition of
22	administrative fines and penalties under title II
23	of this Act, including mitigation thereof; and
24	"(C)(i) decisions on petitions filed in ac-
25	cordance with section 204, other than petitions
26	to accord preference status under section

1	203(b) or petitions on behalf of a child de-
2	scribed in section 101(b)(1)(F), and
3	"(ii) decisions on requests for revalidations
4	and decisions revoking approval of such peti-
5	tions under section 205.
6	"(2) Review of decisions.—(A) Either party
7	to a case may appeal an immigration trial judge's
8	decision to the appellate division.
9	"(B) Appeals to the appellate division from
10	final orders of deportation or exclusion (including an
11	order respecting asylum contained in such an order)
12	shall be filed not later than 20 days after the date
13	of the final order.
14	"(C) The appellate division shall review the de-
15	cision of an immigration trial judge based solely
16	upon the trial record upon which the decision is
17	made, and the findings of fact in the judge's order,
18	if supported by reasonable, substantial, and pro-
19	bative evidence on the record considered as a whole,
20	shall be conclusive.
21	"(3) BINDING DECISIONS.—A final decision of
22	the appellate division shall be binding on all immi-
23	gration trial judges, immigration officers, and con-
24	sular officers under this Act unless and until other-

wise modified or reversed by the Court of Appeals

1	for the Federal Circuit or by the United States Su-
2	preme Court.
3	"(4) Decisions within 60 days.—In a case in
4	which the appellate division is considering an appeal
5	of a decision of an immigration trial judge respect-
6	ing an application for asylum, the division shall
7	render its decision on the appeal not later than 60
8	days after the date the appeal is filed.
9	"(b) Jurisdiction of Trial Division.—
10	(1) In General.—Immigration trial judges
11	shall hear and decide—
12	"(A) exclusion cases under section 236 and
13	360(c) and discretionary relief under section
14	212(c),
15	"(B) deportation cases and discretionary
16	relief cases under sections 212(c), 242, 242A
17	243, and 244,
18	"(C) rescission of adjustment of status
19	cases under section 246,
20	"(D) claims for asylum raised in proceed-
21	ings before the judges and in applications re-
22	ferred to the Immigration Court for adjudica-
23	tion,
24	"(E) contested assessments of civil pen-
25	alties under section 274A,

"(F) contested determinations relating to 1 2 bond, parole, or detention of an alien, and 3 "(G) such other cases arising under this 4 Act as the appellate division may provide by 5 regulation. "(2) Duties of trial judges.—In consider-6 7 ing and deciding cases coming before them, immi-8 gration trial judges shall record and receive evidence 9 and render findings of fact and conclusions of law, 10 shall determine all applications for discretionary re-11 lief which may properly be raised in the proceedings, 12 and shall exercise such discretion conferred upon the 13 Attorney General by law as may be necessary for the 14 just and equitable disposition of cases coming before 15 such judges. "RULES OF COURT 16 "Sec. 115. (a) Rules of Practice and Proce-17 DURE.—The appellate division shall promulgate rules of 18 court, consistent with this Act, governing practice and pro-19 20 cedure in the appellate division and the trial division. Only 21 such selected provisions of the Federal Rules of Evidence 22 and the Federal Rules of Civil Procedure as the appellate division deems appropriate for inclusion in the rules of the 23 Immigration Court shall apply to proceedings in the Immi-

gration Court.

- 1 "(b) Representation.—(1) In any proceeding be-
- 2 fore the Immigration Court, each nongovernmental party
- 3 shall have the privilege of being represented (at no expense
- 4 to the Government) by such counsel, authorized to practice
- 5 in such proceedings, as the party shall choose.
- 6 "(2) The rules of the Immigration Court shall provide
- 7 for the admission of qualified attorneys and nonattorneys
- 8 to practice before the court.
- 9 "(c) Contempt of Court.—Each division of the
- 10 Immigration Court shall have the power to punish by fine
- 11 or imprisonment, at its discretion, such contempt of its
- 12 authority, and none other, as—
- "(1) misbehavior of any person in its presence
- or so near thereto as to obstruct the administration
- of justice,
- 16 "(2) misbehavior of any of its officers in their
- official transactions, or
- 18 (3) disobedience or resistance to its lawful writ,
- 19 process, order, rule, decree, or command.
- 20 Each such division shall have such assistance in the carry-
- 21 ing out of its lawful writ, process, order, rule, decree, or
- 22 command as is available to a court of the United States.
- 23 "(d) Fees.—The Immigration Court may impose
- 24 fees for the adjudication of asylum applications and for

- 1 judicial review and such other fees as it may provide for
- 2 under its rules and procedures.
- 3 "RETIREMENT OF JUDGES; SENIOR JUDGES
- 4 "Sec. 116. (a) Retirement of Judges.—(1) a
- 5 judge of the Immigration Court who attains the age of
- 6 70 shall be retired upon attaining such age.
- 7 "(2) A judge of the Immigration Court who has at-
- 8 tained the age of sixty-five may retire at any time after
- 9 serving as a judge for fifteen years or more.
- 10 "(3) A judge of the Immigration Court who is not
- 11 reappointed following the expiration of such judge's term
- 12 of office may retire upon the completion of such term if—
- 13 "(A) the judge has served as a judge of the Im-
- migration Court for fifteen years or more; and
- 15 "(B) not earlier than nine months preceding
- the date of the expiration of such term of office and
- 17 not later than six months preceding such date, the
- judge advised the President, in the case of an immi-
- 19 gration appeals judge, or the Chief Immigration Ap-
- 20 peals Judge, in the case of an immigration trial
- judge, that the judge was willing to accept re-
- appointment to the court.
- 23 "(4)(A) A judge of the Immigration Court who be-
- 24 comes permanently disabled from performing judicial du-
- 25 ties under this chapter shall be retired.

