

107TH CONGRESS  
2D SESSION

# H. R. 5013

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, employment, and voting fraud, to reform the legal immigration system, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2002

Mr. GEKAS (for himself, Mr. BARTLETT of Maryland, Mr. CULBERSON, Mr. DEAL of Georgia, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. NORWOOD, Mr. SESSIONS, Mr. SMITH of Texas, Mr. STUMP, Mr. TANCREDO, and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, employment, and voting fraud, to reform the legal immigration system, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**  
 2 **TENTS; SEVERABILITY.**

3 (a) **SHORT TITLE.**—This Act may be cited as the  
 4 “Securing America’s Future through Enforcement Reform  
 5 Act of 2002” (SAFER Act).

6 (b) **REFERENCES TO IMMIGRATION AND NATION-**  
 7 **ALITY ACT.**—Except as otherwise expressly provided,  
 8 whenever in this Act an amendment or repeal is expressed  
 9 in terms of an amendment to, or repeal of, a section or  
 10 other provision, the reference shall be considered to be  
 11 made to a section or other provision of the Immigration  
 12 and Nationality Act.

13 (c) **TABLE OF CONTENTS.**—The table of contents for  
 14 this Act is as follows:

Sec. 1. Short title; references; table of contents; severability.

**TITLE I—SECURING THE BORDER**

**Subtitle A—Prevention and Punishment of Criminal Smuggling, Transporting,  
 and Harboring of Aliens**

- Sec. 101. Increased personnel for investigating alien smuggling.
- Sec. 102. Increased criminal sentences and fines for alien smuggling.
- Sec. 103. Elimination of penalty on persons rendering emergency assistance.
- Sec. 104. Change to sentencing guidelines.
- Sec. 105. Enhanced penalties for persons committing offenses while armed.
- Sec. 106. Discontinuing grant of visas to nationals of countries not cooperating  
 in combatting alien smuggling.

**Subtitle B—Border Personnel and Strategy**

- Sec. 111. Increase in full-time border patrol agents.
- Sec. 112. Report on number of border patrol agents needed to secure northern  
 border.
- Sec. 113. Use of Army and Air Force to secure the border.
- Sec. 114. Use of border property to secure the border.
- Sec. 115. Report on border strategy.

**TITLE II—SCREENING ALIENS SEEKING ADMISSION**

- Sec. 201. Increase in full-time inspectors.

- Sec. 202. Visa waiver program.
- Sec. 203. Consular officer interviews of all visa applicants.
- Sec. 204. Recodification and reform of grounds of inadmissibility.
- Sec. 205. Antifraud fee.

#### TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

- Sec. 301. Entry-exit system.
- Sec. 302. Collection of information regarding foreign students.
- Sec. 303. Alien registration.
- Sec. 304. Visa term compliance bonds.
- Sec. 305. Release of aliens in removal proceedings.
- Sec. 306. Detention of aliens delivered by bondsmen.

#### TITLE IV—REMOVING ALIEN TERRORISTS, CRIMINALS, AND HUMAN RIGHTS VIOLATORS

##### Subtitle A—Removing Alien Terrorists

- Sec. 401. Deportability of alien terrorists.
- Sec. 402. Administrative removal of alien terrorists.
- Sec. 403. Asylum petitions by members of terrorist organizations.

##### Subtitle B—Removing Alien Criminals

- Sec. 411. Definition of criminal conviction.
- Sec. 412. Removing murderers, rapists, and sexual abusers of children.
- Sec. 413. Detention and release of criminal aliens pending removal decision.

##### Subtitle C—Removing Alien Human Rights Violators

- Sec. 421. Serious human rights violator defined.
- Sec. 422. Deportability of serious human rights violators.
- Sec. 423. Arrest and detention of serious human rights violators pending removal and criminal prosecution decisions.
- Sec. 424. Exception to restriction on removal for serious human rights violators and terrorists.
- Sec. 425. Initiation of removal proceedings against serious human rights violators by complaint.
- Sec. 426. Bars to refugee status and asylum for serious human rights violators.
- Sec. 427. Bar to adjustment of status for serious human rights violators.
- Sec. 428. Bar to finding of good moral character for serious human rights violators.
- Sec. 429. Bar to cancellation of removal for serious human rights violators.
- Sec. 430. Bar to adjustment of status with respect to certain special immigrants.
- Sec. 431. Criminal penalties for reentry of removed serious human rights violators.
- Sec. 432. Aiding or assisting serious human rights violators to enter the United States.
- Sec. 433. Revision of regulations with respect to the involuntary return of persons in danger of subjection to torture.
- Sec. 434. Effective date.

#### TITLE V—ENHANCING ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY ACT IN THE INTERIOR

Subtitle A—Document Security

- Sec. 501. Birth certificates.
- Sec. 502. Drivers licenses.
- Sec. 503. Social security cards.

Subtitle B—Employment Eligibility Verification

- Sec. 511. Employment eligibility verification system.
- Sec. 512. Employment eligibility verification process.
- Sec. 513. Effective date.

Subtitle C—Miscellaneous

- Sec. 521. Increased investigative personnel.
- Sec. 522. Expedited exclusion.
- Sec. 523. Adjustment of status for certain aliens.
- Sec. 524. Termination of continuous presence for purposes of cancellation of removal upon commission of offense rendering alien inadmissible or deportable.
- Sec. 525. Reentry of removed aliens.
- Sec. 526. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence, and misrepresentation or concealment of facts.
- Sec. 527. Communication between Government agencies and the Immigration and Naturalization Service.
- Sec. 528. Exception to removal for certain aliens.
- Sec. 529. Detention facilities.
- Sec. 530. Voluntary departure.

TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY AND ABUSIVE TACTICS BY ALIENS IN REMOVAL PROCEEDINGS

- Sec. 601. Frivolous applications.
- Sec. 602. Continuances; change of venue.
- Sec. 603. Burden of proof in asylum proceedings.
- Sec. 604. Review of convention against torture grants and denials.
- Sec. 605. Time limit for decisions in administrative appeals.
- Sec. 606. Review of asylum claims.
- Sec. 607. Judicial review.

TITLE VII—VERIFICATION OF CITIZENSHIP OF VOTERS IN FEDERAL ELECTIONS

- Sec. 701. Establishment of program.
- Sec. 702. Responses to inquiries.
- Sec. 703. Requiring verification of citizenship of registered voters and applicants.
- Sec. 704. Responsibilities of Federal officials.
- Sec. 705. Limitation on use of the program and any related systems.
- Sec. 706. Enforcement.
- Sec. 707. Chief election official defined.
- Sec. 708. Authorization of appropriations.

TITLE VIII—REFORMING LEGAL IMMIGRATION

Subtitle A—Promotion of Citizenship

Sec. 801. Office of Citizenship established; changes in naturalization requirements.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

Sec. 811. Treatment of nationals of state sponsors of terrorism.

Subtitle C—Legal Immigration Reform

- Sec. 821. Extended family preference categories.
- Sec. 822. Employment third preference category.
- Sec. 823. Elimination of diversity immigrant program.
- Sec. 824. Refugee admissions.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Temporary protected status.
- Sec. 902. Good moral character.
- Sec. 903. Removal for aliens who make misrepresentations to procure benefits.
- Sec. 904. Designations of foreign terrorist organizations.
- Sec. 905. Foreign students.
- Sec. 906. Pay grade GS–15 available for INS trial attorneys.
- Sec. 907. Proof of identity of aliens seeking relief.
- Sec. 908. Following to join defined.
- Sec. 909. Information on foreign crimes.

1           (d) SEVERABILITY.—If any provision of this Act, or  
 2 the application of such a provision to any person or cir-  
 3 cumstance, is held to be unconstitutional, the remainder  
 4 of this Act, and the application of the provisions of this  
 5 Act to any other person or circumstance, shall not be af-  
 6 fected by such holding.

1                   **TITLE I—SECURING THE**  
2                   **BORDER**  
3   **Subtitle A—Prevention and Pun-**  
4   **ishment of Criminal Smuggling,**  
5   **Transporting, and Harboring of**  
6   **Aliens**

7   **SEC. 101. INCREASED PERSONNEL FOR INVESTIGATING**  
8                   **ALIEN SMUGGLING.**

9           (a) **IN GENERAL.**—The Attorney General, in each of  
10 the fiscal years 2003 through 2010, shall increase the  
11 number of positions for full-time, active-duty investigators  
12 or other enforcement personnel within the Immigration  
13 and Naturalization Service who are assigned to combat  
14 alien smuggling by not less than 50 positions above the  
15 number of such positions for which funds were allotted  
16 for the preceding fiscal year.

17           (b) **AUTHORIZATION OF APPROPRIATIONS.**—

18               (1) **IN GENERAL.**—In addition to funds other-  
19 wise available for such purpose, there are authorized  
20 to be appropriated to the Immigration and Natu-  
21 ralization Service of the Department of Justice such  
22 sums as may be necessary in each of the fiscal years  
23 2003 through 2010 to carry out subsection (a), and  
24 to cover the operating expenses of the Service and  
25 the Department in conducting undercover investiga-

1 tions of alien smuggling activities and in prosecuting  
2 violations of section 274(a)(1)(A) of the Immigra-  
3 tion and Nationality Act (8 U.S.C. 1324(a)(1)(A))  
4 (relating to alien smuggling), resulting from the in-  
5 crease in personnel under subsection (a).

6 (2) AVAILABILITY OF FUNDS.—Amounts appro-  
7 priated pursuant to paragraph (1) are authorized to  
8 remain available until expended.

9 (c) ALIEN SMUGGLING DEFINED.—In this section,  
10 the term “alien smuggling” means any act prohibited by  
11 paragraph (1) or (2) of section 274(a) of the Immigration  
12 and Nationality Act (8 U.S.C. 1324(a)).

13 **SEC. 102. INCREASED CRIMINAL SENTENCES AND FINES**  
14 **FOR ALIEN SMUGGLING.**

15 (a) IN GENERAL.—Subject to subsection (b), pursu-  
16 ant to its authority under section 994(p) of title 28,  
17 United States Code, the United States Sentencing Com-  
18 mission shall promulgate sentencing guidelines or amend  
19 existing sentencing guidelines for smuggling, transporting,  
20 harboring, or inducing aliens under sections 274(a)(1)(A)  
21 of the Immigration and Nationality Act (8 U.S.C.  
22 1324(a)(1)(A)) so as to—

23 (1) triple the minimum term of imprisonment  
24 under that section for offenses involving the smug-  
25 gling, transporting, harboring, or inducing of—

1 (A) 1 to 5 aliens from 10 months to 30  
2 months;

3 (B) 6 to 24 aliens from 18 months to 54  
4 months;

5 (C) 25 to 100 aliens from 27 months to 81  
6 months; and

7 (D) 101 aliens or more from 37 months to  
8 111 months;

9 (2) increase the minimum level of fines for each  
10 of the offenses described in subparagraphs (A)  
11 through (D) of paragraph (1) to the greater of  
12 \$25,000 per alien or 3 times the amount the defend-  
13 ant received or expected to receive as compensation  
14 for the illegal activity;

15 (3) increase by at least 2 offense levels above  
16 the applicable enhancement in effect on the date of  
17 the enactment of this Act the sentencing enhance-  
18 ments for intentionally or recklessly creating a sub-  
19 stantial risk of serious bodily injury or causing bod-  
20 ily injury, serious injury, or permanent or life  
21 threatening injury;

22 (4) for actions causing death, increase the of-  
23 fense level to be equivalent to that for involuntary  
24 manslaughter under section 1112 of title 28, United  
25 States Code; and



1           (5) for corporations or other business entities  
 2           that knowingly benefit from such offenses, increase  
 3           the minimum level of fines for each of the offenses  
 4           described in subparagraphs (A) through (D) of para-  
 5           graph (1) to \$50,000 per alien employed directly, or  
 6           indirectly through contract, by the corporation or  
 7           entity.

8           (b) EXCEPTION.—Subsection (a) shall not apply to  
 9           an offense that involved the smuggling, transporting, or  
 10          harboring only of the defendant’s spouse or child (or both  
 11          the defendant’s spouse and child).

12          (c) DEADLINE.—The United States Sentencing Com-  
 13          mission shall carry out subsection (a) not later than the  
 14          date that is 6 months after the date of the enactment of  
 15          this Act.

16          **SEC. 103. ELIMINATION OF PENALTY ON PERSONS REN-**  
 17   **DERING EMERGENCY ASSISTANCE.**

18          (a) IN GENERAL.—Section 274(a)(1) (8 U.S.C.  
 19          1324(a)(1)) is amended by adding at the end the fol-  
 20          lowing:

21           “(C) In no case may any penalty for a violation of  
 22          subparagraph (A) be imposed on any person solely based  
 23          on actions taken by the person to render emergency assist-  
 24          ance to an alien found physically present in the United  
 25          States in life threatening circumstances.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the date of the enact-  
3 ment of this Act, and shall apply to offenses committed  
4 after such date.

5 **SEC. 104. CHANGE TO SENTENCING GUIDELINES.**

6 In the exercise of its authority under section 994 of  
7 title 28, United States Code, the United States Sentencing  
8 Commission shall amend the Federal sentencing guidelines  
9 to provide that plea bargaining and other prosecutorial  
10 policies, and differences in those policies among different  
11 districts, are not a ground for imposing a sentence outside  
12 the applicable guidelines range for a violation of immigra-  
13 tion law.

14 **SEC. 105. ENHANCED PENALTIES FOR PERSONS COMMIT-**  
15 **TING OFFENSES WHILE ARMED.**

16 (a) IN GENERAL.—Section 924(c)(1) of title 18,  
17 United States Code, is amended—

18 (1) in subparagraph (A)—

19 (A) by inserting after “device)” the fol-  
20 lowing: “or any violation of section  
21 274(a)(1)(A) of the Immigration and Nation-  
22 ality Act”; and

23 (B) by striking “or drug trafficking  
24 crime—” and inserting “, drug trafficking

1 crime, or violation of section 274(a)(1)(A) of  
2 the Immigration and Nationality Act—”; and  
3 (2) in subparagraph (D)(ii), by striking “or  
4 drug trafficking crime” and inserting “, drug traf-  
5 ficking crime, or violation of section 274(a)(1)(A) of  
6 the Immigration and Nationality Act”.

7 (b) EFFECTIVE DATE.—The amendments made by  
8 subsection (a) shall take effect on the date of the enact-  
9 ment of this Act, and shall apply to offenses committed  
10 after such date.

11 **SEC. 106. DISCONTINUING GRANT OF VISAS TO NATIONALS**  
12 **OF COUNTRIES NOT COOPERATING IN COM-**  
13 **BATting ALIEN SMUGGLING.**

14 On being notified by the Attorney General that the  
15 government of a foreign country has not cooperated fully  
16 with the United States, or has not taken adequate steps  
17 on its own, to combat the smuggling of aliens into the  
18 United States from territory controlled by the state, the  
19 Secretary of State shall order consular officers in the  
20 country to discontinue granting immigrant or non-  
21 immigrant visas, or both, to citizens, subjects, nationals,  
22 and residents of the country until the Attorney General  
23 notifies the Secretary of State that the country has begun  
24 to cooperate fully, or has taken adequate steps, to combat  
25 such smuggling.

1     **Subtitle B—Border Personnel and**  
2                                     **Strategy**

3     **SEC. 111. INCREASE IN FULL-TIME BORDER PATROL**  
4                                     **AGENTS.**

5             The Attorney General, in each of fiscal years 2003  
6 through 2010, shall increase by not less than 1,000 the  
7 number of positions for full-time active-duty border patrol  
8 agents within the Immigration and Naturalization Service  
9 above the number of positions for which funds were allot-  
10 ted for the preceding fiscal year.

11     **SEC. 112. REPORT ON NUMBER OF BORDER PATROL**  
12                                     **AGENTS NEEDED TO SECURE NORTHERN**  
13                                     **BORDER.**

14             (a) REPORT.—Not later than 1 year after the date  
15 of the enactment of this Act, the Comptroller General of  
16 the United States shall submit a report to the Committees  
17 on the Judiciary of the House of Representatives and the  
18 Senate on the number of border patrol agents needed to  
19 secure the northern border of the United States.

20             (b) COOPERATION.—The Attorney General, the Sec-  
21 retary of State, the Secretary of Defense, and the Director  
22 of Homeland Security shall cooperate with the Comp-  
23 troller General of the United States in carrying out this  
24 section.

1 **SEC. 113. USE OF ARMY AND AIR FORCE TO SECURE THE**  
2 **BORDER.**

3 Section 1385 of title 18, United States Code, is  
4 amended by inserting after “execute the laws” the fol-  
5 lowing: “other than at or near a border of the United  
6 States in order to prevent aliens, terrorists, and drug  
7 smugglers from entering the United States”.

8 **SEC. 114. USE OF BORDER PROPERTY TO SECURE THE BOR-**  
9 **DER.**

10 Section 102(c) of the Illegal Immigration Reform and  
11 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103  
12 note) is amended by striking “this section.” and inserting  
13 “this section and to secure the borders of the United  
14 States against aliens, terrorists, and drug smugglers.”.

15 **SEC. 115. REPORT ON BORDER STRATEGY.**

16 (a) **EVALUATION OF STRATEGY.**—The Comptroller  
17 General of the United States shall track, monitor, and  
18 evaluate the Attorney General’s strategy to deter illegal  
19 entry in the United States to determine the efficacy of  
20 such strategy.

21 (b) **COOPERATION.**—The Attorney General, the Sec-  
22 retary of State, and the Secretary of Defense shall cooper-  
23 ate with the Comptroller General of the United States in  
24 carrying out subsection (a).

25 (c) **REPORT.**—Not later than one year after the date  
26 of the enactment of this Act, and every year thereafter

1 for the succeeding 5 years, the Comptroller General of the  
2 United States shall submit a report to the Committees on  
3 the Judiciary of the House of Representatives and of the  
4 Senate on the results of the activities undertaken under  
5 subsection (a) during the previous year. Each such report  
6 shall include an analysis of the degree to which the Attor-  
7 ney General's strategy has been effective in reducing ille-  
8 gal entry. Each such report shall include a collection and  
9 systematic analysis of data, including workload indicators,  
10 related to activities to deter illegal entry and recommenda-  
11 tions to improve and increase border security at the border  
12 and ports of entry.

## 13 **TITLE II—SCREENING ALIENS** 14 **SEEKING ADMISSION**

### 15 **SEC. 201. INCREASE IN FULL-TIME INSPECTORS.**

16 (a) **IN GENERAL.**—The Attorney General, in each of  
17 fiscal years 2003 through 2010, shall increase by not less  
18 than 250 the number of positions for full-time inspectors  
19 within the Immigration and Naturalization Service above  
20 the number of positions for which funds were allotted for  
21 the preceding fiscal year.

22 (b) **REPEAL.**—Section 101(a)(1) of the Enhanced  
23 Border Security and Visa Entry Reform Act of 2002  
24 (Public Law 107–173) is repealed.

1 **SEC. 202. VISA WAIVER PROGRAM.**

2 (a) PASSPORT REQUIREMENTS.—Section 217(a)(3)  
3 (8 U.S.C. 1187(a)(3)) is amended to read as follows:

4 “(3) MACHINE-READABLE, TAMPER-RESISTANT  
5 PASSPORT WITH BIOMETRIC IDENTIFIERS.—On and  
6 after October 26, 2005, the alien at the time of ap-  
7 plication for admission is in possession of a valid un-  
8 expired machine-readable passport that—

9 “(A) satisfies the internationally accepted  
10 standard for machine readability;

11 “(B) is tamper-resistant; and

12 “(C) incorporates biometric and document  
13 authentication identifiers that comply with ap-  
14 plicable biometric and document identifying  
15 standards established by the International Civil  
16 Aviation Organization.”.

17 (b) REPEAL.—Section 303(c) of the Enhanced Bor-  
18 der Security and Visa Entry Reform Act of 2002 (Public  
19 Law 107–173) is repealed.

20 (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on October 26, 2005.

22 **SEC. 203. CONSULAR OFFICER INTERVIEWS OF ALL VISA**  
23 **APPLICANTS.**

24 (a) IN GENERAL.—Section 221 (8 U.S.C. 1201) is  
25 amended by adding at the end the following:

1       “(j) Prior to the issuance of an immigrant or non-  
2 immigrant visa to any alien, the consular officer shall re-  
3 quire such alien to submit to an in-person interview in ac-  
4 cordance with such regulations as may be prescribed.”.

5       (b) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to carry out the amend-  
7 ment made by subsection (a) such sums as may be nec-  
8 essary for fiscal years 2003 through 2010.

9       (c) EFFECTIVE DATE.—The amendment made by  
10 subsection (a) shall apply to visas issued after October 1,  
11 2002.

12 **SEC. 204. RECODIFICATION AND REFORM OF GROUNDS OF**  
13 **INADMISSIBILITY.**

14       (a) TRANSFER AND REDESIGNATION.—Section 212  
15 (8 U.S.C. 1182) is amended—

16           (1) by transferring subsection (e) to the end of  
17 section 222 (8 U.S.C. 1202) and redesignating it as  
18 subsection (h);

19           (2) by transferring subsections (j), (m), (n),  
20 and (q) to the end of section 214 (8 U.S.C. 1202)  
21 and redesignating them as subsections (s), (t), (u),  
22 and (v), respectively; and

23           (3) by amending the remainder of such section  
24 to read as follows:



1 **“SEC. 212. GENERAL CLASSES OF ALIENS INELIGIBLE TO**  
2 **RECEIVE VISAS AND INELIGIBLE FOR ADMIS-**  
3 **SION; WAIVERS OF INADMISSIBILITY.**

4 “(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR  
5 ADMISSION.—Except as otherwise provided in this Act,  
6 aliens who are inadmissible under the following para-  
7 graphs are ineligible to receive visas and ineligible to be  
8 admitted to the United States:

9 “(1) HEALTH-RELATED GROUNDS.—

10 “(A) IN GENERAL.—Any alien—

11 “(i) who is determined (in accordance  
12 with regulations prescribed by the Sec-  
13 retary of Health and Human Services) to  
14 have a communicable disease of public  
15 health significance, which shall include in-  
16 fection with the etiologic agent for ac-  
17 quired immune deficiency syndrome;

18 “(ii) except as provided in subpara-  
19 graph (C), who seeks admission as an im-  
20 migrant, or who seeks adjustment of status  
21 to the status of an alien lawfully admitted  
22 for permanent residence, and who has  
23 failed to present documentation of having  
24 received vaccination against vaccine-pre-  
25 ventable diseases, which shall include at  
26 least the following diseases: mumps, mea-

1 sles, rubella, polio, tetanus and diphtheria  
2 toxoids, pertussis, influenza type B and  
3 hepatitis B, and any other vaccinations  
4 against vaccine-preventable diseases rec-  
5 ommended by the Advisory Committee for  
6 Immunization Practices;

7 “(iii) who is determined (in accord-  
8 ance with regulations prescribed by the  
9 Secretary of Health and Human Services  
10 in consultation with the Attorney Gen-  
11 eral)—

12 “(I) to have a physical or mental  
13 disorder and behavior associated with  
14 the disorder that may pose, or has  
15 posed, a threat to the property, safety,  
16 or welfare of the alien or others; or

17 “(II) to have had a physical or  
18 mental disorder and a history of be-  
19 havior associated with the disorder,  
20 which behavior has posed a threat to  
21 the property, safety, or welfare of the  
22 alien or others and which behavior is  
23 likely to recur or to lead to other  
24 harmful behavior; or

1           “(iv) who is determined (in accord-  
2           ance with regulations prescribed by the  
3           Secretary of Health and Human Services)  
4           to be a drug abuser or addict,  
5           is inadmissible.

6           “(B) WAIVER AUTHORIZED.—For provi-  
7           sion authorizing waiver of certain clauses of  
8           subparagraph (A), see subsection (e).

9           “(C) EXCEPTION FROM IMMUNIZATION RE-  
10          QUIREMENT FOR ADOPTED CHILDREN 10 YEARS  
11          OF AGE OR YOUNGER.—Clause (ii) of subpara-  
12          graph (A) shall not apply to a child who—

13                 “(i) is 10 years of age or younger;

14                 “(ii) is described in section  
15                 101(b)(1)(F); and

16                 “(iii) is seeking an immigrant visa as  
17                 an immediate relative under section  
18                 201(b),

19           if, prior to the admission of the child, an adop-  
20           tive parent or prospective adoptive parent of the  
21           child, who has sponsored the child for admis-  
22           sion as an immediate relative, has executed an  
23           affidavit stating that the parent is aware of the  
24           provisions of subparagraph (A)(ii) and will en-  
25           sure that, within 30 days of the child’s admis-

1 sion, or at the earliest time that is medically  
2 appropriate, the child will receive the vaccina-  
3 tions identified in such subparagraph.

4 “(2) CRIMINAL AND RELATED GROUNDS.—

5 “(A) CONVICTION OF CERTAIN CRIMES.—

6 “(i) IN GENERAL.—Except as pro-  
7 vided in clause (ii), any alien convicted of,  
8 or who admits having committed, or who  
9 admits committing acts which constitute  
10 the essential elements of—

11 “(I) a crime involving moral tur-  
12 pitude (other than a purely political  
13 offense) or an attempt or conspiracy  
14 to commit such a crime; or

15 “(II) a violation of (or a con-  
16 spiracy or attempt to violate) any law  
17 or regulation of a State, the United  
18 States, or a foreign country relating  
19 to a controlled substance (as defined  
20 in section 102 of the Controlled Sub-  
21 stances Act (21 U.S.C. 802)),

22 is inadmissible.

23 “(ii) EXCEPTION.—Clause (i)(I) shall  
24 not apply to an alien who committed only  
25 one crime if—

1           “(I) the crime was committed  
2 when the alien was under 18 years of  
3 age, and the crime was committed  
4 (and the alien released from any con-  
5 finement to a prison or correctional  
6 institution imposed for the crime)  
7 more than 5 years before the date of  
8 application for a visa or other docu-  
9 mentation and the date of application  
10 for admission to the United States; or

11           “(II) the maximum penalty pos-  
12 sible for the crime of which the alien  
13 was convicted (or which the alien ad-  
14 mits having committed or of which the  
15 acts that the alien admits having com-  
16 mitted constituted the essential ele-  
17 ments) did not exceed imprisonment  
18 for one year and, if the alien was con-  
19 victed of such crime, the alien was not  
20 sentenced to a term of imprisonment  
21 in excess of 6 months (regardless of  
22 the extent to which the sentence was  
23 ultimately executed).

24           “(B) MULTIPLE CRIMINAL CONVIC-  
25 TIONS.—Any alien convicted of 2 or more of-

1           fenses (other than purely political offenses), re-  
2           gardless of whether the conviction was in a sin-  
3           gle trial or whether the offenses arose from a  
4           single scheme of misconduct and regardless of  
5           whether the offenses involved moral turpitude,  
6           for which the aggregate sentences to confine-  
7           ment were 5 years or more is inadmissible.

8           “(C) CONTROLLED SUBSTANCE TRAF-  
9           FICKERS.—Any alien who the consular officer  
10          or the Attorney General knows or has reason to  
11          believe—

12                 “(i) is or has been an illicit trafficker  
13                 in any controlled substance or in any listed  
14                 chemical (as defined in section 102 of the  
15                 Controlled Substances Act (21 U.S.C.  
16                 802)), or is or has been a knowing aider,  
17                 abettor, assistant, conspirator, or colluder  
18                 with others in the illicit trafficking in any  
19                 such controlled or listed substance or  
20                 chemical, or endeavored to do so; or

21                 “(ii) is the spouse, son, or daughter of  
22                 an alien inadmissible under clause (i), has,  
23                 within the previous 5 years, obtained any  
24                 financial or other benefit from the illicit  
25                 activity of that alien, and knew or reason-

1 ably should have known that the financial  
2 or other benefit was the product of such il-  
3 licit activity,

4 is inadmissible.

5 “(D) PROSTITUTION AND COMMER-  
6 CIALIZED VICE.—Any alien who—

7 “(i) is coming to the United States  
8 solely, principally, or incidentally to engage  
9 in prostitution, or has engaged in prostitu-  
10 tion within 10 years of the date of applica-  
11 tion for a visa, admission, or adjustment of  
12 status;

13 “(ii) directly or indirectly procures or  
14 attempts to procure, or (within 10 years of  
15 the date of application for a visa, entry, or  
16 adjustment of status) procured or at-  
17 tempted to procure or to import, pros-  
18 titutes or persons for the purpose of pros-  
19 titution, or receives or (within such 10-  
20 year period) received, in whole or in part,  
21 the proceeds of prostitution; or

22 “(iii) is coming to the United States  
23 to engage in any other unlawful commer-  
24 cialized vice, whether or not related to  
25 prostitution,

1 is inadmissible.

2 “(E) CERTAIN ALIENS INVOLVED IN SERI-  
3 OUS CRIMINAL ACTIVITY WHO HAVE ASSERTED  
4 IMMUNITY FROM PROSECUTION.—Any alien—

5 “(i) who has committed in the United  
6 States at any time a serious criminal of-  
7 fense (as defined in section 101(h));

8 “(ii) for whom immunity from crimi-  
9 nal jurisdiction was exercised with respect  
10 to that offense;

11 “(iii) who as a consequence of the of-  
12 fense and exercise of immunity has de-  
13 parted from the United States; and

14 “(iv) who has not subsequently sub-  
15 mitted fully to the jurisdiction of the court  
16 in the United States having jurisdiction  
17 with respect to that offense,

18 is inadmissible.

19 “(F) WAIVER AUTHORIZED.—For provi-  
20 sion authorizing waiver of certain subpara-  
21 graphs of this paragraph, see subsection (f).

22 “(G) SERIOUS HUMAN RIGHTS ABUSERS.—  
23 Any serious human rights violator is inadmis-  
24 sible.



1           “(H) SIGNIFICANT TRAFFICKERS IN PER-  
2           SONS.—

3           “(i) IN GENERAL.—Any alien who is  
4           listed in a report submitted pursuant to  
5           section 111(b) of the Trafficking Victims  
6           Protection Act of 2000, or who the con-  
7           sular officer or the Attorney General  
8           knows or has reason to believe is or has  
9           been a knowing aider, abettor, assistant,  
10          conspirator, or colluder with such a traf-  
11          ficker in severe forms of trafficking in per-  
12          sons, as defined in section 103 of such Act,  
13          is inadmissible.

14          “(ii) BENEFICIARIES OF TRAF-  
15          FICKING.—Except as provided in clause  
16          (iii), any alien who the consular officer or  
17          the Attorney General knows or has reason  
18          to believe is the spouse, son, or daughter  
19          of an alien inadmissible under clause (i),  
20          has, within the previous 5 years, obtained  
21          any financial or other benefit from the il-  
22          licit activity of that alien, and knew or rea-  
23          sonably should have known that the finan-  
24          cial or other benefit was the product of  
25          such illicit activity, is inadmissible.

1           “(iii) EXCEPTION FOR CERTAIN SONS  
2           AND DAUGHTERS.—Clause (ii) shall not  
3           apply to a son or daughter who was a child  
4           at the time he or she received the benefit  
5           described in such clause.

6           “(I) MONEY LAUNDERING.—Any alien—

7           “(i) who a consular officer or the At-  
8           torney General knows, or has reason to be-  
9           lieve, has engaged, is engaging, or seeks to  
10          enter the United States to engage, in an  
11          offense which is described in section 1956  
12          or 1957 of title 18, United States Code  
13          (relating to laundering of monetary instru-  
14          ments); or

15          “(ii) who a consular officer or the At-  
16          torney General knows is, or has been, a  
17          knowing aider, abettor, assistant, con-  
18          spirator, or colluder with others in an of-  
19          fense which is described in such section,  
20          is inadmissible.

21          “(J) AGGRAVATED FELONY.—

22          “(i) IN GENERAL.—Any alien con-  
23          victed of an aggravated felony is inadmis-  
24          sible.

1           “(ii) WAIVER AUTHORIZED.—Clause  
2           (i) shall not apply in the case of an alien  
3           with respect to a criminal conviction if the  
4           alien subsequent to the criminal conviction  
5           has been granted a full and unconditional  
6           pardon by the President of the United  
7           States or by the Governor of any State.

8           “(K) CERTAIN FIREARM OFFENSES.—Any  
9           alien who is convicted under any law of pur-  
10          chasing, selling, offering for sale, exchanging,  
11          using, owning, possessing, or carrying, or of at-  
12          tempting or conspiring to purchase, sell, offer  
13          for sale, exchange, use, own, possess, or carry,  
14          any weapon, part, or accessory which is a fire-  
15          arm or destructive device (as defined in section  
16          921(a) of title 18, United States Code) in viola-  
17          tion of any law is inadmissible.

18          “(3) SECURITY AND RELATED GROUNDS.—

19                 “(A) IN GENERAL.—Any alien who a con-  
20                 sular officer or the Attorney General knows, or  
21                 has reasonable ground to believe, seeks to enter  
22                 the United States to engage solely, principally,  
23                 or incidentally in—

24                         “(i) any activity—

1                   “(I) to violate any law of the  
2                   United States relating to espionage or  
3                   sabotage; or

4                   “(II) to violate or evade any law  
5                   prohibiting the export from the  
6                   United States of goods, technology, or  
7                   sensitive information;

8                   “(ii) any other unlawful activity, in-  
9                   cluding participation in a criminal enter-  
10                  prise, conspiracy, or scheme; or

11                  “(iii) any activity a purpose of which  
12                  is the opposition to, or the control or over-  
13                  throw of, the Government of the United  
14                  States by force, violence, or other unlawful  
15                  means,

16                  is inadmissible.

