

113TH CONGRESS  
1ST SESSION

# H. R. 2278

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2013

Mr. GOWDY (for himself, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. FORBES, Mrs. BLACKBURN, Mr. BISHOP of Utah, Mr. COBLE, Mr. POE of Texas, Mr. WESTMORELAND, Mr. CHAFFETZ, Mr. SENSENBRENNER, Mrs. BACHMANN, Mr. COLLINS of Georgia, Mr. WOODALL, Mr. MULVANEY, Mr. FRANKS of Arizona, Mr. PEARCE, Mr. DESANTIS, Mr. CHABOT, and Mr. LABRADOR) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Agriculture, and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Strengthen and Fortify  
5 Enforcement Act” or the “SAFE Act”.

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

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

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

#### TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

- Sec. 101. Definitions and severability.
- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
- Sec. 104. Technology access.
- Sec. 105. State and local law enforcement provision of information about apprehended aliens.
- Sec. 106. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
- Sec. 107. Increased Federal detention space.
- Sec. 108. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 109. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 110. Immunity.
- Sec. 111. Criminal alien identification program.
- Sec. 112. Clarification of congressional intent.
- Sec. 113. State criminal alien assistance program (SCAAP).
- Sec. 114. State violations of enforcement of immigration laws.
- Sec. 115. Clarifying the authority of ICE detainees.

#### TITLE II—NATIONAL SECURITY

- Sec. 201. Removal of, and denial of benefits to, terrorist aliens.
- Sec. 202. Terrorist bar to good moral character.
- Sec. 203. Terrorist bar to naturalization.
- Sec. 204. Denaturalization for terrorists.
- Sec. 205. Use of 1986 IRCA legalization information for national security purposes.
- Sec. 206. Background and security checks.
- Sec. 207. Technical amendments relating to the Intelligence Reform and Terrorism Prevention Act of 2004.

#### TITLE III—REMOVAL OF CRIMINAL ALIENS

- Sec. 301. Definition of aggravated felony and conviction.
- Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.
- Sec. 303. Espionage clarification.
- Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.
- Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 306. Conforming amendment to the definition of racketeering activity.
- Sec. 307. Conforming amendments for the aggravated felony definition.

- Sec. 308. Precluding refugee or asylee adjustment of status for aggravated felons.
- Sec. 309. Inadmissibility and deportability of drunk drivers.
- Sec. 310. Detention of dangerous aliens.
- Sec. 311. Grounds of inadmissibility and deportability for alien gang members.
- Sec. 312. Extension of identity theft offenses.
- Sec. 313. Laundering of monetary instruments.
- Sec. 314. Increased criminal penalties relating to alien smuggling and related offenses.
- Sec. 315. Penalties for illegal entry.
- Sec. 316. Illegal reentry.
- Sec. 317. Reform of passport, visa, and immigration fraud offenses.
- Sec. 318. Forfeiture.
- Sec. 319. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 320. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
- Sec. 321. Protecting immigrants from convicted sex offenders.
- Sec. 322. Clarification to crimes of violence and crimes involving moral turpitude.
- Sec. 323. Penalties for failure to obey removal orders.
- Sec. 324. Pardons.

#### TITLE IV—VISA SECURITY

- Sec. 401. Cancellation of additional visas.
- Sec. 402. Visa information sharing.
- Sec. 403. Restricting waiver of visa interviews.
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- Sec. 409. Increased criminal penalties for student visa integrity.
- Sec. 410. Accreditation requirements.
- Sec. 411. Visa fraud.
- Sec. 412. Background checks.
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#### TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

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1 **TITLE I—IMMIGRATION LAW EN-**  
 2 **FORCEMENT BY STATES AND**  
 3 **LOCALITIES**

4 **SEC. 101. DEFINITIONS AND SEVERABILITY.**

5 (a) STATE DEFINED.—For the purposes of this title,  
 6 the term “State” has the meaning given to such term in  
 7 section 101(a)(36) of the Immigration and Nationality Act  
 8 (8 U.S.C. 1101(a)(36)).

9 (b) SECRETARY DEFINED.—For the purpose of this  
 10 title, the term “Secretary” means the Secretary of Home-  
 11 land Security.

12 (c) SEVERABILITY.—If any provision of this title, or  
 13 the application of such provision to any person or cir-  
 14 cumstance, is held invalid, the remainder of this title, and  
 15 the application of such provision to other persons not simi-  
 16 larly situated or to other circumstances, shall not be af-  
 17 fected by such invalidation.

1 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**  
2 **AND LOCALITIES.**

3 (a) IN GENERAL.—Subject to section 274A(h)(2) of  
4 the Immigration and Nationality Act (8 U.S.C.  
5 1324a(h)(2)), States, or political subdivisions of States,  
6 may enact, implement and enforce criminal penalties that  
7 penalize the same conduct that is prohibited in the crimi-  
8 nal provisions of immigration laws (as defined in section  
9 101(a)(17) of the Immigration and Nationality Act (8  
10 U.S.C. 1101(a)(17))), as long as the criminal penalties do  
11 not exceed the relevant Federal criminal penalties. States,  
12 or political subdivisions of States, may enact, implement  
13 and enforce civil penalties that penalize the same conduct  
14 that is prohibited in the civil violations of immigration  
15 laws (as defined in such section 101(a)(17)), as long as  
16 the civil penalties do not exceed the relevant Federal civil  
17 penalties.

18 (b) LAW ENFORCEMENT PERSONNEL.—Law enforce-  
19 ment personnel of a State, or of a political subdivision of  
20 a State, may investigate, identify, apprehend, arrest, de-  
21 tain, or transfer to Federal custody aliens for the purposes  
22 of enforcing the immigration laws of the United States  
23 to the same extent as Federal law enforcement personnel.  
24 Law enforcement personnel of a State, or of a political  
25 subdivision of a State, may also investigate, identify, ap-  
26 prehend, arrest, or detain aliens for the purposes of en-

1 forcing the immigration laws of a State or of a political  
2 subdivision of State, as long as those immigration laws  
3 are permissible under this section. Law enforcement per-  
4 sonnel of a State, or of a political subdivision of a State,  
5 may not remove aliens from the United States.

6 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**  
7 **TIONAL CRIME INFORMATION CENTER DATA-**  
8 **BASE.**

9 (a) PROVISION OF INFORMATION TO THE NCIC.—  
10 Not later than 180 days after the date of the enactment  
11 of this Act and periodically thereafter as updates may re-  
12 quire, the Secretary shall provide the National Crime In-  
13 formation Center of the Department of Justice with all  
14 information that the Secretary may possess regarding any  
15 alien against whom a final order of removal has been  
16 issued, any alien who has entered into a voluntary depart-  
17 ure agreement, any alien who has overstayed their au-  
18 thorized period of stay, and any alien whose visas has been  
19 revoked. The National Crime Information Center shall  
20 enter such information into the Immigration Violators File  
21 of the National Crime Information Center database, re-  
22 gardless of whether—

23 (1) the alien received notice of a final order of  
24 removal;

25 (2) the alien has already been removed; or

1           (3) sufficient identifying information is avail-  
2           able with respect to the alien.

3           (b) INCLUSION OF INFORMATION IN THE NCIC  
4 DATABASE.—

5           (1) IN GENERAL.—Section 534(a) of title 28,  
6 United States Code, is amended—

7           (A) in paragraph (3), by striking “and” at  
8 the end;

9           (B) by redesignating paragraph (4) as  
10 paragraph (5); and

11           (C) by inserting after paragraph (3) the  
12 following:

13           “(4) acquire, collect, classify, and preserve  
14 records of violations by aliens of the immigration  
15 laws of the United States, regardless of whether any  
16 such alien has received notice of the violation or  
17 whether sufficient identifying information is avail-  
18 able with respect to any such alien or whether any  
19 such alien has already been removed from the  
20 United States; and”.

21           (2) EFFECTIVE DATE.—The Attorney General  
22 and the Secretary shall ensure that the amendment  
23 made by paragraph (1) is implemented by not later  
24 than 6 months after the date of the enactment of  
25 this Act.

1 **SEC. 104. TECHNOLOGY ACCESS.**

2 States shall have access to Federal programs or tech-  
3 nology directed broadly at identifying inadmissible or de-  
4 portable aliens.

5 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
6 **SION OF INFORMATION ABOUT APPRE-**  
7 **HENDED ALIENS.**

8 (a) **PROVISION OF INFORMATION.**—In compliance  
9 with section 642(a) of the Illegal Immigration Reform and  
10 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)  
11 and section 434 of the Personal Responsibility and Work  
12 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),  
13 each State, and each political subdivision of a State, shall  
14 provide the Secretary of Homeland Security in a timely  
15 manner with the information specified in subsection (b)  
16 with respect to each alien apprehended in the jurisdiction  
17 of the State, or in the political subdivision of the State,  
18 who is believed to be inadmissible or deportable.