- 1 "(B) A judge of the Immigration Court who becomes
- 2 permanently disabled from performing judicial duties
- 3 under this chapter shall certify to the President, or in the
- 4 case of an immigration trial judge to the Chief Immigra-
- 5 tion Appeals Judge, such disability in writing, and such
- 6 certificate of disability shall be signed by the chief judge
- 7 of the division. If the Chief Immigration Appeals Judge
- 8 retires for disability, such retirement shall not take effect
- 9 until concurred in by the President.
- 10 "(5) The provisions of subsection (d) (relating to
- 11 computation and payment of retired pay), subsection (e)
- 12 (relating to election to receive retired pay), subsection (g)
- 13 (relating to coordination with civil service retirement), and
- 14 subsection (i) (relating to revocation of an election to re-
- 15 ceive retired pay) of section 7447 of the Internal Revenue
- 16 Code of 1954 shall apply to judges within a division of
- 17 the Immigration Court in the same manner as such provi-
- 18 sions apply to judges of the United States Tax Court.
- 19 "(6) A person who has elected to receive retired pay
- 20 under the application of section 7447(e) of the Internal
- 21 Revenue Code of 1954 to judges of the Immigration Court
- 22 in accordance with paragraph (5) who thereafter—
- 23 "(A) accepts any civil office or employment
- under the Government of the United States (other

- 1 than the performance of judicial duties pursuant to
- 2 subsection (c)); or
- 3 "(B) provides legal services to a client in a case
- 4 arising under this chapter;
- 5 shall forfeit all rights to retired pay under the application
- 6 of such section of the Internal Revenue Code of 1954 for
- 7 periods during which such person accepts such office or
- 8 employment or provides such legal services.
- 9 "(7) In any determination of the length of service of
- 10 any person as a judge of the Immigration Court there
- 11 shall be included all periods of service (whether or not con-
- 12 secutive) during which the person served as a judge of the
- 13 Immigration Court under this chapter.
- 14 "(b)(1) Judges of the Immigration court may provide
- 15 annuities to their surviving spouses and dependent chil-
- 16 dren in the same manner and subject to the same terms
- 17 and conditions as judges of the United States Tax Court
- 18 provide annuities to their surviving spouse and dependent
- 19 children under section 7448 of the Internal Revenue Code
- 20 of 1986.
- 21 "(2) Amounts deducted and withheld from the sala-
- 22 ries of judges of the Immigration Court in the application
- 23 of section 7448(c) of the Internal Revenue Code of 1954
- 24 to such judges in accordance with paragraph (1) shall be
- 25 deposited in the Treasury to the credit of a fund to be

- 1 known as the 'Immigration Court judges survivors annuity
- 2 fund'.
- 3 "(c) Senior Judges.—(1) Any immigration appeals
- 4 or trial judge of the Immigration Court who has retired
- 5 from regular active service under subchapter III of chap-
- 6 ter 83 of title 5, United States Code, shall be known and
- 7 designated as a senior immigration appeals or trial judge
- 8 and may perform duties as an immigration appeals or trial
- 9 judge when recalled pursuant to paragraph (2).
- 10 "(2) The chief immigration appeals judge may recall
- 11 any senior immigration appeals or trial judge, with such
- 12 judge's consent, to perform such duties as an immigration
- 13 appeals or trial judge and for such period of time as such
- 14 chief judge may specify.
- 15 "(3) Any senior immigration appeals judge perform-
- 16 ing duties pursuant to this section shall not be counted
- 17 as an immigration appeals judge for purposes of the num-
- 18 ber of judgeships authorized by subsection (a).
- 19 "(4) Any senior immigration appeals or trial judge,
- 20 while performing duties pursuant to this section, shall be
- 21 paid the same allowances for travel and other expenses
- 22 as an immigration appeals or trial judge in active service.
- 23 Such senior immigration appeals or trial judge shall also
- 24 receive from the Immigration Court supplemental pay in
- 25 an amount sufficient, when added to his civil service re-

- 1 tirement annuity, to equal the salary of an immigration
- 2 appeals or trial judge in active service for the same period
- 3 or periods of time. Such supplemental pay shall be paid
- 4 in the same manner as the salary of an immigration ap-
- 5 peals or trial judge.".
- 6 (b) Conforming Amendments to the Table of
- 7 Contents.—The table of contents is amended—
- 8 (1) by inserting before the item relating to section
- 9 101 the following:

"CHAPTER 1—DEFINITIONS AND POWERS",

- 10 and
- 11 (2) by inserting after the item relating to sec-
- tion 106 the following:

"CHAPTER 2—UNITED STATES IMMIGRATION COURT

- 13 (c) Effective Dates and Transition.—
- 14 (1) IN GENERAL.—(A) Except as otherwise pro-
- vided in this subsection, the amendments made by
- this section take effect on the date of enactment of
- this Act.
- (B) Section 113(c) of chapter 2 as added by
- this section shall take effect 90 days after the date
- of enactment of this Act.

[&]quot;Sec. 111. Establishment of Immigration Court.

[&]quot;Sec. 112. Appellate division.

[&]quot;Sec. 113. Trial division.

[&]quot;Sec. 114. Jurisdiction.

[&]quot;Sec. 115. Rules of Court.

[&]quot;Sec. 116. Retirement of Judges; Senior Judges.".

- 1 (2)TIMETABLE FOR **ESTABLISHMENT** OF 2 COURT.—(A) The President shall nominate the chief 3 immigration appeals judge and other immigration 4 appeals judges of the appellate division of the United 5 States Immigration Court (hereinafter in this sub-6 section referred to as the "Court") not later than 14 7 days after the date of the enactment of this Act.
 - (B) The chief immigration appeals judge, in consultation with the Attorney General, shall designate a date, not later than 30 days after the chief immigration appeals judge and a majority of the immigration appeals judges are appointed, on which the appellate division shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).
 - (C) Promptly after the chief immigration appeals judge is appointed, such chief judge shall appoint immigration trial judges pursuant to section 113(a)(2).
 - (D) The appellate division of the Court shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Court and immigration trial judges under the immigration and Nationality Act after the transition date designated under paragraph (3).