17                  “(B) TERRORIST ACTIVITIES.—

18                  “(i) IN GENERAL.—Any alien who—

19                         “(I) has engaged in a terrorist  
20                         activity;

21                         “(II) a consular officer or the At-  
22                         torney General knows, or has reason-  
23                         able ground to believe, is engaged in  
24                         or is likely to engage after entry in

1 any terrorist activity (as defined in  
2 clause (iv));

3 “(III) has, under circumstances  
4 indicating an intention to cause death  
5 or serious bodily harm, incited ter-  
6 rorist activity;

7 “(IV) is a representative (as de-  
8 fined in clause (v)) of—

9 “(aa) a terrorist organiza-  
10 tion; or

11 “(bb) a political, social, or  
12 other group that endorses or es-  
13 pouses terrorist activity;

14 “(V) is a member of a terrorist  
15 organization;

16 “(VI) endorses or espouses ter-  
17 rorist activity or persuades others to  
18 endorse or espouse terrorist activity or  
19 support a terrorist organization;

20 “(VII) had information about an  
21 activity that the alien knew, or should  
22 have known, was a terrorist activity  
23 (before or after such activity occurred  
24 or while it was ongoing), knew, or  
25 should have known, that such infor-

1           mation was not public information,  
2           and failed to report such information  
3           to a governmental authority; or

4           “(VIII) is the spouse or child of  
5           an alien who is inadmissible under  
6           this subparagraph, if the activity  
7           causing the alien to be found inadmis-  
8           sible occurred within the last 5 years,  
9           is inadmissible. An alien who is an officer,  
10          official, representative, or spokesman of  
11          the Palestine Liberation Organization is  
12          considered, for purposes of this Act, to be  
13          engaged in a terrorist activity.

14          “(ii) EXCEPTION.—Subclause (VII) of  
15          clause (i) does not apply to a spouse or  
16          child—

17               “(I) who did not know or should  
18               not reasonably have known of the ac-  
19               tivity causing the alien to be found in-  
20               admissible under this subparagraph;  
21               or

22               “(II) whom the consular officer  
23               or Attorney General has reasonable  
24               grounds to believe has renounced the

1 activity causing the alien to be found  
2 inadmissible under this subparagraph.

3 “(iii) TERRORIST ACTIVITY DE-  
4 FINED.—As used in this subparagraph, the  
5 term ‘terrorist activity’ means any activity  
6 which is unlawful under the laws of the  
7 place where it is committed (or which, if it  
8 had been or were to be committed in the  
9 United States, would be unlawful under  
10 the laws of the United States or any State)  
11 and which involves any of the following:

12 “(I) The hijacking or sabotage of  
13 any conveyance (including an aircraft,  
14 vessel, or vehicle).

15 “(II) The seizing or detaining,  
16 and threatening to kill, injure, or con-  
17 tinue to detain, another individual in  
18 order to compel a third person (in-  
19 cluding a governmental organization)  
20 to do or abstain from doing any act as  
21 an explicit or implicit condition for  
22 the release of the individual seized or  
23 detained.

24 “(III) A violent attack upon an  
25 internationally protected person (as

1 defined in section 1116(b)(4) of title  
2 18, United States Code) or upon the  
3 liberty of such a person.

4 “(IV) An assassination.

5 “(V) The use of any—

6 “(aa) biological agent, chem-  
7 ical agent, or nuclear weapon or  
8 device; or

9 “(bb) explosive, firearm, or  
10 other weapon or dangerous device  
11 (other than for mere personal  
12 monetary gain),

13 with intent to endanger, directly or in-  
14 directly, the safety of one or more in-  
15 dividuals or to cause substantial dam-  
16 age to property.

17 “(VI) A threat, attempt, or con-  
18 spiracy to do any of the foregoing.

19 “(iv) ENGAGE IN TERRORIST ACTIVITY  
20 DEFINED.—As used in this subparagraph,  
21 the term ‘engage in terrorist activity’  
22 means, in an individual capacity or as a  
23 member of an organization—

24 “(I) to commit or to incite to  
25 commit, under circumstances indi-



1 cating an intention to cause death or  
2 serious bodily injury, a terrorist activ-  
3 ity;

4 “(II) to prepare or plan a ter-  
5 rorist activity;

6 “(III) to gather information on  
7 potential targets for terrorist activity;

8 “(IV) to solicit funds or other  
9 things of value for—

10 “(aa) a terrorist activity;

11 “(bb) a terrorist organiza-  
12 tion described in clause (vi)(I) or  
13 (vi)(II); or

14 “(cc) a terrorist organiza-  
15 tion described in clause (vi)(III),  
16 unless the solicitor can dem-  
17 onstrate by clear and convincing  
18 evidence that he did not know,  
19 and should not reasonably have  
20 known, that the organization was  
21 a terrorist organization;

22 “(V) to solicit any individual—

23 “(aa) to engage in conduct  
24 otherwise described in this  
25 clause;

1                   “(bb) for membership in a  
2                   terrorist organization described  
3                   in clause (vi)(I) or (vi)(II); or

4                   “(cc) for membership in a  
5                   terrorist organization described  
6                   in clause (vi)(III), unless the so-  
7                   licitor can demonstrate by clear  
8                   and convincing evidence that he  
9                   did not know, and should not  
10                  reasonably have known, that the  
11                  organization was a terrorist orga-  
12                  nization; or

13                  “(VI) to commit an act that the  
14                  actor knows, or reasonably should  
15                  know, affords material support, in-  
16                  cluding a safe house, transportation,  
17                  communications, funds, transfer of  
18                  funds or other material financial ben-  
19                  efit, false documentation or identifica-  
20                  tion, weapons (including chemical, bi-  
21                  ological, or radiological weapons), ex-  
22                  plosives, or training—

23                  “(aa) for the commission of  
24                  a terrorist activity;

1                   “(bb) to any individual who  
2                   the actor knows, or reasonably  
3                   should know, has committed or  
4                   plans to commit a terrorist activ-  
5                   ity; or

6                   “(cc) to a terrorist organiza-  
7                   tion described in subclauses (I)  
8                   through (III) of clause (vi).

9                   “(v) REPRESENTATIVE DEFINED.—As  
10                  used in this subparagraph, the term ‘rep-  
11                  resentative’ includes an officer, official, or  
12                  spokesman of an organization, and any  
13                  person who directs, counsels, commands,  
14                  or induces an organization or its members  
15                  to engage in terrorist activity.

16                  “(vi) TERRORIST ORGANIZATION DE-  
17                  FINED.—As used in this section, the term  
18                  ‘terrorist organization’ means an  
19                  organization—

20                         “(I) designated under section  
21                         219;

22                         “(II) otherwise designated, upon  
23                         publication in the Federal Register, by  
24                         the Secretary of State in consultation  
25                         with or upon the request of the Attor-

1           ney General, as a terrorist organiza-  
2           tion, after finding that the organiza-  
3           tion engages in the activities described  
4           in subclauses (I) through (VI) of  
5           clause (iv), or that the organization  
6           provides material support to further  
7           terrorist activity; or

8                   “(III) that is a group of two or  
9                   more individuals, whether organized  
10                  or not, which engages in, or has a  
11                  subgroup which engages in, the activi-  
12                  ties described in subclauses (I)  
13                  through (VI) of clause (iv).

14                  “(C) FOREIGN POLICY.—An alien whose  
15                  entry or proposed activities in the United States  
16                  the Secretary of State has reasonable ground to  
17                  believe would have potentially serious adverse  
18                  foreign policy consequences for the United  
19                  States is inadmissible.

20                  “(D) IMMIGRANT MEMBERSHIP IN TOTALI-  
21                  TARIAN PARTY.—

22                   “(i) IN GENERAL.—Any immigrant  
23                   who is or has been a member of or affili-  
24                   ated with the Communist or any other to-  
25                   talitarian party (or subdivision or affiliate

1           thereof), domestic or foreign, is inadmis-  
2           sible.

3           “(ii) EXCEPTION FOR INVOLUNTARY  
4           MEMBERSHIP.—Clause (i) shall not apply  
5           to an alien because of membership or affili-  
6           ation if the alien establishes to the satis-  
7           faction of the consular officer when apply-  
8           ing for a visa (or to the satisfaction of the  
9           Attorney General when applying for admis-  
10          sion) that the membership or affiliation is  
11          or was involuntary, or is or was solely  
12          when under 16 years of age, by operation  
13          of law, or for purposes of obtaining em-  
14          ployment, food rations, or other essentials  
15          of living and necessary for such purposes.

16          “(iii) EXCEPTION FOR PAST MEMBER-  
17          SHIP.—Clause (i) shall not apply to an  
18          alien because of membership or affiliation  
19          if the alien establishes to the satisfaction  
20          of the consular officer when applying for a  
21          visa (or to the satisfaction of the Attorney  
22          General when applying for admission)  
23          that—

24                  “(I) the membership or affiliation  
25                  terminated at least—

1                   “(aa) 2 years before the  
2                   date of such application; or

3                   “(bb) 5 years before the  
4                   date of such application, in the  
5                   case of an alien whose member-  
6                   ship or affiliation was with the  
7                   party controlling the government  
8                   of a foreign state that is a totali-  
9                   tarian dictatorship as of such  
10                  date; and

11                  “(II) the alien is not a threat to  
12                  the security of the United States.

13                  “(E) PARTICIPANTS IN NAZI PERSECU-  
14                  TIONS.—Any alien who, during the period be-  
15                  ginning on March 23, 1933, and ending on May  
16                  8, 1945, under the direction of, or in associa-  
17                  tion with—

18                         “(i) the Nazi government of Germany;

19                         “(ii) any government in any area oc-  
20                         cupied by the military forces of the Nazi  
21                         government of Germany;

22                         “(iii) any government established with  
23                         the assistance or cooperation of the Nazi  
24                         government of Germany; or

1           “(iv) any government which was an  
2           ally of the Nazi government of Germany,  
3           ordered, incited, assisted, or otherwise partici-  
4           pated in the persecution of any person because  
5           of race, religion, national origin, or political  
6           opinion, is inadmissible.

7           “(F) ASSOCIATION WITH TERRORIST ORGA-  
8           NIZATIONS.—Any alien who the Secretary of  
9           State, after consultation with the Attorney Gen-  
10          eral, or the Attorney General, after consultation  
11          with the Secretary of State, determines has  
12          been associated with a terrorist organization  
13          and intends while in the United States to en-  
14          gage solely, principally, or incidentally in activi-  
15          ties that could endanger the welfare, safety, or  
16          security of the United States is inadmissible.

17          “(G) NATIONAL SECURITY CON-  
18          SEQUENCES.—An alien whose entry or proposed  
19          activities in the United States the Attorney  
20          General has reasonable grounds to believe  
21          would have potentially serious adverse con-  
22          sequences for the national security of the  
23          United States is inadmissible.

24          “(4) PUBLIC CHARGE.—

1           “(A) IN GENERAL.—Any alien who, in the  
2 opinion of the consular officer at the time of  
3 application for a visa, or in the opinion of the  
4 Attorney General at the time of application for  
5 admission or adjustment of status, is likely at  
6 any time to become a public charge is inadmis-  
7 sible.

8           “(B) FACTORS TO BE TAKEN INTO AC-  
9 COUNT.—

10           “(i) IN GENERAL.—In determining  
11 whether an alien is inadmissible under this  
12 paragraph, the consular officer or the At-  
13 torney General shall at a minimum con-  
14 sider the alien’s—

15                   “(I) age;

16                   “(II) health;

17                   “(III) family status;

18                   “(IV) assets, resources, and fi-  
19 nancial status; and

20                   “(V) education and skills.

21           “(ii) AFFIDAVIT OF SUPPORT.—In ad-  
22 dition to the factors under clause (i), the  
23 consular officer or the Attorney General  
24 may also consider any affidavit of support



1 under section 213A for purposes of exclu-  
2 sion under this paragraph.

3 “(C) FAMILY-SPONSORED IMMIGRANTS.—  
4 Any alien who seeks admission or adjustment of  
5 status under a visa number issued under sec-  
6 tion 201(b)(2) or 203(a) is inadmissible under  
7 this paragraph unless—

8 “(i) the alien has obtained—

9 “(I) status as a spouse or a child  
10 of a United States citizen pursuant to  
11 clause (ii), (iii), or (iv) of section  
12 204(a)(1)(A); or

13 “(II) classification pursuant to  
14 clause (ii) or (iii) of section  
15 204(a)(1)(B); or

16 “(ii) the person petitioning for the  
17 alien’s admission (including any additional  
18 sponsor required under section 213A(f))  
19 has executed an affidavit of support de-  
20 scribed in section 213A with respect to  
21 such alien.

22 “(D) CERTAIN EMPLOYMENT-BASED IMMI-  
23 GRANTS.—Any alien who seeks admission or ad-  
24 justment of status under a visa number issued  
25 under section 203(b) by virtue of a classifica-

1           tion petition filed by a relative of the alien (or  
2           by an entity in which such relative has a signifi-  
3           cant ownership interest) is inadmissible under  
4           this paragraph unless such relative has exe-  
5           cuted an affidavit of support described in sec-  
6           tion 213A with respect to such alien.

7           “(5) LABOR CERTIFICATION AND QUALIFICA-  
8           TIONS FOR CERTAIN IMMIGRANTS.—

9           “(A) LABOR CERTIFICATION.—

10           “(i) IN GENERAL.—Any alien who  
11           seeks to enter the United States for the  
12           purpose of performing skilled or unskilled  
13           labor is inadmissible, unless the Secretary  
14           of Labor has determined and certified to  
15           the Secretary of State and the Attorney  
16           General that—

17           “(I) there are not sufficient  
18           workers who are able, willing, quali-  
19           fied (or equally qualified in the case of  
20           an alien described in clause (ii)) and  
21           available at the time of application for  
22           a visa and admission to the United  
23           States and at the place where the  
24           alien is to perform such skilled or un-  
25           skilled labor; and

1           “(II) the employment of such  
2           alien will not adversely affect the  
3           wages and working conditions of  
4           workers in the United States similarly  
5           employed.

6           “(ii) CERTAIN ALIENS SUBJECT TO  
7           SPECIAL RULE.—For purposes of clause  
8           (i)(I), an alien described in this clause is  
9           an alien who—

10                   “(I) is a member of the teaching  
11                   profession; or

12                   “(II) has exceptional ability in  
13                   the sciences or the arts.

14           “(iii) PROFESSIONAL ATHLETES.—

15                   “(I) IN GENERAL.—A certifi-  
16                   cation made under clause (i) with re-  
17                   spect to a professional athlete shall  
18                   remain valid with respect to the ath-  
19                   lete after the athlete changes em-  
20                   ployer, if the new employer is a team  
21                   in the same sport as the team which  
22                   employed the athlete when the athlete  
23                   first applied for the certification.

24                   “(II) DEFINITION.—For pur-  
25                   poses of subclause (I), the term ‘pro-

1 professional athlete’ means an individual  
2 who is employed as an athlete by—

3 “(aa) a team that is a mem-  
4 ber of an association of 6 or  
5 more professional sports teams  
6 whose total combined revenues  
7 exceed \$10,000,000 per year, if  
8 the association governs the con-  
9 duct of its members and regu-  
10 lates the contests and exhibitions  
11 in which its member teams regu-  
12 larly engage; or

13 “(bb) any minor league  
14 team that is affiliated with such  
15 an association.

16 “(iv) LONG DELAYED ADJUSTMENT  
17 APPLICANTS.—A certification made under  
18 clause (i) with respect to an individual  
19 whose petition is covered by section 204(j)  
20 shall remain valid with respect to a new  
21 job accepted by the individual after the in-  
22 dividual changes jobs or employers if the  
23 new job is in the same or a similar occupa-  
24 tional classification as the job for which  
25 the certification was issued.

1                   “(v) COMPUTATION OF PREVAILING  
2                   WAGE.—

3                   “(I) EMPLOYEES OF CERTAIN  
4                   RESEARCH ORGANIZATIONS.—In com-  
5                   puting the prevailing wage level for an  
6                   occupational classification in an area  
7                   of employment for purposes of section  
8                   214(u)(1)(A)(i)(II) and this subpara-  
9                   graph in the case of an employee of—

10                   “(aa) an institution of high-  
11                   er education (as defined in sec-  
12                   tion 101(a) of the Higher Edu-  
13                   cation Act of 1965), or a related  
14                   or affiliated nonprofit entity; or

15                   “(bb) a nonprofit research  
16                   organization or a Governmental  
17                   research organization,

18                   the prevailing wage level shall only  
19                   take into account employees at such  
20                   institutions and organizations in the  
21                   area of employment.

22                   “(II) PROFESSIONAL ATH-  
23                   LETES.—With respect to a profes-  
24                   sional athlete (as defined in clause  
25                   (iii)(II)) when the job opportunity is

1 covered by professional sports league  
2 rules or regulations, the wage set  
3 forth in those rules or regulations  
4 shall be considered as not adversely  
5 affecting the wages of United States  
6 workers similarly employed and be  
7 considered the prevailing wage.

8 “(B) UNQUALIFIED PHYSICIANS.—An  
9 alien who is a graduate of a medical school not  
10 accredited by a body or bodies approved for the  
11 purpose by the Secretary of Education (regard-  
12 less of whether such school of medicine is in the  
13 United States) and who is coming to the United  
14 States principally to perform services as a  
15 member of the medical profession is inadmis-  
16 sible, unless the alien (i) has passed parts I and  
17 II of the National Board of Medical Examiners  
18 Examination (or an equivalent examination as  
19 determined by the Secretary of Health and  
20 Human Services) and (ii) is competent in oral  
21 and written English. For purposes of the pre-  
22 vious sentence, an alien who is a graduate of a  
23 medical school shall be considered to have  
24 passed parts I and II of the National Board of  
25 Medical Examiners if the alien was fully and

1 permanently licensed to practice medicine in a  
2 State on January 9, 1978, and was practicing  
3 medicine in a State on that date.

4 “(C) UNCERTIFIED FOREIGN HEALTH-  
5 CARE WORKERS.—Subject to subsection (j), any  
6 alien who seeks to enter the United States for  
7 the purpose of performing labor as a health-  
8 care worker, other than a physician, is inadmis-  
9 sible unless the alien presents to the consular  
10 officer, or, in the case of an adjustment of sta-  
11 tus, the Attorney General, a certificate from the  
12 Commission on Graduates of Foreign Nursing  
13 Schools, or a certificate from an equivalent  
14 independent credentialing organization ap-  
15 proved by the Attorney General in consultation  
16 with the Secretary of Health and Human Serv-  
17 ices, verifying that—

18 “(i) the alien’s education, training, li-  
19 cense, and experience—

20 “(I) meet all applicable statutory  
21 and regulatory requirements for entry  
22 into the United States under the clas-  
23 sification specified in the application;

1           “(II) are comparable with that  
2           required for an American health-care  
3           worker of the same type; and

4           “(III) are authentic and, in the  
5           case of a license, unencumbered;

6           “(ii) the alien has the level of com-  
7           petence in oral and written English consid-  
8           ered by the Secretary of Health and  
9           Human Services, in consultation with the  
10          Secretary of Education, to be appropriate  
11          for health care work of the kind in which  
12          the alien will be engaged, as shown by an  
13          appropriate score on one or more nation-  
14          ally recognized, commercially available,  
15          standardized assessments of the applicant’s  
16          ability to speak and write; and

17          “(iii) if a majority of States licensing  
18          the profession in which the alien intends to  
19          work recognize a test predicting the suc-  
20          cess on the profession’s licensing or certifi-  
21          cation examination, the alien has passed  
22          such a test or has passed such an examina-  
23          tion.

24                 For purposes of clause (ii), determination of the  
25                 standardized tests required and of the minimum



1 scores that are appropriate are within the sole  
2 discretion of the Secretary of Health and  
3 Human Services and are not subject to further  
4 administrative or judicial review.

5 “(D) APPLICATION OF GROUNDS.—The  
6 grounds for inadmissibility of aliens under sub-  
7 paragraphs (A) and (B) shall apply to immi-  
8 grants seeking admission or adjustment of sta-  
9 tus under paragraph (2) or (3) of section  
10 203(b).

11 “(6) ILLEGAL ENTRANTS AND IMMIGRATION  
12 VIOLATORS.—

13 “(A) ALIENS PRESENT WITHOUT ADMIS-  
14 SION OR PAROLE.—

15 “(i) IN GENERAL.—An alien present  
16 in the United States without being admit-  
17 ted or paroled, or who arrives in the  
18 United States at any time or place other  
19 than as designated by the Attorney Gen-  
20 eral, is inadmissible.

21 “(ii) EXCEPTION FOR CERTAIN BAT-  
22 TERED WOMEN AND CHILDREN.—Clause  
23 (i) shall not apply to an alien who dem-  
24 onstrates that—

1           “(I) the alien qualifies for immi-  
2 grant status under subparagraph  
3 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of  
4 section 204(a)(1);

5           “(II)(aa) the alien has been bat-  
6 tered or subjected to extreme cruelty  
7 by a spouse or parent, or by a mem-  
8 ber of the spouse’s or parent’s family  
9 residing in the same household as the  
10 alien and the spouse or parent con-  
11 sented or acquiesced in such battery  
12 or cruelty, or (bb) the alien’s child has  
13 been battered or subjected to extreme  
14 cruelty by a spouse or parent of the  
15 alien (without the active participation  
16 of the alien in the battery or cruelty)  
17 or by a member of the spouse’s or  
18 parent’s family residing in the same  
19 household as the alien when the  
20 spouse or parent consented to or ac-  
21 quiesced in such battery or cruelty  
22 and the alien did not actively partici-  
23 pate in such battery or cruelty; and

24           “(III) there was a substantial  
25 connection between the battery or cru-

1 elty described in subclause (I) or (II)  
2 and the alien’s unlawful entry into the  
3 United States.

4 “(B) FAILURE TO ATTEND REMOVAL PRO-  
5 CEEDING.—Any alien who without reasonable  
6 cause fails or refuses to attend or remain in at-  
7 tendance at a proceeding to determine the  
8 alien’s inadmissibility or deportability and who  
9 seeks admission to the United States within 5  
10 years of such alien’s subsequent departure or  
11 removal is inadmissible.

12 “(C) MISREPRESENTATION.—

13 “(i) IN GENERAL.—Any alien who, by  
14 fraud or willfully misrepresenting a mate-  
15 rial fact, seeks to procure (or has sought  
16 to procure or has procured) a visa, other  
17 documentation, or admission into the  
18 United States or other benefit provided  
19 under this Act for himself, herself, or any  
20 other alien, is inadmissible.

21 “(ii) FALSELY CLAIMING CITIZEN-  
22 SHIP.—

23 “(I) IN GENERAL.—Any alien  
24 who falsely represents, or has falsely  
25 represented, himself or herself to be a

1 citizen of the United States for any  
2 purpose or benefit under this Act (in-  
3 cluding section 274A) or any other  
4 Federal or State law is inadmissible.

5 “(II) EXCEPTION.—In the case  
6 of an alien making a representation  
7 described in subclause (I), if each nat-  
8 ural parent of the alien (or, in the  
9 case of an adopted alien, each adop-  
10 tive parent of the alien) is or was a  
11 citizen (whether by birth or natu-  
12 ralization), the alien permanently re-  
13 sided in the United States prior to at-  
14 taining the age of 16, and the alien  
15 reasonably believed at the time of  
16 making such representation that he or  
17 she was a citizen, the alien shall not  
18 be considered to be inadmissible under  
19 any provision of this subsection based  
20 on such representation.

21 “(D) STOWAWAYS.—Any alien who is a  
22 stowaway is inadmissible.

23 “(E) SMUGGLERS.—

24 “(i) IN GENERAL.—Any alien who at  
25 any time knowingly has encouraged, in-

1           duced, assisted, abetted, or aided any other  
2           alien to enter or to try to enter the United  
3           States in violation of law is inadmissible.

4           “(ii) SPECIAL RULE IN THE CASE OF  
5           FAMILY REUNIFICATION.—Clause (i) shall  
6           not apply in the case of an alien who is an  
7           eligible immigrant (as defined in section  
8           301(b)(1) of the Immigration Act of  
9           1990), was physically present in the  
10          United States on May 5, 1988, and is  
11          seeking admission as an immediate relative  
12          or under section 203(a)(2) (including  
13          under section 112 of the Immigration Act  
14          of 1990) or benefits under section 301(a)  
15          of the Immigration Act of 1990 if the  
16          alien, before May 5, 1988, has encouraged,  
17          induced, assisted, abetted, or aided only  
18          the alien’s spouse, parent, son, or daughter  
19          (and no other individual) to enter the  
20          United States in violation of law.

21          “(iii) WAIVER AUTHORIZED.—For  
22          provision authorizing waiver of clause (i),  
23          see subsection (c)(6).

1           “(F) SUBJECT OF CIVIL PENALTY.—An  
2 alien who is the subject of a final order for vio-  
3 lation of section 274C is inadmissible.

4           “(G) STUDENT VISA ABUSERS.—An alien  
5 who obtains the status of a nonimmigrant  
6 under section 101(a)(15)(F)(i) and who violates  
7 a term or condition of such status under section  
8 214(l) is inadmissible until the alien has been  
9 outside the United States for a continuous pe-  
10 riod of 5 years after the date of the violation.

11           “(H) CHANGE OF ADDRESS.—An alien  
12 who has failed to comply with section 262 is in-  
13 admissible, unless the alien establishes to the  
14 satisfaction of the Attorney General that such  
15 failure was reasonably excusable or was not  
16 willful.

17           “(7) DOCUMENTATION REQUIREMENTS.—

18           “(A) IMMIGRANTS.—

19           “(i) IN GENERAL.—Except as other-  
20 wise specifically provided in this Act, any  
21 immigrant at the time of application for  
22 admission—

23           “(I) who is not in possession of a  
24 valid unexpired immigrant visa, re-  
25 entry permit, border crossing identi-

1            fication card, or other valid entry doc-  
2            ument required by this Act, and a  
3            valid unexpired passport, or other  
4            suitable travel document, or document  
5            of identity and nationality if such doc-  
6            ument is required under the regula-  
7            tions issued by the Attorney General  
8            under section 211(a); or

9            “(II) whose visa has been issued  
10           without compliance with the provi-  
11           sions of section 203,

12           is inadmissible.

13           “(ii) WAIVER AUTHORIZED.—For pro-  
14           vision authorizing waiver of clause (i), see  
15           subsection (g).

16           “(B) NONIMMIGRANTS.—

17           “(i) IN GENERAL.—Any non-  
18           immigrant who—

19           “(I) is not in possession of a  
20           passport valid for a minimum of six  
21           months from the date of the expira-  
22           tion of the initial period of the alien’s  
23           admission or contemplated initial pe-  
24           riod of stay authorizing the alien to  
25           return to the country from which the

1 alien came or to proceed to and enter  
2 some other country during such pe-  
3 riod; or

4 “(II) is not in possession of a  
5 valid nonimmigrant visa or border  
6 crossing identification card at the  
7 time of application for admission,  
8 is inadmissible.

9 “(ii) GENERAL WAIVER AUTHOR-  
10 IZED.—For provision authorizing waiver of  
11 clause (i), see subsection (c)(2).

12 “(8) INELIGIBLE FOR CITIZENSHIP.—

13 “(A) IN GENERAL.—Any immigrant who is  
14 permanently ineligible to citizenship is inadmis-  
15 sible.

16 “(B) DRAFT EVADERS.—Any person who  
17 has departed from or who has remained outside  
18 the United States to avoid or evade training or  
19 service in the armed forces in time of war or a  
20 period declared by the President to be a na-  
21 tional emergency is inadmissible, except that  
22 this subparagraph shall not apply to an alien  
23 who at the time of such departure was a non-  
24 immigrant and who is seeking to reenter the  
25 United States as a nonimmigrant.



1 “(9) ALIENS PREVIOUSLY REMOVED.—

2 “(A) CERTAIN ALIENS PREVIOUSLY RE-  
3 MOVED.—

4 “(i) ARRIVING ALIENS.—Any alien  
5 who has been ordered removed under sec-  
6 tion 235(b)(1) or at the end of proceedings  
7 under section 240 initiated upon the  
8 alien’s arrival in the United States and  
9 who again seeks admission within 5 years  
10 of the date of such removal (or within 20  
11 years in the case of a second or subsequent  
12 removal or at any time in the case of an  
13 alien convicted of an aggravated felony) is  
14 inadmissible.

15 “(ii) OTHER ALIENS.—Any alien not  
16 described in clause (i) who—

17 “(I) has been ordered removed  
18 under section 240 or any other provi-  
19 sion of law; or

20 “(II) departed the United States  
21 while an order of removal was out-  
22 standing,

23 and who seeks admission within 10 years  
24 of the date of such alien’s departure or re-  
25 moval (or within 20 years of such date in

1 the case of a second or subsequent removal  
2 or at any time in the case of an alien con-  
3 victed of an aggravated felony) is inadmis-  
4 sible.

5 “(B) ALIENS UNLAWFULLY PRESENT.—

6 “(i) IN GENERAL.—Any alien (other  
7 than an alien lawfully admitted for perma-  
8 nent residence) who—

9 “(I) was unlawfully present in  
10 the United States for a period of more  
11 than 180 days but less than 1 year,  
12 voluntarily departed the United States  
13 (whether or not pursuant to section  
14 244(e)) prior to the commencement of  
15 proceedings under section 235(b)(1)  
16 or section 240, and again seeks ad-  
17 mission within 3 years of the date of  
18 such alien’s departure or removal; or

19 “(II) has been unlawfully present  
20 in the United States for one year or  
21 more, and who again seeks admission  
22 within 10 years of the date of such  
23 alien’s departure or removal from the  
24 United States,

25 is inadmissible.

1           “(ii) CONSTRUCTION OF UNLAWFUL  
2 PRESENCE.—For purposes of this para-  
3 graph, an alien is deemed to be unlawfully  
4 present in the United States if the alien is  
5 present in the United States after the expi-  
6 ration of the period of stay authorized by  
7 the Attorney General or is present in the  
8 United States without being admitted or  
9 paroled.

10           “(iii) EXCEPTIONS.—

11           “(I) MINORS.—No period of time  
12 in which an alien is under 18 years of  
13 age shall be taken into account in de-  
14 termining the period of unlawful pres-  
15 ence in the United States under  
16 clause (i).

17           “(II) ASYLEES.—No period of  
18 time in which an alien has a bona fide  
19 application for asylum pending under  
20 section 208 shall be taken into ac-  
21 count in determining the period of un-  
22 lawful presence in the United States  
23 under clause (i) unless the alien dur-  
24 ing such period was employed without  
25 authorization in the United States.

1           “(III) FAMILY UNITY.—No pe-  
2           riod of time in which the alien is a  
3           beneficiary of family unity protection  
4           pursuant to section 301 of the Immi-  
5           gration Act of 1990 shall be taken  
6           into account in determining the period  
7           of unlawful presence in the United  
8           States under clause (i).

9           “(IV) BATTERED WOMEN AND  
10          CHILDREN.—Clause (i) shall not apply  
11          to an alien who would be described in  
12          paragraph (6)(A)(ii) if ‘violation of  
13          the terms of the alien’s nonimmigrant  
14          visa’ were substituted for ‘unlawful  
15          entry into the United States’ in sub-  
16          clause (III) of that paragraph.

17          “(iv) TOLLING FOR GOOD CAUSE.—In  
18          the case of an alien who—

19                 “(I) has been lawfully admitted  
20                 or paroled into the United States;

21                 “(II) has filed a nonfrivolous ap-  
22                 plication for a change or extension of  
23                 status before the date of expiration of  
24                 the period of stay authorized by the  
25                 Attorney General; and

1                   “(III) has not been employed  
2                   without authorization in the United  
3                   States before or during the pendency  
4                   of such application,  
5                   the calculation of the period of time speci-  
6                   fied in clause (i)(I) shall be tolled during  
7                   the pendency of such application, but not  
8                   to exceed 120 days.

9                   “(C) ALIENS UNLAWFULLY PRESENT  
10                  AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

11                  “(i) IN GENERAL.—Any alien who—

12                         “(I) has been unlawfully present  
13                         in the United States for an aggregate  
14                         period of more than 1 year; or

15                         “(II) has been ordered removed  
16                         under section 235(b)(1), section 240,  
17                         or any other provision of law,

18                         and who enters or attempts to reenter the  
19                         United States without being admitted is  
20                         inadmissible.

21                         “(ii) EXCEPTION.—Clause (i) shall  
22                         not apply to an alien seeking admission  
23                         more than 10 years after the date of the  
24                         alien’s last departure from the United  
25                         States if, prior to the alien’s reembar-

1 kation at a place outside the United States  
2 or attempt to be readmitted from a foreign  
3 contiguous territory, the Attorney General  
4 has consented to the alien’s reapplying for  
5 admission. The Attorney General in the  
6 Attorney General’s discretion may waive  
7 the provisions of section 212(a)(9)(C)(i) in  
8 the case of an alien to whom the Attorney  
9 General has granted classification under  
10 clause (iii), (iv), or (v) of section  
11 204(a)(1)(A), or classification under clause  
12 (ii), (iii), or (iv) of section 204(a)(1)(B), in  
13 any case in which there is a direct connec-  
14 tion between—

15 “(I) the alien’s having been bat-  
16 tered or subjected to extreme cruelty;  
17 and

18 “(II) the alien’s—

19 “(aa) removal;

20 “(bb) departure from the  
21 United States;

22 “(cc) reentry or reentries  
23 into the United States; or

24 “(dd) attempted reentry into  
25 the United States.