19 (b) **INFORMATION REQUIRED.**—The information re-  
20 ferred to in subsection (a) is as follows:

- 21 (1) The alien's name.
- 22 (2) The alien's address or place of residence.
- 23 (3) A physical description of the alien.
- 24 (4) The date, time, and location of the encoun-  
25 ter with the alien and reason for stopping, detaining,  
26 apprehending, or arresting the alien.



1           (5) If applicable, the alien's driver's license  
2           number and the State of issuance of such license.

3           (6) If applicable, the type of any other identi-  
4           fication document issued to the alien, any designa-  
5           tion number contained on the identification docu-  
6           ment, and the issuing entity for the identification  
7           document.

8           (7) If applicable, the license plate number,  
9           make, and model of any automobile registered to, or  
10          driven by, the alien.

11          (8) A photo of the alien, if available or readily  
12          obtainable.

13          (9) The alien's fingerprints, if available or read-  
14          ily obtainable.

15          (c) ANNUAL REPORT ON REPORTING.—The Sec-  
16          retary shall maintain and annually submit to the Congress  
17          a detailed report listing the States, or the political subdivi-  
18          sions of States, that have provided information under sub-  
19          section (a) in the preceding year.

20          (d) REIMBURSEMENT.—The Secretary shall reim-  
21          burse States, and political subdivisions of a State, for all  
22          reasonable costs, as determined by the Secretary, incurred  
23          by the State, or the political subdivision of a State, as  
24          a result of providing information under subsection (a).

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated such sums as may be  
3 necessary to carry out this section.

4 (f) CONSTRUCTION.—Nothing in this section shall re-  
5 quire law enforcement officials of a State, or of a political  
6 subdivision of a State, to provide the Secretary with infor-  
7 mation related to a victim of a crime or witness to a crimi-  
8 nal offense.

9 (g) EFFECTIVE DATE.—This section shall take effect  
10 on the date that is 120 days after the date of the enact-  
11 ment of this Act and shall apply with respect to aliens  
12 apprehended on or after such date.

13 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**  
14 **POLICE AGENCIES THAT ASSIST IN THE EN-**  
15 **FORCEMENT OF IMMIGRATION LAWS.**

16 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING  
17 AND PROCESSING CERTAIN ALIENS.—From amounts  
18 made available to make grants under this section, the Sec-  
19 retary shall make grants to States, and to political subdivi-  
20 sions of States, for procurement of equipment, technology,  
21 facilities, and other products that facilitate and are di-  
22 rectly related to investigating, apprehending, arresting,  
23 detaining, or transporting aliens who are inadmissible or  
24 deportable, including additional administrative costs in-  
25 curred under this title.

1 (b) ELIGIBILITY.—To be eligible to receive a grant  
2 under this section, a State, or a political subdivision of  
3 a State, must have the authority to, and shall have a writ-  
4 ten policy and a practice to, assist in the enforcement of  
5 the immigration laws of the United States in the course  
6 of carrying out the routine law enforcement duties of such  
7 State or political subdivision of a State. Entities covered  
8 under this section may not have any policy or practice that  
9 prevents local law enforcement from inquiring about a sus-  
10 pect’s immigration status.

11 (c) FUNDING.—There is authorized to be appro-  
12 priated for grants under this section such sums as may  
13 be necessary for fiscal year 2014 and each subsequent fis-  
14 cal year.

15 (d) GAO AUDIT.—Not later than 3 years after the  
16 date of the enactment of this Act, the Comptroller General  
17 of the United States shall conduct an audit of funds dis-  
18 tributed to States, and to political subdivisions of a State,  
19 under subsection (a).

20 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

21 (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
22 FACILITIES.—

23 (1) IN GENERAL.—The Secretary shall con-  
24 struct or acquire, in addition to existing facilities for  
25 the detention of aliens, detention facilities in the

1 United States, for aliens detained pending removal  
2 from the United States or a decision regarding such  
3 removal. Each facility shall have a number of beds  
4 necessary to effectuate this purposes of this title.

5 (2) DETERMINATIONS.—The location of any de-  
6 tention facility built or acquired in accordance with  
7 this subsection shall be determined by the Secretary.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
9 are authorized to be appropriated such sums as may be  
10 necessary to carry out this section.

11 (c) TECHNICAL AND CONFORMING AMENDMENT.—  
12 Section 241(g)(1) of the Immigration and Nationality Act  
13 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-  
14 pend” and inserting “shall expend”.

15 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**  
16 **PORTABLE ALIENS IN THE UNITED STATES**  
17 **APPREHENDED BY STATE OR LOCAL LAW EN-**  
18 **FORCEMENT.**

19 (a) STATE APPREHENSION.—

20 (1) IN GENERAL.—Title II of the Immigration  
21 and Nationality Act (8 U.S.C. 1151 et seq.) is  
22 amended by inserting after section 240C the fol-  
23 lowing:

1 “CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS  
2 PRESENT IN THE UNITED STATES

3 “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE  
4 AND LOCAL OFFICIALS.—If a State, or a political subdivi-  
5 sion of the State, exercising authority with respect with  
6 respect to the apprehension or arrest of an inadmissible  
7 or deportable alien submits to the Secretary of Homeland  
8 Security a request that the alien be taken into Federal  
9 custody, notwithstanding any other provision of law, regu-  
10 lation, or policy the Secretary—

11 “(1) shall take the alien into custody not later than  
12 48 hours after the detainer has been issued following the  
13 conclusion of the State or local charging process or dis-  
14 missal process, or if no State or local charging or dismissal  
15 process is required, the Secretary should issue a detainer  
16 and take the alien into custody not later than 48 hours  
17 after the alien is apprehended; and

18 “(2) shall request that the relevant State or local law  
19 enforcement agency temporarily hold the alien in their  
20 custody or transport the alien for transfer to Federal cus-  
21 tody.

22 “(b) POLICY ON DETENTION IN FEDERAL, CON-  
23 TRACT, STATE, OR LOCAL DETENTION FACILITIES.—In  
24 carrying out section 241(g)(1), the Attorney General or  
25 Secretary of Homeland Security shall ensure that an alien

1 arrested under this title shall be held in custody, pending  
2 the alien’s examination under this section, in a Federal,  
3 contract, State, or local prison, jail, detention center, or  
4 other comparable facility. Notwithstanding any other pro-  
5 vision of law, regulation or policy, such facility is adequate  
6 for detention, if—

7           “(1) such a facility is the most suitably located  
8           Federal, contract, State, or local facility available for  
9           such purpose under the circumstances;

10           “(2) an appropriate arrangement for such use  
11           of the facility can be made; and

12           “(3) the facility satisfies the standards for the  
13           housing, care, and security of persons held in cus-  
14           tody by a United States Marshal.

15           “(c) REIMBURSEMENT.—The Secretary of Homeland  
16 Security shall reimburse a State, and a political subdivi-  
17 sion of a State, for all reasonable expenses, as determined  
18 by the Secretary, incurred by the State, or political sub-  
19 division, as a result of the incarceration and transpor-  
20 tation of an alien who is inadmissible or deportable as de-  
21 scribed in subsections (a) and (b). Compensation provided  
22 for costs incurred under such subsections shall be the av-  
23 erage cost of incarceration of a prisoner in the relevant  
24 State, as determined by the chief executive officer of a  
25 State, or of a political subdivision of a State, plus the cost

1 of transporting the alien from the point of apprehension  
2 to the place of detention, and to the custody transfer point  
3 if the place of detention and place of custody are different.

4 “(d) SECURE FACILITIES.—The Secretary of Home-  
5 land Security shall ensure that aliens incarcerated pursu-  
6 ant to this title are held in facilities that provide an appro-  
7 priate level of security.

8 “(e) TRANSFER.—

9 “(1) IN GENERAL.—In carrying out this sec-  
10 tion, the Secretary of Homeland Security shall es-  
11 tablish a regular circuit and schedule for the prompt  
12 transfer of apprehended aliens from the custody of  
13 States, and political subdivisions of a State, to Fed-  
14 eral custody.

15 “(2) CONTRACTS.—The Secretary may enter  
16 into contracts, including appropriate private con-  
17 tracts, to implement this subsection.”.

18 (2) CLERICAL AMENDMENT.—The table of con-  
19 tents of such Act is amended by inserting after the  
20 item relating to section 240C the following new item:

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

21 (b) GAO AUDIT.—Not later than 3 years after the  
22 date of the enactment of this Act, the Comptroller General  
23 of the United States shall conduct an audit of compensa-  
24 tion to States, and to political subdivisions of a State, for  
25 the incarceration of inadmissible or deportable aliens

1 under section 240D(a) of the Immigration and Nationality  
2 Act (as added by subsection (a)(1)).