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- (3) Hearing transition date.—(A) In order to provide for the orderly transfer of proceedings from the existing system to the Court, the chief immigration appeals judge, in consultation with the Attorney General, shall designate a transition date, to be not later than 45 days after the date interim final rules of practice and procedure are established under paragraph (2)(C).
 - (B) During the period before the transition date, any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer or immigration judge may be conducted by an individual appointed as an immigration trial judge in accordance with all the rules and procedures otherwise applicable to the conduct of such proceeding or hearing.
 - (4) Continuation of authority.—Individuals acting as special inquiry officers or immigration judges on the date of enactment of this Act and on the transition date may (without regard to other provisions of law) continue to conduct proceedings or hearings under the Immigration and Nationality Act after such transition date during the period ending two years after the date of the enactment of this Act.

- 1 (5) CONTINUATION OF RIGHTS.—(A) The en2 actment of this Act shall not result in any loss of
 3 rights or powers, interruption of jurisdiction, or
 4 prejudice to matters pending in the Board of Immi5 gration Appeals or before special inquiry officers or
 6 immigration judges on the day before this Act takes
 7 effect.
- 8 (B) Under rules established by the appellate di-9 vision of the United States Immigration Court, with 10 respect to deportation and exclusion cases and asy-11 lum applications pending as of the transition date, 12 the appellate division shall be deemed to be a con-13 tinuation of the Board of Immigration Appeals and 14 immigration trial judges shall be deemed a continu-15 ation of special inquiry officers or immigration 16 judges for the purposes of effectuating the continu-17 ation of all existing powers, rights, and jurisdiction.

18 SEC. 3. JUDICIAL REVIEW OF IMMIGRATION COURT DECI-

- 19 SIONS.
- 20 (a) In General.—Section 106(a) is amended—
- 21 (1) by striking "the judicial review" and insert-22 ing "the review",
- 23 (2) by striking "to administrative proceedings"
 24 and inserting "to proceedings",

1	(3) in paragraph (1), by striking "90 days" and
2	inserting "30 days" and by striking ",or, in the
3	case" and all that follows through "of such order",
4	(4) by amending paragraph (2) to read as fol-
5	lows:
6	"(2) a petition for review shall be filed with the
7	Court of Appeals for the Federal Circuit;" and
8	(5) by amending paragraph (4) to read as fol-
9	lows:
10	"(4) except as provided in paragraph (5)(B)—
11	"(A) the Court of Appeals shall decide the
12	petition only on the record of the Immigration
13	Court on which the order of deportation is
14	based,
15	"(B) the Immigration Court's findings of
16	fact are conclusive if supported by reasonable,
17	substantial, and probative evidence on the
18	record considered as a whole, and
19	"(C) a decision that an alien is not eligible
20	for admission to the United States is conclusive
21	unless manifestly contrary to law.".
22	(b) Asylum.—Section 106 is amended by adding at
23	the end the following new subsections:
24	"(f) Judicial Review of Orders Under Section
25	208.—To the extent that an order relates to a determina-

- 1 tion on an application for asylum, the Court of Appeals
- 2 shall only have jurisdiction to review (1) whether the juris-
- 3 diction of the Immigration Court was properly exercised,
- 4 (2) whether the asylum determination was made in accord-
- 5 ance with applicable laws and regulations, (3) the con-
- 6 stitutionality of the laws and regulations pursuant to
- 7 which the determination was made, and (4) whether the
- 8 decision was arbitrary or capricious.
- 9 "(g)(1)(A) No court shall have jurisdiction to enter-
- 10 tain a petition relating to a determination concerning asy-
- 11 lum under section 208 except the United States Court of
- 12 Appeals for the Federal Circuit.
- 13 "(B) No application for habeas corpus shall be enter-
- 14 tained and no extraordinary writ shall be directed to any
- 15 government official or employee and no injunctive or de-
- 16 claratory relief shall be granted with respect to an immi-
- 17 gration matter (as defined in subparagraph (E)), other
- 18 than by the Immigration Court, the United States Court
- 19 of Appeals for the Federal Circuit, or the Supreme Court.
- 20 "(C) The Court of Appeals for the Federal Circuit
- 21 shall have exclusive jurisdiction to review all Constitu-
- 22 tional issues (including habeas corpus and writs for other
- 23 extraordinary relief) with respect to immigration matters
- 24 by writ of certiorari filed no later than 30 days from the

- 1 date of the final order of the appellate division of the Im-
- 2 migration Court relating to that matter.
- 3 "(D) In the case of a writ of certiorari filed under
- 4 this section which the Court finds that a question of fact
- 5 is presented—
- 6 "(i) if a determination with respect to that fact
- 7 was previously made by the Attorney General or the
- 8 Immigration Court, such determination shall be con-
- 9 clusive if supported in the record by reasonable, sub-
- stantial, and probative evidence on the record con-
- sidered as a whole, and
- 12 "(ii) if no such determination was made, the
- 13 Court may provide, in accordance with rules estab-
- lished by the Court in cooperation with the Immigra-
- tion Court, for a hearing before an immigration trial
- judge to make the appropriate findings of fact.
- 17 "(E) As used in this paragraph, the term 'immigra-
- 18 tion matter' means a determination under this Act re-
- 19 specting deportation, exclusion, or asylum (or the custody
- 20 or detention of an alien associated therewith) or any mat-
- 21 ter reviewable by the appellate division of the Immigration
- 22 Court under section 114.
- "(2) Notwithstanding any other provision of law, no
- 24 court of the United States shall have jurisdiction to review
- 25 determinations of immigration trial judges or of the appel-

- 1 late division of the Immigration Court respecting the re-
- 2 opening or reconsideration of deportation or exclusion pro-
- 3 ceedings or asylum determinations outside of such pro-
- 4 ceedings, the reopening of an application for asylum be-
- 5 cause of changed circumstances, or the Attorney General's
- 6 denial of a stay of execution of a deportation order.".
- 7 (c) Expanding Jurisdiction of the United
- 8 STATES COURT OF APPEALS FOR THE FEDERAL CIR-
- 9 Cuit.—(1) Section 1295(a) of title 28, United States Code
- 10 is amended—
- 11 (A) by striking out "and" at the end of para-
- 12 graph (9),
- (B) by striking out the period at the end of
- paragraph (1) and inserting in lieu thereof "; and",
- 15 and
- 16 (C) by adding at the end the following new
- paragraph:
- 18 "(11) by writ of certiorari of an appeal under
- section 106 of the Immigration and Nationality Act
- and to entertain and grant applications for writs of
- 21 habeas corpus and petitions for relief respecting im-
- 22 migration matters pursuant to such section.".
- 23 (2) Section 2241(a) of such title is amended by strik-
- 24 ing out "Writs" and inserting in lieu thereof "Except as
- 25 provided in section 1295(a)(11) of this title, writs".