1 “(10) MISCELLANEOUS.—

2 “(A) PRACTICING POLYGAMISTS.—Any im-  
3 migrant who is coming to the United States to  
4 practice polygamy is inadmissible.

5 “(B) GUARDIAN REQUIRED TO ACCOMPANY  
6 HELPLESS ALIEN.—Any alien—

7 “(i) who is accompanying another  
8 alien who is inadmissible and who is cer-  
9 tified to be helpless from sickness, mental  
10 or physical disability, or infancy pursuant  
11 to section 232(c); and

12 “(ii) whose protection or guardianship  
13 is determined to be required by the alien  
14 described in clause (i),  
15 is inadmissible.

16 “(C) INTERNATIONAL CHILD ABDUC-  
17 TION.—

18 “(i) IN GENERAL.—Except as pro-  
19 vided in clause (ii), any alien who, after  
20 entry of an order by a court in the United  
21 States granting custody to a person of a  
22 United States citizen child who detains or  
23 retains the child, or withholds custody of  
24 the child, outside the United States from  
25 the person granted custody by that order,

1 is inadmissible until the child is surren-  
2 dered to the person granted custody by  
3 that order.

4 “(ii) ALIENS SUPPORTING ABDUCTORS  
5 AND RELATIVES OF ABDUCTORS.—Any  
6 alien who—

7 “(I) is known by the Secretary of  
8 State to have intentionally assisted an  
9 alien in the conduct described in  
10 clause (i);

11 “(II) is known by the Secretary  
12 of State to be intentionally providing  
13 material support or safe haven to an  
14 alien described in clause (i); or

15 “(III) is a spouse (other than the  
16 spouse who is the parent of the ab-  
17 ducted child), child (other than the  
18 abducted child), parent, sibling, or  
19 agent of an alien described in clause  
20 (i), if such person has been designated  
21 by the Secretary of State at the Sec-  
22 retary’s sole and unreviewable discre-  
23 tion, is inadmissible until the child de-  
24 scribed in clause (i) is surrendered to  
25 the person granted custody by the



1 order described in that clause, and  
2 such person and child are permitted  
3 to return to the United States or such  
4 person's place of residence.

5 “(iii) EXCEPTIONS.—Clauses (i) and  
6 (ii) shall not apply—

7 “(I) to a government official of  
8 the United States who is acting within  
9 the scope of his or her official duties;

10 “(II) to a government official of  
11 any foreign government if the official  
12 has been designated by the Secretary  
13 of State at the Secretary's sole and  
14 unreviewable discretion; or

15 “(III) so long as the child is lo-  
16 cated in a foreign state that is a party  
17 to the Convention on the Civil Aspects  
18 of International Child Abduction,  
19 done at The Hague on October 25,  
20 1980.

21 “(D) UNLAWFUL VOTERS.—

22 “(i) IN GENERAL.—Any alien who has  
23 voted in violation of any Federal, State, or  
24 local constitutional provision, statute, ordi-  
25 nance, or regulation is inadmissible.

1           “(ii) EXCEPTION.—In the case of an  
2           alien who voted in a Federal, State, or  
3           local election (including an initiative, re-  
4           call, or referendum) in violation of a lawful  
5           restriction of voting to citizens, if each nat-  
6           ural parent of the alien (or, in the case of  
7           an adopted alien, each adoptive parent of  
8           the alien) is or was a citizen (whether by  
9           birth or naturalization), the alien perma-  
10          nently resided in the United States prior to  
11          attaining the age of 16, and the alien rea-  
12          sonably believed at the time of such viola-  
13          tion that he or she was a citizen, the alien  
14          shall not be considered to be inadmissible  
15          under any provision of this subsection  
16          based on such violation.

17           “(E) FORMER CITIZENS WHO RENOUNCED  
18          CITIZENSHIP.—Any alien who is a former cit-  
19          izen of the United States who officially re-  
20          nounced United States citizenship is inadmis-  
21          sible.

22          “(b) NOTICES OF DENIALS.—

23           “(1) IN GENERAL.— Subject to paragraphs (2)  
24          and (3), if an alien’s application for a visa, for ad-  
25          mission to the United States, or for adjustment of

1 status is denied by an immigration or consular offi-  
2 cer because the officer determines the alien to be  
3 inadmissible under subsection (a), the officer shall  
4 provide the alien with a timely written notice that—

5 “(A) states the determination; and

6 “(B) lists the specific provision or provi-  
7 sions of law under which the alien is excludable  
8 or ineligible for entry or adjustment of status.

9 “(2) WAIVER.—The Secretary of State may  
10 waive the requirements of paragraph (1) with re-  
11 spect to a particular alien or any class or classes of  
12 inadmissible aliens.

13 “(3) INAPPLICABILITY.—Paragraph (1) does  
14 not apply to any alien inadmissible under paragraph  
15 (2) or (3) of subsection (a).

16 “(c) SPECIAL RULES.—

17 “(1) ‘S’ NONIMMIGRANTS.—The Attorney Gen-  
18 eral shall determine whether a ground for inadmis-  
19 sibility exists with respect to a nonimmigrant de-  
20 scribed in section 101(a)(15)(S). The Attorney Gen-  
21 eral, in the Attorney General’s discretion, may waive  
22 the application of subsection (a) (other than para-  
23 graph (3)(E)) in the case of a nonimmigrant de-  
24 scribed in section 101(a)(15)(S), if the Attorney  
25 General considers it to be in the national interest to

1 do so. Nothing in this section shall be regarded as  
2 prohibiting the Immigration and Naturalization  
3 Service from instituting removal proceedings against  
4 an alien admitted as a nonimmigrant under section  
5 101(a)(15)(S) for conduct committed after the  
6 alien's admission into the United States, or for con-  
7 duct or a condition that was not disclosed to the At-  
8 torney General prior to the alien's admission as a  
9 nonimmigrant under section 101(a)(15)(S).

10 “(2) DOCUMENTARY REQUIREMENTS FOR NON-  
11 IMMIGRANTS.—Either or both of the requirements of  
12 subsection (a)(7)(B)(i) may be waived by the Attor-  
13 ney General and the Secretary of State acting  
14 jointly—

15 “(A) on the basis of unforeseen emergency  
16 in individual cases; or

17 “(B) in the case of aliens proceeding in im-  
18 mediate and continuous transit through the  
19 United States under contracts authorized in  
20 section 238(c).

21 “(3) PAROLE.—

22 “(A) IN GENERAL.—The Attorney General  
23 may, except as provided in subparagraph (B) or  
24 in section 214(f), in the discretion of the Attor-  
25 ney General, parole into the United States a

1 Cuban national or, in the case of nationals of  
2 other countries, temporarily under such condi-  
3 tions as the Attorney General may prescribe  
4 only on a case-by-case basis for urgent humani-  
5 tarian reasons or significant law enforcement  
6 reasons any alien applying for admission to the  
7 United States, but such parole shall not be re-  
8 garded as an admission of the alien and when  
9 the purposes of such parole shall, in the opinion  
10 of the Attorney General, have been served the  
11 alien shall forthwith return or be returned to  
12 the custody from which the alien was paroled  
13 and thereafter the case shall continue to be  
14 dealt with in the same manner as that of any  
15 other applicant for admission to the United  
16 States. Parole on a temporary basis cannot ex-  
17 ceed 120 days, unless for a significant law en-  
18 forcement reason. The Attorney General may  
19 not parole into the United States an alien for  
20 urgent humanitarian reasons if the alien is in-  
21 admissible under paragraph (2), (3), or (9) of  
22 subsection (a).

23 “(B) REFUGEES.—The Attorney General  
24 may not parole into the United States an alien  
25 who is a refugee unless the Attorney General

1 determines that compelling reasons in the pub-  
2 lic interest with respect to that particular alien  
3 require that the alien be paroled into the  
4 United States rather than be admitted as a ref-  
5 ugee under section 207.

6 “(4) ALIENS ENTERING FROM GUAM, PUERTO  
7 RICO, OR THE VIRGIN ISLANDS.—The provisions of  
8 subsection (a) (other than paragraph (7)) shall be  
9 applicable to any alien who shall leave Guam, Puerto  
10 Rico, or the Virgin Islands of the United States, and  
11 who seeks to enter the continental United States or  
12 any other place under the jurisdiction of the United  
13 States. Any alien described in this paragraph, who  
14 is denied admission to the United States, shall be  
15 immediately removed in the manner provided by sec-  
16 tion 241(c) of this Act.

17 “(5) FOREIGN GOVERNMENT OFFICIALS.—  
18 Upon a basis of reciprocity accredited officials of  
19 foreign governments, their immediate families, at-  
20 tendants, servants, and personal employees may be  
21 admitted in immediate and continuous transit  
22 through the United States without regard to the  
23 provisions of this section except paragraphs (3)(A),  
24 (3)(B), (3)(C), and (7)(B) of subsection (a) of this  
25 section.

1           “(6) SMUGGLERS.—The Attorney General may,  
2           in the discretion of the Attorney General for urgent  
3           humanitarian reasons, waive application of sub-  
4           section (a)(6)(E)(i) in the case of any alien lawfully  
5           admitted for permanent residence who temporarily  
6           proceeded abroad voluntarily and not under an order  
7           of removal, and who is otherwise admissible to the  
8           United States as a returning resident under section  
9           211(b) if the alien has encouraged, induced, as-  
10          sisted, abetted, or aided only an individual who at  
11          the time of such action was the alien’s spouse, par-  
12          ent, son, or daughter (and no other individual) to  
13          enter the United States in violation of law.

14           “(7) ‘T’ NONIMMIGRANTS.—

15           “(A) DETERMINATION.—The Attorney  
16          General shall determine whether a ground for  
17          inadmissibility exists with respect to a non-  
18          immigrant described in section 101(a)(15)(T).

19           “(B) WAIVER.—In addition to any other  
20          waiver that may be available under this section,  
21          in the case of a nonimmigrant described in sec-  
22          tion 101(a)(15)(T), if the Attorney General  
23          considers it to be in the national interest to do  
24          so, the Attorney General, in the Attorney Gen-  
25          eral’s discretion, may waive the application of—

1 “(i) paragraphs (1) and (4) of sub-  
2 section (a); and

3 “(ii) any other provision of such sub-  
4 section (excluding paragraphs (2), (3), (8),  
5 (9)(A), (10)(C), (10)(D), and (10)(E)) if  
6 the activities rendering the alien inadmis-  
7 sible under the provision were caused by  
8 the victimization described in section  
9 101(a)(15)(T)(i)(I).

10 “(8) ‘U’ NONIMMIGRANTS.—

11 “(A) DETERMINATION.—The Attorney  
12 General shall determine whether a ground for  
13 inadmissibility exists with respect to a non-  
14 immigrant described in section 101(a)(15)(U).

15 “(B) WAIVER.—In addition to any other  
16 waiver that may be available under this section,  
17 in the case of a nonimmigrant described in sec-  
18 tion 101(a)(15)(U), if the Attorney General  
19 considers it to be in the national interest to do  
20 so, the Attorney General, in the Attorney Gen-  
21 eral’s discretion, may waive the application of—

22 “(i) paragraphs (1) and (4) of sub-  
23 section (a); and

24 “(ii) any other provision of such sub-  
25 section (excluding paragraphs (2), (3), (8),



1                   (9)(A), (10)(C), (10)(D), and (10)(E)) if  
2                   the activities rendering the alien inadmis-  
3                   sible under the provision were caused by  
4                   the criminal activity described in section  
5                   101(a)(15)(U)(iii).

6           “(d) SUSPENSION OF ENTRY.—Whenever the Presi-  
7   dent finds that the entry of any aliens or of any class of  
8   aliens into the United States would be detrimental to the  
9   interests of the United States, the President may by proc-  
10 lamation, and for such period as the President shall deem  
11 necessary, suspend the entry of all aliens or any class of  
12 aliens as immigrants or nonimmigrants, or impose on the  
13 entry of aliens any restrictions the President may deem  
14 to be appropriate. Whenever the Attorney General finds  
15 that a commercial airline has failed to comply with regula-  
16 tions of the Attorney General relating to requirements of  
17 airlines for the detection of fraudulent documents used by  
18 passengers traveling to the United States (including the  
19 training of personnel in such detection), the Attorney Gen-  
20 eral may suspend the entry of some or all aliens trans-  
21 ported to the United States by such airline.

22           “(e) WAIVERS OF HEALTH-RELATED GROUNDS.—  
23 The Attorney General may waive the application of—

24                   “(1) subsection (a)(1)(A)(i) in the case of any  
25                   alien who—

1           “(A) is the spouse or the unmarried son or  
2 daughter, or the minor unmarried lawfully  
3 adopted child, of a United States citizen, or of  
4 an alien lawfully admitted for permanent resi-  
5 dence, or of an alien who has been issued an  
6 immigrant visa;

7           “(B) has a son or daughter who is a  
8 United States citizen, or an alien lawfully ad-  
9 mitted for permanent residence, or an alien who  
10 has been issued an immigrant visa; or

11           “(C) qualifies for classification under  
12 clause (iii) or (iv) of section 204(a)(1)(A) or  
13 classification under clause (ii) or (iii) of section  
14 204(a)(1)(B);

15 in accordance with such terms, conditions, and con-  
16 trols, if any, including the giving of bond, as the At-  
17 torney General, in the discretion of the Attorney  
18 General after consultation with the Secretary of  
19 Health and Human Services, may by regulation pre-  
20 scribe;

21           “(2) subsection (a)(1)(A)(ii) in the case of any  
22 alien—

23           “(A) who receives vaccination against the  
24 vaccine-preventable disease or diseases for

1           which the alien has failed to present docu-  
2           mentation of previous vaccination;

3           “(B) for whom a civil surgeon, medical of-  
4           ficer, or panel physician (as those terms are de-  
5           fined by section 34.2 of title 42, Code of Fed-  
6           eral Regulations) certifies, according to such  
7           regulations as the Secretary of Health and  
8           Human Services may prescribe, that such vac-  
9           cination would not be medically appropriate; or

10           “(C) under such circumstances as the At-  
11           torney General provides by regulation, with re-  
12           spect to whom the requirement of such a vac-  
13           cination would be contrary to the alien’s reli-  
14           gious beliefs or moral convictions; or

15           “(3) subsection (a)(1)(A)(iii) in the case of any  
16           alien, in accordance with such terms, conditions, and  
17           controls, if any, including the giving of bond, as the  
18           Attorney General, in the discretion of the Attorney  
19           General after consultation with the Secretary of  
20           Health and Human Services, may by regulation pre-  
21           scribe.

22           “(f) WAIVERS OF CRIMINAL AND RELATED  
23           GROUNDS.—The Attorney General may, in the discretion  
24           of the Attorney General, waive the application of subpara-  
25           graphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)

1 and subparagraph (A)(i)(II) of such subsection insofar as  
2 it relates to a single offense of simple possession of 30  
3 grams or less of marijuana if—

4 “(1)(A) in the case of any immigrant, it is es-  
5 tablished to the satisfaction of the Attorney General  
6 that—

7 “(i) the alien is inadmissible only under  
8 subparagraph (D)(i) or (D)(ii) of such sub-  
9 section or the activities for which the alien is  
10 inadmissible occurred more than 15 years be-  
11 fore the date of the alien’s application for a  
12 visa, admission, or adjustment of status;

13 “(ii) the admission to the United States of  
14 such alien would not be contrary to the national  
15 welfare, safety, or security of the United States;  
16 and

17 “(iii) the alien has been rehabilitated; or

18 “(B) in the case of an immigrant who is the  
19 spouse, parent, son, or daughter of a citizen of the  
20 United States or an alien lawfully admitted for per-  
21 manent residence, if it is established to the satisfac-  
22 tion of the Attorney General that the alien’s denial  
23 of admission would result in exceptional and ex-  
24 tremely unusual hardship to the United States cit-

1       izen or lawfully resident spouse, parent, son, or  
2       daughter of such alien; and

3               “(2) the Attorney General, in the discretion of  
4       the Attorney General, and pursuant to such terms,  
5       conditions, and procedures as the Attorney General  
6       may by regulations prescribe, has consented to the  
7       alien’s applying or reapplying for a visa, for admis-  
8       sion to the United States, or adjustment of status.

9       No waiver shall be provided under this subsection in the  
10      case of an alien who has been convicted of (or who has  
11      admitted committing acts that constitute) murder or  
12      criminal acts involving torture, or an attempt or con-  
13      spiracy to commit murder or a criminal act involving tor-  
14      ture. No waiver shall be granted under this subsection in  
15      the case of an alien who has previously been admitted to  
16      the United States as an alien lawfully admitted for perma-  
17      nent residence if either since the date of such admission  
18      the alien has been convicted of an aggravated felony or  
19      the alien has not lawfully resided continuously in the  
20      United States for a period of not less than 7 years imme-  
21      diately preceding the date of initiation of proceedings to  
22      remove the alien from the United States. No waiver shall  
23      be granted under this subsection in the case of any alien  
24      who is present in the United States after the expiration  
25      of the period of stay authorized by the Attorney General

1 or is present in the United States without being admitted  
2 or paroled if either the alien has been convicted of an ag-  
3 gravated felony committed in the United States or the  
4 alien has not resided continuously in the United States  
5 for a period of not less than 7 years immediately preceding  
6 the date of initiation of proceedings to remove the alien  
7 from the United States. No court shall have jurisdiction  
8 to review a decision of the Attorney General to grant or  
9 deny a waiver under this subsection.

10       “(g) ALIENS HAVING IMMIGRANT VISAS.—Any alien,  
11 inadmissible to the United States under paragraph (5)(A)  
12 or (7)(A)(i) of subsection (a), who is in possession of an  
13 immigrant visa may, if otherwise admissible, be admitted  
14 in the discretion of the Attorney General if the Attorney  
15 General is satisfied that inadmissibility was not known to,  
16 and could not have been ascertained by the exercise of rea-  
17 sonable diligence by, the immigrant before the time of de-  
18 parture of the vessel or aircraft from the last port outside  
19 the United States and outside foreign contiguous territory  
20 or, in the case of an immigrant coming from foreign con-  
21 tiguous territory, before the time of the immigrant’s appli-  
22 cation for admission.

23       “(h) WAIVER OF DOCUMENTATION REQUIREMENTS  
24 FOR NONIMMIGRANTS.—

1           “(1) IN GENERAL.—The requirement of sub-  
2           section (a)(7)(B)(i) may be waived by the Attorney  
3           General, the Secretary of State, and the Secretary of  
4           the Interior, acting jointly, in the case of an alien  
5           applying for admission as a nonimmigrant visitor for  
6           business or pleasure and solely for entry into and  
7           stay on Guam for a period not to exceed fifteen  
8           days, if the Attorney General, the Secretary of State  
9           and the Secretary of the Interior, after consultation  
10          with the Governor of Guam, jointly determine that—

11                   “(A) an adequate arrival and departure  
12                   control system has been developed on Guam;  
13                   and

14                   “(B) such a waiver does not represent a  
15                   threat to the welfare, safety, or security of the  
16                   United States or its territories and common-  
17                   wealths.

18          “(2) LIMITATION.—An alien may not be pro-  
19          vided a waiver under this subsection unless the alien  
20          has waived any right—

21                   “(A) to review or appeal under this Act of  
22                   an immigration officer’s determination as to the  
23                   admissibility of the alien at the port of entry  
24                   into Guam; or

1           “(B) to contest, other than on the basis of  
2           an application for asylum, any action for re-  
3           moval of the alien.

4           “(i) CONDITIONS ON RECEIPT OF IMMIGRANT VISAS  
5 FOLLOWING DEPARTURE.—An alien who has been phys-  
6 ically present in the United States shall not be eligible to  
7 receive an immigrant visa within ninety days following de-  
8 parture therefrom unless—

9           “(1) the alien was maintaining a lawful non-  
10          immigrant status at the time of such departure; or

11          “(2) the alien is the spouse or unmarried child  
12          of an individual who obtained temporary or perma-  
13          nent resident status under section 210 or 245A of  
14          the Immigration and Nationality Act or section 202  
15          of the Immigration Reform and Control Act of 1986  
16          at any date, who—

17                  “(A) as of May 5, 1988, was the unmar-  
18                  ried child or spouse of the individual who ob-  
19                  tained temporary or permanent resident status  
20                  under section 210 or 245A of the Immigration  
21                  and Nationality Act or section 202 of the Immi-  
22                  gration Reform and Control Act of 1986;

23                  “(B) entered the United States before May  
24                  5, 1988, resided in the United States on May



1           5, 1988, and is not a lawful permanent resi-  
2           dent; and

3                   “(C) applied for benefits under section  
4           301(a) of the Immigration Act of 1990.

5           “(j) UNCERTIFIED FOREIGN HEALTH-CARE WORK-  
6   ERS.—Subsection (a)(5)(C) shall not apply to an alien  
7   who seeks to enter the United States for the purpose of  
8   performing labor as a nurse who presents to the consular  
9   officer (or in the case of an adjustment of status, the At-  
10   torney General) a certified statement from the Commis-  
11   sion on Graduates of Foreign Nursing Schools (or an  
12   equivalent independent credentialing organization ap-  
13   proved for the certification of nurses under subsection  
14   (a)(5)(C) by the Attorney General in consultation with the  
15   Secretary of Health and Human Services) that—

16                   “(1) the alien has a valid and unrestricted li-  
17           cense as a nurse in a State where the alien intends  
18           to be employed and such State verifies that the for-  
19           eign licenses of alien nurses are authentic and  
20           unencumbered;

21                   “(2) the alien has passed the National Council  
22           Licensure Examination (NCLEX);

23                   “(3) the alien is a graduate of a nursing  
24           program—

1           “(A) in which the language of instruction  
2 was English;

3           “(B) located in a country—

4                 “(i) designated by such commission  
5 not later than 30 days after the date of the  
6 enactment of the Nursing Relief for Dis-  
7 advantaged Areas Act of 1999, based on  
8 such commission’s assessment that the  
9 quality of nursing education in that coun-  
10 try, and the English language proficiency  
11 of those who complete such programs in  
12 that country, justify the country’s designa-  
13 tion; or

14                 “(ii) designated on the basis of such  
15 an assessment by unanimous agreement of  
16 such commission and any equivalent  
17 credentialing organizations which have  
18 been approved under subsection (a)(5)(C)  
19 for the certification of nurses under this  
20 subsection; and

21           “(C)(i) which was in operation on or before  
22 the date of the enactment of the Nursing Relief  
23 for Disadvantaged Areas Act of 1999; or

24                 “(ii) has been approved by unanimous  
25 agreement of such commission and any equiva-

1           lent credentialing organizations which have  
2           been approved under subsection (a)(5)(C) for  
3           the certification of nurses under this subsection.

4           “(k) PUBLIC CHARGE GROUND FOR FAMILY-SPON-  
5 SORED IMMIGRANTS.—In determining whether an alien  
6 described in subsection (a)(4)(C)(i) is inadmissible under  
7 subsection (a)(4) or ineligible to receive an immigrant visa  
8 or otherwise to adjust to the status of permanent resident  
9 by reason of subsection (a)(4), the consular officer or the  
10 Attorney General shall not consider any benefits the alien  
11 may have received that were authorized under section 501  
12 of the Illegal Immigration Reform and Immigrant Respon-  
13 sibility Act of 1996 (8 U.S.C. 1641(e)).”.

14           (b) TECHNICAL AND CONFORMING AMENDMENTS.—

15           (1) The following provisions of the Immigration  
16 and Nationality Act are amended by striking  
17 “212(e)” and inserting “222(h)”:

18           (A) Paragraphs (1), (2)(A), and (3) of sec-  
19 tion 214(l).

20           (B) Paragraphs (2) and (3)(B) of section  
21 240A(e).

22           (C) Section 245A(a)(2)(C).

23           (D) Section 248(3).

24           (2) Section 214 (8 U.S.C. 1202) is amended—

1 (A) by redesignating subsection (p) (as  
2 added by the Departments of Commerce, Jus-  
3 tice, and State, the Judiciary, and Related  
4 Agencies Appropriations Act, 2001, as enacted  
5 into law by Public Law 106–553) as subsection  
6 (r);

7 (B) by redesignating the second subsection  
8 (o) (as added by the Departments of Com-  
9 merce, Justice, and State, the Judiciary, and  
10 Related Agencies Appropriations Act, 2001, as  
11 enacted into law by Public Law 106–553) as  
12 subsection (q);

13 (C) by redesignating the first subsection  
14 (o) as subsection (p);

15 (D) by redesignating subsection (n) as sub-  
16 section (o); and

17 (E) by redesignating the second subsection  
18 (m) as subsection (n).

19 (3) Section 101(a) is amended—

20 (A) in paragraph (13)(B), by striking  
21 “212(d)(5)” and inserting “212(c)(3)”; and

22 (B) in paragraph (13)(C)(v), by striking  
23 “212(h)” and inserting “212(f)”.

24 (C) in paragraph (15)(H)—

- 1 (i) by striking “212(j)(2)” and insert-  
2 ing “214(s)(2)”;
- 3 (ii) by striking “212(n)(1)” and in-  
4 serting “214(u)(1)”;
- 5 (iii) by striking “212(m)(1)” and in-  
6 serting “214(t)(1)”;
- 7 (iv) by striking “212(m)(2)” and in-  
8 serting “214(t)(2)”;
- 9 (v) by striking “212(m)(6)” and in-  
10 serting “214(t)(6)”;
- 11 (D) in paragraph (15)(J), by striking  
12 “212(j)” and inserting “214(s)”;
- 13 (E) in paragraph (15)(K), by striking “(p)  
14 of section 214” and inserting “(r) of section  
15 214”;
- 16 (F) in paragraph (15)(T)(i), by striking  
17 “214(n)” and inserting “214(o)”;
- 18 (G) in paragraph (15)(U)(i), by striking  
19 “214(o)” and inserting “214(p)”;
- 20 (H) in paragraph (15)(V), by striking  
21 “214(o)” and inserting “214(q)”.
- 22 (4) Section 201(e)(4) is amended by striking  
23 “212(d)(5)” and inserting “212(e)(3)”.
- 24 (5) Section 214(a)(1) is amended by striking  
25 “212(l)” and inserting “212(h)”.

1 (6) Section 214(e)(5) is amended—

2 (A) by striking “212(m)” both places it  
3 appears and inserting “214(t)”; and

4 (B) by striking “212(n)” and inserting  
5 “214(u)”.

6 (7) Section 214(f)(2)(A) is amended by striking  
7 “212(d)(5)” and inserting “212(e)(3)”.

8 (8) Section 216(f) is amended by striking “sub-  
9 section (h) or (i) of section 212” and inserting “sec-  
10 tion 212(f)”.

11 (9) Section 237(a)(1)(C)(ii) is amended by  
12 striking “212(g)” and inserting “212(e)”.

13 (10) Section 240A(b)(4) is amended by striking  
14 “212(d)(5)” and inserting “212(e)(3)”.

15 (11) Section 242(a)(2)(B)(i) is amended by  
16 striking “212(h), 212(i),” and inserting “212(f),”.

17 (12) Section 245(c) is amended—

18 (A) by striking “212(d)(4)(C)” and insert-  
19 ing “212(c)(2)(C)”; and

20 (B) by striking “212(l)” and inserting  
21 “212(h)”.

22 (13) Section 248 is amended by striking “(or  
23 whose inadmissibility under such section is waived  
24 under section 212(a)(9)(B)(v))” in the matter pre-  
25 ceding paragraph (1).

1           (14) Section 248(4) is amended by striking  
2           “212(l)” and inserting “212(h)”.

3           (15) Section 252(a) is amended by striking  
4           “212(d)(3), section 212(d)(5),” and inserting  
5           “212(e)(3),”.

6           (16) Paragraphs (2) and (3) of section 254(a)  
7           are each amended by striking “212(d)(5)” and in-  
8           serting “212(e)(3)”.

9           (17) Section 286(s)(6) is amended—

10                   (A) by striking “212(n)(1)” each place it  
11                   appears and inserting “214(u)(1)”; and

12                   (B) by striking “212(n)(2)” both places it  
13                   appears and inserting “214(u)(2)”.

14           (c) **EFFECTIVE DATE.**—The amendments made by  
15           this section shall take effect of the date of the enactment  
16           of this Act and shall apply to acts undertaken, and condi-  
17           tions existing, before, on, or after such date.

18           **SEC. 205. ANTIFRAUD FEE.**

19           (a) **IMPOSITION OF FEE.**—

20                   (1) **IN GENERAL.**—Chapter 9 of title II of the  
21                   Immigration and Nationality Act (8 U.S.C. 1351 et  
22                   seq.) is amended by inserting after section 281 the  
23                   following:

1 “ANTIFRAUD FEE

2 “SEC. 281A. (a) IN GENERAL.—In addition to any  
3 other fees authorized by law, the Attorney General shall  
4 impose an antifraud fee on a petitioner filing a petition  
5 for classification under section 204, or a petition for an  
6 alien’s status as a nonimmigrant under section 101(a)(15)  
7 (excluding status under subparagraph (A), (B), (G), or  
8 (S) of such section).

9 “(b) AMOUNT.—The amount of the fee shall be \$100  
10 for each such petition.

11 “(c) DISPOSITION.—Fees collected under this section  
12 shall be deposited in the Treasury in accordance with sec-  
13 tion 286(v).”.

14 (2) CLERICAL AMENDMENT.—The table of con-  
15 tents of the Immigration and Nationality Act is  
16 amended by inserting after the item relating to sec-  
17 tion 281 the following:

“Sec. 281A. Antifraud fee.”.

18 (b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—  
19 Section 286 (8 U.S.C. 1356) is amended by adding at the  
20 end the following:

21 “(v) ANTIFRAUD ACCOUNT.—

22 “(1) IN GENERAL.—There is established in the  
23 general fund of the Treasury a separate account  
24 which shall be known as the ‘Antifraud Account’.  
25 Notwithstanding any other provision of law, there



1 shall be deposited as offsetting receipts into the ac-  
2 count all fees collected under section 281A.

3 “(2) USE OF FEES TO COMBAT FRAUD.—

4 “(A) ATTORNEY GENERAL.—

5 “(i) PROGRAMS TO ELIMINATE  
6 FRAUD.—20 percent of amounts deposited  
7 into the Antifraud Account shall remain  
8 available to the Attorney General until ex-  
9 pended for programs and activities to  
10 eliminate fraud by petitioners and bene-  
11 ficiaries with respect to immigrant visa pe-  
12 titions under section 204 or status under  
13 section 101(a)(15) (excluding status under  
14 subparagraph (A), (B), (G), or (S) of such  
15 section).

16 “(ii) REMOVAL OF ALIENS.—20 per-  
17 cent of amounts deposited into the Anti-  
18 fraud Account shall remain available to the  
19 Attorney General until expended for the  
20 removal of aliens who are deportable under  
21 section 237(a)(1)(A) by reason of having  
22 been found to be within the class of aliens  
23 inadmissible under section 212(a)(6)(C).

24 “(B) SECRETARY OF STATE.—40 percent  
25 of the amounts deposited into the Antifraud Ac-

1 count shall remain available to the Secretary of  
2 State until expended for programs and activities  
3 to eliminate fraud by petitioners and bene-  
4 ficiaries described in subparagraph (A).

5 “(C) JOINT PROGRAMS.—20 percent of  
6 amounts deposited into the Antifraud Account  
7 shall remain available to the Attorney General  
8 and the Secretary of State until expended for  
9 programs and activities conducted by them  
10 jointly to eliminate fraud by petitioners and  
11 beneficiaries described in subparagraph (A).”.

12 (c) EFFECTIVE DATE.—The amendments made by  
13 this section shall take effect 6 months after the date of  
14 the enactment of this Act.

15 **TITLE III—TRACKING ALIENS**  
16 **PRESENT IN THE UNITED**  
17 **STATES**

18 **SEC. 301. ENTRY-EXIT SYSTEM.**

19 (a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—  
20 Section 110(b)(1) of the Illegal Immigration Reform and  
21 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221  
22 note) is amended to read as follows:

23 “(1) provides access to, and integrates, arrival  
24 and departure data of all aliens who arrive and de-  
25 part at ports of entry, in an electronic format and

1 in a database of the Department of Justice or the  
2 Department of State (including those created or  
3 used at ports of entry and at consular offices);”.

4 (b) CONSTRUCTION.—Section 110(c) of the Illegal  
5 Immigration Reform and Immigrant Responsibility Act of  
6 1996 (8 U.S.C. 1221 note) is amended to read as follows:

7 “(c) CONSTRUCTION.—Nothing in this section shall  
8 be construed to reduce or curtail any authority of the At-  
9 torney General or the Secretary of State under any other  
10 provision of law.”.