3 (c) EFFECTIVE DATE.—Section 240D of the Immi-  
4 gration and Nationality Act, as added by subsection (a),  
5 shall take effect on the date of the enactment of this Act,  
6 except that subsection (e) of such section shall take effect  
7 on the date that is 120 day after the date of the enactment  
8 of this Act.

9 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**  
10 **MENT PERSONNEL RELATING TO THE EN-**  
11 **FORCEMENT OF IMMIGRATION LAWS.**

12 (a) ESTABLISHMENT OF TRAINING MANUAL AND  
13 POCKET GUIDE.—Not later than 180 days after the date  
14 of the enactment of this Act, the Secretary shall estab-  
15 lish—

16 (1) a training manual for law enforcement per-  
17 sonnel of a State, or of a political subdivision of a  
18 State, to train such personnel in the investigation,  
19 identification, apprehension, arrest, detention, and  
20 transfer to Federal custody of inadmissible and de-  
21 portable aliens in the United States (including the  
22 transportation of such aliens across State lines to  
23 detention centers and the identification of fraudulent  
24 documents); and



1           (2) an immigration enforcement pocket guide  
2           for law enforcement personnel of a State, or of a po-  
3           litical subdivision of a State, to provide a quick ref-  
4           erence for such personnel in the course of duty.

5           (b) AVAILABILITY.—The training manual and pocket  
6           guide established in accordance with subsection (a) shall  
7           be made available to all State and local law enforcement  
8           personnel.

9           (c) APPLICABILITY.—Nothing in this section shall be  
10          construed to require State or local law enforcement per-  
11          sonnel to carry the training manual or pocket guide with  
12          them while on duty.

13          (d) COSTS.—The Secretary shall be responsible for  
14          any costs incurred in establishing the training manual and  
15          pocket guide.

16          (e) TRAINING FLEXIBILITY.—

17               (1) IN GENERAL.—The Secretary shall make  
18               training of State and local law enforcement officers  
19               available through as many means as possible, includ-  
20               ing through residential training at the Center for  
21               Domestic Preparedness, onsite training held at State  
22               or local police agencies or facilities, online training  
23               courses by computer, teleconferencing, and video-  
24               tape, or the digital video display (DVD) of a train-  
25               ing course or courses. E-learning through a secure,

1 encrypted distributed learning system that has all its  
2 servers based in the United States, is scalable, sur-  
3 vivable, and can have a portal in place not later than  
4 30 days after the date of the enactment of this Act,  
5 shall be made available by the Federal Law Enforce-  
6 ment Training Center Distributed Learning Pro-  
7 gram for State and local law enforcement personnel.

8 (2) FEDERAL PERSONNEL TRAINING.—The  
9 training of State and local law enforcement per-  
10 sonnel under this section shall not displace the train-  
11 ing of Federal personnel.

12 (3) CLARIFICATION.—Nothing in this title or  
13 any other provision of law shall be construed as  
14 making any immigration-related training a require-  
15 ment for, or prerequisite to, any State or local law  
16 enforcement officer to assist in the enforcement of  
17 Federal immigration laws.

18 (4) PRIORITY.—In carrying out this subsection,  
19 priority funding shall be given for existing web-based  
20 immigration enforcement training systems.

21 **SEC. 110. IMMUNITY.**

22 Notwithstanding any other provision of law, a law en-  
23 forcement officer of a State or local law enforcement agen-  
24 cy who is acting within the scope of the officer's official  
25 duties shall be immune, to the same extent as a Federal

1 law enforcement officer, from personal liability arising out  
2 of the performance of any duty described in this title, in-  
3 cluding the authorities to investigate, identify, apprehend,  
4 arrest, detain, or transfer to Federal custody, an alien for  
5 the purposes of enforcing the immigration laws of the  
6 United States (as defined in section 101(a)(17) of the Im-  
7 migration and Nationality Act (8 U.S.C. 1101(a)(17)) or  
8 the immigration laws of a State or a political subdivision  
9 of a State.

10 **SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

11 (a) CONTINUATION AND EXPANSION.—

12 (1) IN GENERAL.—The Secretary shall continue  
13 to operate and implement a program that—

14 (A) identifies removable criminal aliens in  
15 Federal and State correctional facilities;

16 (B) ensures such aliens are not released  
17 into the community; and

18 (C) removes such aliens from the United  
19 States after the completion of their sentences.

20 (2) EXPANSION.—The program shall be ex-  
21 tended to all States. Any State that receives Federal  
22 funds for the incarceration of criminal aliens (pursu-  
23 ant to the State Criminal Alien Assistance Program  
24 authorized under section 241(i) of the Immigration

1 and Nationality Act (8 U.S.C. 1231(i)) or other  
2 similar program) shall—

3 (A) cooperate with officials of the program;

4 (B) expeditiously and systematically iden-  
5 tify criminal aliens in its prison and jail popu-  
6 lations; and

7 (C) promptly convey such information to  
8 officials of such program as a condition of re-  
9 ceiving such funds.

10 (b) AUTHORIZATION FOR DETENTION AFTER COM-  
11 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
12 enforcement officers of a State, or of a political subdivision  
13 of a State, are authorized to—

14 (1) hold a criminal alien for a period of up to  
15 14 days after the alien has completed the alien’s  
16 sentence under State or local law in order to effec-  
17 tuate the transfer of the alien to Federal custody  
18 when the alien is inadmissible or deportable; or

19 (2) issue a detainer that would allow aliens who  
20 have served a prison sentence under State or local  
21 law to be detained by the State or local prison or jail  
22 until the Secretary can take the alien into custody.

23 (c) TECHNOLOGY USAGE.—Technology, such as video  
24 conferencing, shall be used to the maximum extent prac-  
25 ticable in order to make the program available in remote

1 locations. Mobile access to Federal databases of aliens and  
2 live scan technology shall be used to the maximum extent  
3 practicable in order to make these resources available to  
4 State and local law enforcement agencies in remote loca-  
5 tions.

6 (d) EFFECTIVE DATE.—This section shall take effect  
7 of the date of the enactment of this Act, except that sub-  
8 section (a)(2) shall take effect on the date that is 180 days  
9 after such date.

10 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

11 Section 287(g) of the Immigration and Nationality  
12 Act (8 U.S.C. 1357(g)) is amended—

13 (1) in paragraph (1) by striking “may enter”  
14 and all that follows through the period at the end  
15 and inserting the following: “shall enter into a writ-  
16 ten agreement with a State, or any political subdivi-  
17 sion of a State, upon request of the State or political  
18 subdivision, pursuant to which an officer or em-  
19 ployee of the State or subdivision, who is determined  
20 by the Secretary to be qualified to perform a func-  
21 tion of an immigration officer in relation to the in-  
22 vestigation, apprehension, or detention of aliens in  
23 the United States (including the transportation of  
24 such aliens across State lines to detention centers),  
25 may carry out such function at the expense of the

1 State or political subdivision and to extent consistent  
2 with State and local law. No request from a bona  
3 fide State or political subdivision or bona fide law  
4 enforcement agency shall be denied absent good  
5 cause. No limit on the number of agreements under  
6 this subsection may be imposed. The Secretary shall  
7 process requests for such agreements with all due  
8 haste, and in no case shall take not more than 90  
9 days from the date the request is made until the  
10 agreement is consummated.”;

11 (2) by redesignating paragraph (2) as para-  
12 graph (5) and paragraphs (3) through (10) as para-  
13 graphs (7) through (14), respectively;

14 (3) by inserting after paragraph (1) the fol-  
15 lowing:

16 “(2) An agreement under this subsection shall accom-  
17 modate a requesting State or political subdivision with re-  
18 spect to the enforcement model or combination of models,  
19 and shall accommodate a patrol model, task force model,  
20 jail model, any combination thereof, or any other reason-  
21 able model the State or political subdivision believes is best  
22 suited to the immigration enforcement needs of its juris-  
23 diction.

24 “(3) No Federal program or technology directed  
25 broadly at identifying inadmissible or deportable aliens

1 shall substitute for such agreements, including those es-  
2 tablishing a jail model, and shall operate in addition to  
3 any agreement under this subsection.

4 “(4)(A) No agreement under this subsection shall be  
5 terminated without good cause.

6 “(B)(i) The Secretary shall provide a State or polit-  
7 ical subdivision written notice of intent to terminate at  
8 least 180 days prior to date of intended termination, and  
9 the notice shall fully explain the grounds for termination,  
10 along with providing evidence substantiating the Sec-  
11 retary’s allegations.