1	(d) Effective Date.—The amendments made by
2	this section shall take effect on the hearing transition date
3	designated pursuant to section $2(c)(3)$ of this Act.
4	SEC. 4. REFORM OF ASYLUM.
5	(a) Asylum Reform.—Section 208 (8 U.S.C. 1158)
6	is amended to read as follows:
7	"ASYLUM
8	Sec. 208. (a) Authority To Apply for Asylum.—
9	"(1) In general.—Any alien who is physically
10	present in the United States or who arrives in the
11	United States (whether or not at a designated port
12	of entry and including an alien who is brought to the
13	United States after having been interdicted in inter-
14	national or United States water), irrespective of
15	such alien's status, may apply for asylum in accord-
16	ance with this section or, where applicable, section
17	235(b).
18	"(2) Exceptions.—
19	"(A) Safe third country.—Paragraph
20	(1) shall not apply to an alien if the Attorney
21	General determines that the alien may be re-
22	moved, including pursuant to a bilateral or mul-
23	tilateral agreement, to a country (other than
24	the country of the alien's nationality or, in the
25	case of an alien having no nationality, the coun-
26	try of the alien's last habitual residence) in

which the alien's life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the alien would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection, unless the Attorney General finds that it is in the public interest for the alien to receive asylum in the United States.

- "(B) TIME LIMIT.—Subject to subparagraph (D), paragraph (1) shall not apply to an alien unless the alien demonstrates by clear and convincing evidence that the application has been filed within 180 days after the date of the alien's arrival in the United States.
- "(C) Previous asylum applications.— Subject to subparagraph (D), paragraph (1) shall not apply to an alien if the alien previously has applied for asylum and had such application denied.
- "(D) CHANGED OR EXCEPTIONAL CIR-CUMSTANCES.—An application for asylum of an alien may be considered, notwithstanding subparagraphs (B) and (C), if the alien demonstrates to the satisfaction of the Attorney

1	General either the existence of fundamentally
2	changed circumstances that materially affect
3	the applicant's eligibility for asylum or extraor-
4	dinary circumstances relating to the delay in fil-
5	ing an application within the period specified in
6	subparagraph (B).
7	"(3) Limitation on Judicial Review.—A de-
8	termination of the Attorney General under para-
9	graph (2) is subject to review by the Immigration
10	Court. A final decision by the Immigration Court re-
11	garding such a determination is not subject to fur-
12	ther judicial review.
13	"(b) Conditions for Granting Asylum.—
14	"(1) IN GENERAL.—The Attorney General may
15	grant asylum to an alien who has applied for asylum
16	in accordance with the requirements and procedures
17	established under this section whom the Immigration
18	Court or an asylum officer determines is a refugee
19	within the meaning of section 101(a)(42)(A).
20	"(2) Exceptions.—
21	"(A) In General.—Paragraph (1) shall
22	not apply to an alien if the Immigration Court
23	finds that—
24	"(i) the alien ordered, incited, as-
25	sisted, or otherwise participated in the per-

1	secution of any person on account of race,
2	religion, nationality, membership in a par-
3	ticular social group, or political opinion;
4	"(ii) the alien, having been convicted
5	by a final judgment of a particularly seri-
6	ous crime, constitutes a danger to the com-
7	munity of the United States;
8	"(iii) there are serious reasons for be-
9	lieving that the alien has committed a seri-
10	ous nonpolitical crime outside the United
11	States prior to the arrival of the alien in
12	the United States;
13	"(iv) there are reasonable grounds for
14	regarding the alien as a danger to the se-
15	curity of the United States;
16	"(v) the alien is excludable under sub-
17	clause (I), (II), (III), or (IV) of section
18	212(a)(3)(B)(i) or deportable under sec-
19	tion 241(a)(4)(B) (relating to terrorist ac-
20	tivity), unless, in the case only of an alien
21	excludable under subclause (IV) of section
22	212(a)(3)(B)(i), the Attorney General de-
23	termines, in the Attorney General's discre-
24	tion, that there are not reasonable grounds

1	for regarding the alien as a danger to the
2	security of the United States; or
3	"(vi) the alien was firmly resettled in
4	another country prior to arriving in the
5	United States.
6	"(B) Special rules.—
7	"(i) Conviction of aggravated
8	Felony.—For purposes of clause (ii) of
9	subparagraph (A), an alien who has been
10	convicted of an aggravated felony shall be
11	considered to have been convicted of a par-
12	ticularly serious crime.
13	"(ii) Offenses.—The Attorney Gen-
14	eral may designate by regulation offenses
15	that will be considered to be a crime de-
16	scribed in clause (ii) or (iii) of subpara-
17	graph (A).
18	"(C) Additional limitations.—The At-
19	torney General may by regulation establish ad-
20	ditional limitations and conditions, consistent
21	with this section, under which an alien shall be
22	ineligible for asylum under paragraph (1).
23	"(D) JUDICIAL REVIEW.—There shall be
24	no judicial review of a determination of the At-
25	torney General under subparagraph (A)(v).