11 (c) DEADLINES.—Section 110(d) of the Illegal Immi-  
12 gration Reform and Immigrant Responsibility Act of 1996  
13 (8 U.S.C. 1221 note) is amended—

14 (1) in paragraph (1), by striking “December  
15 31” and inserting “October 26”;

16 (2) by amending paragraph (2) to read as fol-  
17 lows:

18 “(2) LAND BORDER PORTS OF ENTRY.—Not  
19 later than October 26, 2004, the Attorney General  
20 shall implement the integrated entry and exit data  
21 system using the data described in paragraph (1)  
22 and available alien arrival and departure data de-  
23 scribed in subsection (b)(1) pertaining to aliens ar-  
24 riving in, or departing from, the United States at all  
25 land border ports of entry. Such implementation

1 shall include ensuring that such data, when collected  
2 or created by an immigration officer at a port of  
3 entry, are entered into the system and can be  
4 accessed by immigration officers at airports, sea-  
5 ports, and other land border ports of entry.”; and

6 (3) by striking paragraph (3).

7 (d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—  
8 Section 110(f)(1) of the Illegal Immigration Reform and  
9 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221  
10 note) is amended by adding at the end the following:

11 “The Attorney General shall ensure that any officer  
12 or employee of the Immigration and Naturalization  
13 Service or the Department of State having need to  
14 access the data contained in the integrated entry  
15 and exit data system for any lawful purpose under  
16 the Immigration and Nationality Act has such ac-  
17 cess, including access for purposes of representation  
18 of the Service in removal proceedings under section  
19 240 of such Act and adjudication of applications for  
20 benefits under such Act.”.

21 (e) WAIVER AVAILABLE.—If the President deter-  
22 mines in writing, with respect to a fiscal or calendar year,  
23 that a waiver of one or more of the amendments made  
24 by this section is desirable and would not threaten the na-  
25 tional security of the United States, the President may

1 waive the effectiveness of such amendment or amendments  
2 with respect to such year.

3 **SEC. 302. COLLECTION OF INFORMATION REGARDING FOR-**  
4 **EIGN STUDENTS.**

5 (a) COURSE OF STUDY.—Section 641(c)(1)(C) of the  
6 Illegal Immigration Reform and Immigrant Responsibility  
7 Act of 1996 (8 U.S.C. 1372(c)(1)(C)) is amended by in-  
8 serting after “including” the following: “each course of  
9 study the student has taken and is taking at the institu-  
10 tion and”.

11 (b) IMPLEMENTATION OF PROGRAM TO COLLECT IN-  
12 FORMATION RELATING TO NONIMMIGRANT FOREIGN STU-  
13 DENTS AND OTHER EXCHANGE PROGRAM PARTICI-  
14 PANTS.—Section 641(d)(2) of the Illegal Immigration Re-  
15 form and Immigrant Responsibility Act of 1996 (8 U.S.C.  
16 1372(d)(2)) is amended to read as follows:

17 “(2) EFFECT OF FAILURES.—

18 “(A) FAILURE TO IMPLEMENT PRO-  
19 GRAM.—During any period on or after January  
20 1, 2003, if the program described in subsection  
21 (a) is not fully implemented in accordance with  
22 subsection (g), all approvals described in sub-  
23 paragraph (A) of paragraph (1), and all grants  
24 of authority described in subparagraph (B) of  
25 such paragraph, shall be revoked.

1           “(B) FAILURE TO PROVIDE INFORMA-  
2           TION.—During any period on or after January  
3           1, 2003, if an approved institution of higher  
4           education or a designated exchange visitor pro-  
5           gram fails to provide the information described  
6           in subsection (c) through the program described  
7           in subsection (a), all approvals described in sub-  
8           paragraph (A) of paragraph (1), and all grants  
9           of authority described in subparagraph (B) of  
10          such paragraph, with respect to such institution  
11          or exchange visitor program shall be revoked.

12 **SEC. 303. ALIEN REGISTRATION.**

13          (a) IN GENERAL.—Section 262 (8 U.S.C. 1302) is  
14 amended to read as follows:

15          “REGISTRATION OF ALIENS IN THE UNITED STATES

16          “SEC. 262. (a) INITIAL REGISTRATION.—

17                 “(1) IN GENERAL.—It shall be the duty of  
18                 every alien now or hereafter in the United States,  
19                 who (1) is fourteen years of age or older, (2) has not  
20                 been registered and fingerprinted under section  
21                 221(b) of this Act or section 30 or 31 of the Alien  
22                 Registration Act, 1940, and (3) remains in the  
23                 United States for thirty days or longer, to apply for  
24                 registration and to be fingerprinted before the expi-  
25                 ration of such thirty days.

1           “(2) MINORS.—It shall be the duty of every  
2           parent or legal guardian of any alien now or here-  
3           after in the United States, who (1) is less than four-  
4           teen years of age, (2) has not been registered under  
5           section 221(b) of this Act or section 30 or 31 of the  
6           Alien Registration Act, 1940, and (3) remains in the  
7           United States for thirty days or longer, to apply for  
8           the registration of such alien before the expiration of  
9           such thirty days. Whenever any alien attains his  
10          fourteenth birthday in the United States he shall,  
11          within thirty days thereafter, apply in person for  
12          registration and to be fingerprinted.

13          “(b) SUBSEQUENT REGISTRATIONS.—

14                 “(1) PERMANENT RESIDENTS.—In addition to  
15                 any other registration otherwise required under this  
16                 Act or any other Act, each alien lawfully admitted  
17                 for permanent residence shall annually register with  
18                 the Attorney General, regardless of whether there  
19                 has been any change in the alien’s address. This re-  
20                 quirement shall commence on the first anniversary  
21                 of the date on which the alien acquired the status  
22                 of an alien lawfully admitted for permanent resi-  
23                 dence that occurs after the enactment of the Secur-  
24                 ing America’s Future through Enforcement Reform  
25                 Act of 2002.

1           “(2) OTHER ALIENS.—In addition to any other  
2 registration otherwise required under this Act or any  
3 other Act, every alien in the United States, other  
4 than an alien described in paragraph (1), shall reg-  
5 ister with the Attorney General at the expiration of  
6 each 3-month period during which the alien remains  
7 in the United States, regardless of whether there has  
8 been any change in the alien’s address. This require-  
9 ment shall commence on the 60th day after the alien  
10 enters the United States.

11           “(3) MINORS.—In the case of an alien who is  
12 less than fourteen years of age, a parent or legal  
13 guardian of the alien may carry out this subsection  
14 on behalf of the alien.

15           “(c) CHANGE OF ADDRESS.—

16           “(1) IN GENERAL.—Each alien required to be  
17 registered under this title who is within the United  
18 States shall notify the Attorney General in writing  
19 of each change of address and new address within  
20 ten days from the date of such change and furnish  
21 with such notice such additional information as the  
22 Attorney General may require by regulation.

23           “(2) CERTAIN FOREIGN STATES.—

24           “(A) IN GENERAL.—The Attorney General  
25 may, in the discretion of the Attorney General,



1           upon ten days notice, require the natives of any  
2           one or more foreign states, or any class or  
3           group thereof, who are within the United States  
4           and who are required to be registered under  
5           this title, to notify the Attorney General of their  
6           current addresses and furnish such additional  
7           information as the Attorney General may re-  
8           quire.

9           “(B) NOTICE FOR MINORS.—In the case of  
10          an alien for whom a parent or legal guardian is  
11          required to apply for registration, the notice re-  
12          quired by this section shall be given to such  
13          parent or legal guardian.

14          “(3) MINORS.—In the case of an alien who is  
15          less than fourteen years of age, a parent or legal  
16          guardian of the alien may carry out this subsection  
17          on behalf of the alien.

18          “(d) EXCEPTION.—Subsections (b) and (c) shall not  
19          apply to an alien lawfully admitted for permanent resi-  
20          dence, and the alien’s spouse and children, if the alien is  
21          a member of the armed forces of the United States serving  
22          on active duty (as defined in section 101(d) of title 10,  
23          United States Code).

24          “(e) FORMS.—The Attorney General shall prepare  
25          forms for registrations and change of address notifications

1 required under this section. Such forms shall contain in-  
2 quires to obtain the following information:

3           “(1) Full name and aliases.

4           “(2) Current address.

5           “(3) Date of birth.

6           “(4) Visa category.

7           “(5) Date of entry into the United States.

8           “(6) Termination date of authorization to re-  
9 main in the United States, if any.

10          “(7) Signature.

11          “(8) Biometric feature of the alien.

12          “(9) Any additional information that the Attor-  
13 ney General determines to be necessary.

14          “(f) INFORMATION TECHNOLOGY SYSTEM.—The At-  
15 torney General shall establish and operate an information  
16 technology system for the electronic collection, compila-  
17 tion, and maintenance of the information submitted under  
18 this section. Such system shall permit any alien address  
19 in the United States that has been registered with the At-  
20 torney General, and the date of such registration, to be  
21 accessed by any officer or employee of the Immigration  
22 and Naturalization Service having need for such access for  
23 any lawful purpose under the Immigration and Nationality  
24 Act.”.

1 (b) REPEAL.—Section 265 (8 U.S.C. 1305) is re-  
2 pealed and the table of contents is amended by striking  
3 the item relating to such section.

4 (c) CONFORMING AMENDMENTS.—

5 (1) REMOVAL FOR FAILURE TO COMPLY.—Sec-  
6 tion 237(a)(3)(A) (8 U.S.C. 1227(a)(3)(A)) is  
7 amended by striking “265” and inserting “262”.

8 (2) REGISTRATION OF SPECIAL GROUPS.—Sec-  
9 tion 263(b) (8 U.S.C. 1303(b)) is amended by in-  
10 sserting “(excluding subsection (c) of such section)”  
11 after “262”.

12 (3) FORMS AND PROCEDURE.—Section 264(a)  
13 (8 U.S.C. 1304(a)) is amended by striking “of this  
14 title, and the Attorney General is authorized and di-  
15 rected to prepare forms for the registration and  
16 fingerprinting of aliens under section 262 of this  
17 title.” and inserting a period.

18 (4) PENALTIES.—Section 266 (8 U.S.C. 1306)  
19 is amended by striking “265” each place such term  
20 appears and inserting “262”.

21 (d) ATTORNEY GENERAL REPORT.—Not later than  
22 3 years after the date of the enactment of this Act, the  
23 Attorney General shall submit a report to the Committees  
24 on the Judiciary of the House of Representatives and the  
25 Senate on the implementation of section 262 of the Immi-

1 gration and Nationality Act, as amended by this section,  
2 and the results of such implementation.

3 (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

6 **SEC. 304. VISA TERM COMPLIANCE BONDS.**

7 (a) DEFINITIONS.—For purposes of this section:

8 (1) VISA TERM COMPLIANCE BOND.—The term  
9 “visa term compliance bond” means a written  
10 suretyship undertaking entered into by an alien indi-  
11 vidual seeking admission to the United States of  
12 America on a nonimmigrant visa whose performance  
13 is guaranteed by a bail agent.

14 (2) SURETYSHIP UNDERTAKING.—The term  
15 “suretyship undertaking” means a written agree-  
16 ment, executed by a bail agent, which binds all par-  
17 ties to its certain terms and conditions and which  
18 provides obligations for the visa applicant while  
19 under the bond and penalties for forfeiture to ensure  
20 the obligations of the principal under the agreement.

21 (3) BAIL AGENT.—The term “bail agent”  
22 means any individual properly licensed, approved,  
23 and appointed by power of attorney to execute or  
24 countersign bail bonds in connection with judicial  
25 proceedings and who receives a premium.

1           (4) SURETY.—The term “surety” means an en-  
2           tity, as defined by, and that is in compliance with,  
3           sections 9304 through 9308 of title 31, United  
4           States Code, that agrees—

5                   (A) to guarantee the performance, where  
6                   appropriate, of the principal under a visa term  
7                   compliance bond;

8                   (B) to perform as required in the event of  
9                   a forfeiture; and

10                   (C) to pay over the principal (penal) sum  
11                   of the bond for failure to perform.

12           (b) ISSUANCE OF BOND.—A consular officer may re-  
13           quire an applicant for a nonimmigrant visa, as a condition  
14           for granting such application, to obtain a visa term com-  
15           pliance bond.

16           (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-  
17           CELLATION OF BONDS.—

18                   (1) VALIDITY.—A visa term compliance bond  
19                   undertaking is valid if it—

20                           (A) states the full, correct, and proper  
21                           name of the alien principal;

22                           (B) states the amount of the bond;

23                           (C) is guaranteed by a surety and  
24                           countersigned by an attorney-in-fact who is  
25                           properly appointed;

1 (D) is an original signed document;

2 (E) is filed with the Commissioner along  
3 with the original application for a visa; and

4 (F) is not executed by electronic means.

5 (2) EXPIRATION.—A visa term compliance bond  
6 undertaking shall expire at the earliest of—

7 (A) 1 year from the date of issue;

8 (B) at the expiration, cancellation, or sur-  
9 render of the visa; or

10 (C) immediately upon nonpayment of the  
11 premium.

12 (3) RENEWAL.—The bond may be renewed—

13 (A) annually with payment of proper pre-  
14 mium at the option of the bail agent or surety;  
15 and

16 (B) provided there has been no breach of  
17 conditions, default, claim, or forfeiture of the  
18 bond.

19 (4) CANCELLATION.—The bond shall be can-  
20 celed and the surety and bail agent exonerated—

21 (A) for nonrenewal;

22 (B) if the surety or bail agent provides  
23 reasonable evidence that there was misrepresen-  
24 tation or fraud in the application for the bond;

25 (C) upon termination of the visa;

1           (D) upon death, incarceration of the prin-  
2           cipal, or the inability of the surety to produce  
3           the principal for medical reasons;

4           (E) if the principal is detained in any city,  
5           State, country, or political subdivision thereof;

6           (F) if the principal departs from the  
7           United States of America for any reason with-  
8           out permission of the Commissioner and the  
9           surety or bail agent; or

10          (G) if the principal is surrendered by the  
11          surety.

12          (5) EFFECT OF EXPIRATION OR CANCELLA-  
13          TION.—When a visa term compliance bond expires  
14          without being immediately renewed, or is canceled,  
15          the nonimmigrant status of the alien shall be re-  
16          voked immediately.

17          (6) SURRENDER OF PRINCIPAL; FORFEITURE  
18          OF BOND PREMIUM.—

19                (A) SURRENDER.—At any time before a  
20                breach of any of the conditions of the bond, the  
21                surety or bail agent may surrender the prin-  
22                cipal, or the principal may surrender, to any  
23                Immigration and Naturalization Service office  
24                or facility.

1 (B) FORFEITURE OF BOND PREMIUM.—A  
2 principal may be surrendered without the re-  
3 turn of any bond premium if the visa holder—

4 (i) changes address without notifying  
5 the surety or bail agent and the Attorney  
6 General in writing at least 60 days prior to  
7 such change;

8 (ii) changes schools, jobs, or occupa-  
9 tions without written permission of the  
10 surety, bail agent, and the Attorney Gen-  
11 eral;

12 (iii) conceals himself or herself;

13 (iv) fails to report to the Attorney  
14 General as required at least annually; or

15 (v) violates the contract with the bail  
16 agent or surety, commits any act that may  
17 lead to a breach of the bond, or otherwise  
18 violates any other obligation or condition  
19 of the visa established by the Attorney  
20 General.

21 (7) CERTIFIED COPY OF UNDERTAKING OR  
22 WARRANT TO ACCOMPANY SURRENDER.—

23 (A) IN GENERAL.—A person desiring to  
24 make a surrender of the visa holder—



1 (i) shall have the right to petition any  
2 Federal court for an arrest warrant for the  
3 arrest of the visa holder;

4 (ii) shall forthwith be provided a cer-  
5 tified copy of the arrest warrant and the  
6 undertaking; and

7 (iii) shall have the right to pursue, ap-  
8 prehend, detain, and deliver the visa hold-  
9 er, together with the certified copy of the  
10 arrest warrant and the undertaking, to any  
11 official or facility of the Immigration and  
12 Naturalization Service or any detention fa-  
13 cility authorized to hold Federal detainees.

14 (B) EFFECTS OF DELIVERY.—Upon deliv-  
15 ery of a person under subparagraph (A)(iii)—

16 (i) the official to whom the delivery is  
17 made shall detain the visa holder in cus-  
18 tody and issue a written certificate of sur-  
19 render; and

20 (ii) the court issuing the warrant de-  
21 scribed in subparagraph (A)(i) and the At-  
22 torney General shall immediately exonerate  
23 the surety and bail agent from any further  
24 liability on the bond.

1           (8) FORM OF BOND.—A visa term compliance  
2 bond shall in all cases state the following and be se-  
3 cured by a surety:

4                   “(A) BREACH OF BOND; PROCEDURE, FOR-  
5 FEITURE, NOTICE.—

6                   “(i) If a visa holder violates any con-  
7 ditions of the visa or the visa bond the At-  
8 torney General shall—

9                           “(I) order the visa canceled;

10                           “(II) immediately obtain a war-  
11 rant for the visa holder’s arrest;

12                           “(III) order the bail agent and  
13 surety to take the visa holder into  
14 custody and surrender the visa holder  
15 to the Attorney General; and

16                           “(IV) mail notice to the bail  
17 agent and surety via certified mail re-  
18 turn receipt at each of the addresses  
19 in the bond.

20                   “(ii) A bail agent or surety shall have  
21 full and complete access to any and all in-  
22 formation, electronic or otherwise, in the  
23 care, custody, and control of the United  
24 States Government or any State or local  
25 government or any subsidiary or police

1 agency thereof regarding the visa holder  
2 needed to comply with section 304 of the  
3 Securing America's Future through En-  
4 forcement Reform Act of 2002 that the  
5 court issuing the warrant believes is crucial  
6 in locating the visa holder.

7 “(iii) If the visa holder is later ar-  
8 rested, detained, or otherwise located out-  
9 side the United States and the outlying  
10 possessions of the United States (as de-  
11 fined in section 101(a) of the Immigration  
12 and Nationality Act), the Attorney General  
13 shall—

14 “(I) order that the bail agent and  
15 surety are completely exonerated, and  
16 the bond canceled and terminated;  
17 and

18 “(II) if the Attorney General has  
19 issued an order under clause (i), the  
20 surety may request, by written, prop-  
21 erly filed motion, reinstatement of the  
22 bond. This subclause may not be con-  
23 strued to prevent the Attorney Gen-  
24 eral from revoking or resetting a high-  
25 er bond.

1 “(iv) The bail agent or surety must—

2 “(I) produce the visa bond hold-  
3 er; or

4 “(II)(aa) prove within 180 days  
5 that producing the bond holder was  
6 prevented—

7 “(aaa) by the bond holder’s  
8 illness or death;

9 “(bbb) because the bond  
10 holder is detained in custody in  
11 any city, State, country, or polit-  
12 ical subdivision thereof;

13 “(ccc) because the bond  
14 holder has left the United States  
15 or its outlying possessions (as de-  
16 fined in section 101(a) of the Im-  
17 migration and Nationality Act (8  
18 U.S.C. 1101(a)); or

19 “(ddd) because required no-  
20 tice was not given to the bail  
21 agent or surety; and

22 “(bb) prove within 180 days that  
23 the inability to produce the bond hold-  
24 er was not with the consent or conniv-  
25 ance of the bail agent or sureties.

1           “(v) If the bail agent or surety does  
2 not comply with the terms of this bond  
3 within 60 days after the mailing of the no-  
4 tice required under subparagraph  
5 (A)(i)(IV), a portion of the face value of  
6 the bond shall be assessed as a penalty  
7 against the surety.

8           “(vi) If compliance occurs more than  
9 60 days but no more than 90 days after  
10 the mailing of the notice, the amount as-  
11 sessed shall be one-third of the face value  
12 of the bond.

13           “(vii) If compliance occurs more than  
14 90 days, but no more than 180 days, after  
15 the mailing of the notice, the amount as-  
16 sessed shall be two-thirds of the face value  
17 of the bond.

18           “(viii) If compliance does not occur  
19 within 180 days after the mailing of the  
20 notice, the amount assessed shall be 100  
21 percent of the face value of the bond.

22           “(ix) All penalty fees shall be paid by  
23 the surety within 45 days after the end of  
24 such 180-day period.

1           “(B) The Attorney General may waive the  
2 penalty fees or extend the period for payment  
3 or both, if—

4                   “(i) a written request is filed with the  
5 Attorney General; and

6                   “(ii) the bail agent or surety provides  
7 evidence satisfactory to the Attorney Gen-  
8 eral that diligent efforts were made to ef-  
9 fect compliance of the visa holder.

10           “(C) COMPLIANCE; EXONERATION; LIMITA-  
11 TION OF LIABILITY.—

12                   “(i) COMPLIANCE.—The bail agent or  
13 surety shall have the absolute right to lo-  
14 cate, apprehend, arrest, detain, and sur-  
15 render any visa holder, wherever he or she  
16 may be found, who violates any of the  
17 terms and conditions of the visa or bond.

18                   “(ii) EXONERATION.—Upon satisfying  
19 any of the requirements of the bond, the  
20 surety shall be completely exonerated.

21                   “(iii) LIMITATION OF LIABILITY.—  
22 The total liability on any undertaking shall  
23 not exceed the face amount of the bond.”.

1 **SEC. 305. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

2 (a) IN GENERAL.—Section 236(a)(2) is amended to  
3 read as follows:

4 “(2) subject to section 241(a)(8), may release  
5 the alien on bond of at least \$10,000, with security  
6 approved by, and containing conditions prescribed  
7 by, the Attorney General, but the Attorney General  
8 shall not release the alien on or to his own recog-  
9 nizance unless an order of an immigration judge ex-  
10 pressly finds that the alien is not a flight risk and  
11 is not a threat to the United States; and”.

12 (b) EFFECTIVE DATE.—The amendment made by  
13 subsection (a) shall take effect on the date of the enact-  
14 ment of this Act.

15 **SEC. 306. DETENTION OF ALIENS DELIVERED BY BONDS-**  
16 **MEN.**

17 (a) IN GENERAL.—Section 241(a) (8 U.S.C.  
18 1231(a)) is amended by adding at the end the following:

19 “(8) EFFECT OF PRODUCTION OF ALIEN BY  
20 BONDSMAN.—Notwithstanding any other provision  
21 of law, the Attorney General shall take into custody  
22 any alien subject to a final order of removal, and  
23 cancel any bond previously posted for the alien, if  
24 the alien is produced within the prescribed time limit  
25 by the obligor on the bond. The obligor on the bond  
26 shall be deemed to have substantially performed all

1 conditions imposed by the terms of the bond, and  
2 shall be released from liability on the bond, if the  
3 alien is produced within such time limit.”.

4 (b) EFFECTIVE DATE.—The amendment made by  
5 subsection (a) shall take effect on the date of the enact-  
6 ment of this act and shall apply to all immigration bonds  
7 posted before, on, or after the date of the enactment of  
8 this Act.

9 **TITLE IV—REMOVING ALIEN**  
10 **TERRORISTS, CRIMINALS,**  
11 **AND HUMAN RIGHTS VIOLA-**  
12 **TORS**

13 **Subtitle A—Removing Alien**  
14 **Terrorists**

15 **SEC. 401. DEPORTABILITY OF ALIEN TERRORISTS.**

16 (a) IN GENERAL.—Section 237(a)(4)(B) (8 U.S.C.  
17 1227(a)(4)(B)) is amended to read as follows:

18 “(B) TERRORIST ACTIVITIES.—Any alien  
19 who would be considered inadmissible pursuant  
20 to section 212(a)(3)(B) is deportable.”.

21 (b) EFFECTIVE DATE.—The amendment made by  
22 subsection (a) shall take effect on the date of the enact-  
23 ment of this Act and shall apply to conduct occurring be-  
24 fore, on, or after such date.



1 **SEC. 402. ADMINISTRATIVE REMOVAL OF ALIEN TERROR-**  
2 **ISTS.**

3 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is  
4 amended—

5 (1) in the section heading, by striking “ALIENS  
6 CONVICTED OF COMMITTING AGGRAVATED FELO-  
7 NIES” and inserting “CERTAIN ALIENS”;

8 (2) in the heading of subsection (a), by insert-  
9 ing “INSTITUTIONAL” before “REMOVAL”;

10 (3) in subsection (a)(1), by striking “241” each  
11 place it appears and inserting “237”;

12 (4) by amending the heading of subsection (b)  
13 to read as follows:

14 “(b) PROCEEDINGS FOR THE ADMINISTRATIVE RE-  
15 MOVAL OF ALIENS.—”;

16 (5) by amending subsection (b)(1) to read as  
17 follows:

18 “(1) The Attorney General may—

19 “(A) in the case of an alien described in  
20 paragraph (2), determine the deportability of  
21 such alien under section 237(a)(2)(A)(iii) (re-  
22 lating to conviction of an aggravated felony); or

23 “(B) in the case of an alien certified under  
24 paragraph (2)(C), determine the deportability  
25 of such alien under any provision of section  
26 237,

1 and issue an order of removal pursuant to the proce-  
2 dures set forth in this subsection or section 240.”;

3 (6) in subsection (b)(2)—

4 (A) in subparagraph (A), by striking “or”  
5 at the end;

6 (B) in subparagraph (B), by striking the  
7 period at the end and inserting “; or”; and

8 (C) by adding at the end the following:

9 “(C) has been certified by the Attorney  
10 General, pursuant to paragraph (6), which cer-  
11 tification is not reviewable except as provided in  
12 subsection (b)(7).”;

13 (7) by adding at the end of subsection (b) the  
14 following:

15 “(6) CERTIFICATION.—The Attorney General  
16 may certify an alien under this paragraph if the At-  
17 torney General has reasonable grounds to believe  
18 that the alien—

19 “(A) is described in section  
20 212(a)(3)(A)(i), 212(a)(3)(A)(iii),  
21 212(a)(3)(B), 237(a)(4)(A)(i),  
22 237(a)(4)(A)(iii), or 237(a)(4)(B); or

23 “(B) is engaged in any other activity that  
24 endangers the national security of the United  
25 States.

1           “(7) NONDELEGATION.—The Attorney General  
2           may delegate the authority provided under para-  
3           graph (6) only to the Deputy Attorney General. The  
4           Deputy Attorney General may not delegate such au-  
5           thority.

6           “(8) JUDICIAL REVIEW.—Notwithstanding any  
7           other provision of law, judicial review of an order  
8           under paragraph (2)(C) shall be available only by a  
9           filing in the United States Court of Appeals for the  
10          District of Columbia.”;

11          (8) by striking the first subsection (c) and in-  
12          serting the following:

13          “(c) PRESUMPTION OF REMOVABILITY.—An alien  
14          convicted of an aggravated felony, or certified pursuant  
15          to section 238(b)(2)(C), shall be conclusively presumed to  
16          be removable from the United States.”; and

17          (9) by redesignating the second subsection (c)  
18          (redesignated as such by section 671(b)(13) of the  
19          Illegal Immigration Reform and Immigrant Respon-  
20          sibility Act of 1996) as subsection (d).

21          (b) EFFECTIVE DATE.—The amendments made by  
22          this section shall take effect on the date of the enactment  
23          of this Act and shall apply to aliens in removal proceedings  
24          on or after such date.

1 **SEC. 403. ASYLUM PETITIONS BY MEMBERS OF TERRORIST**  
2 **ORGANIZATIONS.**

3 (a) IN GENERAL.—Paragraph (1) of section 208(b)  
4 (8 U.S.C. 1158(b)) is amended by adding at the end the  
5 following: “In any case in which there may be more than  
6 one motive for persecution, the alien bears the burden of  
7 showing that such persecution was or would be inflicted  
8 solely on account of race, religion, nationality, membership  
9 in a particular social group, or political opinion.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall take effect on the date of the enactment  
12 of this Act and shall apply to determinations pending on  
13 or after such date with respect to which a final administra-  
14 tive decision has not been rendered as of such date.

15 **Subtitle B—Removing Alien**  
16 **Criminals**

17 **SEC. 411. DEFINITION OF CRIMINAL CONVICTION.**

18 (a) IN GENERAL.—Subparagraph (B) of section  
19 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding  
20 at the end the following: “Any conviction entered by a  
21 court shall remain valid for immigration purposes notwith-  
22 standing a vacation of that conviction, unless the convic-  
23 tion is vacated on direct appeal wherein the court deter-  
24 mines that vacation is warranted on the merits, or on  
25 grounds relating to a violation of a fundamental statutory

1 or constitutional right in the underlying criminal pro-  
2 ceedings.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by  
4 this section shall take effect on the date of the enactment  
5 of this Act and shall apply to determinations pending on  
6 or after such date with respect to which a final administra-  
7 tive decision has not been rendered as of such date.

8 **SEC. 412. REMOVING MURDERERS, RAPISTS, AND SEXUAL**  
9 **ABUSERS OF CHILDREN.**

10 (a) **REMOVING MURDERERS, RAPISTS, AND SEXUAL**  
11 **ABUSERS OF CHILDREN.**—Subparagraph (A) of section  
12 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by insert-  
13 ing before the semicolon at the end the following: “, re-  
14 gardless of the term of imprisonment, and regardless of  
15 whether the offenses are deemed to be misdemeanors or  
16 felonies under State or Federal law,”.

17 (b) **EFFECTIVE DATE.**—The amendment made by  
18 subsection (a) shall take effect on the date of the enact-  
19 ment of this Act and shall apply to convictions entered  
20 on or after such date.

21 **SEC. 413. DETENTION AND RELEASE OF CRIMINAL ALIENS**  
22 **PENDING REMOVAL DECISION.**

23 (a) **ARREST AND DETENTION.**—

24 (1) **IN GENERAL.**—Section 236(c)(1) (8 U.S.C.  
25 1226(c)(1)) is amended—

1 (A) by striking the matter preceding sub-  
2 paragraph (A) and inserting the following:

3 “(1) ARREST AND DETENTION.—On a warrant  
4 issued by the Attorney General, an alien shall be ar-  
5 rested and detained pending a decision on whether  
6 the alien is to be removed from the United States  
7 if the Attorney General alleges that the alien—”;

8 (B) in subparagraph (D), by striking the  
9 comma at the end and inserting a period; and

10 (C) by striking the matter following sub-  
11 paragraph (D) and adding at the end the fol-  
12 lowing:

13 “Nothing in this paragraph shall be construed as re-  
14 quiring the Attorney General to arrest or detain an  
15 alien who is sentenced to a term of imprisonment  
16 until the alien is released from imprisonment, but  
17 parole, supervised release, probation, or possibility of  
18 arrest or further imprisonment is not a reason for  
19 the Attorney General to defer arrest and detention  
20 under this paragraph.”.

21 (2) EFFECTIVE DATE.—The amendments made  
22 by paragraph (1) shall apply to aliens who are in  
23 proceedings under the Immigration and Nationality  
24 Act on or after the date of the enactment of this Act

1 if those proceedings have not resulted in a final ad-  
2 ministrative order before such date.

3 (b) RELEASE.—

4 (1) IN GENERAL.—Section 236(c)(2) (8 U.S.C.  
5 1226(c)(2)) is amended—

6 (A) by inserting after the first sentence the  
7 following:

8 “To satisfy this burden, the alien is required to  
9 present documentary evidence or witness testimony  
10 from a third party, where such evidence is reason-  
11 ably available. No finder of fact may determine that  
12 such evidence is not reasonably available solely be-  
13 cause the alien is detained.”; and

14 (B) by adding at the end the following:

15 “The Attorney General may release an alien under  
16 this paragraph only on bond of at least \$5,000 with  
17 security approved by, and containing conditions pre-  
18 scribed by, the Attorney General.”.

19 (2) CONDITION ON RELEASE.—Section 236(a)  
20 (8 U.S.C. 1226(a)) is amended by adding at the end  
21 the following:

22 “In order to be released, the alien has the burden of prov-  
23 ing that the alien is neither a danger to the community  
24 nor a flight risk. To satisfy this burden, the alien is re-  
25 quired to present documentary evidence or witness testi-

1 mony from a third party, where such evidence is reason-  
2 ably available. No finder of fact may determine that such  
3 evidence is not reasonably available solely because the  
4 alien is detained.”.

5 (3) EFFECTIVE DATE.—The amendments made  
6 by this subsection shall apply to releases occurring  
7 on or after the date of the enactment of this Act.

8 **Subtitle C—Removing Alien**  
9 **Human Rights Violators**

10 **SEC. 421. SERIOUS HUMAN RIGHTS VIOLATOR DEFINED.**

11 Section 101(a) (8 U.S.C. 1101(a)) is amended by  
12 adding at the end the following:

13 “(51)(A) The term ‘serious human rights violator’  
14 means any alien who—

15 “(i) ordered, incited, assisted, or otherwise par-  
16 ticipated in the persecution of any person on account  
17 of race, religion, nationality, membership in a par-  
18 ticular social group, or political opinion;

19 “(ii) while serving as a foreign government offi-  
20 cial, was responsible for, or directly carried out, par-  
21 ticularly severe violations of religious freedom (as  
22 defined in section 3 of the International Religious  
23 Freedom Act of 1998 (22 U.S.C. 6402));

24 “(iii) during an armed conflict, ordered, incited,  
25 assisted, or otherwise participated in a war crime (as



1 defined in section 2441(c) of title 18, United States  
2 Code);

3 “(iv) ordered, incited, assisted, otherwise par-  
4 ticipated in, attempted to commit, or conspired to  
5 commit conduct that would constitute genocide (as  
6 defined in section 1091(a) of title 18, United States  
7 Code), if the conduct were committed in the United  
8 States or by a United States national;

9 “(v) ordered, incited, assisted, or otherwise par-  
10 ticipated in any act of torture (as defined in the  
11 United Nations Convention Against Torture and  
12 Other Forms of Cruel, Inhuman or Degrading  
13 Treatment or Punishment, done at New York on  
14 December 10, 1984, subject to any reservations, un-  
15 derstandings, declarations, and provisos contained in  
16 the United States Senate resolution of ratification of  
17 the Convention); or

18 “(vi) committed, ordered, incited, assisted, oth-  
19 erwise participated in, or was responsible for any of  
20 the following acts, when undertaken in whole or in  
21 significant part for a political, religious, or discrimi-  
22 natory purpose:

23 “(I) Murder or other homicide.