12 “(ii) The State or political subdivision shall have the  
13 right to a hearing before an administrative law judge and,  
14 if the ruling is against the State or political subdivision,  
15 to appeal the ruling to the Federal Circuit Court of Ap-  
16 peals and, if the ruling is against the State or political  
17 subdivision, to the Supreme Court.

18 “(C) The agreement shall remain in full effect during  
19 the course of any and all legal proceedings.”; and

20 (4) by inserting after paragraph (5) (as redesign-  
21 nated) the following:

22 “(6) The Secretary of Homeland Security shall make  
23 training of State and local law enforcement officers avail-  
24 able through as many means as possible, including  
25 through residential training at the Center for Domestic

1 Preparedness and the Federal Law Enforcement Training  
2 Center, onsite training held at State or local police agen-  
3 cies or facilities, online training courses by computer, tele-  
4 conferencing, and videotape, or the digital video display  
5 (DVD) of a training course or courses. Distance learning  
6 through a secure, encrypted distributed learning system  
7 that has all its servers based in the United States, is scal-  
8 able, survivable, and can have a portal in place not later  
9 than 30 days after the date of the enactment of this Act,  
10 shall be made available by the COPS Office of the Depart-  
11 ment of Justice and the Federal Law Enforcement Train-  
12 ing Center Distributed Learning Program for State and  
13 local law enforcement personnel. Preference shall be given  
14 to private sector-based web-based immigration enforce-  
15 ment training programs for which the Federal Govern-  
16 ment has already provided support to develop.”.

17 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**  
18 **(SCAAP).**

19 Section 241(i) of the Immigration and Nationality  
20 Act (8 U.S.C. 1231(i)) is amended—

21 (1) by striking “Attorney General” the first  
22 place such term appears and inserting “Secretary of  
23 Homeland Security”;



1           (2) by striking “Attorney General” each place  
2 such term appears thereafter and inserting “Sec-  
3 retary”;

4           (3) in paragraph (3)(A), by inserting “charged  
5 with or” before “convicted”; and

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

8           “(5) There are authorized to be appropriated to  
9 carry out this subsection such sums as may be nec-  
10 essary for fiscal year 2014 and each subsequent fis-  
11 cal year.”.

12 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**  
13 **GRATION LAWS.**

14           (a) IN GENERAL.—Section 642 of the Illegal Immi-  
15 gration Reform and Immigrant Responsibility Act of 1996  
16 (8 U.S.C. 1373) is amended—

17           (1) by striking “Immigration and Naturaliza-  
18 tion Service” in each place it appears and inserting  
19 “Department of Homeland Security”;

20           (2) in subsection (a), by striking “may” and in-  
21 serting “shall”;

22           (3) in subsection (b)—

23           (A) by striking “no person or agency may”  
24 and inserting “a person or agency shall not”;

1 (B) by striking “doing any of the following  
2 with respect to information” and inserting “un-  
3 dertaking any of the following law enforcement  
4 activities”; and

5 (C) by striking paragraphs (1) through (3)  
6 and inserting the following:

7 “(1) Notifying the Federal Government regard-  
8 ing the presence of inadmissible and deportable  
9 aliens who are encountered by law enforcement per-  
10 sonnel of a State or political subdivision of a State.

11 “(2) Complying with requests for information  
12 from Federal law enforcement.

13 “(3) Complying with detainers issued by the  
14 Department of Homeland Security.

15 “(4) Issuing policies in the form of a resolu-  
16 tions, ordinances, administrative actions, general or  
17 special orders, or departmental policies that violate  
18 Federal law or restrict a State or political subdivi-  
19 sion of a State from complying with Federal law or  
20 coordinating with Federal law enforcement.”; and

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

22 “(d) COMPLIANCE.—

23 “(1) IN GENERAL.—A State, or a political sub-  
24 division of a State, that has in effect a statute, pol-  
25 icy, or practice that prohibits law enforcement offi-

1       cers of the State, or of a political subdivision of the  
2       State, from assisting or cooperating with Federal  
3       immigration law enforcement in the course of car-  
4       rying out the officers' routine law enforcement du-  
5       ties shall not be eligible to receive—

6               “(A) any of the funds that would otherwise  
7               be allocated to the State or political subdivision  
8               under section 241(i) of the Immigration and  
9               Nationality Act (8 U.S.C. 1231(i)) or the ‘Cops  
10              on the Beat’ program under part Q of title I of  
11              the Omnibus Crime Control and Safe Streets  
12              Act of 1968 (42 U.S.C. 3796dd et seq.); or

13              “(B) any other law enforcement or Depart-  
14              ment of Homeland Security grant.

15              “(2) ANNUAL DETERMINATION.—The Secretary  
16              shall determine annually which State or political  
17              subdivision of a State are not in compliance with  
18              section and shall report such determinations to Con-  
19              gress on March 1 of each year.

20              “(3) REPORTS.—The Attorney General shall  
21              issue a report concerning the compliance of any par-  
22              ticular State or political subdivision at the request of  
23              the House or Senate Judiciary Committee. Any ju-  
24              risdiction that is found to be out of compliance shall  
25              be ineligible to receive Federal financial assistance

1 as provided in paragraph (1) for a minimum period  
2 of 1 year, and shall only become eligible again after  
3 the Attorney General certifies that the jurisdiction is  
4 in compliance.

5 “(4) REALLOCATION.—Any funds that are not  
6 allocated to a State or to a political subdivision of  
7 a State, due to the failure of the State, or of the po-  
8 litical subdivision of the State, to comply with sub-  
9 section (c) shall be reallocated to States, or to polit-  
10 ical subdivisions of States, that comply with such  
11 subsection.

12 “(e) CONSTRUCTION.—Nothing in this section shall  
13 require law enforcement officials from States, or from po-  
14 litical subdivisions of States, to report or arrest victims  
15 or witnesses of a criminal offense.”.

16 (b) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on the date of the enactment  
18 of this Act, except that subsection (d) of section 642 of  
19 the Illegal Immigration Reform and Immigrant Responsi-  
20 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-  
21 tion, shall take effect beginning one year after the date  
22 of the enactment of this Act.

23 **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

24 Except as otherwise provided by Federal law or rule  
25 of procedure, the Secretary of Homeland Security shall

1 execute all lawful writs, process, and orders issued under  
2 the authority of the United States, and shall command  
3 all necessary assistance to execute the Secretary's duties.

## 4 **TITLE II—NATIONAL SECURITY**

### 5 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-** 6 **RORIST ALIENS.**

7 (a) ASYLUM.—Section 208(b)(2)(A) of the Immigra-  
8 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is  
9 amended—

10 (1) by inserting “or the Secretary of Homeland  
11 Security” after “if the Attorney General”; and

12 (2) by amending clause (v) to read as follows:

13 “(v) the alien is described in subpara-  
14 graph (B)(i) or (F) of section 212(a)(3),  
15 unless, in the case of an alien described in  
16 subparagraph (IV), (V), or (IX) of section  
17 212(a)(3)(B)(i), the Secretary of Home-  
18 land Security or the Attorney General de-  
19 termines, in the discretion of the Secretary  
20 or the Attorney General, that there are not  
21 reasonable grounds for regarding the alien  
22 as a danger to the security of the United  
23 States; or”.

1 (b) CANCELLATION OF REMOVAL.—Section  
2 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-  
3 ed—

4 (1) by striking “inadmissible under” and insert-  
5 ing “described in”; and

6 (2) by striking “deportable under” and insert-  
7 ing “described in”.

8 (c) VOLUNTARY DEPARTURE.—Section  
9 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is  
10 amended by striking “deportable under section  
11 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-  
12 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

13 (d) RESTRICTION ON REMOVAL.—Section  
14 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is  
15 amended—

16 (1) by inserting “or the Secretary of Homeland  
17 Security” after “Attorney General” wherever that  
18 term appears;

19 (2) in clause (iii), by striking “or” at the end;

20 (3) in clause (iv), by striking the period at the  
21 end and inserting “; or”;

22 (4) by inserting after clause (iv) the following:

23 “(v) the alien is described in subpara-  
24 graph (B)(i) or (F) of section 212(a)(3),  
25 unless, in the case of an alien described in

1           subparagraph (IV), (V), or (IX) of section  
2           212(a)(3)(B)(i), the Secretary of Home-  
3           land Security or the Attorney General de-  
4           termines, in discretion of the Secretary or  
5           the Attorney General, that there are not  
6           reasonable grounds for regarding the alien  
7           as a danger to the security of the United  
8           States.”; and

9           (5) by striking the final sentence.