1	"(3) Treatment of spouse and chil-
2	DREN.—A spouse or child (as defined in subpara-
3	graphs (A), (B), (C), (D), or (E) of section
4	101(b)(1)) of an alien who is granted asylum under
5	this subsection may, if not otherwise eligible for asy-
6	lum under this section, be granted the same status
7	as the alien if accompanying, or following to join,
8	such alien.
9	"(c) Asylum Status.—
10	"(1) In general.—In the case of an alien
11	granted asylum under subsection (b), the Attorney
12	General—
13	"(A) shall not remove or return the alien
14	to the alien's country of nationality or, in the
15	case of a person having no nationality, the
16	country of the alien's last habitual residence;
17	"(B) shall authorize the alien to engage in
18	employment in the United States and provide
19	the alien with appropriate endorsement of that
20	authorization; and
21	"(C) may allow the alien to travel abroad
22	with the prior consent of the Attorney General.
23	"(2) TERMINATION OF ASYLUM.—Asylum
24	granted under subsection (b) does not convey a right
25	to remain permanently in the United States, and

1	may be terminated if the Attorney General asserts
2	and the Immigration Court finds that—
3	"(A) the alien no longer meets the condi-
4	tions described in subsection (b)(1) owing to a
5	fundamental change in circumstances;
6	"(B) the alien meets a condition described
7	in subsection $(b)(2)$;
8	"(C) the alien may be deported, including
9	pursuant to a bilateral or multilateral agree-
10	ment, to a country (other than the country of
11	the alien's nationality or, in the case of an alien
12	having no nationality, the country of the alien's
13	last habitual residence) in which the alien's life
14	or freedom would not be threatened on account
15	of race, religion, nationality, membership in a
16	particular social group, or political opinion, and
17	where the alien is eligible to receive asylum or
18	equivalent temporary protection;
19	"(D) the alien has voluntarily availed him-
20	self or herself of the protection of the alien's
21	country of nationality or, in the case of an alien
22	having no nationality, the alien's country of last
23	habitual residence, by returning to such country
24	with nermanent resident status or the reason-

able possibility of obtaining such status with

1	the same rights and obligations pertaining to
2	other permanent residents of that country; or
3	"(E) the alien has acquired a new nation-
4	ality and enjoys the protection of the country of
5	his or her new nationality.
6	"(3) Removal when asylum is termi-
7	NATED.—An alien described in paragraph (2) is sub-
8	ject to any applicable grounds of exclusion or deport-
9	ability under section 212(a) and 241(a), and the
10	alien's deportation or return shall be directed by the
l 1	Attorney General in accordance with section 242 or
12	242A.
13	"(d) Asylum Procedure.—
14	"(1) Applications.—The Attorney General
15	shall establish a procedure for the filing and consid-
16	eration of asylum applications.
17	"(A) The Attorney General may require
18	applicants to submit fingerprints and a photo-
19	graph at such time and in such manner to be
20	determined by regulation by the Attorney Gen-
21	eral.
22	"(B) Except for asylum claims first raised
23	in a proceeding before an Immigration trial
24	judge, an asylum officer shall review each asy-
25	lum application and interview applicants.

1 "(i) If the asylum officer determines
2 that an applicant is beyond a reasonable
3 doubt eligible for asylum, the application
4 shall be referred directly to the Attorney
5 General.

"(ii) If the asylum officer determines that an applicant is not beyond a reasonable doubt eligible for asylum, the application shall be referred to the Immigration Court for adjudication of the applicant's claim to be a refugee within the meaning of section 101(a)(42)(A).

"(iii) The asylum officer shall prepare a written record of a determination under clause (i) or (ii). Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in light of such facts, the alien has or has not established eligibility beyond a reasonable doubt for asylum. A copy of the officer's interview notes shall be attached to the written summary.

	3 0
1	"(iv) In the absence of exceptional cir-
2	cumstance, the administrative actions re-
3	garding an asylum application shall be
4	completed not later than 45 days after the
5	date an application is filed.
6	"(v) The Attorney General shall re-
7	port to Congress annually regarding the
8	number and nature of applications ap-
9	proved under clause (i).
10	"(C) The Attorney General shall check the
11	identify of each applicant against all appro-
12	priate records or databases maintained by the
13	Attorney General and by the Secretary of State,
14	including the Automated Visa Lookout System,
15	to determine any grounds on which the alien
16	may be excludable or deportable from the Unit-
17	ed States, or ineligible to apply for or be grant-
18	ed asylum.
19	"(D) An applicant for assylum is not enti-
20	tled to employment authorization, but such au-
21	thorization may be provided under regulation by
22	the Attorney General. An applicant who is not
23	otherwise eligible for employment authorization

shall not be granted such authorization prior to

1 180 days after the date of filing of the applica-2 tion for asylum.

"(E) The Attorney General may impose fees for the consideration of an application for asylum, for employment authorization under this section, and for adjustment of status under section 209(b). Such fees shall not exceed the Attorney General's costs in processing the applications. The Attorney General may provide for the assessment and payment of such fees over a period of time or by installments. Nothing in this paragraph shall be construed to require the Attorney General to charge fees for processing services provided to asylum applicants, or to limit the authority of the Attorney General to set adjudication and naturalization fees in accordance with section 286(m).

"(2) Notice of privilege of counsel and consequences of frivolous application.—At the time of filing an application for asylum, the Attorney General shall—

"(A) advise the alien of the privilege of being represented by counsel and of the consequences, under paragraph (6), of knowingly filing a frivolous application for asylum; and

1	"(B) provide the alien a list of persons
2	(updated not less often than quarterly) who
3	have indicated their availability to represent
4	aliens in asylum proceedings on a pro bono
5	basis. Such lists are to be compiled and updated
6	by the Immigration Court.
7	"(3) Adjudication of asylum applica-
8	TIONS.—
9	"(A) Decision by immigration trial
10	JUDGE.—In the absence of exceptional cir-
11	cumstances, a final decision by an immigration
12	trial judge on an asylum application referred to
13	the Immigration Court by an asylum officer
14	shall be issued not later than 45 days after the
15	application has been referred to the Immigra-
16	tion Court.
17	"(B) APPEAL TO APPELLATE DIVISION.—
18	Any appeal to the appellate division shall be
19	filed within 20 days of a decision granting or
20	denying asylum, or within 20 days of the com-
21	pletion of deportation or exclusion proceedings
22	before an immigration trial judge under section
23	236 or 242, whichever is later.
24	"(C) SANCTION FOR FAILURE TO AP-
25	PEAR.—In the case of an applicant for asylum

who fails without prior authorization or in the absence of exceptional circumstances to appear for an interview under paragraph (1)(B) or a hearing before the Immigration Court, including a hearing under section 236 or 242, the application may be dismissed or the applicant may be otherwise sanctioned for such failure.