24 “(II) Kidnapping.

25 “(III) Disappearance.

- 1           “(IV) Rape.
- 2           “(V) Torture or mutilation.
- 3           “(VI) Prolonged, arbitrary detention.
- 4           “(VII) Enslavement.
- 5           “(VIII) Forced prostitution, impregnation,
- 6           sterilization, or abortion.
- 7           “(IX) Genocide.
- 8           “(X) Extermination.
- 9           “(XI) Recruitment of persons under the
- 10           age of 15 for use in armed conflict.

11           “(B) Subparagraph (A) shall not apply to an alien

12 who demonstrates by clear and convincing evidence that

13 the conduct was committed under extreme duress. For

14 purposes of the preceding sentence, ‘extreme duress’

15 means duress created by a threat of imminent death or

16 rape of the alien, or a spouse, child, or parent of the

17 alien.”.

18 **SEC. 422. DEPORTABILITY OF SERIOUS HUMAN RIGHTS**

19 **VIOLATORS.**

20           (a) IN GENERAL.—Section 237(a) (8 U.S.C.

21 1227(a)) is amended by adding at the end the following:

22           “(8) SERIOUS HUMAN RIGHTS VIOLATORS.—

23           Any serious human rights violator is deportable.”.

1 (b) CONFORMING AMENDMENT.—Section  
2 237(a)(4)(D) (8 U.S.C. 1227(a)(4)(D)) is amended to  
3 read as follows:

4 “(D) ASSISTED IN NAZI PERSECUTION.—  
5 Any alien described in section 212(a)(3)(E) is  
6 deportable.”.

7 **SEC. 423. ARREST AND DETENTION OF SERIOUS HUMAN**  
8 **RIGHTS VIOLATORS PENDING REMOVAL AND**  
9 **CRIMINAL PROSECUTION DECISIONS.**

10 (a) CUSTODY.—Section 236(c)(1)(D) (8 U.S.C.  
11 1226(c)(1)(D)) is amended by striking “section  
12 237(a)(4)(B),” and inserting “paragraph (4)(B) or (8) of  
13 section 237(a)”.

14 (b) NOTICE TO CRIMINAL DIVISION.—Section 236(c)  
15 (8 U.S.C. 1226(c)) is amended by adding at the end the  
16 following:

17 “(3) NOTICE TO CRIMINAL DIVISION.—The  
18 Commissioner shall ensure that the Assistant Attor-  
19 ney General for the Criminal Division of the Depart-  
20 ment of Justice—

21 “(A) is notified when an alien is arrested  
22 and detained under paragraph (1) by reason of  
23 inadmissibility under section 212(a)(2)(G) or  
24 deportability under section 237(a)(8);

1           “(B) is provided the information that was  
2           the basis for the application of such paragraph;  
3           and

4           “(C) makes a determination whether the  
5           alien should be arrested and prosecuted in the  
6           United States for a criminal offense.

7           “(4) REPORTS.—Beginning 6 months after the  
8           date of the enactment of the Securing America’s Fu-  
9           ture through Enforcement Reform Act of 2002, and  
10          every 12 months thereafter, the Attorney General  
11          shall submit to the Committees on the Judiciary of  
12          the United States House of Representatives and of  
13          the Senate a report containing the following:

14                 “(A) The number of removal proceedings  
15                 initiated against aliens under sections  
16                 212(a)(2)(G) and 237(a)(8) during the report-  
17                 ing period.

18                 “(B) The number of removal proceedings  
19                 under sections 212(a)(2)(G) and 237(a)(8)  
20                 pending at the conclusion of the reporting pe-  
21                 riod.

22                 “(C) The number of aliens removed under  
23                 sections 212(a)(2)(G) and 237(a)(8) during the  
24                 reporting period.

1           “(D) The number of notifications under  
2 paragraph (3)(A) made during the reporting pe-  
3 riod.

4           “(E) The number of criminal prosecutions  
5 initiated during the reporting period based on  
6 information provided under paragraph (3).

7           “(F) The number of criminal prosecutions  
8 pending at the conclusion of the reporting pe-  
9 riod that were initiated based on information  
10 provided under paragraph (3).

11           “(G) The number of criminal prosecutions  
12 initiated based on information provided under  
13 paragraph (3) that resulted in a conviction dur-  
14 ing the reporting period.”.

15 **SEC. 424. EXCEPTION TO RESTRICTION ON REMOVAL FOR**  
16 **SERIOUS HUMAN RIGHTS VIOLATORS AND**  
17 **TERRORISTS.**

18           Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is  
19 amended—

20           (1) in the matter preceding clause (i), by strik-  
21 ing “section 237(a)(4)(D)” and inserting “subpara-  
22 graph (B) or (D) of section 237(a)(4)”;

23           (2) by amending clause (i) to read as follows:

24                   “(i) the alien is a serious human  
25 rights violator;”.

1 **SEC. 425. INITIATION OF REMOVAL PROCEEDINGS AGAINST**  
2 **SERIOUS HUMAN RIGHTS VIOLATORS BY**  
3 **COMPLAINT.**

4 Section 239 (8 U.S.C. 1229) is amended by adding  
5 at the end the following:

6 “(e) COMPLAINTS RESPECTING SERIOUS HUMAN  
7 RIGHTS VIOLATORS.—

8 “(1) ESTABLISHMENT OF PROCESS.—The At-  
9 torney General shall establish a process for the re-  
10 ceipt, investigation, and disposition of complaints al-  
11 leging that an alien present in the United States is  
12 a serious human rights violator and identifying that  
13 alien.

14 “(2) PERSONS ENTITLED TO FILE COM-  
15 PLAINTS.—Any individual may file a complaint  
16 under paragraph (1).

17 “(3) FORM AND CONTENT OF COMPLAINT.—A  
18 complaint under paragraph (1) shall be in the form  
19 of a written statement, executed under oath or as  
20 permitted under penalty of perjury under section  
21 1746 of title 28, United States Code, and shall con-  
22 tain such information as the Attorney General may  
23 require. Complaints shall be filed with an office des-  
24 ignated for that purpose by the Attorney General.

25 “(4) NOTICE SERVED ON SUBJECT OF COM-  
26 PLAINT.—The Attorney General shall serve notice,

1 by certified mail and within 14 days of the filing of  
2 a complaint under paragraph (1), on each alien iden-  
3 tified in the complaint as a serious human rights vi-  
4 olator. The alien shall answer the complaint within  
5 10 days of receiving it.

6 “(5) INVESTIGATION AND ACTION.—The Attor-  
7 ney General shall conduct an investigation of each  
8 complaint that satisfies the requirements of this sub-  
9 section. Not later than 180 days after the date of fil-  
10 ing of such a complaint, the Attorney General, with  
11 respect to each alien identified in the complaint as  
12 a serious human rights violator—

13 “(A) shall initiate removal proceedings  
14 against the alien; or

15 “(B) shall issue to the complainant a writ-  
16 ten determination that, in the opinion of the  
17 Attorney General, the alien is not a serious  
18 human rights violator.

19 “(6) CONSTRUCTION.—Nothing in this sub-  
20 section shall be construed to limit the discretion of  
21 consular officers under section 291 to determine eli-  
22 gibility for a visa or document required for entry or  
23 to limit the discretion of any immigration officer  
24 otherwise to initiate removal proceedings under this  
25 Act.”.

1 **SEC. 426. BARS TO REFUGEE STATUS AND ASYLUM FOR SE-**  
2 **RIOUS HUMAN RIGHTS VIOLATORS.**

3 (a) REFUGEE DEFINED.—Section 101(a)(42) (8  
4 U.S.C. 1101(a)(42)) is amended by striking the second  
5 sentence and inserting “The term ‘refugee’ does not in-  
6 clude any person who is a serious human rights violator  
7 as defined in section 101(a)(51)(A).”.

8 (b) NO WAIVER OF GROUND OF INADMISSIBILITY  
9 FOR REFUGEE SEEKERS.—Section 207(c)(3) (8 U.S.C.  
10 1157(c)(3)) is amended by inserting “or (2)(G)” after  
11 “(2)(C)”.

12 (c) EXCEPTIONS TO GRANTING ASYLUM.—Section  
13 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)) is amended to  
14 read as follows:

15 “(i) the alien is a serious human  
16 rights violator;”.

17 (d) EXTENSION TO SPOUSES AND CHILDREN OF EX-  
18 CEPTIONS TO GRANTING ASYLUM.—Section 208(b)(3) of  
19 the Immigration and Nationality Act (8 U.S.C.  
20 1158(b)(3)) is amended by striking “such alien.” and in-  
21 serting “such alien, unless the Attorney General deter-  
22 mines that one of the exceptions in clauses (i) through  
23 (v) of paragraph (2)(A) applies to the spouse or child.”.



1 **SEC. 427. BAR TO ADJUSTMENT OF STATUS FOR SERIOUS**  
2 **HUMAN RIGHTS VIOLATORS.**

3 Section 209(c) (8 U.S.C. 1159(c)) is amended by in-  
4 serting “or (2)(G)” after “(2)(C)”.

5 **SEC. 428. BAR TO FINDING OF GOOD MORAL CHARACTER**  
6 **FOR SERIOUS HUMAN RIGHTS VIOLATORS.**

7 Section 101(f) (8 U.S.C. 1101(f)) is amended by in-  
8 serting after paragraph (1) the following:

9 “(2) a serious human rights violator;”.

10 **SEC. 429. BAR TO CANCELLATION OF REMOVAL FOR SERI-**  
11 **OUS HUMAN RIGHTS VIOLATORS.**

12 Section 240A(c)(4) (8 U.S.C. 2339b(c)(4)) is  
13 amended—

14 (1) by striking “section 212(a)(3)” and insert-  
15 ing “paragraph (2)(G) or (3) of section 212(a)”;  
16 and

17 (2) by striking “section 237(a)(4).” and insert-  
18 ing “paragraph (4) or (8) of section 237(a).”.

19 **SEC. 430. BAR TO ADJUSTMENT OF STATUS WITH RESPECT**  
20 **TO CERTAIN SPECIAL IMMIGRANTS.**

21 Section 245(h)(2)(B) (8 U.S.C. 1255(h)(2)(B)) is  
22 amended by inserting “(2)(G),” before “(3)(A)”.

23 **SEC. 431. CRIMINAL PENALTIES FOR REENTRY OF RE-**  
24 **MOVED SERIOUS HUMAN RIGHTS VIOLATORS.**

25 Section 276(b) (8 U.S.C. 1326(b)) is amended—

1 (1) in paragraph (3), by striking “sentence. or”  
2 and inserting “sentence;”;

3 (2) in paragraph (4), by striking the period at  
4 the end and inserting “; or”; and

5 (3) by inserting after paragraph (4) the fol-  
6 lowing:

7 “(5) who was removed from the United States  
8 pursuant to section 212(a)(2)(G) or 237(a)(8), and  
9 who thereafter, without the permission of the Attor-  
10 ney General, enters, attempts to enter, or is at any  
11 time found in, the United States shall be fined  
12 under title 18, United States Code, imprisoned not  
13 more than 10 years, or both.”.

14 **SEC. 432. AIDING OR ASSISTING SERIOUS HUMAN RIGHTS**  
15 **VIOLATORS TO ENTER THE UNITED STATES.**

16 Section 277 (8 U.S.C. 1327) is amended by striking  
17 “felony)” and inserting “felony or is a serious human  
18 rights violator)”.

19 **SEC. 433. REVISION OF REGULATIONS WITH RESPECT TO**  
20 **THE INVOLUNTARY RETURN OF PERSONS IN**  
21 **DANGER OF SUBJECTION TO TORTURE.**

22 (a) REGULATIONS.—

23 (1) REVISION DEADLINE.—Not later than 120  
24 days after the date of the enactment of this Act, the  
25 Attorney General shall revise the regulations pre-

1 scribed by the Attorney General to implement the  
2 United Nations Convention Against Torture and  
3 Other Forms of Cruel, Inhuman or Degrading  
4 Treatment or Punishment, done at New York on  
5 December 10, 1984.

6 (2) EXCLUSION OF CERTAIN ALIENS.—The re-  
7 vision shall exclude from the protection of such regu-  
8 lations aliens described in section 241(b)(3)(B) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1231(b)(3)(B)) (as amended by section 424 of this  
11 Act), including rendering such aliens ineligible for  
12 withholding or deferral of removal under the Con-  
13 vention.

14 (3) BURDEN OF PROOF.—The revision shall  
15 also ensure that the burden of proof is on the appli-  
16 cant for withholding or deferral of removal under the  
17 Convention to establish by clear and convincing evi-  
18 dence that he or she would be tortured if removed  
19 to the proposed country of removal.

20 (b) JUDICIAL REVIEW.—Notwithstanding any other  
21 provision of law, no court shall have jurisdiction to review  
22 the regulations adopted to implement this section, and  
23 nothing in this section shall be construed as providing any  
24 court jurisdiction to consider or review claims raised under  
25 the Convention or this section, except as part of the review

1 of a final order of removal pursuant to section 242 of the  
2 Immigration and Nationality Act (8 U.S.C. 1252).

3 **SEC. 434. EFFECTIVE DATE.**

4 This subtitle, and the amendments made by this sub-  
5 title, shall take effect on the date of the enactment of this  
6 Act and shall apply to violations occurring before, on, or  
7 after such date.

8 **TITLE V—ENHANCING ENFORCE-**  
9 **MENT OF THE IMMIGRATION**  
10 **AND NATIONALITY ACT IN**  
11 **THE INTERIOR**

12 **Subtitle A—Document Security**

13 **SEC. 501. BIRTH CERTIFICATES.**

14 Subsection (a) of section 656 of the Illegal Immigra-  
15 tion Reform and Immigrant Responsibility Act of 1996  
16 (5 U.S.C. 301 note) is amended to read as follows:

17 “(a) BIRTH CERTIFICATES.—

18 “(1) LIMITATION ON ACCEPTANCE.—(A) No  
19 Federal agency, including but not limited to the So-  
20 cial Security Administration and the Department of  
21 State, and no State agency that issues driver’s li-  
22 censes or identification documents, may accept for  
23 any official purpose a copy of a birth certificate, as  
24 defined in paragraph (5), unless it is issued by a  
25 State or local authorized custodian of record and it

1 conforms to standards described in subparagraph  
2 (B).

3 “(B) The standards described in this subpara-  
4 graph are those set forth in regulations promulgated  
5 by the Federal agency designated by the President,  
6 after consultation with such other Federal agencies  
7 as the President shall designate and with State vital  
8 statistics offices, and shall—

9 “(i) include but not be limited to—

10 “(I) certification by the agency  
11 issuing the birth certificate; and

12 “(II) use of safety paper, the seal of  
13 the issuing agency, and other features de-  
14 signed to limit tampering, counterfeiting,  
15 and photocopying, or otherwise duplicating,  
16 for fraudulent purposes;

17 “(ii) not require a single design to which  
18 the official birth certificate copies issued by  
19 each State must conform; and

20 “(iii) accommodate the differences between  
21 the States in the manner and form in which  
22 birth records are stored and in how birth cer-  
23 tificate copies are produced from such records.

24 “(2) LIMITATION ON ISSUANCE.—(A) If one or  
25 more of the conditions described in subparagraph

1 (B) is present, no State or local government agency  
2 may issue an official copy of a birth certificate per-  
3 taining to an individual unless the copy prominently  
4 notes that such individual is deceased.

5 “(B) The conditions described in this subpara-  
6 graph include—

7 “(i) the presence on the original birth cer-  
8 tificate of a notation that the individual is de-  
9 ceased, or

10 “(ii) actual knowledge by the issuing agen-  
11 cy that the individual is deceased obtained  
12 through information provided by the Social Se-  
13 curity Administration, by an interstate system  
14 of birth-death matching, or otherwise.

15 “(3) GRANTS TO STATES.—(A)(i) The Sec-  
16 retary of Health and Human Services, in consulta-  
17 tion with other agencies designated by the President,  
18 shall establish a fund, administered through the Na-  
19 tional Center for Health Statistics, to provide grants  
20 to the States to encourage them to develop the capa-  
21 bility to match birth and death records, within each  
22 State and among the States, and to note the fact of  
23 death on the birth certificates of deceased persons.  
24 In developing the capability described in the pre-

1 ceding sentence, States shall focus first on persons  
2 who were born after 1950.

3 “(ii) Such grants shall be provided in propor-  
4 tion to population and in an amount needed to pro-  
5 vide a substantial incentive for the States to develop  
6 such capability.

7 “(B) The Secretary of Health and Human  
8 Services shall establish a fund, administered through  
9 the National Center for Health Statistics, to provide  
10 grants to the States for a project in each of 5 States  
11 to demonstrate the feasibility of a system by which  
12 each such State’s office of vital statistics would be  
13 provided, within 24 hours, sufficient information to  
14 establish the fact of death of every individual dying  
15 in such State.

16 “(C) There are authorized to be appropriated to  
17 the Department of Health and Human Services such  
18 amounts as may be necessary to provide the grants  
19 described in subparagraphs (A) and (B).

20 “(4) REPORT.—(A) Not later than one year  
21 after the date of the enactment of this Act, the Sec-  
22 retary of Health and Human Services shall submit  
23 a report to the Congress on ways to reduce the  
24 fraudulent obtaining and the fraudulent use of birth  
25 certificates, including any such use to obtain a social

1 security account number or a State or Federal docu-  
2 ment related to identification or immigration.

3 “(B) Not later than one year after the date of  
4 enactment of this Act, the agency designated by the  
5 President in paragraph (1)(B) shall submit a report  
6 setting forth, and explaining, the regulations de-  
7 scribed in such paragraph.

8 “(C) There are authorized to be appropriated to  
9 the Department of Health and Human Services such  
10 amounts as may be necessary for the preparation of  
11 the report described in subparagraph (A).

12 “(5) CERTIFICATE OF BIRTH.—As used in this  
13 section, the term ‘birth certificate’ means a certifi-  
14 cate of birth of—

15 “(A) a person born in the United States,  
16 or

17 “(B) a person born abroad who is a citizen  
18 or national of the United States at birth, whose  
19 birth is registered in the United States.

20 “(6) EFFECTIVE DATES.—

21 “(A) Except as otherwise provided in sub-  
22 paragraph (B) and in paragraph (4), this sub-  
23 section shall take effect two years after the en-  
24 actment of the Securing America’s Future  
25 through Enforcement Reform Act of 2002.



1           “(B) Paragraph (1)(A) shall take effect  
2           two years after the submission of the report de-  
3           scribed in paragraph (4)(B).”.

4 **SEC. 502. DRIVERS LICENSES.**

5           Section 656 of the Illegal Immigration Reform and  
6 Immigrant Responsibility Act of 1996 is amended by in-  
7 serting after subsection (a) the following:

8           “(b) STATE-ISSUED DRIVERS LICENSES AND COM-  
9 PARABLE IDENTIFICATION DOCUMENTS.—

10           “(1) STANDARDS FOR ACCEPTANCE BY FED-  
11 ERAL AGENCIES.—

12           “(A) IN GENERAL.—A Federal agency may  
13 not accept for any identification-related purpose  
14 a driver’s license, or other comparable identi-  
15 fication document, issued by a State, unless the  
16 license or document satisfies the following re-  
17 quirements:

18           “(i) APPLICATION PROCESS.—The ap-  
19 plication process for the license or docu-  
20 ment shall include the presentation of such  
21 evidence of identity as is required by regu-  
22 lations promulgated by the Secretary of  
23 Transportation after consultation with the  
24 American Association of Motor Vehicle Ad-  
25 ministrators.

1           “(ii) SOCIAL SECURITY NUMBER.—  
2           Except as provided in subparagraph (B),  
3           the license or document shall contain a so-  
4           cial security account number that can be  
5           read visually or by electronic means.

6           “(iii) FORM.—The license or docu-  
7           ment otherwise shall be in a form con-  
8           sistent with requirements set forth in regu-  
9           lations promulgated by the Secretary of  
10          Transportation after consultation with the  
11          American Association of Motor Vehicle Ad-  
12          ministrators. The form shall contain secu-  
13          rity features designed to limit tampering,  
14          counterfeiting, photocopying, or otherwise  
15          duplicating, the license or document for  
16          fraudulent purposes and to limit use of the  
17          license or document by impostors.

18          “(iv) SPECIAL EXPIRATION DATE.—If  
19          a driver’s license is issued to an alien who  
20          is in lawful status but who is not an alien  
21          lawfully admitted for permanent residence,  
22          the period of validity of the license must  
23          expire on the date on which the alien’s au-  
24          thorization to remain in the United States  
25          expires.

1           “(B) EXCEPTION.—The requirement in  
2           subparagraph (A)(ii) shall not apply with re-  
3           spect to a driver’s license or other comparable  
4           identification document issued by a State, if the  
5           State—

6                   “(i) does not require the license or  
7                   document to contain a social security ac-  
8                   count number; and

9                   “(ii) requires—

10                           “(I) every applicant for a driver’s  
11                           license, or other comparable identi-  
12                           fication document, to submit the ap-  
13                           plicant’s social security account num-  
14                           ber; and

15                           “(II) an agency of the State to  
16                           verify with the Social Security Admin-  
17                           istration that such account number is  
18                           valid.

19           “(C) DEADLINE.—The Secretary of Trans-  
20           portation shall promulgate the regulations re-  
21           ferred to in clauses (i) and (iii) of subparagraph  
22           (A) not later than 1 year after the date of the  
23           enactment of the Securing America’s Future  
24           through Enforcement Reform Act of 2002.

1           “(2) GRANTS TO STATES.—Beginning on the  
2 date final regulations are promulgated under para-  
3 graph (1), the Secretary of Transportation shall  
4 make grants to States to assist them in issuing driv-  
5 er’s licenses and other comparable identification doc-  
6 uments that satisfy the requirements under such  
7 paragraph.

8           “(3) EFFECTIVE DATES.—

9           “(A) IN GENERAL.—Except as otherwise  
10 provided in this paragraph, this subsection shall  
11 take effect on the date of the enactment of the  
12 Securing America’s Future through Enforce-  
13 ment Reform Act of 2002.

14           “(B) PROHIBITION ON FEDERAL AGEN-  
15 CIES.—Subparagraphs (A) and (B) of para-  
16 graph (1) shall take effect beginning on October  
17 1, 2006, but shall apply only to licenses or doc-  
18 uments issued to an individual for the first time  
19 and to replacement or renewal licenses or docu-  
20 ments issued according to State law.”.

21 **SEC. 503. SOCIAL SECURITY CARDS.**

22           (a) IMPROVEMENTS TO CARD.—

23           (1) In general.—For purposes of carrying out  
24 section 274A of the Immigration and Nationality  
25 Act, the Commissioner of Social Security (in this

1 section referred to as the “Commissioner”) shall  
2 make such improvements to the physical design,  
3 technical specifications, and materials of the social  
4 security account number card as are necessary to  
5 ensure that it is a genuine official document and  
6 that it offers the best possible security against coun-  
7 terfeiting, forgery, alteration, and misuse.

8 (2) PERFORMANCE STANDARDS.—In making  
9 the improvements required in paragraph (1), the  
10 Commissioner shall—

11 (A) make the card as secure against coun-  
12 terfeiting as the 100 dollar Federal Reserve  
13 note, with a rate of counterfeit detection com-  
14 parable to the 100 dollar Federal Reserve note;  
15 and

16 (B) make the card as secure against fraud-  
17 ulent use as a United States passport.

18 (3) DEFINITION.—In this section, the term “se-  
19 cured social security account number card” means a  
20 social security account number card issued in ac-  
21 cordance with the requirements of this paragraph.

22 (4) EFFECTIVE DATE.—All social security ac-  
23 count number cards issued after January 1, 2005,  
24 whether new or replacement, shall be secured social  
25 security account number cards.

1 (b) USE FOR EMPLOYMENT VERIFICATION.—Begin-  
2 ning on January 1, 2009, a document described in section  
3 274A(b)(1)(C) of the Immigration and Nationality Act is  
4 a secured social security account number card (other than  
5 such a card which specifies on the face that the issuance  
6 of the card does not authorize employment in the United  
7 States).

8 (c) NOT A NATIONAL IDENTIFICATION CARD.—  
9 Cards issued pursuant to this section shall not be required  
10 to be carried upon one’s person, and nothing in this sec-  
11 tion shall be construed as authorizing the establishment  
12 of a national identification card.

13 (d) EDUCATION CAMPAIGN.—The Commissioner of  
14 Immigration and Naturalization, in consultation with the  
15 Commissioner of Social Security, shall conduct a com-  
16 prehensive campaign to educate employers about the secu-  
17 rity features of the secured social security card and how  
18 to detect counterfeit or fraudulently used social security  
19 account number cards.

20 (e) ANNUAL REPORTS.—The Commissioner of Social  
21 Security shall submit to Congress by July 1 of each year  
22 a report on—

23 (1) the progress and status of developing a se-  
24 cured social security account number card under this  
25 section;

1           (2) the incidence of counterfeit production and  
2           fraudulent use of social security account number  
3           cards; and

4           (3) the steps being taken to detect and prevent  
5           such counterfeiting and fraud.

6           (f) GAO ANNUAL AUDITS.—The Comptroller Gen-  
7           eral shall perform an annual audit, the results of which  
8           are to be presented to the Congress by January 1 of each  
9           of the 5 years following the date of the enactment of the  
10          Securing America’s Future through Enforcement Reform  
11          Act of 2002, on the performance of the Social Security  
12          Administration in meeting the requirements in paragraph  
13          (1).

14          (g) EXPENSES.—No costs incurred in developing and  
15          issuing cards under this section that are above the costs  
16          that would have been incurred for cards issued in the ab-  
17          sence of this section shall be paid for out of any trust  
18          fund established under the Social Security Act. There are  
19          authorized to be appropriated such sums as may be nec-  
20          essary to carry out this section.

1 **Subtitle B—Employment Eligibility**  
2 **Verification**

3 **SEC. 511. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**  
4 **TEM.**

5 Section 274A(b) (8 U.S.C. 1324a(b)) is amended by  
6 adding at the end the following:

7 “(7) EMPLOYMENT ELIGIBILITY VERIFICATION  
8 SYSTEM.—

9 “(A) IN GENERAL.—The Attorney General  
10 shall establish a verification system through  
11 which the Attorney General (or a designee of  
12 the Attorney General, which may be a non-  
13 governmental entity)—

14 “(i) responds to inquiries made by  
15 persons at any time through a toll-free  
16 telephone line or other toll-free electronic  
17 media concerning an individual’s identity  
18 and whether the individual is authorized to  
19 be employed; and

20 “(ii) maintains records of the inquir-  
21 ies that were made, of verifications pro-  
22 vided (or not provided), and of the codes  
23 provided to inquirers as evidence of their  
24 compliance with their obligations under  
25 this section.



1 To the extent practicable, the Attorney General  
2 shall seek to establish such a system using one  
3 or more nongovernmental entities.

4 “(B) INITIAL RESPONSE.—The verification  
5 system shall provide verification or a tentative  
6 nonverification of an individual’s identity and  
7 employment eligibility within 3 working days of  
8 the initial inquiry. If providing verification or  
9 tentative nonverification, the verification system  
10 shall provide an appropriate code indicating  
11 such verification or such nonverification.

12 “(C) SECONDARY VERIFICATION PROCESS  
13 IN CASE OF TENTATIVE NONVERIFICATION.—In  
14 cases of tentative nonverification, the Attorney  
15 General shall specify, in consultation with the  
16 Commissioner of Social Security and the Com-  
17 missioner of the Immigration and Naturaliza-  
18 tion Service, an available secondary verification  
19 process to confirm the validity of information  
20 provided and to provide a final verification or  
21 nonverification within 10 working days after the  
22 date of the tentative nonverification. When final  
23 verification or nonverification is provided, the  
24 verification system shall provide an appropriate

1 code indicating such verification or  
2 nonverification.

3 “(D) DESIGN AND OPERATION OF SYS-  
4 TEM.—The verification system shall be designed  
5 and operated—

6 (i) to maximize its reliability and ease  
7 of use by persons and other entities con-  
8 sistent with insulating and protecting the  
9 privacy and security of the underlying in-  
10 formation;

11 (ii) to respond to all inquiries made by  
12 such persons and entities on whether indi-  
13 viduals are authorized to be employed and  
14 to register all times when such inquiries  
15 are not received;

16 (iii) with appropriate administrative,  
17 technical, and physical safeguards to pre-  
18 vent unauthorized disclosure of personal  
19 information; and

20 (iv) to have reasonable safeguards  
21 against the system’s resulting in unlawful  
22 discriminatory practices based on national  
23 origin or citizenship status, including—

24 (I) the selective or unauthorized  
25 use of the system to verify eligibility;

1 (II) the use of the system prior  
2 to an offer of employment; or

3 (III) the exclusion of certain indi-  
4 viduals from consideration for employ-  
5 ment as a result of a perceived likeli-  
6 hood that additional verification will  
7 be required, beyond what is required  
8 for most job applicants.

9 “(E) RESPONSIBILITIES OF THE COMMIS-  
10 SIONER OF SOCIAL SECURITY.—As part of the  
11 verification system, the Commissioner of Social  
12 Security, in consultation with the entity respon-  
13 sible for administration of the system, shall es-  
14 tablish a reliable, secure method, which, within  
15 the time periods specified under subparagraphs  
16 (B) and (C), compares the name and social se-  
17 curity account number provided in an inquiry  
18 against such information maintained by the  
19 Commissioner in order to validate (or not vali-  
20 date) the information provided regarding an in-  
21 dividual whose identity and employment eligi-  
22 bility must be confirmed, the correspondence of  
23 the name and number, and whether the indi-  
24 vidual has presented a social security account  
25 number that is not valid for employment. The

1 Commissioner shall not disclose or release social  
2 security information (other than such  
3 verification or nonverification).

4 “(F) RESPONSIBILITIES OF THE COMMIS-  
5 SIONER OF IMMIGRATION AND NATURALIZA-  
6 TION.—As part of the verification system, the  
7 Commissioner of Immigration and Naturaliza-  
8 tion, in consultation with the entity responsible  
9 for administration of the system, shall establish  
10 a reliable, secure method, which, within the  
11 time periods specified under subparagraphs (B)  
12 and (C), compares the name and alien identi-  
13 fication or authorization number which are pro-  
14 vided in an inquiry against such information  
15 maintained by the Commissioner in order to  
16 validate (or not validate) the information pro-  
17 vided, the correspondence of the name and  
18 number, and whether the alien is authorized to  
19 be employed in the United States.

20 “(G) UPDATING INFORMATION.—The  
21 Commissioners of Social Security and Immigra-  
22 tion and Naturalization shall update their infor-  
23 mation in a manner that promotes the max-  
24 imum accuracy and shall provide a process for  
25 the prompt correction of erroneous information,

1 including instances in which it is brought to  
2 their attention in the secondary verification  
3 process described in subparagraph (C).

4 “(H) LIMITATION ON USE OF THE  
5 VERIFICATION SYSTEM AND ANY RELATED SYS-  
6 TEMS.—

7 (i) IN GENERAL.—Notwithstanding  
8 any other provision of law, nothing in this  
9 paragraph shall be construed to permit or  
10 allow any department, bureau, or other  
11 agency of the United States Government to  
12 utilize any information, data base, or other  
13 records assembled under this paragraph  
14 for any other purpose other than as pro-  
15 vided for.

16 (ii) NO NATIONAL IDENTIFICATION  
17 CARD.—Nothing in this paragraph shall be  
18 construed to authorize, directly or indi-  
19 rectly, the issuance or use of national iden-  
20 tification cards or the establishment of a  
21 national identification card.

22 (I) FEDERAL TORT CLAIMS ACT.—If an in-  
23 dividual alleges that the individual would not  
24 have been dismissed from a job but for an error  
25 of the verification mechanism, the individual

1 may seek compensation only through the mech-  
2 anism of the Federal Tort Claims Act, and in-  
3 junctive relief to correct such error. No class  
4 action may be brought under this subpara-  
5 graph.

6 (J) PROTECTION FROM LIABILITY FOR AC-  
7 TIONS TAKEN ON THE BASIS OF INFORMA-  
8 TION.—No person or entity shall be civilly or  
9 criminally liable for any action taken in good  
10 faith reliance on information provided through  
11 the employment eligibility verification mecha-  
12 nism established under this paragraph.”.