10          (e) RECORD OF ADMISSION.—

11           (1) IN GENERAL.—Section 249 of such Act (8  
12          U.S.C. 1259) is amended to read as follows:

13          “RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN  
14          THE CASE OF CERTAIN ALIENS WHO ENTERED THE  
15          UNITED STATES PRIOR TO JANUARY 1, 1972

16          “SEC. 249. The Secretary of Homeland Security, in  
17          the discretion of the Secretary and under such regulations  
18          as the Secretary may prescribe, may enter a record of law-  
19          ful admission for permanent residence in the case of any  
20          alien, if no such record is otherwise available and the  
21          alien—

22           “(1) entered the United States before January  
23          1, 1972;

24           “(2) has continuously resided in the United  
25          States since such entry;

1           “(3) has been a person of good moral character  
2 since such entry;

3           “(4) is not ineligible for citizenship;

4           “(5) is not described in paragraph (1)(A)(iv),  
5 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

6           “(6) did not, at any time, without reasonable  
7 cause fail or refuse to attend or remain in attend-  
8 ance at a proceeding to determine the alien’s inad-  
9 missibility or deportability.

10 Such recordation shall be effective as of the date of ap-  
11 proval of the application or as of the date of entry if such  
12 entry occurred prior to July 1, 1924.”.

13           (2) CLERICAL AMENDMENT.—The table of con-  
14 tents for such Act is amended by amending the item  
15 relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain  
aliens who entered the United States prior to January 1,  
1972.”.

16           (f) EFFECTIVE DATE.—The amendments made by  
17 this section shall take effect on the date of enactment of  
18 this Act and sections 208(b)(2)(A), 212(a), 240A, 240B,  
19 241(b)(3), and 249 of the Immigration and Nationality  
20 Act, as so amended, shall apply to—

21           (1) all aliens in removal, deportation, or exclu-  
22 sion proceedings;

23           (2) all applications pending on, or filed after,  
24 the date of the enactment of this Act; and



1           (3) with respect to aliens and applications de-  
2           scribed in paragraph (1) or (2) of this subsection,  
3           acts and conditions constituting a ground for exclu-  
4           sion, deportation, or removal occurring or existing  
5           before, on, or after the date of the enactment of this  
6           Act.

7 **SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.**

8           (a) DEFINITION OF GOOD MORAL CHARACTER.—  
9           Section 101(f) of the Immigration and Nationality Act (8  
10          U.S.C. 1101(f)) is amended—

11           (1) by redesignating paragraphs (1) through  
12           (9) as paragraphs (2) through (10), respectively;

13           (2) by inserting after paragraph (1) the fol-  
14           lowing:

15           “(2) one who the Secretary of Homeland Secu-  
16           rity or Attorney General determines to have been at  
17           any time an alien described in section 212(a)(3) or  
18           237(a)(4), which determination may be based upon  
19           any relevant information or evidence, including clas-  
20           sified, sensitive, or national security information;”;

21           (3) in paragraph (9) (as redesignated), by in-  
22           serting “, regardless whether the crime was classi-  
23           fied as an aggravated felony at the time of convic-  
24           tion, except that the Secretary of Homeland Security  
25           or Attorney General may, in the unreviewable discre-

1       tion of the Secretary or Attorney General, determine  
2       that this paragraph shall not apply in the case of a  
3       single aggravated felony conviction (other than mur-  
4       der, manslaughter, homicide, rape, or any sex of-  
5       fense when the victim of such sex offense was a  
6       minor) for which completion of the term of imprison-  
7       ment or the sentence (whichever is later) occurred  
8       10 or more years prior to the date of application”  
9       after “(as defined in subsection (a)(43))”; and

10       (4) by striking the first sentence the follows  
11       paragraph (10) (as redesignated) and inserting fol-  
12       lowing: “The fact that any person is not within any  
13       of the foregoing classes shall not preclude a discre-  
14       tionary finding for other reasons that such a person  
15       is or was not of good moral character. The Secretary  
16       or the Attorney General shall not be limited to the  
17       applicant’s conduct during the period for which good  
18       moral character is required, but may take into con-  
19       sideration as a basis for determination the appli-  
20       cant’s conduct and acts at any time.”

21       (b) AGGRAVATED FELONS.—Section 509(b) of the  
22       Immigration Act of 1990 (8 U.S.C. 1101 note) is amended  
23       to read as follows:

24       “(b) EFFECTIVE DATE.—The amendment made by  
25       subsection (a) shall take effect on November 29, 1990,

1 and shall apply to convictions occurring before, on or after  
2 such date.”.

3 (c) TECHNICAL CORRECTION TO THE INTELLIGENCE  
4 REFORM ACT.—Section 5504(2) of the Intelligence Re-  
5 form and Terrorism Prevention Act of 2004 (Public Law  
6 108–458) is amended by striking “adding at the end” and  
7 inserting “inserting after paragraph (8)”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 subsections (a) and (b) shall take effect on the date of  
10 enactment of this Act, shall apply to any act that occurred  
11 before, on, or after such date and shall apply to any appli-  
12 cation for naturalization or any other benefit or relief, or  
13 any other case or matter under the immigration laws  
14 pending on or filed after such date. The amendments  
15 made by subsection (c) shall take effect as if enacted in  
16 the Intelligence Reform and Terrorism Prevention Act of  
17 2004 (Public Law 108–458).

18 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

19 (a) NATURALIZATION OF PERSONS ENDANGERING  
20 THE NATIONAL SECURITY.—Section 316 of the Immigra-  
21 tion and Nationality Act (8 U.S.C. 1426) is amended by  
22 adding at the end the following:

23 “(g) PERSONS ENDANGERING THE NATIONAL SECU-  
24 RITY.—No person shall be naturalized who the Secretary  
25 of Homeland Security determines to have been at any time

1 an alien described in section 212(a)(3) or 237(a)(4). Such  
2 determination may be based upon any relevant informa-  
3 tion or evidence, including classified, sensitive, or national  
4 security information.”.

5 (b) CONCURRENT NATURALIZATION AND REMOVAL  
6 PROCEEDINGS.—Section 318 of the Immigration and Na-  
7 tionality Act (8 U.S.C. 1429) is amended by striking  
8 “other Act;” and inserting “other Act; and no application  
9 for naturalization shall be considered by the Secretary of  
10 Homeland Security or any court if there is pending  
11 against the applicant any removal proceeding or other pro-  
12 ceeding to determine the applicant’s inadmissibility or de-  
13 portability, or to determine whether the applicant’s lawful  
14 permanent resident status should be rescinded, regardless  
15 of when such proceeding was commenced: *Provided*, That  
16 the findings of the Attorney General in terminating re-  
17 moval proceedings or in canceling the removal of an alien  
18 pursuant to the provisions of this Act, shall not be deemed  
19 binding in any way upon the Secretary of Homeland Secu-  
20 rity with respect to the question of whether such person  
21 has established his eligibility for naturalization as required  
22 by this title;”.

23 (c) PENDING DENATURALIZATION OR REMOVAL  
24 PROCEEDINGS.—Section 204(b) of the Immigration and  
25 Nationality Act (8 U.S.C. 1154(b)) is amended by adding

1 at the end the following: “No petition shall be approved  
2 pursuant to this section if there is any administrative or  
3 judicial proceeding (whether civil or criminal) pending  
4 against the petitioner that could (whether directly or indi-  
5 rectly) result in the petitioner’s denaturalization or the  
6 loss of the petitioner’s lawful permanent resident status.”.

7 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sec-  
8 tions 216(e) and section 216A(e) of the Immigration and  
9 Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are  
10 each amended by striking the period at the end and insert-  
11 ing “, if the alien has had the conditional basis removed  
12 pursuant to this section.”.

13 (e) **DISTRICT COURT JURISDICTION.**—Subsection  
14 336(b) of the Immigration and Nationality Act, 8 U.S.C.  
15 1447(b), is amended to read as follows:

16 “(b) If there is a failure to render a final administra-  
17 tive decision under section 335 before the end of the 180-  
18 day period after the date on which the Secretary of Home-  
19 land Security completes all examinations and interviews  
20 conducted under such section, as such terms are defined  
21 by the Secretary of Homeland Security pursuant to regu-  
22 lations, the applicant may apply to the district court for  
23 the district in which the applicant resides for a hearing  
24 on the matter. Such court shall only have jurisdiction to  
25 review the basis for delay and remand the matter to the

1 Secretary of Homeland Security for the Secretary’s deter-  
2 mination on the application.”.

3 (f) CONFORMING AMENDMENT.—Section 310(c) of  
4 the Immigration and Nationality Act (8 U.S.C. 1421(c))  
5 is amended—

6 (1) by inserting “, not later than the date that  
7 is 120 days after the Secretary of Homeland Secu-  
8 rity’s final determination,” after “seek”; and

9 (2) by striking the second sentence and insert-  
10 ing the following: “The burden shall be upon the pe-  
11 titioner to show that the Secretary’s denial of the  
12 application was not supported by facially legitimate  
13 and bona fide reasons. Except in a proceeding under  
14 section 340, notwithstanding any other provision of  
15 law (statutory or nonstatutory), including section  
16 2241 of title 28, United States Code, or any other  
17 habeas corpus provision, and sections 1361 and  
18 1651 of such title, no court shall have jurisdiction  
19 to determine, or to review a determination of the  
20 Secretary made at any time regarding, whether, for  
21 purposes of an application for naturalization, an  
22 alien is a person of good moral character, whether  
23 the alien understands and is attached to the prin-  
24 ciples of the Constitution of the United States, or

1       whether an alien is well disposed to the good order  
2       and happiness of the United States.”.