- "(4) Additional regulatory conditions.—
 The Attorney General and the Immigration Court may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this Act.
- "(5) FRIVOLOUS APPLICATIONS.—If the Immigration Court determines that an alien has knowingly made a frivolous application for asylum and the alien has received the notice under paragraph (4)(A), the alien shall be permanently ineligible for any benefits under this Act, effective as of the date of a final determination on such application.
- "(7) No private right of action.—Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.".

1	(b) Conforming and Clerical Amendments.—
2	(1) The item in the table of contents relating
3	to section 208 is amended to read as follows:
	"Sec. 208. Asylum.".
4	(2) Section $104(d)(1)(A)$ of the Immigration
5	Act of 1990 (Public Law 101–649) is amended by
6	striking "208(b)" and inserting "208".
7	(c) Effective Date.—The amendment made by
8	subsection (a) shall apply to applications for asylum filed
9	on or after the first day of the first month beginning more
10	than 180 days after the date of enactment of this Act.
11	SEC. 5. CONFORMING AMENDMENTS.
12	(a) Section 209.—Section 209(a)(2) (8 U.S.C.
13	1159(a)(2)) is amended by striking "a special inquiry offi-
14	cer" and inserting "an immigration trial judge".
15	(b) Section 234.—Section 234 (8 U.S.C. 1224) is
16	amended by striking "special inquiry officers" and insert-
17	ing "Immigration Court".
18	(c) Section 235.—(1) Subsection (a) of section 235
19	
	(8 U.S.C. 1225) is amended—
20	(8 U.S.C. 1225) is amended— (A) by striking "in regard to special inquiry of-
2021	
	(A) by striking "in regard to special inquiry of-

1	(C) by striking ", including special inquiry offi-
2	cer," and "and special inquiry officers" in the sixth
3	sentence; and
4	(D) by striking "or special inquiry officer" each
5	place it appears in the seventh sentence.
6	(2) Subsection (b) of such section is amended—
7	(A) by striking "for further inquiry to be con-
8	ducted by a special inquiry officer" and inserting
9	"for a hearing before the Immigration Court", and
10	(B) by striking "before a special inquiry officer
11	for further inquiry" and inserting "before the Immi-
12	gration Court for a hearing".
13	(3) Subsection (c) of such section is amended—
14	(A) by striking "the special inquiry officer" and
15	inserting "the Immigration Court",
16	(B) by striking "before either of such officers"
17	and inserting "or hearing",
18	(C) by striking "no further inquiry by a special
19	inquiry officer" and inserting "no further proceed-
20	ings by the Immigration Court",
21	(D) by striking "such an inquiry or further in-
22	quiry" and inserting "an inquiry",
23	(E) by striking "any inquiry or further inquiry
24	by a special inquiry officer" and inserting "any

- 1 hearing or further proceedings before the Immigra-
- 2 tion Court", and
- 3 (F) by striking "an inquiry before a special in-
- 4 quiry officer" and inserting "any proceedings before
- 5 the Immigration Court".
- 6 (d) Section 236.—(1) Subsection (a) of section 236
- 7 (8 U.S.C. 1226) is amended to read as follows:
- 8 "(a) An immigration trial judge shall conduct pro-
- 9 ceedings under this section, administer oaths, present and
- 10 receive evidence, and interrogate, examine, and cross-ex-
- 11 amine the alien or witnesses. Such judge shall have au-
- 12 thority in any case to determine whether an arriving alien
- 13 who has been detained for a hearing under paragraph
- 14 (1)(C)(ii), (2), or (3) of section 235(b) shall be allowed
- 15 to enter or shall be excluded and deported. The decision
- 16 of such judge shall be based only on the evidence produced
- 17 at the hearing. No immigration trial judge shall conduct
- 18 a proceeding in any case under this section in which such
- 19 judge participated in prosecuting functions. Proceedings
- 20 before an immigration trial judge under this section shall
- 21 be conducted in accordance with this section and such
- 22 rules as the Immigration Court shall promulgate, and
- 23 shall be the sole and exclusive procedure for determining
- 24 admissibility of a person to the United States under the
- 25 provisions of this section. At such hearing, which shall be

- 1 kept separate and apart from the public, the alien may
- 2 have one friend or relative present, under such conditions
- 3 as may be prescribed by the Immigration Court. A com-
- 4 plete record of the proceedings and of all testimony and
- 5 evidence produced at such hearing shall be kept.".
- 6 (2) Subsection (b) of such section is amended to read
- 7 as follows:
- 8 "(b)(1) From a decision of an immigration trial judge
- 9 excluding an alien, such alien may take a timely appeal
- 10 to the appellate division of the Immigration Court in ac-
- 11 cordance with chapter 2 of title I, and any such alien shall
- 12 be advised of his right to take such appeal. No appeal may
- 13 be taken from an exclusion under section 235(c), and ap-
- 14 peals of exclusions under section 235(b)(1) are governed
- 15 exclusively by section 106(e).
- 16 "(2) From a decision of the immigration trial judge
- 17 to admit an alien, the immigration officer in charge at
- 18 the port where the hearing held may take a timely appeal
- 19 to the appellate division of the Immigration Court, in ac-
- 20 cordance with chapter 2 of title I.
- 21 "(3) Review by the appellate division shall be based
- 22 only on the evidence presented before the trial judge, and
- 23 the findings of fact by the trial judge are conclusive unless
- 24 any reasonable adjudicator would be compelled to conclude
- 25 to the contrary.