13 **SEC. 512. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-**  
14 **ESS.**

15 Section 274A (8 U.S.C. 1324a) is amended—

16 (1) in subsection (a)(3), by inserting “(A)”  
17 after “DEFENSE.—”, and by adding at the end the  
18 following:

19 “(B) FAILURE TO SEEK AND OBTAIN  
20 VERIFICATION.—In the case of a hiring of an indi-  
21 vidual for employment in the United States by a  
22 person or entity, the following requirements apply:

23 “(i) FAILURE TO SEEK VERIFICATION.—

24 “(I) IN GENERAL.—If the person or  
25 entity has not made an inquiry, under the

1 mechanism established under subsection  
2 (b)(7), seeking verification of the identity,  
3 social security number, and work eligibility  
4 of the individual, by not later than the end  
5 of 3 working days (as specified by the At-  
6 torney General) after the date of the hir-  
7 ing, the defense under subparagraph (A)  
8 shall not be considered to apply with re-  
9 spect to any employment after such 3  
10 working days, except as provided in sub-  
11 clause (II).

12 “(II) SPECIAL RULE FOR FAILURE OF  
13 VERIFICATION MECHANISM.—If such a per-  
14 son or entity in good faith attempts to  
15 make an inquiry during such 3 working  
16 days in order to qualify for the defense  
17 under subparagraph (A) and the  
18 verification mechanism has registered that  
19 not all inquiries were responded to during  
20 such time, the person or entity can make  
21 an inquiry until the end of the first subse-  
22 quent working day in which the verification  
23 mechanism registers no nonresponses and  
24 qualify for such defense.

1           “(ii)       FAILURE       TO       OBTAIN  
2           VERIFICATION.—If the person or entity has  
3           made the inquiry described in clause (i)(I) but  
4           has not received an appropriate verification of  
5           such identity, number, and work eligibility  
6           under such mechanism within the time period  
7           specified under subsection (b)(7)(B) after the  
8           time the verification inquiry was received, the  
9           defense under subparagraph (A) shall not be  
10          considered to apply with respect to any employ-  
11          ment after the end of such time period.”;

12          (2) by amending subsection (b)(1)(A) to read as  
13          follows:

14               “(A) IN GENERAL.—The person or entity  
15               must attest, under penalty of perjury and on a  
16               form designated or established by the Attorney  
17               General by regulation, that it has verified that  
18               the individual is not an unauthorized alien by—

19                       “(i) obtaining from the individual the  
20                       individual’s social security account number  
21                       and recording the number on the form (if  
22                       the individual claims to have been issued  
23                       such a number), and, if the individual does  
24                       not attest to United States citizenship  
25                       under paragraph (2), obtaining such iden-



1           tification or authorization number estab-  
2           lished by the Immigration and Naturaliza-  
3           tion Service for the alien as the Attorney  
4           General may specify, and recording such  
5           number on the form; and

6           “(ii)(I) examining a document de-  
7           scribed in subparagraph (B); or (II) exam-  
8           ining a document described in subpara-  
9           graph (C) and a document described in  
10          subparagraph (D).

11          A person or entity has complied with the re-  
12          quirement of this paragraph with respect to ex-  
13          amination of a document if the document rea-  
14          sonably appears on its face to be genuine, rea-  
15          sonably appears to pertain to the individual  
16          whose identity and work eligibility is being  
17          verified, and, if the document bears an expira-  
18          tion date, that expiration date has not elapsed.  
19          If an individual provides a document (or com-  
20          bination of documents) that reasonably appears  
21          on its face to be genuine, reasonably appears to  
22          pertain to the individual whose identity and  
23          work eligibility is being verified, and is suffi-  
24          cient to meet the first sentence of this para-  
25          graph, nothing in this paragraph shall be con-

1           strued as requiring the person or entity to so-  
2           licit the production of any other document or as  
3           requiring the individual to produce another doc-  
4           ument.”;

5           (3) in subsection (b)(1)(D)—

6                   (A) in clause (i), by striking “or such other  
7           personal identification information relating to  
8           the individual as the Attorney General finds, by  
9           regulation, sufficient for purposes of this sec-  
10          tion”; and

11                   (B) in clause (ii), by inserting before the  
12          period “and that contains a photograph of the  
13          individual”;

14           (4) in subsection (b)(2), by adding at the end  
15          the following: “The individual must also provide that  
16          individual’s social security account number (if the  
17          individual claims to have been issued such a num-  
18          ber), and, if the individual does not attest to United  
19          States citizenship under this paragraph, such identi-  
20          fication or authorization number established by the  
21          Immigration and Naturalization Service for the alien  
22          as the Attorney General may specify.”;

23           (5) by amending subsection (b)(3) to read as  
24          follows:

1           “(3) RETENTION OF VERIFICATION FORM AND  
2 VERIFICATION.—

3           “(A) IN GENERAL.—After completion of  
4 such form in accordance with paragraphs (1)  
5 and (2), the person or entity must—

6           “(i) retain the form and make it avail-  
7 able for inspection by officers of the Serv-  
8 ice, the Special Counsel for Immigration-  
9 Related Unfair Employment Practices, or  
10 the Department of Labor during a period  
11 beginning on the date of the hiring, re-  
12 cruiting, or referral of the individual and  
13 ending—

14           “(I) in the case of the recruiting  
15 or referral for a fee (without hiring)  
16 of an individual, three years after the  
17 date of the recruiting or referral; and

18           “(II) in the case of the hiring of  
19 an individual, the later of—

20           “(aa) three years after the  
21 date of such hiring; or

22           “(bb) one year after the  
23 date the individual’s employment  
24 is terminated; and

1           “(B) make an inquiry, as provided in  
2 paragraph (7), using the verification sys-  
3 tem to seek verification of the identity and  
4 employment eligibility of an individual, by  
5 not later than the end of 3 working days  
6 (as specified by the Attorney General)  
7 after the date of the hiring (or recruitment  
8 or referral, as the case may be).

9           “(B) VERIFICATION.—

10           “(i) VERIFICATION RECEIVED.—If the  
11 person or other entity receives an appro-  
12 priate verification of an individual’s iden-  
13 tity and work eligibility under the  
14 verification system within the time period  
15 specified, the person or entity shall record  
16 on the form an appropriate code that is  
17 provided under the system and that indi-  
18 cates a final verification of such identity  
19 and work eligibility of the individual.

20           “(ii) TENTATIVE NONVERIFICATION  
21 RECEIVED.—If the person or other entity  
22 receives a tentative nonverification of an  
23 individual’s identity or work eligibility  
24 under the verification system within the  
25 time period specified, the person or entity

1 shall so inform the individual for whom the  
2 verification is sought. If the individual does  
3 not contest the nonverification within the  
4 time period specified, the nonverification  
5 shall be considered final. The person or en-  
6 tity shall then record on the form an ap-  
7 propriate code which has been provided  
8 under the system to indicate a tentative  
9 nonverification. If the individual does con-  
10 test the nonverification, the individual shall  
11 utilize the process for secondary  
12 verification provided under paragraph (7).  
13 The nonverification will remain tentative  
14 until a final verification or nonverification  
15 is provided by the verification system with-  
16 in the time period specified. In no case  
17 shall an employer terminate employment of  
18 an individual because of a failure of the in-  
19 dividual to have identity and work eligi-  
20 bility confirmed under this section until a  
21 nonverification becomes final. Nothing in  
22 this clause shall apply to a termination of  
23 employment for any reason other than be-  
24 cause of such a failure.

1           “(iii) FINAL VERIFICATION OR  
2 NONVERIFICATION RECEIVED.—If a final  
3 verification or nonverification is provided  
4 by the verification system regarding an in-  
5 dividual, the person or entity shall record  
6 on the form an appropriate code that is  
7 provided under the system and that indi-  
8 cates a verification or nonverification of  
9 identity and work eligibility of the indi-  
10 vidual.

11           “(iv) EXTENSION OF TIME.—If the  
12 person or other entity in good faith at-  
13 tempts to make an inquiry during such 3  
14 working days and the verification system  
15 has registered that not all inquiries were  
16 received during such time, the person or  
17 entity may make an inquiry in the first  
18 subsequent working day in which the  
19 verification system registers that it has re-  
20 ceived all inquiries. If the verification sys-  
21 tem cannot receive inquiries at all times  
22 during a day, the person or entity merely  
23 has to assert that the entity attempted to  
24 make the inquiry on that day for the pre-  
25 vious sentence to apply to such an inquiry,

1 and does not have to provide any addi-  
2 tional proof concerning such inquiry.

3 “(v) CONSEQUENCES OF  
4 NONVERIFICATION.—

5 “(I) TERMINATION OR NOTIFICA-  
6 TION OF CONTINUED EMPLOYMENT.—

7 If the person or other entity has re-  
8 ceived a final nonverification regard-  
9 ing an individual, the person or entity  
10 may terminate employment (or re-  
11 cruitment or referral) of the indi-  
12 vidual. If the person or entity does  
13 not terminate employment (or recruit-  
14 ment or referral) of the individual, the  
15 person or entity shall notify the Attor-  
16 ney General of such fact through the  
17 verification system or in such other  
18 manner as the Attorney General may  
19 specify.

20 “(II) FAILURE TO NOTIFY.—If  
21 the person or entity fails to provide  
22 notice with respect to an individual as  
23 required under subclause (I), the fail-  
24 ure is deemed to constitute a violation  
25 of subsection (a)(1)(B) with respect to

1 that individual and the applicable civil  
 2 monetary penalty under subsection  
 3 (e)(5) shall be (notwithstanding the  
 4 amounts specified in such section) not  
 5 less than \$1,000 and not more than  
 6 \$20,000 for each individual with re-  
 7 spect to whom such violation occurred.

8 “(vi) CONTINUED EMPLOYMENT  
 9 AFTER FINAL NONVERIFICATION.—If the  
 10 person or other entity continues to employ  
 11 (or to recruit or refer) an individual after  
 12 receiving final nonverification, a rebuttable  
 13 presumption is created that the person or  
 14 entity has violated subsection (a)(1)(A).  
 15 The previous sentence shall not apply in  
 16 any prosecution under subsection (f)(1).”.

17 **SEC. 513. EFFECTIVE DATE.**

18 This subtitle shall take effect 2 years after the date  
 19 of the enactment of this Act.

20 **Subtitle C—Miscellaneous**

21 **SEC. 521. INCREASED INVESTIGATIVE PERSONNEL.**

22 (a) BRINGING IN AND HARBORING CERTAIN ALIENS;  
 23 UNLAWFUL EMPLOYMENT OF ALIENS.—

24 (1) AUTHORIZATION OF APPROPRIATIONS.—

25 There are authorized to be appropriated such funds



1 as may be necessary to enable the Commissioner of  
2 Immigration and Naturalization to increase, above  
3 the number specified in section 101(a)(2) of the En-  
4 hanced Border Security and Visa Entry Reform Act  
5 of 2002 (Public Law 107–173), the number of inves-  
6 tigators and support personnel to investigate poten-  
7 tial violations of sections 274 and 274A of the Im-  
8 migration and Nationality Act (8 U.S.C. 1324 and  
9 1324a), other than alien smuggling, by a number  
10 equivalent to—

11 (A) 250 full-time active-duty investigators  
12 in each of fiscal years 2003 through 2006; and

13 (B) 100 full-time active-duty investigators  
14 in each of fiscal years 2007 through 2010.

15 (2) ALLOCATION.—At least one-half of the in-  
16 vestigators hired with funds made available under  
17 paragraph (1) shall be assigned to investigate poten-  
18 tial violations of section 274A of the Immigration  
19 and Nationality Act.

20 (b) VISA OVERSTAYS.—There are authorized to be  
21 appropriated such funds as may be necessary to enable  
22 the Commissioner of Immigration and Naturalization to  
23 increase, above the number specified in section 101(a)(2)  
24 of the Enhanced Border Security and Visa Entry Reform  
25 Act of 2002 (Public Law 107–173), the number of investi-

1 gator and support personnel to investigate aliens who re-  
2 main in the United States beyond the period of stay au-  
3 thorized under their visa by a number equivalent to—

4 (1) 250 full-time active-duty investigators in  
5 each of fiscal years 2003 through 2006; and

6 (2) 100 full-time active-duty investigators in  
7 each of fiscal years 2007 through 2010.

8 **SEC. 522. EXPEDITED EXCLUSION.**

9 Section 235(b)(1)(A) (8 U.S.C. 1225(b)(1)(A)) is  
10 amended by striking clauses (i) through (iii) and inserting  
11 the following:

12 “(i) IN GENERAL.—If an immigration  
13 officer determines that an alien (other  
14 than an alien described in subparagraph  
15 (F)) who is arriving in the United States,  
16 or who has not been admitted or paroled  
17 into the United States and has not been  
18 physically present in the United States  
19 continuously for the 5-year period imme-  
20 diately prior to the date of the determina-  
21 tion of inadmissibility under this para-  
22 graph, is inadmissible under section  
23 212(a)(6)(C) or 212(a)(7), the officer shall  
24 order the alien removed from the United

1 States without further hearing or review,  
2 unless—

3 “(I) the alien has been charged  
4 with a crime; or

5 “(II) the alien indicates an inten-  
6 tion to apply for asylum under section  
7 208 or a fear of persecution and the  
8 officer determines that the alien has  
9 been physically present in the United  
10 States for less than 1 year.

11 “(ii) CLAIMS FOR ASYLUM.—If an im-  
12 migration officer determines that an alien  
13 (other than an alien described in subpara-  
14 graph (F)) who is arriving in the United  
15 States, or who has not been admitted or  
16 paroled into the United States and has not  
17 been physically present in the United  
18 States continuously for the 5-year period  
19 immediately prior to the date of the deter-  
20 mination of inadmissibility under this  
21 paragraph, is inadmissible under section  
22 212(a)(6)(C) or 212(a)(7), and the alien  
23 indicates either an intention to apply for  
24 asylum under section 208 or a fear of per-  
25 secution, the officer shall refer the alien

1                   for an interview by an asylum officer under  
2                   subparagraph (B) if the officer determines  
3                   that the alien has been physically present  
4                   in the United States for less than 1 year.”.

5 **SEC. 523. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.**

6           (a) **INELIGIBILITY FOR ADJUSTMENT OF STATUS.**—  
7 Section 245(c) (8 U.S.C. 1255(c)) is amended by striking  
8 “(other than an immediate relative as defined in section  
9 201(b) or a special immigrant described in section  
10 101(a)(27)(H), (I), (J), or (K))”.

11           (b) **INAPPLICABILITY OF CERTAIN PROVISIONS FOR**  
12 **CERTAIN IMMIGRANTS.**—Section 245(k) (8 U.S.C.  
13 1255(k)) is amended to read as follows:

14           “(k) **INAPPLICABILITY OF CERTAIN PROVISIONS FOR**  
15 **CERTAIN IMMIGRANTS.**—An alien who is eligible to receive  
16 an immigrant visa under paragraph (1), (2), or (3) of sec-  
17 tion 203(b), as an immediate relative as defined in section  
18 201(b), or, in the case of an alien who is an immigrant  
19 described in subparagraph (C), (H), (I), (J), or (K) of  
20 section 101(a)(27), under section 203(b)(4), may adjust  
21 status pursuant to subsection (a) and notwithstanding  
22 paragraphs (2), (7), and (8) of subsection (c), if—

23                   “(1) the alien, on the date of filing an applica-  
24                   tion for adjustment of status, is present in the  
25                   United States pursuant to a lawful admission; and

1           “(2) the alien, subsequent to such lawful admis-  
2           sion has not, for an aggregate period exceeding 180  
3           days—

4                   “(A) failed to maintain continuously a law-  
5           ful status;

6                   “(B) engaged in unauthorized employment;  
7           or

8                   “(C) otherwise violated the terms and con-  
9           ditions of the alien’s admission.”.

10 **SEC. 524. TERMINATION OF CONTINUOUS PRESENCE FOR**  
11 **PURPOSES OF CANCELLATION OF REMOVAL**  
12 **UPON COMMISSION OF OFFENSE RENDERING**  
13 **ALIEN INADMISSIBLE OR DEPORTABLE.**

14           (a) **IN GENERAL.**—Section 240A(d)(1) (8 U.S.C.  
15 1229b(d)(1)) is amended by striking “referred to in sec-  
16 tion 212(a)(2)”.

17           (b) **EFFECTIVE DATE.**—The amendment made by  
18 subsection (a) shall apply to aliens who are in proceedings  
19 under the Immigration and Nationality Act on or after  
20 the date of the enactment of this Act if those proceedings  
21 have not resulted in a final administrative order before  
22 such date.

23 **SEC. 525. REENTRY OF REMOVED ALIENS.**

24           (a) **IN GENERAL.**—Section 276(a) (8 U.S.C.  
25 1326(a)) is amended to read as follows:

1       “SEC. 276. (a) Subject to subsection (b), any alien  
2 shall be fined under title 18, United States Code, or im-  
3 prisoned not more than 2 years, or both, who—

4           “(1) has been denied admission, excluded, de-  
5 ported, or removed or has departed the United  
6 States while an order of exclusion, deportation, or  
7 removal is outstanding; and

8           “(2) thereafter enters, attempts to enter, or is  
9 at any time found in, the United States,  
10 unless, in the case of an alien previously denied admission  
11 and removed, the alien establishes that the alien was not  
12 required to obtain from the Attorney General advance con-  
13 sent to reapply for admission under this Act or any prior  
14 Act.”.

15       (b) CRIMINAL PENALTIES FOR REENTRY OF CER-  
16 TAIN REMOVED ALIENS.—Section 276(b) (8 U.S.C.  
17 1326(b)) is amended—

18           (1) in paragraph (3), by striking “sentence.”  
19 and inserting “sentence;”; and

20           (2) in paragraph (4), by striking “(unless the  
21 Attorney General has expressly consented to such  
22 alien’s reentry)”.

23       (c) REENTRY OF ALIENS REMOVED PRIOR TO COM-  
24 PLETION OF IMPRISONMENT.—Section 276(c) (8 U.S.C.  
25 1326(c)) is amended—

1           (1) by inserting “(as in effect prior to the effective  
2           date of the amendments made by section 305 of  
3           the Illegal Immigration Reform and Immigrant Responsibility  
4           Act of 1996), or removed under section  
5           241(a)(4),” after “242(h)(2)”;

6           (2) by striking “(unless the Attorney General  
7           has expressly consented to such alien’s reentry)”;

8           (3) by inserting “or removal” after “time of deportation”; and

10           (4) by inserting “or removed” after “reentry of  
11           deported”.

12           (d) CHALLENGE TO VALIDITY OF ORDER.—Section  
13           276(d) (8 U.S.C. 1326(d)) is amended—

14           (1) in the matter preceding paragraph (1), by  
15           striking “deportation order” and inserting “deportation  
16           or removal order”; and

17           (2) in paragraph (2), by inserting “or removal”  
18           after “deportation”.

19           (e) EFFECTIVE DATE.—The amendments made by  
20           this section shall take effect on the date of the enactment  
21           of this Act and shall apply to criminal proceedings involving  
22           aliens who enter, attempt to enter, or are found in  
23           the United States, after such date.

1 **SEC. 526. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF**  
2 **ALIENS AT IMPROPER TIME OR PLACE,**  
3 **AVOIDANCE OF EXAMINATION OR INSPEC-**  
4 **TION, UNLAWFUL PRESENCE, AND MISREPRE-**  
5 **SENTATION OR CONCEALMENT OF FACTS.**

6 Section 275 (8 U.S.C. 1325) is amended to read as  
7 follows:

8 “CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS  
9 AT IMPROPER TIME OR PLACE, AVOIDANCE OF EX-  
10 AMINATION OR INSPECTION, UNLAWFUL PRESENCE,  
11 AND MISREPRESENTATION OR CONCEALMENT OF  
12 FACTS

13 “SEC. 275. (a) ENTRY AT IMPROPER TIME OR  
14 PLACE; AVOIDANCE OF EXAMINATION OR INSPECTION;  
15 UNLAWFUL PRESENCE; MISREPRESENTATION OR CON-  
16 CEALMENT OF FACTS.—Any alien who—

17 “(1) enters or attempts to enter the United  
18 States at any time or place other than as designated  
19 by immigration officers;

20 “(2) eludes examination or inspection by immi-  
21 gration officers;

22 “(3) is knowingly unlawfully present in the  
23 United States for an aggregate period of more than  
24 180 days; or

25 “(4) attempts to enter or obtains entry to the  
26 United States by a willfully false or misleading rep-



1       resentation or the willful concealment of a material  
2       fact,  
3 shall, for the first commission of any such offense, be fined  
4 under title 18, United States Code, or imprisoned not  
5 more than 2 years, or both, and, for a subsequent commis-  
6 sion of any such offense, be fined under title 18, United  
7 States Code, or imprisoned not more than 10 years, or  
8 both.

9       “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
10 ALTIES.—Any alien who is apprehended while entering (or  
11 attempting to enter) the United States at a time or place  
12 other than as designated by immigration officers shall be  
13 subject to a civil penalty of—

14               “(1) at least \$100 and not more than \$10,000  
15       for each such entry (or attempted entry); or

16               “(2) three times the amount specified in para-  
17       graph (1) in the case of an alien who has been pre-  
18       viously subject to a civil penalty under this sub-  
19       section.

20 Civil penalties under this subsection are in addition to,  
21 and not in lieu of, any criminal or other civil penalties  
22 that may be imposed.

23       “(c) MARRIAGE FRAUD.—An individual who know-  
24 ingly enters into a marriage for the purpose of evading  
25 any provision of the immigration laws shall be fined not

1 more than \$1,000,000, imprisoned not more than 15  
2 years, or both.

3 “(d) IMMIGRATION-RELATED ENTREPRENEURSHIP  
4 FRAUD.—Any individual who knowingly established a  
5 commercial enterprise for the purpose of evading any pro-  
6 vision of the immigration laws shall be fined under title  
7 18, United States Code, or imprisoned not more than 15  
8 years, or both.”.

9 **SEC. 527. COMMUNICATION BETWEEN GOVERNMENT AGEN-**  
10 **CIES AND THE IMMIGRATION AND NATU-**  
11 **RALIZATION SERVICE.**

12 Section 642 of the Illegal Immigration Reform and  
13 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is  
14 amended by adding at the end the following:

15 “(d) ENFORCEMENT.—

16 “(1) INELIGIBILITY FOR FEDERAL LAW EN-  
17 FORCEMENT AID.—Upon a determination that any  
18 person, or any Federal, State, or local government  
19 agency or entity, is in violation of subsection (a) or  
20 (b), the Attorney General shall not provide to that  
21 person, agency, or entity any grant amount pursuant  
22 to any law enforcement grant program carried out  
23 by any element of the Department of Justice, includ-  
24 ing the program under section 241(i) of the Immi-  
25 gration and Nationality Act (8 U.S.C. 241(i)), and

1 shall ensure that no such grant amounts are pro-  
2 vided, directly or indirectly, to such person, agency,  
3 or entity. In the case of grant amounts that other-  
4 wise would be provided to such person, agency, or  
5 entity pursuant to a formula, such amounts shall be  
6 reallocated among eligible recipients.

7 “(2) VIOLATIONS BY GOVERNMENT OFFI-  
8 CIALS.—In any case in which a Federal, State, or  
9 local government official is in violation of subsection  
10 (a) or (b), the government agency or entity that em-  
11 ploys (or, at the time of the violation, employed) the  
12 official shall be subject to the sanction under para-  
13 graph (1).

14 “(3) DURATION.—The sanction under para-  
15 graph (1) shall remain in effect until the Attorney  
16 General determines that the person, agency, or enti-  
17 ty has ceased violating subsections (a) and (b).”.

18 **SEC. 528. EXCEPTION TO REMOVAL FOR CERTAIN ALIENS.**

19 (a)(1) Section 214(o) (8 U.S.C. 1184(o)) (as redesi-  
20 gnated by section 204 of this Act) is amended by adding  
21 at the end the following new paragraph:

22 “(4) No alien shall be eligible for admission to the  
23 United States under section 101(a)(15)(T) if there is a  
24 substantial reason to believe that the alien voluntarily  
25 came to the United States, except that if the alien is or

1 has been a victim of a severe form of trafficking in the  
2 form of sex trafficking, the alien shall be eligible for ad-  
3 mission under such section unless the alien knew or rea-  
4 sonably should have known when coming to the United  
5 States that the alien would be expected to perform com-  
6 mercial sex acts.”.

7 (2) Section 245(l) (8 U.S.C. 1255(l)), as added by  
8 section 107(f) of Public Law 106–386, is amended—

9 (A) in paragraph (1)(C)(i), by striking “or” at  
10 the end and inserting “and”;

11 (B) by redesignating—

12 (i) paragraphs (3) and (4) as paragraphs  
13 (4) and (5), respectively; and

14 (ii) the second paragraph (2) as paragraph  
15 (3);

16 (C) in paragraph (2)(B), by striking “(3),  
17 (10)(C), and (10(E)), if the activities rendering the  
18 alien inadmissible under the provision were caused  
19 by, or were incident to,” and inserting “(2), (3), (8),  
20 (9)(A), (10)(C), (10)(D), and (10)(E)), if the activi-  
21 ties rendering the alien inadmissible under the provi-  
22 sion were caused by”; and

23 (D) by amending paragraph (5) (as so redesign-  
24 nated) to read as follows:

1       “(5) Upon the approval of adjustment of status under  
2 paragraph (1), the Attorney General shall record the  
3 alien’s lawful admission for permanent residence as of the  
4 date of such approval and the Secretary of State shall re-  
5 duce by one the number of visas authorized to be issued  
6 under sections 201(d) and 203(b)(4) for the fiscal year  
7 then current, unless the number of remaining visas au-  
8 thorized to be issued under section 203(b)(4) for such year  
9 is zero, in which case such reductions shall not be made.”.

10       (b)(1) Section 101(a)(15)(U)(iii) (8 U.S.C.  
11 1101(a)(15)(U)(iii)) is amended to read as follows:

12               “(iii) the criminal activity referred to in this  
13 clause is that involving 1 or more of the following  
14 or any similar activity in violation of Federal, State,  
15 or local criminal law: rape; incest; domestic violence,  
16 sexual assault; abusive sexual contact; sexual exploi-  
17 tation; female genital mutilation; or attempt or con-  
18 spiracy to commit any of the above mentioned  
19 crimes; or”.

20       (2) Section 204(a)(1)(C) (8 U.S.C. 1154(a)(1)(C)) is  
21 amended by inserting “directly” before “connected”.

22       (3) Section 214(p)(1) (8 U.S.C. 1184(p)(1)) (as re-  
23 designated by section 204 of this Act) is amended by strik-  
24 ing “This certification may also be provided by an official  
25 of the Service whose ability to provide such certification

1 is not limited to information concerning immigration viola-  
2 tions.”.

3 (4) Section 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H))  
4 is amended—

5 (A) by striking clause (ii);

6 (B) in clause (i), by striking “(I)”; and

7 (C) by redesignating subclause (II) as clause  
8 (ii).

9 (5) Section 240A (8 U.S.C. 1229b) is amended—

10 (A) in subsection (b)(2)(A)(ii), by striking “,  
11 and the issuance of a charging document for removal  
12 proceedings shall not toll the 3-year period of contin-  
13 uous physical presence in the United States”;

14 (B) by amending subsection (b)(2)(A)(iv) to  
15 read as follows:

16 “(iv) the alien is not inadmissible  
17 under paragraph (2), (3), (8), (9)(A),  
18 (10)(C), (10)(D), or (10)(E) of section  
19 212(a), is not deportable under paragraph  
20 (1)(E), (1)(G), or (2) through (4) of sec-  
21 tion 237(a) (except in a case described in  
22 section 237(a)(7) where the Attorney Gen-  
23 eral exercises discretion to grant a waiver),  
24 and has not been convicted of an aggra-  
25 vated felony; and”;

1 (C) in subsection (b)(2)(B)—

2 (i) by inserting “direct” before “connection  
3 between the absence”;

4 (ii) by inserting “directly” before “con-  
5 nected to the battering or extreme”; and

6 (iii) in the third sentence, by inserting  
7 “battery or cruelty-related” before “absences or  
8 portions of the absences”;

9 (iv) in subsection (b)(2)(C), by inserting  
10 “directly” before “connected”;

11 (v) in subsection (b)(4)(A), by striking  
12 “shall” and inserting “may”; and

13 (vi) in subsection (d)(1), by striking “ex-  
14 cept in the case of an alien who applies for can-  
15 cellation of removal under subsection (b)(2),”.

16 (6) Section 245 (8 U.S.C. 1255) is amended by redес-  
17 ignating the subsection (l) that was added by section  
18 1513(f) of Public Law 106–386 as subsection (m) and in  
19 such redesignated subsection—

20 (A) in paragraph (1)—

21 (i) in the matter preceding subparagraph  
22 (A), by striking “section 212(a)(3)(E), unless  
23 the Attorney General determines based on af-  
24 firmative evidence” and inserting “(2), (3), (8),  
25 (9)(A), (10)(C), (10)(D), or (10)(E) of section

1           212(a), unless the Attorney General deter-  
2           mines”;

3           (ii) by striking “and” at the end of sub-  
4           paragraph (A);

5           (iii) by striking subparagraph (B) and in-  
6           serting the following:

7           “(B) the alien has, throughout such period,  
8           been a person of good moral character; and

9           “(C) in the opinion of the Attorney General, the  
10          alien or the alien’s spouse, parent, or child, who is  
11          a citizen of the United States or an alien lawfully  
12          admitted for permanent residence, would suffer ex-  
13          treme hardship.”;

14          (B) in paragraph (2), by striking “or unless an  
15          official involved in the investigation or prosecution  
16          certifies that the absence was otherwise justified”;  
17          and

18          (C) by amending paragraph (4) to read as fol-  
19          lows:

20          “(4) Upon the approval of adjustment of status under  
21          paragraph (1) or (3), the Attorney General shall record  
22          the alien’s lawful admission for permanent residence as  
23          of the date of such approval and the Secretary of State  
24          shall reduce by one the number of visas authorized to be  
25          issued under sections 201(d) and 203(b)(4) for the fiscal



1 year then current, unless the number of remaining visas  
2 authorized to be issued under section 203(b)(4) for such  
3 year is zero, in which case such reductions shall not be  
4 made.”.

5 **SEC. 529. DETENTION FACILITIES.**

6 (a) INCREASING NUMBER OF DETENTION BEDS.—  
7 Subject to the availability of appropriations, the Attorney  
8 General shall provide for a doubling in the detention beds  
9 of the Immigration and Naturalization Service over the  
10 number existing on the date of the enactment of this Act  
11 by the end of fiscal year 2004.

12 (b) PLACES OF DETENTION FOR ALIENS ARRESTED  
13 PENDING EXAMINATION AND DECISION ON REMOVAL.—  
14 Section 241(g) (8 U.S.C. 1231(g)) is amended by adding  
15 at the end the following:

16 “(3) POLICY ON DETENTION IN STATE AND  
17 LOCAL DETENTION FACILITIES.—In carrying out  
18 paragraph (1), the Attorney General shall ensure  
19 that an alien arrested under section 287(a) may be  
20 detained, pending the alien’s being taken for the ex-  
21 amination described in such section, in a State or  
22 local prison, jail, detention center, or other com-  
23 parable facility, if—

1           “(A) such facility is the most suitably lo-  
2           cated Federal, State, or local facility available  
3           for such purpose under the circumstances;

4           “(B) an appropriate arrangement for such  
5           use of the facility can be made; and

6           “(C) such facility satisfies the standards  
7           for the housing, care, and security of persons  
8           held in custody of a United States marshal.”.

9   **SEC. 530. VOLUNTARY DEPARTURE.**

10       (a) IN GENERAL.—Section 240B (8 U.S.C. 1229c)  
11 is amended to read as follows:

12                           “VOLUNTARY DEPARTURE

13       “SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The  
14 Attorney General may permit an alien voluntarily to de-  
15 part the United States at the alien’s own expense under  
16 this subsection, in lieu of being subject to proceedings  
17 under section 240 and in lieu of applying for another form  
18 of relief from removal, if the alien is not deportable under  
19 paragraph (2)(A)(iii) or (4)(B) of section 237(a). Permis-  
20 sion to depart voluntarily under this subsection shall not  
21 be valid for a period exceeding 90 days and cannot be ex-  
22 tended. The Attorney General shall require an alien per-  
23 mitted to depart voluntarily under this subsection to post  
24 a voluntary departure bond, in an amount necessary to  
25 ensure that the alien will depart, to be surrendered upon

1 proof that the alien has departed the United States within  
2 the time specified.

3 “(b) PRIOR TO SCHEDULING MERITS HEARING.—

4 The Attorney General may permit an alien voluntarily to  
5 depart the United States at the alien’s own expense under  
6 this subsection prior to the scheduling of the first merits  
7 hearing, in lieu of applying for another form of relief from  
8 removal, if the alien is not deportable under paragraph  
9 (2)(A)(iii) or (4)(B) of section 237(a). Permission to de-  
10 part voluntarily under this subsection shall not be valid  
11 for a period exceeding 60 days and cannot be extended.  
12 The Attorney General shall require an alien permitted to  
13 depart voluntarily under this subsection to post a vol-  
14 untary departure bond, in an amount necessary to ensure  
15 that the alien will depart, to be surrendered upon proof  
16 that the alien has departed the United States within the  
17 time specified.