3       (g) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall take effect on the date of enactment of  
5 this Act, shall apply to any act that occurred before, on,  
6 or after such date, and shall apply to any application for  
7 naturalization or any other case or matter under the immi-  
8 gration laws pending on, or filed after, such date.

9       **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

10       (a) **IN GENERAL.**—Section 340 of the Immigration  
11 and Nationality Act is amended—

12               (1) by redesignating subsections (f) through (h)  
13       as subsections (g) through (i), respectively; and

14               (2) by inserting after subsection (e) the fol-  
15       lowing:

16       “(f)(1) If a person who has been naturalized partici-  
17       pates in any act described in paragraph (2), the Attorney  
18       General is authorized to find that, as of the date of such  
19       naturalization, such person was not attached to the prin-  
20       ciples of the Constitution of the United States and was  
21       not well disposed to the good order and happiness of the  
22       United States at the time of naturalization, and upon such  
23       finding shall set aside the order admitting such person to  
24       citizenship and cancel the certificate of naturalization as  
25       having been obtained by concealment of a material fact

1 or by willful misrepresentation, and such revocation and  
2 setting aside of the order admitting such person to citizen-  
3 ship and such canceling of certificate of naturalization  
4 shall be effective as of the original date of the order and  
5 certificate, respectively.

6 “(2) The acts described in this paragraph are the fol-  
7 lowing:

8 “(A) Any activity a purpose of which is the op-  
9 position to, or the control or overthrow of, the Gov-  
10 ernment of the United States by force, violence, or  
11 other unlawful means.

12 “(B) Engaging in a terrorist activity (as de-  
13 fined in clauses (iii) and (iv) of section  
14 212(a)(3)(B)).

15 “(C) Incitement of terrorist activity under cir-  
16 cumstances indicating an intention to cause death or  
17 serious bodily harm.

18 “(D) Receiving military-type training (as de-  
19 fined in section 2339D(c)(1) of title 18, United  
20 States Code) from or on behalf of any organization  
21 that, at the time the training was received, was a  
22 terrorist organization (as defined in section  
23 212(a)(3)(B)(vi)).”.

24 (b) EFFECTIVE DATE.—The amendments made by  
25 subsection (a) shall take effect on the date of the enact-



1 ment of this Act and shall apply to acts that occur on  
2 or after such date.

3 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**  
4 **FOR NATIONAL SECURITY PURPOSES.**

5 (a) SPECIAL AGRICULTURAL WORKERS.—Section  
6 210(b)(6) of the Immigration and Nationality Act (8  
7 U.S.C. 1160(b)(6)) is amended—

8 (1) by striking “Attorney General” each place  
9 such term appears and inserting “Secretary of  
10 Homeland Security”;

11 (2) in subparagraph (A), by striking “Depart-  
12 ment of Justice,” and inserting “Department of  
13 Homeland Security,”;

14 (3) by redesignating subparagraphs (C) and  
15 (D) as subparagraphs (D) and (E), respectively;

16 (4) by inserting after subparagraph (B) the fol-  
17 lowing:

18 “(C) AUTHORIZED DISCLOSURES.—

19 “(i) CENSUS PURPOSE.—The Sec-  
20 retary of Homeland Security may provide,  
21 in his discretion, for the furnishing of in-  
22 formation furnished under this section in  
23 the same manner and circumstances as  
24 census information may be disclosed under  
25 section 8 of title 13, United States Code.

1                   “(ii) NATIONAL SECURITY PUR-  
2                   POSE.—The Secretary of Homeland Secu-  
3                   rity may provide, in his discretion, for the  
4                   furnishing, use, publication, or release of  
5                   information furnished under this section in  
6                   any investigation, case, or matter, or for  
7                   any purpose, relating to terrorism, national  
8                   intelligence or the national security.”; and

9                   (5) in subparagraph (D), as redesignated, by  
10                  striking “Service” and inserting “Department of  
11                  Homeland Security”.

12                  (b) ADJUSTMENT OF STATUS UNDER THE IMMIGRA-  
13                  TION REFORM AND CONTROL ACT OF 1986.—Section  
14                  245A(c)(5) of the Immigration and Nationality Act (8  
15                  U.S.C. 1255a(c)(5)), is amended—

16                  (1) by striking “Attorney General” each place  
17                  such term appears and inserting “Secretary of  
18                  Homeland Security”;

19                  (2) in subparagraph (A), by striking “Depart-  
20                  ment of Justice,” and inserting “Department of  
21                  Homeland Security,”;

22                  (3) by amending subparagraph (C) to read as  
23                  follows:

24                  “(C) AUTHORIZED DISCLOSURES.—

1           “(i) CENSUS PURPOSE.—The Sec-  
2           retary of Homeland Security may provide,  
3           in his discretion, for the furnishing of in-  
4           formation furnished under this section in  
5           the same manner and circumstances as  
6           census information may be disclosed under  
7           section 8 of title 13, United States Code.

8           “(ii) NATIONAL SECURITY PUR-  
9           POSE.—The Secretary of Homeland Secu-  
10          rity may provide, in his discretion, for the  
11          furnishing, use, publication, or release of  
12          information furnished under this section in  
13          any investigation, case, or matter, or for  
14          any purpose, relating to terrorism, national  
15          intelligence or the national security.”; and

16          (4) in subparagraph (D), striking “Service”  
17          and inserting “Department of Homeland Security”.

18 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

19          (a) REQUIREMENT TO COMPLETE BACKGROUND AND  
20          SECURITY CHECKS.—Section 103 of the Immigration and  
21          Nationality Act (8 U.S.C. 1103) is amended by adding  
22          at the end the following:

23          “(h) Notwithstanding any other provision of law  
24          (statutory or nonstatutory), including but not limited to  
25          section 309 of Public Law 107–173, sections 1361 and

1 1651 of title 28, United States Code, and section 706(1)  
2 of title 5, United States Code, neither the Secretary of  
3 Homeland Security, the Attorney General, nor any court  
4 may—

5           “(1) grant, or order the grant of or adjudica-  
6           tion of an application for adjustment of status to  
7           that of an alien lawfully admitted for permanent res-  
8           idence;

9           “(2) grant, or order the grant of or adjudica-  
10          tion of an application for United States citizenship  
11          or any other status, relief, protection from removal,  
12          employment authorization, or other benefit under  
13          the immigration laws;

14          “(3) grant, or order the grant of or adjudica-  
15          tion of, any immigrant or nonimmigrant petition; or

16          “(4) issue or order the issuance of any docu-  
17          mentation evidencing or related to any such grant,  
18          until such background and security checks as the  
19          Secretary may in his discretion require have been  
20          completed or updated to the satisfaction of the Sec-  
21          retary.

22          “(i) Notwithstanding any other provision of law (stat-  
23          utory or nonstatutory), including but not limited to section  
24          309 of Public Law 107–173, sections 1361 and 1651 of  
25          title 28, United States Code, and section 706(1) of title

1 5, United States Code, neither the Secretary of Homeland  
2 Security nor the Attorney General may be required to—

3 “(1) grant, or order the grant of or adjudica-  
4 tion of an application for adjustment of status to  
5 that of an alien lawfully admitted for permanent res-  
6 idence,

7 “(2) grant, or order the grant of or adjudica-  
8 tion of an application for United States citizenship  
9 or any other status, relief, protection from removal,  
10 employment authorization, or other benefit under  
11 the immigration laws,

12 “(3) grant, or order the grant of or adjudica-  
13 tion of, any immigrant or nonimmigrant petition, or

14 “(4) issue or order the issuance of any docu-  
15 mentation evidencing or related to any such grant,  
16 until any suspected or alleged materially false infor-  
17 mation, material misrepresentation or omission, con-  
18 cealment of a material fact, fraud or forgery, coun-  
19 terfeiting, or alteration, or falsification of a docu-  
20 ment, as determined by the Secretary, relating to  
21 the adjudication of an application or petition for any  
22 status (including the granting of adjustment of sta-  
23 tus), relief, protection from removal, or other benefit  
24 under this subsection has been investigated and re-  
25 solved to the Secretary’s satisfaction.