1	"(4) During the pendency of an appeal from a deci-
2	sion of an immigration trial judge the alien shall be
3	deemed to be an applicant for admission to the United
4	States regardless of whether the alien is in or outside the
5	United States.
6	"(5) In exceptional cases, while a decision on an ap-
7	peal is pending, an alien in the United States may, upon
8	request to the Service, be granted permission to depart
9	from and return to the United States within a period of
10	time not to exceed sixty days. Such temporary departure
11	and return shall not have any effect on the alien's applica-
12	tion and shall not relieve from liability the carrier that
13	brought the alien to the United States at the time the
14	alien was held for exclusion proceedings.".
15	(3) Subsection (c) of such section is amended—
16	(A) by striking "a special inquiry officer" and
17	inserting "an immigration trial judge", and
18	(B) by striking "the Attorney General" and in-
19	serting "the appellate division of the Immigration
20	Court".
21	(4) Subsection (d) of such section is amended—
22	(A) by striking "the special inquiry officer" and
23	inserting "the immigration trial judge", and
24	(B) by striking "a special inquiry officer" and
25	inserting "an immigration trial judge".

- (e) Section 242.—(1) Subsection (a) of section 242
 (8 U.S.C. 1252) is amended—
- 3 (A) by amending the fourth sentence of paragraph (1) to read as follows: "Upon application by 5 the alien, the trial division of the Immigration Court 6 may review and revise a determination by the Attor-7 ney General regarding the detention or release of 8 any alien or the grant, revocation, or denial of bond 9 or parole upon a conclusive showing that the Attor-10 ney General is not proceeding with reasonable dis-11 patch to initiate a deportation proceeding or is oth-12 erwise unreasonably delaying a deportation proceed-13 ing. A decision by the trial division under this para-14 graph may be appealed to the appellate division by 15 either the alien or the Attorney General, and the de-16 termination of the Attorney General shall remain ef-17 fective pending such an appeal. A decision by the ap-18 pellate division is not subject to further judicial re-19 view.",
- 20 (B) by amending paragraph (2)(B) to read as 21 follows:
- "(B) The Immigration Court may order the Attorney General to release from custody any lawfully admitted alien who has been convicted of an aggravated felony, either before or after a determination of deportability, only

- 1 if the alien demonstrates to the satisfaction of the Court
- 2 that such alien is not a threat to the community and that
- 3 the alien is likely to appear before any scheduled hear-
- 4 ings.".

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- 5 (2) Subsection (b) of such section is amended—
- 6 (A) by striking "a special inquiry officer and in-7 serting "an immigration trial judge" each place it 8 appears in the first, second, and seventh sentences,
- 9 (B) by striking "as authorized by the Attorney 10 General,",
 - (C) by striking "in which case the Attorney General shall prescribe necessary and proper safeguards for the rights and privileges of such alien" and inserting "in which case necessary and proper safeguards for the rights and privileges of the alien shall be extended in accordance with rules promulgated by the appellate division of the Immigration Court",
 - (D) by striking "the special inquiry officer" and inserting "the immigration trial judge" in the third sentence,
 - (E) by striking "In any case" and all that follows through "additional immigration officer" and inserting "An immigration officer" and by striking

1	"such additional immigration officer" and inserting
2	"such immigration officer" in the fourth sentence,
3	(F) by striking the fifth sentence,
4	(G) by striking "No special inquiry officer" and
5	inserting "No immigration trial judge" and by strik-
6	ing "(except as provided in this subsection)" in the
7	sixth sentence,
8	(H) by striking "such regulations," and all that
9	follows through "Attorney General" and inserting
10	"such rules, not inconsistent with this Act, as the
11	appellate division of the Immigration Court' in the
12	seventh sentence,
13	(I) by striking "Such regulations" and inserting
14	"Such rules" in the eighth sentence, and
15	(J) by striking "the Attorney General" and in-
16	serting "the Immigration Court" in the tenth sen-
17	tence.
18	(3) Subsection (c) of such section is amended—
19	(A) by striking "under administrative processes
20	is made" and inserting "is issued by the Immigra-
21	tion Court",
22	(B) by striking "judicial review is had" and
23	"court" and inserting "an appeal is taken to the
24	Court of Appeals for the Federal Circuit" and

1 "Court of Appeals", respectively, in the first sentence, and

> (C) by amending the second sentence to read as follows: "Upon application by the alien, the trial division of the Immigration Court may review and revise a determination by the Attorney General regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole during such six-month period upon a conclusive showing that the Attorney General is not proceeding with reasonable dispatch to effect such alien's departure from the United States within such six-month period. A decision by the trial division under this paragraph may be appealed to the appellate division by either the alien or the Attorney General, and the determination of the Attorney General shall remain effective pending such an appeal. A decision by the appellate division is not subject to further judicial review.".

(4) Subsection (e) of such section is amended—

(A) by striking "under administrative processes" and all that follows through "of the court" and inserting "is issued by the Immigration Court, or, if an appeal is taken to the Court of Appeals for

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1	the Federal Circuit, then from the date of the final
2	order of the Court of Appeals", and
3	(B) by striking ": Provided further," and all
4	that follows through "under the immigration laws."
5	(5) Subsection (f) of such section is amended—
6	(A) by striking "Attorney General" and insert-
7	ing "Immigration Court", and
8	(B) by striking "on any ground" and all that
9	follows through "in subsection (e),".
10	(6) Subsection (i) of such section is amended by strik-
11	ing "shall begin" and inserting "shall initiate and the Im-
12	migration Court shall conduct".
13	(f) Section 242A.—(1) Subsection (a) of section
14	242A (8 U.S.C. 1252a) is amended—
15	(A) in paragraph (1) by striking "Attorney
16	General" and inserting "Immigration Court",
17	(B) in paragraph (3)(A) by striking "shall pro-
18	vide for" and all that follows through "appeals
19	thereof," and inserting "shall initiate and the Immi-
20	gration Court shall, to the extent possible, complete
21	deportation proceedings and appeals", and
22	(C) in paragraph (4) by striking subparagraph
23	(A) and striking "(B)".
24	(2) Subsection (b) of such section is amended—