18 “(c) ONCE FIRST MERITS HEARING SCHEDULED.—

19 “(1) IN GENERAL.—Once the first merits hear-  
20 ing has been scheduled under section 240, the Attor-  
21 ney General may permit an alien voluntarily to de-  
22 part the United States at the alien’s own expense  
23 under this subsection, in lieu of pursuing another  
24 form of relief from removal, if the immigration judge

1 enters an order granting voluntary departure in lieu  
2 of removal and finds that—

3 “(A) the alien has been physically present  
4 in the United States for a period of at least one  
5 year immediately preceding the date the notice  
6 to appear was served under section 239(a);

7 “(B) the alien is, and has been, a person  
8 of good moral character for at least 5 years im-  
9 mediately preceding the alien’s application for  
10 voluntary departure;

11 “(C) the alien is not deportable under  
12 paragraph (2)(A)(iii) or (4)(B) of section  
13 237(a); and

14 “(D) the alien has established by clear and  
15 convincing evidence that the alien has the  
16 means to depart the United States and intends  
17 to do so.

18 “(2) PERIOD.—Permission to depart voluntarily  
19 under this subsection shall not be valid for a period  
20 exceeding 30 days and cannot be extended.

21 “(3) BOND.—The Attorney General shall re-  
22 quire an alien permitted to depart voluntarily under  
23 this subsection to post a voluntary departure bond,  
24 in an amount necessary to ensure that the alien will  
25 depart, to be surrendered upon proof that the alien

1 has departed the United States within the time spec-  
2 ified.

3 “(d) ALIENS NOT ELIGIBLE.—The Attorney General  
4 shall not permit an alien to depart voluntarily under this  
5 section if the alien was previously permitted to depart vol-  
6 untarily under section 244(e) or this section, or to volun-  
7 tarily return, at any time.

8 “(e) THREE-YEAR PILOT PROGRAM WAIVER.—

9 “(1) IN GENERAL.—During the period October  
10 1, 2000, through September 30, 2003, and subject  
11 to paragraphs (2) and (3)(B), the Attorney General  
12 may, in the discretion of the Attorney General for  
13 humanitarian purposes, waive the time limitations  
14 applicable under subsection (a), (b), or (c) in the  
15 case of an alien—

16 “(A) who was admitted to the United  
17 States as a nonimmigrant visitor (described in  
18 section 101(a)(15)(B)) under the provisions of  
19 the visa waiver program established pursuant to  
20 section 217, seeks the waiver for the purpose of  
21 continuing to receive medical treatment in the  
22 United States from a physician associated with  
23 a health care facility, and submits to the Attor-  
24 ney General—

1           “(i) a detailed diagnosis statement  
2           from the physician, which includes the  
3           treatment being sought and the expected  
4           time period the alien will be required to re-  
5           main in the United States;

6           “(ii) a statement from the health care  
7           facility containing an assurance that the  
8           alien’s treatment is not being paid through  
9           any Federal or State public health assist-  
10          ance, that the alien’s account has no out-  
11          standing balance, and that such facility  
12          will notify the Service when the alien is re-  
13          leased or treatment is terminated; and

14          “(iii) evidence of financial ability to  
15          support the alien’s day-to-day expenses  
16          while in the United States (including the  
17          expenses of any family member described  
18          in subparagraph (B)) and evidence that  
19          any such alien or family member is not re-  
20          ceiving any form of public assistance; or

21          “(B) who—

22                 “(i) is a spouse, parent, brother, sis-  
23                 ter, son, daughter, or other family member  
24                 of a principal alien described in subpara-  
25                 graph (A); and

1           “(ii) entered the United States accom-  
2           panying, and with the same status as, such  
3           principal alien.

4           “(2) WAIVER LIMITATIONS.—

5           “(A) REQUEST.—Waivers under this sub-  
6           section may be granted only upon a request  
7           submitted by a Service district office to Service  
8           headquarters.

9           “(B) NUMBER.—Not more than 300 waiv-  
10          ers may be granted for any fiscal year for a  
11          principal alien under paragraph (1)(A).

12          “(C) ACCOMPANYING PERSONS.—

13               “(i) IN GENERAL.—Except as pro-  
14               vided in clause (ii), in the case of each  
15               principal alien described in paragraph  
16               (1)(A) not more than one adult may be  
17               granted a waiver under paragraph (1)(B).

18               “(ii) EXCEPTION.—Not more than  
19               two adults may be granted a waiver under  
20               paragraph (1)(B) in a case in which—

21                       “(I) the principal alien described in  
22                       paragraph (1)(A) is a dependent under the  
23                       age of 18; or

24                       “(II) one such adult is age 55 or older  
25                       or is physically handicapped.

1           “(3) REPORT TO CONGRESS; SUSPENSION OF  
2           WAIVER AUTHORITY.—

3           “(A) ANNUAL REPORT.—Not later than  
4           March 30 of each year, the Commissioner shall  
5           submit to the Congress an annual report re-  
6           garding all waivers granted under this sub-  
7           section during the preceding fiscal year.

8           “(B) SUSPENSION.—Notwithstanding any  
9           other provision of law, the authority of the At-  
10          torney General under this subsection shall be  
11          suspended during any period in which an an-  
12          nual report under subparagraph (A) is past due  
13          and has not been submitted.

14          “(4) APPLICABILITY.—This subsection shall not  
15          apply to any alien who enters the United States  
16          after the date that is 180 days after the date of the  
17          enactment of the Securing America’s Future  
18          through Enforcement Reform Act of 2002.

19          “(f) CIVIL PENALTY FOR FAILURE TO DEPART.—If  
20          an alien is permitted to depart voluntarily under this sec-  
21          tion and fails voluntarily to depart the United States with-  
22          in the time period specified, the alien shall be subject to  
23          a civil penalty of not less than \$1,000 and not more than  
24          \$5,000, and be ineligible for a period of 10 years for any  
25          further relief under this section and sections 240A, 245,



1 248, and 249. The order permitting the alien to depart  
2 voluntarily shall inform the alien of the penalties under  
3 this subsection.

4 “(g) ADDITIONAL CONDITIONS.—The Attorney Gen-  
5 eral may by regulation limit eligibility for voluntary depart-  
6 ture under this section for any class or classes of aliens.  
7 No court may review any regulation issued under this sub-  
8 section.

9 “(h) TREATMENT OF ALIENS ARRIVING IN THE  
10 UNITED STATES.—In the case of an alien who is arriving  
11 in the United States and with respect to whom pro-  
12 ceedings under section 240 are (or would otherwise be)  
13 initiated at the time of such alien’s arrival, subsections  
14 (a) through (c) shall not apply. Nothing in this paragraph  
15 shall be construed as preventing such an alien from with-  
16 drawing the application for admission in accordance with  
17 section 235(a)(4).

18 “(i) REVIEW.—There shall be no administrative or  
19 judicial review of a denial of a request for an order of  
20 voluntary departure. No court or agency shall order a stay  
21 of an alien’s removal pending consideration of any claim  
22 with respect to voluntary departure. The order permitting  
23 the alien to depart voluntarily shall inform the alien that  
24 the alien has no right to appeal any issue relating to the  
25 removal proceeding.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the date of the enact-  
3 ment of this Act and shall apply to aliens who are in pro-  
4 ceedings under the Immigration and Nationality Act on  
5 or after such date if those proceedings have not resulted  
6 in a final administrative order before such date.

7 **TITLE VI—ELIMINATING EXCES-**  
8 **SIVE REVIEW AND DILATORY**  
9 **AND ABUSIVE TACTICS BY**  
10 **ALIENS IN REMOVAL PRO-**  
11 **CEEDINGS**

12 **SEC. 601. FRIVOLOUS APPLICATIONS.**

13 (a) IN GENERAL.—Paragraph (6) of section 208(d)  
14 (8 U.S.C. 1158(d)) is amended by adding at the end the  
15 following new sentence: “As used in this section, the term  
16 ‘frivolous application’ means an application that lacks a  
17 reasonably arguable basis either in law or in fact. If an  
18 alien withdraws an application for asylum and pursues an-  
19 other benefit or form of relief under this Act, the alien  
20 shall bear the burden of proving by clear and convincing  
21 evidence, in the adjudication respecting such other benefit  
22 or form of relief, that such asylum application was not  
23 a frivolous application. If the alien fails to carry such bur-  
24 den, the alien shall be permanently ineligible for any ben-  
25 efit under this Act.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall take effect on the date of the enact-  
3 ment of this Act and shall apply to applications for asylum  
4 pending on or after such date if the application has not  
5 resulted in a final administrative order before such date.

6 **SEC. 602. CONTINUANCES; CHANGE OF VENUE.**

7 (a) IN GENERAL.—Section 240(b)(1) (8 U.S.C.  
8 1229a(b)(1)) is amended by adding at the end the fol-  
9 lowing:

10 “The immigration judge may not grant a continu-  
11 ance to permit an alien to become eligible for relief  
12 under any provision of law. In proceedings under  
13 this section or under section 236, the immigration  
14 judge may not grant a change of venue for an alien  
15 who has not been inspected and admitted or paroled  
16 into the United States. For all other aliens, the im-  
17 migration judge may grant a change of venue only  
18 if the alien demonstrates that the alien cannot ob-  
19 tain a fair proceeding in the current venue.”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 subsection (a) shall take effect on the date of the enact-  
22 ment of this Act and shall apply to continuances and  
23 changes of venue sought after such date.

1 **SEC. 603. BURDEN OF PROOF IN ASYLUM PROCEEDINGS.**

2 (a) IN GENERAL.—Section 208(b)(1) (8 U.S.C.  
3 1158(b)(1)) is amended—

4 (1) by striking “(1) IN GENERAL.—The Attor-  
5 ney General” and inserting the following:

6 “(1) IF ALIEN IS A REFUGEE.—

7 “(A) IN GENERAL.—The Attorney Gen-  
8 eral”; and

9 (2) by adding at the end the following:

10 “(B) BURDEN OF PROOF.—The burden of  
11 proof is on the applicant for asylum to establish  
12 that he or she is a refugee within the meaning  
13 of section 101(a)(42). The testimony of the ap-  
14 plicant, if credible, may be sufficient to sustain  
15 such burden without corroboration. Where it is  
16 reasonable to expect corroborating evidence for  
17 certain alleged facts pertaining to the specifics  
18 of an alien’s claim for asylum, such evidence  
19 must be provided unless a reasonable expla-  
20 nation is given as to why such information is  
21 not presented.”.

22 (b) EFFECTIVE DATE.—The amendment made by  
23 subsection (a) shall take effect on the date of the enact-  
24 ment of this Act and shall apply to applications for asylum  
25 pending on or after such date if the application has not  
26 resulted in a final administrative order before such date.

1 **SEC. 604. REVIEW OF CONVENTION AGAINST TORTURE**  
2 **GRANTS AND DENIALS.**

3 (a) IN GENERAL.—Section 241(b) (8 U.S.C.  
4 1231(b)) is amended by adding at the end the following  
5 new paragraph:

6 “(4) ELIMINATION OF REVIEW.—A determina-  
7 tion as to whether the removal of an alien to any  
8 country should be withheld or deferred under the  
9 United Nations Convention Against Torture and  
10 Other Cruel, Inhuman, or Degrading Treatment or  
11 Punishment shall be made by the Service District  
12 Director in the district in which the alien resides or  
13 is being detained. Authority to make this determina-  
14 tion shall not be delegated below the level of Assist-  
15 ant District Director. There shall be no administra-  
16 tive or judicial review of a determination of the Dis-  
17 trict Director under this section.”.

18 (b) EFFECTIVE DATE.—The amendment made by  
19 subsection (a) shall take effect on the date of the enact-  
20 ment of this Act and shall apply to applications pending  
21 on or after such date if the application has not resulted  
22 in a final administrative order before such date.

1 **SEC. 605. TIME LIMIT FOR DECISIONS IN ADMINISTRATIVE**  
2 **APPEALS.**

3 (a) IN GENERAL.—Chapter 9 of title II of the Act  
4 is amended by inserting after section 294 the following  
5 new section:

6 “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

7 “SEC. 295. (a) DEADLINE.—A decision in any ad-  
8 ministrative appeal from a decision of an immigration  
9 judge shall be issued not later than 180 days after the  
10 appeal is filed. If the appeal is not decided before such  
11 deadline, the decision of the immigration judge shall be  
12 final, unless the Attorney General certifies the decision for  
13 review.

14 (b) STANDARD OF REVIEW.—In any administrative  
15 appeal from a decision of an immigration judge, such  
16 judge’s determinations of factual issues, including findings  
17 as to the credibility of testimony, shall be accepted unless  
18 they are clearly erroneous.”.

19 (b) CLERICAL AMENDMENT.—The table of contents  
20 of the Immigration and Nationality Act is amended by in-  
21 serting after the item relating to section 294 the following:

“Sec. 295. Rules for decisions in administrative appeals.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect on the date of the enactment  
24 of this Act and shall apply to decisions appealed on or  
25 after such date.

1 **SEC. 606. REVIEW OF ASYLUM CLAIMS.**

2 (a) JUDICIAL REVIEW.—

3 (1) IN GENERAL.—Section 208 (8 U.S.C. 1158)

4 is amended by adding at the end the following:

5 “(e) LIMITATION ON JUDICIAL REVIEW.—No court  
6 shall have jurisdiction to review any decision of the Attor-  
7 ney General under this section.”.

8 (2) CONFORMING AMENDMENTS.—Section 242

9 (8 U.S.C 1252) is amended—

10 (A) in subsection (a)(2)(B)(i), by inserting

11 “208,” before “212(h),”;

12 (B) in subsection (a)(2)(B)(ii), by striking

13 “General,” and all that follows through the pe-  
14 riod at the end and inserting “General.”; and

15 (C) in subsection (b)(4)—

16 (i) in subparagraph (B), by adding

17 “and” at the end;

18 (ii) in subparagraph (C), by striking

19 “, and” at the end and inserting a period;

20 and

21 (iii) by striking subparagraph (D).

22 (b) LIMITATION ON ASYLUM OFFICE.—Section

23 208(d) (8 U.S.C. 1158(d)) is amended by adding at the

24 end the following:

25 “(8) OTHER PROCEDURAL MATTERS.—

1           “(A) DETERMINATION OF LAWFUL STA-  
2           TUS.—

3           “(i) IN GENERAL.—In the case of an  
4           alien who is physically present in the  
5           United States and who has applied to the  
6           Service for asylum, the Service shall deter-  
7           mine whether the alien is inadmissible or  
8           deportable before the Service prepares to  
9           schedule the applicant for an asylum inter-  
10          view. If the Service determines that the  
11          alien is not inadmissible or deportable, the  
12          Service shall adjudicate the asylum appli-  
13          cation and render a decision granting or  
14          denying asylum. If the Service determines  
15          that the alien is inadmissible or deportable  
16          before the Service prepares to schedule an  
17          interview, the Service shall place the alien  
18          in removal proceedings without adjudi-  
19          cating the asylum application. The alien  
20          may then pursue such application in such  
21          proceedings.

22          “(ii) REVIEW OF SERVICE DETER-  
23          MINATIONS.—If an alien’s asylum applica-  
24          tion has been denied by the Service, in any  
25          administrative or judicial appeal from such



1 denial, the Service’s determinations of fac-  
2 tual issues, including findings as to the  
3 credibility of testimony, shall be accepted  
4 into evidence.

5 “(B) RECORDING OF INTERVIEWS.—The  
6 Service shall record asylum interviews and in-  
7 clude any such recording in the applicant’s file  
8 and record of proceedings.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall take effect on the date of the enactment  
11 of this Act and shall apply to decisions rendered on or  
12 after such date.

13 **SEC. 607. JUDICIAL REVIEW.**

14 (a) ORDERS AGAINST CRIMINAL ALIENS.—Subpara-  
15 graph (C) of section 242(a)(2) (8 U.S.C. 1252(a)(2)) is  
16 amended—

17 (1) by striking “no court shall have jurisdic-  
18 tion” and inserting “including section 2241 of title  
19 28, United States Code, no court shall have jurisdic-  
20 tion, except as provided in this section,”; and

21 (2) by adding at the end the following: “Such  
22 review shall be limited to constitutional challenges or  
23 statutory claims involving pure issues of law,”.

24 (b) VENUE FOR REVIEW OF ORDERS OF REMOVAL.—  
25 Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended by

1 striking “with the court of appeals for the judicial circuit  
2 in which the immigration judge completed the pro-  
3 ceedings.” and inserting “with the United States Court  
4 of Appeals for the District of Columbia Circuit.”.

5 (c) FEDERAL CIRCUIT COURT APPEALS.—

6 (1) IN GENERAL.—Title I of the Act is amended by  
7 inserting after section 105 the following:

8 “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

9 “SEC. 106. Notwithstanding any other provision of  
10 law, the final order of a district court of the United States  
11 in any proceeding under this Act, or under any other im-  
12 migration law of the United States, shall be subject to re-  
13 view, on appeal, by the United States Court of Appeals  
14 for the District of Columbia Circuit. There shall be no  
15 right of appeal in such proceedings to any other circuit  
16 court of appeals. The law applied by the Supreme Court,  
17 and the United States Court of Appeals for the District  
18 of Columbia Circuit, shall be regarded as the rule of deci-  
19 sion in any proceeding under this Act.”.

20 (2) CLERICAL AMENDMENT.—The table of con-  
21 tents of the Immigration and Nationality Act is  
22 amended by inserting after the item relating to sec-  
23 tion 105 the following:

“Sec. 106. Federal circuit court appeals.”.

1 **TITLE VII—VERIFICATION OF**  
2 **CITIZENSHIP OF VOTERS IN**  
3 **FEDERAL ELECTIONS**

4 **SEC. 701. ESTABLISHMENT OF PROGRAM.**

5 (a) IN GENERAL.—The Attorney General, in con-  
6 sultation with the Commissioner of Social Security and the  
7 Commissioner of the Immigration and Naturalization  
8 Service, shall establish a Citizenship Verification Program  
9 (hereafter in this title referred to as the “Program”)  
10 under which they shall respond to citizenship verification  
11 inquiries made by the chief election official of any State  
12 to verify the United States citizenship of an individual ap-  
13 plying to register to vote, or registered to vote, in elections  
14 for Federal office in the State.

15 (b) INFORMATION REQUIRED TO BE PROVIDED BY  
16 ELECTION OFFICIALS.—

17 (1) IN GENERAL.—In order to make an inquiry  
18 through the Program with respect to an individual,  
19 an election official shall provide the name, date of  
20 birth, and social security account number of the in-  
21 dividual.

22 (2) AUTHORITY TO USE SOCIAL SECURITY AC-  
23 COUNT NUMBERS.—The chief election official of a  
24 State shall, for the purpose of making inquiries  
25 under the Program, use the social security account

1 numbers issued by the Commissioner of Social Secu-  
2 rity, and shall, for such purpose, require any indi-  
3 vidual who is or appears to be affected by a voter  
4 registration law of such State (or political subdivi-  
5 sion thereof) to furnish to such official the social se-  
6 curity account number (or numbers, if the individual  
7 has more than one such number) issued to the indi-  
8 vidual by the Commissioner.

9 (c) FEATURES OF PROGRAM.—

10 (1) IN GENERAL.—The Program shall be de-  
11 signed and operated—

12 (A) to respond to an inquiry concerning  
13 citizenship only in a case where determining  
14 whether an individual is a citizen of the United  
15 States is necessary for determining whether the  
16 individual is eligible to vote in an election for  
17 Federal office;

18 (B) in a manner that is uniform, non-  
19 discriminatory, and in compliance with the Vot-  
20 ing Rights Act of 1965 (42 U.S.C. 1973 et  
21 seq.);

22 (C) to maximize its reliability and ease of  
23 use, consistent with insulating and protecting  
24 the privacy and security of the underlying infor-  
25 mation;

1 (D) to permit inquiries to be made to the  
2 program through a toll-free telephone line or  
3 other toll-free electronic media;

4 (E) to respond to all inquiries made by au-  
5 thorized persons;

6 (F) with appropriate administrative, tech-  
7 nical, and physical safeguards to prevent unau-  
8 thorized disclosure of personal information, in-  
9 cluding violations of the requirements of section  
10 205(c)(2)(C)(viii) of the Social Security Act;  
11 and

12 (G) to have reasonable safeguards against  
13 the Program's resulting in unlawful discrimina-  
14 tory practices based on national origin, includ-  
15 ing the selective or unauthorized use of the pro-  
16 gram.

17 (2) USE OF EMPLOYMENT ELIGIBILITY  
18 VERIFICATION SYSTEM.—To the extent practicable,  
19 in establishing the verification system used under  
20 the Program, the Attorney General, in consultation  
21 with the Commissioner of Social Security, shall use  
22 the employment eligibility verification system estab-  
23 lished under section 274A(b)(7) of the Immigration  
24 and Nationality Act, as added by section 511 of this  
25 Act.

1 **SEC. 702. RESPONSES TO INQUIRIES.**

2 (a) IN GENERAL.—The Program shall provide for a  
3 verification or a nonverification of an individual’s United  
4 States citizenship by the Commissioner of Social Security  
5 or the Commissioner of the Immigration and Naturaliza-  
6 tion Service as soon as practicable after an initial inquiry  
7 to the Attorney General.

8 (b) NOTICE TO INDIVIDUAL OF NONVERIFICATION.—  
9 If the chief election official of a State receives a notice  
10 under subsection (a) of nonverification of an individual’s  
11 United States citizenship, the official shall provide the in-  
12 dividual with a written notice of such nonverification, and  
13 shall include in the notice a description of the individual’s  
14 right to use the process provided under section 704(c) for  
15 the prompt correction of erroneous information in the Pro-  
16 gram.

17 (c) REJECTION OF APPLICATION.—If the chief elec-  
18 tion official of a State receives a notice under subsection  
19 (a) of nonverification of the United States citizenship of  
20 an individual who is an applicant for voter registration in  
21 the State, the official shall reject the application (subject  
22 to the right to reapply), but only if each of the following  
23 conditions has been satisfied:

24 (1) The 30-day period beginning on the date  
25 notice of nonverification was mailed or otherwise

1 provided to the individual pursuant to subsection (b)  
2 has elapsed.

3 (2) During such 30-day period, the official did  
4 not receive adequate verification of the individual's  
5 United States citizenship from the Program, pursu-  
6 ant to a new inquiry to the Program made by the  
7 official upon receipt of information (from the indi-  
8 vidual or through any other reliable source) that er-  
9 roneous or incomplete material information pre-  
10 viously in the Program has been updated, supple-  
11 mented, or corrected.

12 (d) REMOVAL OF INELIGIBLE REGISTRANTS.—

13 (1) IN GENERAL.—If the chief election official  
14 of a State receives a notice under subsection (a) of  
15 nonverification of the United States citizenship of an  
16 individual who is registered to vote in elections for  
17 Federal office in the State, the official shall remove  
18 the name of the individual from the official list of  
19 eligible voters for elections for Federal office in the  
20 State (subject to the right to submit another voter  
21 registration application), but only if each of the fol-  
22 lowing conditions has been satisfied:

23 (A) The 30-day period beginning on the  
24 date notice of nonverification was mailed or

1 otherwise provided to the individual pursuant to  
2 subsection (b) has elapsed.

3 (B) During such 30-day period, the official  
4 did not receive adequate verification of the citi-  
5 zenship of the individual under subsection  
6 (c)(2).

7 (2) CONFORMING AMENDMENT.—Section  
8 8(a)(3) of the National Voter Registration Act of  
9 1993 (42 U.S.C. 1973gg-6(a)(3)) is amended—

10 (A) by striking “; or” at the end of sub-  
11 paragraph (B) and inserting a comma;

12 (B) by striking the semicolon at the end of  
13 subparagraph (C) and inserting “, or”; and

14 (C) by adding at the end the following new  
15 subparagraph:

16 “(D) in accordance with the citizenship  
17 verification program established and operated  
18 under title VII of the Securing America’s Fu-  
19 ture through Enforcement Reform Act of  
20 2002;”.

21 **SEC. 703. REQUIRING VERIFICATION OF CITIZENSHIP OF**  
22 **REGISTERED VOTERS AND APPLICANTS.**

23 (a) REQUIRING INQUIRIES TO BE MADE UNDER  
24 PROGRAM FOR REGISTRANTS.—



1           (1) IN GENERAL.—Not later than June 1,  
2           2003, the chief election official of each State shall  
3           submit a citizenship verification inquiry through the  
4           Program with respect to each individual who is reg-  
5           istered to vote in elections for Federal office in the  
6           State as of such date.

7           (2) REMOVAL OF REGISTRANTS WITHOUT  
8           VERIFIED CITIZENSHIP.—In accordance with the  
9           procedures described in section 702(d), the chief  
10          election official of each State shall remove from the  
11          list of individuals eligible to vote in elections for  
12          Federal office in the State any individual who is the  
13          subject of an inquiry under paragraph (1) whose  
14          United States citizenship is not verified under the  
15          Program.

16          (b) REQUIRING INQUIRIES TO BE MADE UNDER  
17          PROGRAM FOR NEW APPLICANTS FOR VOTER REGISTRA-  
18          TION.—

19               (1) IN GENERAL.—The chief election official of  
20               each State shall submit a citizenship verification in-  
21               quiry through the Program with respect to each in-  
22               dividual who, on or after the date on which the offi-  
23               cial submits inquiries under subsection (a), applies  
24               to register to vote in elections for Federal office in  
25               the State.

1           (2) PROHIBITING REGISTRATION OF INDIVID-  
2           UALS WITHOUT VERIFIED CITIZENSHIP.—The chief  
3           election official of a State may not accept a voter  
4           registration application submitted by an individual  
5           whose United States citizenship is not verified under  
6           the Program.

7           (3) SPECIAL RULE FOR STATES PERMITTING  
8           INDIVIDUALS TO REGISTER ON OR NEAR DATE OF  
9           ELECTION.—In the case of a State which, under law  
10          in effect continuously on and after January 1, 2003,  
11          permits an individual to register to vote in an elec-  
12          tion for Federal office fewer than 60 days before the  
13          date of the election (including at the polling place at  
14          the time of voting in the election), the following  
15          rules shall apply with respect to such individual’s ap-  
16          plication for registration:

17                (A) Notwithstanding paragraph (2), the in-  
18                dividual shall be permitted to register to vote  
19                and vote in the election (if the individual is oth-  
20                erwise eligible to register to vote and vote under  
21                applicable State law).

22                (B) On the day after the date of the elec-  
23                tion, the chief State election official shall sub-  
24                mit a citizenship verification inquiry with re-  
25                spect to the individual through the Program.

1           The official may not submit the inquiry with re-  
2           spect to the individual prior to such date.

3           (C) An election official at the polling place  
4           shall transfer the ballot cast by the individual  
5           to an appropriate State or local election official  
6           to be set aside until the individual's citizenship  
7           can be verified under the Program.

8           (D) As soon as practicable after receiving  
9           the inquiry, the program shall provide the chief  
10          election official of the State with verification or  
11          nonverification of the individual's United States  
12          citizenship.

13          (E) Upon verification of the individual's  
14          United States citizenship through the program  
15          (including verification resulting from the indi-  
16          vidual's correction of erroneous information  
17          pursuant to section 704(c)), the State shall ac-  
18          cept the individual's voter registration applica-  
19          tion and the individual's vote shall be tabulated.

20          (c) REQUIRING NEW APPLICANTS REGISTERING TO  
21          VOTE TO PROVIDE INFORMATION.—

22                  (1) REGISTRATION WITH APPLICATION FOR  
23          DRIVER'S LICENSE.—

1 (A) IN GENERAL.—Section 5(c)(2) of the  
2 National Voter Registration Act of 1993 (42  
3 U.S.C. 1973gg-3(c)(2)) is amended—

4 (i) by striking “and” at the end of  
5 subparagraph (D);

6 (ii) by striking the period at the end  
7 of subparagraph (E) and inserting “;  
8 and”; and

9 (iii) by adding at the end the fol-  
10 lowing new subparagraph:

11 “(F) shall require the applicant to provide the  
12 applicant’s Social Security number.”.

13 (B) CONFORMING AMENDMENT.—Section  
14 5(c)(2)(A) of such Act (42 U.S.C. 1973gg-  
15 3(c)(2)(A)) is amended by inserting after “sub-  
16 paragraph (C)” the following: “, or the infor-  
17 mation described in subparagraph (F)”.

18 (2) MAIL REGISTRATION.—Section 9(b)(1) of  
19 such Act (42 U.S.C. 1973gg-7(b)(1)) is amended by  
20 striking “may require only such identifying informa-  
21 tion” and inserting the following: “shall require the  
22 applicant to provide the applicant’s Social Security  
23 number, and may require only such additional iden-  
24 tifying information”.

1           (3) **EFFECTIVE DATE.**—The amendments made  
2           by this subsection shall apply with respect to appli-  
3           cants registering to vote in elections for Federal of-  
4           fice after the expiration of the 90-day period which  
5           begins on the date of the enactment of this Act.

6 **SEC. 704. RESPONSIBILITIES OF FEDERAL OFFICIALS.**

7           (a) **RESPONSIBILITIES OF THE COMMISSIONER OF**  
8 **SOCIAL SECURITY.**—As part of the Program, the Commis-  
9           sioner of Social Security shall establish a reliable, secure  
10          method which compares the name, date of birth, and social  
11          security account number provided in an inquiry against  
12          such information maintained by the Commissioner, in  
13          order to verify (or not verify) the correspondence of the  
14          name, date of birth, and number provided and whether  
15          the individual is shown as a citizen of the United States  
16          on the records maintained by the Commissioner (including  
17          whether such records show that the individual was born  
18          in the United States). The Commissioner shall not disclose  
19          or release social security information (other than such  
20          verification or nonverification).

21          (b) **RESPONSIBILITIES OF THE COMMISSIONER OF**  
22 **THE IMMIGRATION AND NATURALIZATION SERVICE.**—As  
23          part of the Program, the Commissioner of the Immigra-  
24          tion and Naturalization Service shall establish a reliable,  
25          secure method which compares the name and date of birth

1 which are provided in an inquiry against information  
2 maintained by the Commissioner in order to verify (or not  
3 verify) the validity of the information provided, the cor-  
4 respondence of the name and date of birth, and whether  
5 the individual is a citizen of the United States.

6 (c) UPDATING INFORMATION.—The Commissioner of  
7 Social Security and the Commissioner of the Immigration  
8 and Naturalization Service shall each update the informa-  
9 tion maintained under the Program in a manner that pro-  
10 motes the maximum accuracy of the Program and shall  
11 each provide a process for the prompt correction of erro-  
12 neous information, including instances in which the Com-  
13 mission is made aware of erroneous information under the  
14 Program as a result of any action taken by an individual  
15 upon receipt of a written notice of nonverification under  
16 section 702(b).

17 **SEC. 705. LIMITATION ON USE OF THE PROGRAM AND ANY**  
18 **RELATED SYSTEMS.**

19 (a) IN GENERAL.—Notwithstanding any other provi-  
20 sion of law, nothing in this subtitle shall be construed to  
21 permit or allow any department, bureau, or other agency  
22 of the United States Government to utilize any informa-  
23 tion, data base, or other records assembled under the Pro-  
24 gram for any other purpose other than as provided for  
25 under this subtitle.

1           (b) NO NATIONAL IDENTIFICATION CARD.—Nothing  
2 in this subtitle shall be construed to authorize, directly or  
3 indirectly, the issuance or use of national identification  
4 cards or the establishment of a national identification  
5 card.

6 **SEC. 706. ENFORCEMENT.**

7           (a) CIVIL ACTION BY ATTORNEY GENERAL.—The  
8 Attorney General may bring a civil action in an appro-  
9 priate district court for such declaratory or injunctive re-  
10 lief as is necessary to carry out this title.

11           (b) PRIVATE RIGHT OF ACTION.—(1) A person who  
12 is aggrieved by a violation of this title may provide written  
13 notice of the violation to the chief election official of the  
14 State involved.

15           (2) If the violation is not corrected within 90 days  
16 after receipt of a notice under paragraph (1), or within  
17 20 days after receipt of the notice if the violation occurred  
18 within 120 days before the date of an election for Federal  
19 office, the aggrieved person may bring a civil action in an  
20 appropriate district court for declaratory or injunctive re-  
21 lief with respect to the violation.

22           (3) If the violation occurred within 30 days before  
23 the date of an election for Federal office, the aggrieved  
24 person need not provide notice to the chief election official

1 of the State under paragraph (1) before bringing a civil  
2 action under paragraph (2).

3 (c) ATTORNEY'S FEES.—In a civil action under this  
4 section, the court may allow the prevailing party (other  
5 than the United States) reasonable attorney's fees, includ-  
6 ing litigation expenses, and costs.

7 (d) CRIMINAL PENALTIES.—A person, including an  
8 election official, who knowingly and willfully deprives, de-  
9 frauds, or attempts to deprive or defraud any individual  
10 who is a citizen of the United States of the right to reg-  
11 ister to vote through the operation of the Program or  
12 through any other action taken pursuant to this title shall  
13 be fined in accordance with title 18, United States Code,  
14 or imprisoned not more than 5 years, or both.

15 (e) RELATION TO OTHER LAWS.—(1) The rights and  
16 remedies established by this section are in addition to all  
17 other rights and remedies provided by law, and neither  
18 the rights and remedies established by this section nor any  
19 other provision of this title shall supersede, restrict, or  
20 limit the application of the Voting Rights Act of 1965 (42  
21 U.S.C. 1973 et seq.).