1           “(j) Notwithstanding any other provision of law (stat-  
2   utory or nonstatutory), including section 309 of the En-  
3   hanced Border Security and Visa Entry Reform Act (8  
4   U.S.C. 1738), sections 1361 and 1651 of title 28, United  
5   States Code, and section 706(1) of title 5, United States  
6   Code, no court shall have jurisdiction to require any of  
7   the acts in subsection (h) or (i) to be completed by a cer-  
8   tain time or award any relief for failure to complete or  
9   delay in completing such acts.”.

10           (b) CONSTRUCTION.—

11           (1) IN GENERAL.—Chapter 4 of title III of the  
12   Immigration and Nationality Act (8 U.S.C. 1501 et  
13   seq.) is amended by adding at the end the following:

14   “CONSTRUCTION  
15           “SEC. 362. (a) IN GENERAL.—Nothing in this Act  
16   or any other law, except as provided in subsection (d),  
17   shall be construed to require the Secretary of Homeland  
18   Security, the Attorney General, the Secretary of State, the  
19   Secretary of Labor, or a consular officer to grant any ap-  
20   plication, approve any petition, or grant or continue any  
21   relief, protection from removal, employment authorization,  
22   or any other status or benefit under the immigration laws  
23   by, to, or on behalf of—

24   “(1) any alien deemed by the Secretary to be  
25   described in section 212(a)(3) or section 237(a)(4);  
26   or

1           “(2) any alien with respect to whom a criminal  
2           or other proceeding or investigation is open or pend-  
3           ing (including, but not limited to, issuance of an ar-  
4           rest warrant, detainer, or indictment), where such  
5           proceeding or investigation is deemed by the official  
6           described in subsection (a) to be material to the  
7           alien’s eligibility for the status or benefit sought.

8           “(b) DENIAL OR WITHHOLDING OF ADJUDICA-  
9           TION.—An official described in subsection (a) may, in the  
10          discretion of the official, deny (with respect to an alien  
11          described in paragraph (1) or (2) of subsection (a)) or  
12          withhold adjudication of pending resolution of the inves-  
13          tigation or case (with respect to an alien described in sub-  
14          section (a)(2) of this section) any application, petition, re-  
15          lief, protection from removal, employment authorization,  
16          status or benefit.

17          “(c) JURISDICTION.—Notwithstanding any other pro-  
18          vision of law (statutory or nonstatutory), including section  
19          309 of the Enhanced Border Security and Visa Entry Re-  
20          form Act (8 U.S.C. 1738), sections 1361 and 1651 of title  
21          28, United States Code, and section 706(1) of title 5,  
22          United States Code, no court shall have jurisdiction to re-  
23          view a decision to deny or withhold adjudication pursuant  
24          to subsection (b) of this section.

1       “(d) WITHHOLDING OF REMOVAL AND TORTURE  
2 CONVENTION.—This section does not limit or modify the  
3 applicability of section 241(b)(3) or the United Nations  
4 Convention Against Torture and Other Cruel, Inhuman or  
5 Degrading Treatment or Punishment, subject to any res-  
6 ervations, understandings, declarations and provisos con-  
7 tained in the United States Senate resolution of ratifica-  
8 tion of the Convention, as implemented by section 2242  
9 of the Foreign Affairs Reform and Restructuring Act of  
10 1998 (Public Law 105–277) with respect to an alien oth-  
11 erwise eligible for protection under such provisions.”.

12               (2) CLERICAL AMENDMENT.—The table of con-  
13 tents for such Act is amended by inserting after the  
14 item relating to section 361 the following:

“362. Construction.”.

15       (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall take effect on the date of the enactment  
17 of this Act and shall apply to applications for immigration  
18 benefits pending on or after such date.

19 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**  
20 **TELLIGENCE REFORM AND TERRORISM PRE-**  
21 **VENTION ACT OF 2004.**

22       (a) TRANSIT WITHOUT VISA PROGRAM.—Section  
23 7209(d) of the Intelligence Reform and Terrorism Preven-  
24 tion Act of 2004 (8 U.S.C. 1185 note) is amended by  
25 striking “the Secretary, in conjunction with the Secretary



1 of Homeland Security,” and inserting “the Secretary of  
2 Homeland Security, in consultation with the Secretary of  
3 State,”.

4 (b) TECHNOLOGY ACQUISITION AND DISSEMINATION  
5 PLAN.—Section 7201(c)(1) of such Act is amended by in-  
6 serting “and the Department of State” after “used by the  
7 Department of Homeland Security”.

## 8 **TITLE III—REMOVAL OF** 9 **CRIMINAL ALIENS**

### 10 **SEC. 301. DEFINITION OF AGGRAVATED FELONY AND CON-** 11 **VICTION.**

12 (a) DEFINITION OF AGGRAVATED FELONY.—Section  
13 101(a)(43) of the Immigration and Nationality Act (8  
14 U.S.C. 1101(a)(43)) is amended—

15 (1) by striking “The term ‘aggravated felony’  
16 means—” and inserting “Notwithstanding any other  
17 provision of law, the term ‘aggravated felony’ applies  
18 to an offense described in this paragraph, whether in  
19 violation of Federal or State law, or in violation of  
20 the law of a foreign country for which the term of  
21 imprisonment was completed within the previous 15  
22 years, even if the length of the term of imprisonment  
23 for the offense is based on recidivist or other en-  
24 hancements and regardless of whether the conviction

1 was entered before, on, or after September 30, 1996,  
2 and means—”;

3 (2) in subparagraph (A), by striking “murder,  
4 rape, or sexual abuse of a minor;” and inserting  
5 “murder, manslaughter, homicide, rape (whether the  
6 victim was conscious or unconscious), or any offense  
7 of a sexual nature involving a victim under the age  
8 of 18 years;”;

9 (3) in subparagraph (I), by striking “or 2252”  
10 and inserting “2252, or 2252A”.

11 (4) in subparagraph (F), by striking “at least  
12 one year;” and inserting “is at least one year, except  
13 that if the conviction records do not conclusively es-  
14 tablish whether a crime constitutes a crime of vio-  
15 lence, the Attorney General may consider other evi-  
16 dence related to the conviction that clearly estab-  
17 lishes that the conduct for which the alien was en-  
18 gaged constitutes a crime of violence;”

19 (5) in subparagraph (N), by striking paragraph  
20 “(1)(A) or (2) of”;

21 (6) in subparagraph (O), by striking “section  
22 275(a) or 276 committed by an alien who was pre-  
23 viously deported on the basis of a conviction for an  
24 offense described in another subparagraph of this

1 paragraph” and inserting “section 275 or 276 for  
2 which the term of imprisonment is at least 1 year”;

3 (7) in subparagraph (U), by striking “an at-  
4 tempt or conspiracy to commit an offense described  
5 in this paragraph” and inserting “attempting or  
6 conspiring to commit an offense described in this  
7 paragraph, or aiding, abetting, counseling, pro-  
8 curing, commanding, inducing, or soliciting the com-  
9 mission of such an offense.”; and

10 (8) by striking the undesignated matter fol-  
11 lowing subparagraph (U).

12 (b) DEFINITION OF CONVICTION.—Section  
13 101(a)(48) of such Act (8 U.S.C. 1101(a)(48)) is amend-  
14 ed by adding at the end the following:

15 “(C) Any reversal, vacatur, expungement, or modi-  
16 fication to a conviction, sentence, or conviction record that  
17 was granted to ameliorate the consequences of the convic-  
18 tion, sentence, or conviction record, or was granted for re-  
19 habilitative purposes, or for failure to advise the alien of  
20 the immigration consequences of a guilty plea or a deter-  
21 mination of guilt, shall have no effect on the immigration  
22 consequences resulting from the original conviction. The  
23 alien shall have the burden of demonstrating that any re-  
24 versal, vacatur, expungement, or modification was not  
25 granted to ameliorate the consequences of the conviction,

1 sentence, or conviction record, for rehabilitative purposes,  
2 or for failure to advise the alien of the immigration con-  
3 sequences of a guilty plea or a determination of guilt, ex-  
4 cept where the alien establishes a pardon consistent with  
5 section 237(a)(2)(A)(vi).”.

6 (c) EFFECTIVE DATE; APPLICATION OF AMEND-  
7 MENTS.—

8 (1) IN GENERAL.—The amendments made by  
9 subsection (a)—

10 (A) shall take effect on the date of the en-  
11 actment of this Act; and

12 (B) shall apply to any act or conviction  
13 that occurred before, on, or after such date.