1	(A) in paragraph (1) by striking "Attorney
2	General" and inserting "Immigration Court",
3	(B) in paragraph (3) by striking "106" and in-
4	serting "106(d)", and
5	(C) in paragraph (4) by striking "Attorney
6	General" and inserting "Immigration Court"
7	each place it appears.
8	(3) Subsection (d) is redesignated as subsection (c)
9	and newly designated subsection (c)(3)(A)(i) is amended
10	by striking "court of appeals" and all that follows through
11	"is located" and inserting "Court of Appeals for the Fed-
12	eral Circuit".
13	(g) Section 242B.—(1) Subsection (c) of section
14	242B (8 U.S.C. 1252b(d)) is amended by striking ", not-
15	withstanding" and all that follows through "deportation
16	and".
17	(2) Subsection (d) of such section is amended—
18	(A) by striking "Attorney General" and insert-
19	ing "Immigration Court" each place it appears,
20	(B) in paragraph (1) by striking "a special in-
21	quiry officer or before an appellate administrative
22	body" and inserting "a judge or judges of a division
23	of the Court", and

1 (C) in paragraph (2) by striking "administra-2 tive appeal of a" and inserting "appeal of an immi-3 gration trial judge's". 4 (3) Subsection (e) of such subsection is amended— (A) by striking "Attorney General" and insert-5 6 ing "Immigration Court", and (B) by inserting ", notice" after "under this 7 8 section". (h) Section 243.—Section 243(h) (8 9 U.S.C. 10 1253(h)) is amended— 11 (1) in paragraph (1) by striking "the Attorney 12 General determines" and inserting "the Immigration 13 Court determines", and 14 (2) in paragraph (2) by striking "the Attorney 15 General" and inserting "the Immigration Court". 16 (i) Section 244.—(1) Subsection (a) of section 244 (8 U.S.C. 1254) is amended— 17 18 (A) by striking "the Attorney General may" 19 and inserting "the presiding immigration trial judge may", 20 21 (B) by striking "applies to the Attorney General" and inserting "applies to the Immigration 22 23 Court",

- 1 (C) in paragraph (1) by striking "the Attorney
- 2 General" and inserting "the immigration trial
- 3 judge", and
- 4 (D) in paragraphs (2) and (3) by striking "the
- 5 Attorney General" and inserting "the immigration
- 6 trial judge" each place it appears.
- 7 (2) Subsection (c) of such section is amended to read:
- 8 "(c) Either party in a deportation proceeding may ap-
- 9 peal a decision to suspend deportation under subsection
- 10 (a).".
- 11 (3) Subsection (d) of such section is amended by
- 12 striking "cancellation" and inserting "suspension".
- 13 (4) Subsection (e) of such section is amended—
- 14 (A) by striking "Attorney General" each place
- it appears and inserting "Immigration Court", and
- 16 (B) by striking "in his discretion" and inserting
- "in its discretion".
- 18 (j) Section 246.—Section 246(a) (8 U.S.C.
- 19 1256(a)) is amended by striking "Attorney General" and
- 20 inserting "Immigration Court" each place it appears.
- 21 (k) Section 243.—Section 273(d) (8 U.S.C.
- 22 1323(d)) is amended by striking "special inquiry officers"
- 23 and inserting "immigration trial judges".
- 24 (l) Section 279.—Section 279 (8 U.S.C. 1329) is
- 25 amended—

1	(1) by striking out "The district courts" in the
2	first sentence and inserting "Except as otherwise
3	provided in this Act and except in such cases as ju-
4	risdiction is conferred by law in the Immigration
5	Court (regardless of whether the cause is brought by
6	or against the United States), the district courts",
7	and
8	(2) by striking "such suit when brought by the
9	United States" and inserting "suit brought by the
10	United States under this title".
11	(m) Section 291.—Section 291 (8 U.S.C. 1361) is
12	amended by inserting "or the Immigration Court" after
13	"satisfaction of the Attorney General".
14	(n) Section 292.—Section 292 (8 U.S.C. 1362) is
15	amended by striking "a special inquiry officer" and all
16	that follows through "such exclusion or deportation pro-
17	ceedings" and inserting "the Immigration Court".
18	(o) Section 360.—The second sentence of section
19	360(c) (8 U.S.C. 1503(c)) is amended—
20	(1) by striking "by the Attorney General" and
21	inserting "by the Immigration Court", and
22	(2) by striking "by any court of competent ju-
23	risdiction" and inserting "by the Court of Appeals
24	of the Federal Circuit".

1 (p) Section 235.—Section 235(b) as amended by 2 section 422 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104–132) is amended— 3 (1) in paragraph (1)(C)(ii) by striking "an asy-4 5 lum hearing before an asylum officer under section 6 208" and inserting "further consideration of the ap-7 plication for asylum", 8 (2) in paragraph (1)(E)(i)— (A) by striking "administrative appeal" 9 and inserting "appeal to the Immigration 10 11 Court", 12 (B) striking "review" and inserting "refer-13 ral to the Immigration Court", and 14 (C) adding at the end the following new 15 sentence: "The Immigration Court shall expe-16 dited review of claims referred to it under this 17 clause.", 18 (3) in paragraphs (2)(A) and (3) by striking "a 19 special inquiry officer" and inserting "the Immigra-20 tion Court" each place it appears. 21 SEC. 6. EFFECTIVE DATE; SEVERABILITY. 22 (a) Effective Date.—The amendments made by 23 section 5 shall take effect on the hearing transition date designated pursuant to section 2(c)(3) of this Act.

- 1 (b) SEVERABILITY.—If any provision or amendment
- 2 made by this Act or the application of such provision or
- 3 amendment to any person or circumstance is held to be
- 4 invalid, the remainder of this Act and its amendments and
- 5 the application of such provisions or amendments to any
- 6 person or circumstance shall not be affected thereby.

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