22 (2) Nothing in this title authorizes or requires con-  
23 duct that is prohibited by the Voting Rights Act of 1965  
24 (42 U.S.C. 1973 et seq.).



1 **SEC. 707. CHIEF ELECTION OFFICIAL DEFINED.**

2 In this title, the term “chief election official” means,  
3 with respect to a State, the individual designated by the  
4 State under section 10 of the National Voter Registration  
5 Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for  
6 coordination of the State’s responsibilities under such Act.

7 **SEC. 708. AUTHORIZATION OF APPROPRIATIONS.**

8 There are authorized to be appropriated to the De-  
9 partment of Justice, the Immigration and Naturalization  
10 Service, and the Social Security Administration for fiscal  
11 year and each succeeding fiscal year such sums as may  
12 be necessary to carry out the provisions of this title.

13 **TITLE VIII—REFORMING LEGAL**  
14 **IMMIGRATION**  
15 **Subtitle A—Promotion of**  
16 **Citizenship**

17 **SEC. 801. OFFICE OF CITIZENSHIP ESTABLISHED; CHANGES**  
18 **IN NATURALIZATION REQUIREMENTS.**

19 (a) OFFICE OF CITIZENSHIP.—There is established  
20 in the Immigration and Naturalization Service an office  
21 to be known as the “Office of Citizenship”. The head of  
22 such office shall be the Chief of the Office of Citizenship.  
23 The Chief shall be responsible for—

24 (1) promoting instruction and training on citi-  
25 zenship responsibilities for aliens interested in be-

1 coming naturalized citizens of the United States, in-  
2 cluding the development of educational materials;

3 (2) furthering efforts by such aliens to acquire,  
4 in order to be eligible for naturalization—

5 (A) an understanding of the English lan-  
6 guage;

7 (B) a knowledge and understanding of the  
8 fundamentals of the history, and the principles  
9 and form of government, of the United States;

10 (C) an understanding of, and attachment  
11 to, the principles of the Constitution of the  
12 United States; and

13 (D) an understanding of the oath of alle-  
14 giance required under section 337(a) of the Im-  
15 migration and Nationality Act (8 U.S.C.  
16 1448(a));

17 (3) communicating and coordinating with the  
18 heads of other Federal agencies and programs in-  
19 volved with civic education and the promotion of  
20 civic interests, such as the English as a Second Lan-  
21 guage civics program at the Department of Edu-  
22 cation; and

23 (4) promoting, through conferences, training  
24 materials, and other materials, the familiarity of  
25 aliens seeking to naturalize with the political and

1 civic privileges and responsibilities of United States  
2 citizens.

3 (b) STUDY OF NATURALIZATION EXAMINATION.—

4 (1) IN GENERAL.—The Chief of the Office of  
5 Citizenship shall conduct a study of the scope and  
6 nature of the examination of applicants for natu-  
7 ralization. The study shall analyze the value of the  
8 questions on the exam, and recommend questions  
9 that ought to be eliminated and new questions that  
10 ought to be included. The study shall recommend  
11 new questions to be included that gauge an appli-  
12 cant's understanding of the principles in the oath of  
13 allegiance required under section 337(a) of the Im-  
14 migration and Nationality Act (8 U.S.C. 1448(a)).

15 (2) CIVICS COURSE.—The study shall also ana-  
16 lyze and make recommendations as to whether appli-  
17 cants for naturalization ought to be required to com-  
18 plete a course in civic education.

19 (3) REPORT.—Not later than 6 months after  
20 his or her appointment, the Chief of the Office of  
21 Citizenship shall submit a report to the Congress  
22 containing the results of the study conducted under  
23 this subsection. The report shall also contain a pro-  
24 posed revised examination to be administered to ap-  
25 plicants for naturalization that reflects the rec-

1       ommendations developed through the study. In de-  
2       veloping the proposed examination, the Chief of the  
3       Office of Citizenship shall consult with interested  
4       groups specializing in immigration issues, civics or-  
5       ganizations, patriotic associations, and veterans'  
6       groups.

7       (c) REQUIRING APPLICANTS FOR NATURALIZATION  
8       TO UNDERSTAND OATH.—

9               (1) REQUIREMENTS FOR NATURALIZATION.—

10       Section 312(a) (8 U.S.C. 1423(a)) is amended—

11               (A) in paragraph (1), by striking “and” at  
12       the end;

13               (B) in paragraph (2), by striking the pe-  
14       riod at the end and inserting “; and”; and

15               (C) by adding at the end the following:

16               “(3) an understanding of the oath of allegiance  
17       required under section 337(a).”.

18               (2) EXAMINATION.—Section 332(a) (8 U.S.C.  
19       1443(a)) is amended by inserting before “ability”  
20       the following: “understanding of the oath of alle-  
21       giance required under section 337(a).”.

22       (c) CONTENTS OF CERTIFICATE OF NATURALIZA-  
23       TION.—Section 338 (8 U.S.C. 1449) is amended by insert-  
24       ing before “and the seal” the following: “the oath of alle-  
25       giance required under section 337(a); a statement that the

1 applicant recognizes the privileges and responsibilities of  
2 citizenship;”.

3 **Subtitle B—Treatment of Nationals**  
4 **of State Sponsors of Terrorism**

5 **SEC. 811. TREATMENT OF NATIONALS OF STATE SPONSORS**  
6 **OF TERRORISM.**

7 (a) IN GENERAL.—

8 (1) AMENDMENT.—Chapter 9 of title II, as  
9 amended by section 265 of this Act, is further  
10 amended by inserting after section 295 the following  
11 new section:

12 “TREATMENT OF NATIONALS OF STATE SPONSORS OF  
13 TERRORISM

14 “SEC. 296. (a) IN GENERAL.—No nonimmigrant or  
15 immigrant visa may be issued, or nonimmigrant or immi-  
16 grant status otherwise provided, other than a visa or sta-  
17 tus described in section 101(a)(15)(A), to any alien who  
18 is a national of, or residing in, a country that is deter-  
19 mined to be a state sponsor of terrorism, or that was sub-  
20 ject to such a determination on September 11, 2001.

21 “(b) STATE SPONSOR OF TERRORISM DEFINED.—

22 “(1) IN GENERAL.—In this section, the term  
23 ‘state sponsor of terrorism’ means any country,  
24 other than Cuba, the government of which has been  
25 determined by the Secretary of State under any of

1 the laws specified in paragraph (2) to have repeat-  
2 edly provided support for acts of terrorism.

3 “(2) LAWS UNDER WHICH DETERMINATIONS  
4 WERE MADE.—The laws specified in this paragraph  
5 are the following:

6 “(A) Section 6(j)(1)(A) of the Export Ad-  
7 ministration Act of 1979 (or successor statute).

8 “(B) Section 40(d) of the Arms Export  
9 Control Act.

10 “(C) Section 620A(a) of the Foreign As-  
11 sistance Act of 1961.”.

12 (2) CLERICAL AMENDMENT.—The table of con-  
13 tents of the Immigration and Nationality Act is  
14 amended by inserting after the item relating to sec-  
15 tion 295 the following:

“Sec. 296. Treatment of nationals of state sponsors of terrorism.”.

16 (3) EFFECTIVE DATE.—The amendments made  
17 by this subsection shall take effect on the date of the  
18 enactment of this Act and shall apply to visas  
19 issued, or status provided, on and after such date.

20 (b) APPLICATION TO ADMITTED NONIMMIGRANTS.—

21 (1) IN GENERAL.—In the case of a non-  
22 immigrant alien lawfully admitted into the United  
23 States who would have been ineligible to be granted  
24 such nonimmigrant status if the amendments made  
25 by subsection (a) had been in effect on the date on

1 which such status was granted, notwithstanding any  
2 other provision of law, the period of authorized ad-  
3 mission as such a nonimmigrant shall terminate 60  
4 days after the date of the enactment of this Act, un-  
5 less the nonimmigrant is the beneficiary (including  
6 a spouse or child of a principal alien, if eligible to  
7 receive a visa under section 203(d) of the Immigra-  
8 tion and Nationality Act (8 U.S.C. 1153(d)) of—

9 (A) a petition for classification under sec-  
10 tion 204 of such Act (8 U.S.C. 1154) that was  
11 filed with the Attorney General on or before the  
12 date of the enactment of this Act; or

13 (B) an application for a labor certification  
14 under section 212(a)(5)(A) of such Act (8  
15 U.S.C. 1182(a)(5)(A)) that was filed pursuant  
16 to the regulations of the Secretary of Labor on  
17 or before such date.

18 (2) DEPARTURE OF PETITION BENE-  
19 FICIARIES.—In the case of a nonimmigrant who is  
20 the beneficiary of a petition or application described  
21 in subparagraph (A) or (B) of paragraph (1), the  
22 period of authorized admission as such a non-  
23 immigrant shall terminate on, and the alien shall be  
24 required to depart the United States before, the ear-  
25 lier of—

1 (A) the date that is 60 days after the date  
2 on which—

3 (i) such petition or application is fi-  
4 nally denied; or

5 (ii) the nonimmigrant's application for  
6 adjustment of status is finally denied; or

7 (B) the date on which such nonimmigrant  
8 status terminates, unless such termination is  
9 pursuant to an adjustment to the status of an  
10 alien lawfully admitted for permanent residence.

11 (c) REPEAL.—Section 306 of the Enhanced Border  
12 Security and Visa Entry Reform Act of 2002 (Public Law  
13 107–173) is repealed.

## 14 **Subtitle C—Legal Immigration** 15 **Reform**

### 16 **SEC. 821. EXTENDED FAMILY PREFERENCE CATEGORIES.**

17 (a) IN GENERAL.—Section 203(a) (8 U.S.C.  
18 1153(a)) is amended to read as follows:

19 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-  
20 SORED IMMIGRANTS.—Qualified immigrants who are the  
21 spouses or children of an alien lawfully admitted for per-  
22 manent residence shall be subject to the worldwide level  
23 specified in section 201(c) for family-sponsored immi-  
24 grants, and shall be allocated visas in a number not to  
25 exceed such level.”.



1 (b) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-  
2 MIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is  
3 amended—

4 (1) by striking “480,000” and inserting  
5 “87,934”; and

6 (2) by striking “226,000” and inserting  
7 “87,934”.

8 (c) NUMERICAL LIMITATION TO ANY SINGLE FOR-  
9 EIGN STATE.—Section 202 (8 U.S.C. 1152) is amended—

10 (1) in subsection (a)(4), by striking subpara-  
11 graph (A) and inserting the following:

12 “(A) 75 PERCENT NOT SUBJECT TO PER  
13 COUNTRY LIMITATION.—Of the visa numbers  
14 made available under section 203(a) in any fis-  
15 cal year, 75 percent shall be issued without re-  
16 gard to the numerical limitation under para-  
17 graph (2).”; and

18 (2) in subsection (e)—

19 (A) in paragraph (1), by adding “and” at  
20 the end;

21 (B) by striking paragraph (2); and

22 (C) by redesignating paragraph (3) as  
23 paragraph (2).

24 (d) PROCEDURE FOR GRANTING IMMIGRANT STA-  
25 TUS.—Section 204 (8 U.S.C. 1154) is amended—

1           (1) in subsection (a)(1)(A)(i), by striking  
2 “paragraph (1), (3), or (4) of”; and

3           (2) in subsection (a)(1)(B), by striking  
4 “203(a)(2)” and “203(a)(2)(A)” each place such  
5 terms appear and inserting “203(a)”;

6           (3) in subsection (a)(1)(D)(i)—

7               (A) in subclause (I), by striking “a peti-  
8 tioner for preference status under paragraph  
9 (1), (2), or (3)” and all that follows through  
10 the period at the end and inserting “to be an  
11 individual under 21 years of age for purposes of  
12 adjudicating such petition, and for purposes of  
13 admission as an immediate relative under sec-  
14 tion 201(b)(2)(A)(i), notwithstanding the actual  
15 age of the individual.”; and

16               (B) in subclause (III), by striking “para-  
17 graph (1), (2), or (3) of section 203(a), which-  
18 ever paragraph is applicable,” and inserting  
19 “section 203(a), and under 21 years of age  
20 (notwithstanding the actual age of the indi-  
21 vidual),”.

22           (4) in subsection (f), by striking “201(b),  
23 203(a)(1), or 203(a)(3), as appropriate.” and insert-  
24 ing “201(b).”.

1 (e) CLASSES OF DEPORTABLE ALIENS.—Section  
2 237(a)(1)(E)(ii) (8 U.S.C. 1227(a)(1)(E)(ii)) is amended  
3 by striking “203(a)(2)” and inserting “203(a)”.

4 (f) CONDITIONAL PERMANENT RESIDENT STATUS  
5 FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGH-  
6 TERS.—Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C))  
7 is amended by striking “203(a)(2)” and inserting  
8 “203(a)”.

9 (g) EFFECTIVE DATE.—The amendments made this  
10 section shall take effect on October 1, 2002.

11 **SEC. 822. EMPLOYMENT THIRD PREFERENCE CATEGORY.**

12 (a) IN GENERAL.—Paragraph (3) of section 203(b)  
13 (8 U.S.C. 1153(b)) is amended to read as follows:

14 “(3) SKILLED WORKERS AND PROFES-  
15 SIONALS.—

16 “(A) IN GENERAL.—Visas shall be made  
17 available, in a number not to exceed 28.6 per-  
18 cent of such worldwide level, plus any visas not  
19 required for the classes specified in paragraphs  
20 (1) and (2), to the following classes of aliens  
21 who are not described in paragraph (2):

22 “(i) SKILLED WORKERS.—Qualified  
23 immigrants who are capable, at the time of  
24 petitioning for classification under this  
25 paragraph, of performing skilled labor (re-

1           quiring at least 2 years training or experi-  
2           ence), not of a temporary or seasonal na-  
3           ture, for which qualified workers are not  
4           available in the United States.

5           “(ii) PROFESSIONALS.—Qualified im-  
6           migrants who hold baccalaureate degrees  
7           and who are members of the professions.

8           “(B) LABOR CERTIFICATION REQUIRED.—  
9           An immigrant visa may not be issued to an im-  
10          migrant under subparagraph (A) until the con-  
11          sular officer is in receipt of a determination  
12          made by the Secretary of labor pursuant to the  
13          provisions of section 212(a)(5)(A).”.

14          (b) EFFECTIVE DATE.—The amendment made by  
15          subsection (a) shall take effect on October 1, 2002.

16          **SEC. 823. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**  
17          **GRAM.**

18          (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-  
19          GRANTS.—Section 201 (8 U.S.C. 1151) is amended—

20                  (1) in subsection (a)—

21                          (A) by inserting “and” at the end of para-  
22                          graph (1);

23                          (B) by striking “; and” at the end of para-  
24                          graph (2) and inserting a period; and

25                          (C) by striking paragraph (3); and

1 (2) by striking subsection (e).

2 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—

3 Section 203 (8 U.S.C. 1153) is amended—

4 (1) by striking subsection (c);

5 (2) in subsection (d), by striking “(a), (b), or  
6 (c),” and inserting “(a) or (b),”;

7 (3) in subsection (e), by striking paragraph (2)  
8 and redesignating paragraph (3) as paragraph (2);

9 (4) in subsection (f), by striking “(a), (b), or  
10 (c)” and inserting “(a) or (b)”; and

11 (5) in subsection (g), by striking “(a), (b), and  
12 (c)” and inserting “(a) and (b)”.

13 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-  
14 TUS.—Section 204 (8 U.S.C. 1154) is amended—

15 (1) by striking subsection (a)(1)(I); and

16 (2) in subsection (e), by striking “(a), (b), or  
17 (c)” and inserting “(a) or (b)”.

18 (c) EFFECTIVE DATE.—The amendments made this  
19 section shall take effect on October 1, 2002.

20 **SEC. 824. REFUGEE ADMISSIONS.**

21 (a) IN GENERAL.—Paragraphs (1) and (2) of section  
22 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

23 “(a)(1) Except as provided in paragraph (2) and sub-  
24 section (b), the number of refugees who may be admitted  
25 under this section in any fiscal year shall be such number

1 as the President determines, before the beginning of the  
2 fiscal year and after appropriate consultation, is justified  
3 by humanitarian concerns or is otherwise in the national  
4 interest.

5 “(2)(A) Except as provided in subparagraphs (B)  
6 and (C), the number determined under paragraph (1) for  
7 a fiscal year may not exceed the number of United Nations  
8 High Commissioner for Refugees-referred refugees who  
9 were resettled in a country other than the United States  
10 (excluding any internally resettled person) in the second  
11 preceding calendar year.

12 “(B) The number determined under paragraph (1)  
13 for a fiscal year may exceed the limit specified in subpara-  
14 graph (A) by the number of refugees admitted pursuant  
15 to section 599D(b)(3) of the Foreign Operations, Export  
16 Financing, and Related Programs Appropriations Act,  
17 1990 (8 U.S.C. 1157 note).

18 “(C) The number determined under paragraph (1)  
19 for a fiscal year may exceed the limit specified in subpara-  
20 graph (A) if the Congress enacts a law providing for a  
21 higher number.”.

22 (b) EMERGENCY REFUGEE SITUATIONS.—Section  
23 207(b) (8 U.S.C. 1157(b)) is amended by striking “the  
24 President may fix” and inserting “the President may, if  
25 the Congress enacts a law providing such authority, fix”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on October 1, 2002.

3 **TITLE IX—MISCELLANEOUS**  
4 **PROVISIONS**

5 **SEC. 901. TEMPORARY PROTECTED STATUS.**

6 (a) IN GENERAL.—Section 244 (8 U.S.C. 1254a) is  
7 amended—

8 (1) in subsection (a)—

9 (A) by striking paragraph (3)(D);

10 (B) in paragraph (4)—

11 (i) by striking subparagraph (B);

12 (ii) by moving the text of subpara-  
13 graph (A) up and to the right so that it  
14 follows immediately after the paragraph  
15 heading; and

16 (iii) by striking “(A)”;

17 (C) in paragraph (5), by striking “to deny  
18 temporary protected status to an alien based on  
19 the alien’s immigration status or”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) in subparagraph (A), by adding  
23 “or” at the end

24 (ii) in subparagraph (B)—

1 (I) in clause (i), by striking “dis-  
2 ruption of living conditions” and in-  
3 serting “physical destruction of homes  
4 and businesses”;

5 (II) by amending clause (ii) to  
6 read as follows:

7 “(ii) the foreign state is unable, tem-  
8 porarily, to house and employ the aliens  
9 who are nationals of the state residing in  
10 the United States, but has a specific plan  
11 to repatriate such nationals in a short and  
12 specified period of time; and”;

13 (III) in clause (iii), by striking “;  
14 or” and inserting a period;

15 (iii) by striking subparagraph (C);

16 and

17 (iv) by adding at the end the fol-  
18 lowing:

19 “An initial designation, or extension of a designa-  
20 tion, of a foreign state (or part of such foreign  
21 state) under this paragraph shall not become effec-  
22 tive if the Attorney General finds that permitting  
23 the aliens to remain temporarily in the United  
24 States is contrary to the national interest of the  
25 United States.”



1 (B) in the last sentence of paragraph (2),  
2 by striking “18 months” and inserting “12  
3 months”;

4 (C) in paragraph (3)—

5 (i) in subparagraph (A), by inserting  
6 “all” after “and shall determine whether”;

7 (ii) in subparagraph (B), by inserting  
8 “all” after “no longer continues to meet”;

9 and

10 (iii) by amending subparagraph (C) to  
11 read as follows:

12 “(C) EXTENSION OF DESIGNATION.—If  
13 the Attorney General determines under sub-  
14 paragraph (A) that a foreign state (or part of  
15 such foreign state) continues to meet all the  
16 conditions for designation under paragraph (1)  
17 and that the foreign state warrants an exten-  
18 sion, the period of designation of the foreign  
19 State is extended for an additional period of 6  
20 months (or, in the discretion of the Attorney  
21 General, a period of 12 months).”; and

22 (D) in paragraph (5)—

23 (i) by striking subparagraph (B);

24 (ii) by moving the text of subpara-  
25 graph (A) up and to the right so that it

1 follows immediately after the paragraph  
2 heading; and

3 (iii) by striking “(A) DESIGNA-  
4 TIONS.—”;

5 (3) in subsection (c)—

6 (A) in paragraph (1)(B), by striking “The  
7 amount of any such fee shall not exceed \$50.”;

8 (B) in paragraph (2)—

9 (i) in subparagraph (A), by striking  
10 “of paragraph (1)—” and all that follows  
11 through the end and inserting the fol-  
12 lowing: “, the provisions of section  
13 212(a)(1) may be waived in the Attorney  
14 General’s discretion if a denial of tem-  
15 porary protected status would separate the  
16 alien from a spouse or child in the United  
17 States.”;

18 (ii) in subparagraph (B)—

19 (I) by amending clause (i) to  
20 read as follows:

21 “(i) the alien is inadmissible under  
22 section 212(a) by reason of having been  
23 convicted of a crime committed in the  
24 United States, or the alien is deportable

1 under section 237(a) (other than under  
2 section 237(a)(1)(B));”;

3 (II) in clause (ii), by striking the  
4 period at the end and inserting “; or”;  
5 and

6 (III) by adding at the end the  
7 following:

8 “(iii) the alien was unlawfully present  
9 in the United States on the effective date  
10 of the designation of the applicable foreign  
11 state (or part of a state), or the effective  
12 date of any extension of such designation,  
13 unless a law to the contrary is enacted be-  
14 fore such date, except that if the Congress  
15 is adjourned sine die on such date, the  
16 alien may be granted temporary protected  
17 status for a period of not more than 4  
18 months.”;

19 (C) in paragraph (3)—

20 (i) by striking “, or” at the end of  
21 subparagraph (B) and inserting a semi-  
22 colon;

23 (ii) in subparagraph (C)—

1 (I) by inserting “and record the  
2 alien’s current address” after “reg-  
3 ister”; and

4 (II) by striking the period at the  
5 end and inserting a semicolon; and

6 (iii) by adding at the end the fol-  
7 lowing:

8 “(D) the alien commits a crime after being  
9 granted temporary protected status; or

10 “(E) the alien travels, no matter how brief-  
11 ly, to the foreign state (or part of such state)  
12 the designation of which was the basis of the  
13 alien being granted such status.”;

14 (D) in paragraph (4), in each of subpara-  
15 graphs (A) and (B), by inserting before the pe-  
16 riod at the end the following: “, unless the alien  
17 travels, no matter how briefly, to the foreign  
18 state (or part of such state) the designation of  
19 which was the basis of the alien being granted  
20 such status”; and

21 (E) by striking paragraph (6);

22 (4) in subsection (d), by striking paragraph (4);

23 (5) in subsection (e), by striking “, unless the  
24 Attorney General determines that extreme hardship  
25 exists” in the first sentence;

1 (6) in subsection (f)—

2 (A) by inserting “and” at the end of para-  
3 graph (2);

4 (B) in paragraph (3), by striking “General;  
5 and” and inserting “General, except to the for-  
6 eign state (or part of such state) the designa-  
7 tion of which was the basis of the alien being  
8 granted such status.”; and

9 (C) by striking paragraph (4); and

10 (7) in subsection (h)—

11 (A) in paragraph (1), by inserting “or the  
12 House of Representatives” after “Senate”;

13 (B) in paragraph (2), by striking “three-  
14 fifths” and inserting “two-thirds”; and

15 (C) by inserting “and the House of Rep-  
16 resentatives” after “Senate” each place such  
17 term appears in paragraphs (2) and (3).

18 (b) INELIGIBILITY OF CERTAIN ALIENS.—

19 (1) IN GENERAL.—In the case of a foreign  
20 state (or part of a foreign state) initially designated  
21 under section 244 (8 U.S.C. 1254a), or having such  
22 a designation extended, before the date of the enact-  
23 ment of this Act, an alien who is a national of such  
24 state (or in the case of an alien having no nation-  
25 ality, is a person who last habitually resided in such

1 state), and was unlawfully present in the United  
2 States on the date of such designation or extension,  
3 shall be subject to paragraph (2).

4 (2) ALIENS INELIGIBLE.—An alien described in  
5 paragraph (1) shall not be considered eligible for  
6 temporary protected status under section 244 pursu-  
7 ant to any initial or succeeding extension of a des-  
8 ignation described in such paragraph that takes ef-  
9 fect after the date of the enactment of this Act, un-  
10 less a law to the contrary is enacted before such ef-  
11 fective date, except that if the Congress is adjourned  
12 sine die on such effective date, the alien may be  
13 granted temporary protected status for a period of  
14 not more than 4 months.

15 **SEC. 902. GOOD MORAL CHARACTER.**

16 (a) IN GENERAL.—Section 101(f)(6) (8 U.S.C.  
17 1101(f)(6)) is amended to read as follows:

18 “(6) one who, by fraud or willfully misrepre-  
19 senting a material fact, seeks to procure (or has  
20 sought to procure or has procured) a visa, other doc-  
21 umentation, or admission into the United States or  
22 other benefit provided under this Act, for himself,  
23 herself, or any other alien;”.

24 (b) EFFECTIVE DATE.—The amendment made by  
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to misrepresentations  
2 made on or after such date.

3 **SEC. 903. REMOVAL FOR ALIENS WHO MAKE MISREPRESEN-**  
4 **TATIONS TO PROCURE BENEFITS.**

5 (a) IN GENERAL.—Section 237(a)(3) (8 U.S.C.  
6 1127(a)(3)) is amended by adding at the end the fol-  
7 lowing:

8 “(F) MISREPRESENTATION.—Any alien  
9 who, by fraud or willfully misrepresenting a ma-  
10 terial fact, seeks to procure (or has sought to  
11 procure or has procured) a visa, other docu-  
12 mentation, or admission into the United States  
13 or other benefit provided under this Act, for  
14 himself, herself, or any other alien, is deport-  
15 able.”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 subsection (a) shall take effect on the date of the enact-  
18 ment of this Act and shall apply to misrepresentations  
19 made on or after such date.

20 **SEC. 904. DESIGNATIONS OF FOREIGN TERRORIST ORGANI-**  
21 **ZATIONS.**

22 Section 219 (8 U.S.C. 1189) is amended—

23 (1) by striking “Secretary” each place such  
24 term appears, excluding subparagraphs (A) and (C)

1 of subsection (a)(2), and inserting “official specified  
2 under subsection (d)”;

3 (2) in subsection (c)—

4 (A) in paragraph (2), by adding “and” at  
5 the end;

6 (B) in paragraph (3), by striking “; and”  
7 at the end and inserting a period; and

8 (C) by striking paragraph (4); and

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

10 “(d) IMPLEMENTATION OF DUTIES AND AUTHORI-  
11 TIES.—

12 “(1) BY SECRETARY OR ATTORNEY GENERAL.—

13 Except as otherwise provided in this subsection, the  
14 duties under this section shall, and authorities under  
15 this section may, be exercised by—

16 “(A) the Secretary of State—

17 “(i) after consultation with the Sec-  
18 retary of the Treasury and with the con-  
19 currence of the Attorney General; or

20 “(ii) upon instruction by the Director  
21 of Homeland Security pursuant to para-  
22 graph (2); or

23 “(B) the Attorney General—



1           “(i) after consultation with the Sec-  
2           retary of the Treasury and with the con-  
3           currence of the Secretary of State; or

4           “(ii) upon instruction by the Director  
5           of Homeland Security pursuant to para-  
6           graph (2).

7           “(2) CONCURRENCE.—The Secretary of State  
8           and the Attorney General shall each seek the other’s  
9           concurrence in accordance with paragraph (1). In  
10          any case in which such concurrence is denied or  
11          withheld, the official seeking the concurrence shall  
12          so notify the Director of Homeland Security and  
13          shall request the Director of Homeland Security to  
14          make a determination as to how the issue shall be  
15          resolved. Such notification and request of the Direc-  
16          tor of Homeland Security may not be made before  
17          the earlier of—

18                  “(A) the date on which a denial of concur-  
19                  rence is received; or

20                  “(B) the end of the 60-day period begin-  
21                  ning on the date the concurrence was sought.

22           “(3) EXCEPTION.—It shall be the duty of the  
23           Secretary of State to carry out the procedural re-  
24           quirements of paragraphs (2)(A) and (6)(B) of sub-  
25           section (a) in all cases, including cases in which a

1 designation or revocation is initiated by the Attorney  
2 General.”.

3 **SEC. 905. FOREIGN STUDENTS.**

4 (a) **LENGTH OF VISA TERM.**—Section 221(c) (8  
5 U.S.C. 1201(c)) is amended—

6 (1) by striking “A nonimmigrant visa” and in-  
7 serting “Except as otherwise provided by law, a non-  
8 immigrant visa”; and

9 (2) by adding at the end the following:

10 “In the case of a nonimmigrant visa issued under subpara-  
11 graph (F), (J), or (M) of section 101(a)(15) for study in  
12 the United States, the visa shall not be valid for any pe-  
13 riod in excess of the stated period that the institution or  
14 place of study to which the visa relates determines is nec-  
15 essary and proper for the purpose of achieving the objec-  
16 tive of such study. Such determinations shall be timely  
17 submitted, in accordance with such regulations as the At-  
18 torney General may prescribe, as a condition of the grant-  
19 ing of authority to issue documents demonstrating aliens’  
20 eligibility for a visa under subparagraph (F), (J), or (M)  
21 of section 101(a)(15).”.

22 (b) **ELIGIBLE INSTITUTION.**—Section 214 (8 U.S.C.  
23 1202), as amended by section 204 of this Act, is further  
24 amended by adding at the end the following:

1           “(w) A nonimmigrant visa may not be issued under  
2 subparagraph (F), (J), or (M) of section 101(a)(15) for  
3 postsecondary study at an educational institution unless  
4 that institution is an eligible institution for the purpose  
5 of a program authorized under title IV of the Higher Edu-  
6 cation Act of 1965 (20 U.S.C. 1070 et seq.).”.

7           (c) EFFECTIVE DATE.—The amendment made by  
8 subsection (a) shall take effect 6 months after the date  
9 of the enactment of this Act. The amendment made by  
10 subsection (b) shall take effect on the date of the enact-  
11 ment of this Act.

12 **SEC. 906. PAY GRADE GS-15 AVAILABLE FOR INS TRIAL AT-**  
13 **TORNEYS.**

14           There are authorized to be appropriated such sums  
15 as may be to establish a range for the annual rate of basic  
16 pay for positions as a trial attorney in the Immigration  
17 and Naturalization Service (or a successor agency) be-  
18 tween the minimum annual rate of basic pay payable for  
19 grade GS-11 of the General Schedule and the maximum  
20 annual rate of basic pay payable for grade GS-15 of the  
21 General Schedule.

22 **SEC. 907. PROOF OF IDENTITY OF ALIENS SEEKING RELIEF.**

23           (a) ASYLUM.—Section 208(b)(2) (8 U.S.C.  
24 1158(b)(2)) is amended by adding at the end the fol-  
25 lowing:

1           “(E) PROOF OF IDENTITY.—No alien may  
2           be granted asylum until the alien proves the  
3           alien’s true identity by clear and convincing evi-  
4           dence.”.

5           (b) ADJUSTMENT OF STATUS OF REFUGEES.—Sec-  
6           tion 209 (8 U.S.C. 1159) is amended by adding at the  
7           end the following:

8           “(d) No alien may have the alien’s status adjusted  
9           under this section until the alien proves the alien’s true  
10          identity by clear and convincing evidence.”.

11          (c) CANCELLATION OF REMOVAL.—Section 240A (8  
12          U.S.C. 1229b) is amended by adding at the end the fol-  
13          lowing:

14          “(f) PROOF OF IDENTITY.—No alien may receive re-  
15          lief under this section until the alien proves the alien’s  
16          true identity by clear and convincing evidence.”.

17          (d) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—  
18          Section 245 (8 U.S.C. 1255) is amended—

19                 (1) by redesignating the subsection (l) added by  
20                 section 1513(f) of Public Law 106–386 (114 Stat.  
21                 1536) as subsection (m); and

22                 (2) by adding at the end the following:

23                 “(n) PROOF OF IDENTITY.—No alien may have the  
24                 alien’s status adjusted under this section until the alien

1 proves the alien's true identity by clear and convincing evi-  
2 dence.”.

3 (e) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act and shall apply to relief provided on and after  
6 such date.

7 **SEC. 908. FOLLOWING TO JOIN DEFINED.**

8 Section 101(a) (8 U.S.C. 1101) is amended by adding  
9 at the end the following:

10 “(51) The term ‘following to join’ when used with re-  
11 spect to a spouse or child of an alien, means that the  
12 spouse or child departs for the United States, in order  
13 to reside with the alien, during the 1-year period beginning  
14 on the date on which the alien is admitted into the United  
15 States.”.

16 **SEC. 909. INFORMATION ON FOREIGN CRIMES.**

17 Section 245(a) is amended—

18 (1) by striking “and” at the end of paragraph

19 (2);

20 (2) by redesignating paragraph (3) as para-  
21 graph (4); and

22 (3) by inserting after paragraph (2) the fol-  
23 lowing: “(3) the Attorney General has thoroughly ex-  
24 amined the alien's countries of prior residence to de-

- 1 termine that the alien has not committed a crime in
- 2 those countries making the alien inadmissible, and”.

○