14 (2) APPLICATION OF IIRIRA AMENDMENTS.—

15 The amendments to section 101(a)(43) of the Immi-  
16 gration and Nationality Act (8 U.S.C. 1101(a)(43))  
17 made by section 321 of the Illegal Immigration Re-  
18 form and Immigrant Responsibility Act of 1996 (di-  
19 vision C of Public Law 104-208; 110 Stat. 3009-  
20 627) shall continue to apply, whether the conviction  
21 was entered before, on, or after September 30, 1996.

1 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**  
2 **VICTED OF AGGRAVATED FELONIES OR**  
3 **OTHER SERIOUS OFFENSES.**

4 (a) INADMISSIBILITY ON CRIMINAL AND RELATED  
5 GROUNDS; WAIVERS.—Section 212 of the Immigration  
6 and Nationality Act (8 U.S.C. 1182) is amended—

7 (1) in subparagraph (a)(2)(A)(i)—

8 (A) in subclause (I), by striking “or” at  
9 the end;

10 (B) in subclause (II), by adding “or” at  
11 the end; and

12 (C) by inserting after subclause (II) the  
13 following:

14 “(III) a violation of (or a con-  
15 spiracy or attempt to violate) an of-  
16 fense described in section 408 of title  
17 42, United States Code (relating to  
18 social security account numbers or so-  
19 cial security cards) or section 1028 of  
20 title 18, United States Code (relating  
21 to fraud and related activity in con-  
22 nection with identification documents,  
23 authentication features, and informa-  
24 tion);”.

25 (2) by adding at the end of subsection (a)(2)  
26 the following:

1           “(J) PROCUREMENT OF CITIZENSHIP OR  
2 NATURALIZATION UNLAWFULLY.—Any alien  
3 convicted of, or who admits having committed,  
4 or who admits committing acts which constitute  
5 the essential elements of, a violation of, or an  
6 attempt or a conspiracy to violate, subsection  
7 (a) or (b) of section 1425 of title 18, United  
8 States Code (relating to the procurement of  
9 citizenship or naturalization unlawfully) is inad-  
10 missible.

11           “(K) CERTAIN FIREARM OFFENSES.—Any  
12 alien who at any time has been convicted under  
13 any law of, or who admits having committed or  
14 admits committing acts which constitute the es-  
15 sential elements of, purchasing, selling, offering  
16 for sale, exchanging, using, owning, possessing,  
17 or carrying, or of attempting or conspiring to  
18 purchase, sell, offer for sale, exchange, use,  
19 own, possess, or carry, any weapon, part, or ac-  
20 cessory which is a firearm or destructive device  
21 (as defined in section 921(a) of title 18, United  
22 States Code) in violation of any law is inadmis-  
23 sible.

1           “(L) AGGRAVATED FELONS.—Any alien  
2 who has been convicted of an aggravated felony  
3 at any time is inadmissible.

4           “(M) CRIMES OF DOMESTIC VIOLENCE,  
5 STALKING, OR VIOLATION OF PROTECTION OR-  
6 DERS, CRIMES AGAINST CHILDREN.—

7           “(i) DOMESTIC VIOLENCE, STALKING,  
8 AND CHILD ABUSE.—Any alien who at any  
9 time is convicted of, or who admits having  
10 committed or admits committing acts  
11 which constitute the essential elements of,  
12 a crime of domestic violence, a crime of  
13 stalking, or a crime of child abuse, child  
14 neglect, or child abandonment is inadmis-  
15 sible. For purposes of this clause, the term  
16 ‘crime of domestic violence’ means any  
17 crime of violence (as defined in section 16  
18 of title 18, United States Code) against a  
19 person committed by a current or former  
20 spouse of the person, by an individual with  
21 whom the person shares a child in com-  
22 mon, by an individual who is cohabiting  
23 with or has cohabited with the person as a  
24 spouse, by an individual similarly situated  
25 to a spouse of the person under the domes-

1           tie or family violence laws of the jurisdic-  
2           tion where the offense occurs, or by any  
3           other individual against a person who is  
4           protected from that individual's acts under  
5           the domestic or family violence laws of the  
6           United States or any State, Indian tribal  
7           government, or unit of local or foreign gov-  
8           ernment.

9           “(ii) VIOLATORS OF PROTECTION OR-  
10          DERS.—Any alien who at any time is en-  
11          joined under a protection order issued by  
12          a court and whom the court determines  
13          has engaged in conduct that violates the  
14          portion of a protection order that involves  
15          protection against credible threats of vio-  
16          lence, repeated harassment, or bodily in-  
17          jury to the person or persons for whom the  
18          protection order was issued is inadmissible.  
19          For purposes of this clause, the term ‘pro-  
20          tection order’ means any injunction issued  
21          for the purpose of preventing violent or  
22          threatening acts of domestic violence, in-  
23          cluding temporary or final orders issued by  
24          civil or criminal courts (other than support  
25          or child custody orders or provisions)



1           whether obtained by filing an independent  
2           action or as a independent order in an-  
3           other proceeding.

4           “(iii) WAIVER AUTHORIZED.—The  
5           waiver authority available under section  
6           237(a)(7) with respect to section  
7           237(a)(2)(E)(i) shall be available on a  
8           comparable basis with respect to this sub-  
9           paragraph.

10          “(iv) CLARIFICATION.—If the convic-  
11          tion records do not conclusively establish  
12          whether a crime of domestic violence con-  
13          stitutes a crime of violence (as defined in  
14          section 16 of title 18, United States Code),  
15          the Attorney General may consider other  
16          evidence related to the conviction that  
17          clearly establishes that the conduct for  
18          which the alien was engaged constitutes a  
19          crime of violence.”; and

20          (3) in subsection (h)—

21                (A) by striking “The Attorney General  
22                may, in his discretion, waive the application of  
23                subparagraphs (A)(i)(I), (B), (D), and (E) of  
24                subsection (a)(2)” and inserting “The Attorney  
25                General or the Secretary of Homeland Security

1           may, in the discretion of the Attorney General  
2           or the Secretary, waive the application of sub-  
3           paragraphs (A)(i)(I), (III), (B), (D), (E), (K),  
4           and (M) of subsection (a)(2)”;

5           (B) by striking “a criminal act involving  
6           torture.” and inserting “a criminal act involving  
7           torture, or has been convicted of an aggravated  
8           felony.”;

9           (C) by striking “if either since the date of  
10          such admission the alien has been convicted of  
11          an aggravated felony or the alien” and inserting  
12          “if since the date of such admission the alien”;  
13          and

14          (D) by inserting “or Secretary of Home-  
15          land Security” after “the Attorney General”  
16          wherever that phrase appears.

17          (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section  
18          237(a)(3)(B) of the Immigration and Nationality Act (8  
19          U.S.C. 1227(a)(3)(B)) is amended—

20                 (1) in clause (ii), by striking “or” at the end;

21                 (2) in clause (iii), by inserting “or” at the end;

22          and

23                 (3) by inserting after clause (iii) the following:

24                         “(iv) of a violation of, or an attempt  
25                         or a conspiracy to violate, section 1425(a)

1                   or (b) of Title 18 (relating to the procure-  
2                   ment of citizenship or naturalization un-  
3                   lawfully),”.

4           (c) DEPORTABILITY; CRIMINAL OFFENSES.—Section  
5 237(a)(2) of the Immigration and Nationality Act (8  
6 U.S.C. 1227(a)(2)) is amended by adding at the end the  
7 following:

8                   “(G) Any alien who at any time after ad-  
9                   mission has been convicted of a violation of (or  
10                  a conspiracy or attempt to violate) section 408  
11                  of title 42, United States Code (relating to so-  
12                  cial security account numbers or social security  
13                  cards) or section 1028 of title 18, United States  
14                  Code (relating to fraud and related activity in  
15                  connection with identification) is deportable.”.

16          (d) EFFECTIVE DATE.—The amendments made by  
17 this section shall apply—

18                  (1) to any act that occurred before, on, or after  
19                  the date of the enactment of this Act; and

20                  (2) to all aliens who are required to establish  
21                  admissibility on or after such date, and in all re-  
22                  moval, deportation, or exclusion proceedings that are  
23                  filed, pending, or reopened, on or after such date.

24          (e) CONSTRUCTION.—The amendments made by sub-  
25 section (a) shall not be construed to create eligibility for

1 relief from removal under former section 212(c) of the Im-  
2 migration and Nationality Act where such eligibility did  
3 not exist before these amendments became effective.

4 **SEC. 303. ESPIONAGE CLARIFICATION.**

5 Section 212(a)(3)(A) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read  
7 as follows:

8 “(A) Any alien who a consular officer, the  
9 Attorney General, or the Secretary of Home-  
10 land Security knows, or has reasonable ground  
11 to believe, seeks to enter the United States to  
12 engage solely, principally, or incidentally in, or  
13 who is engaged in, or with respect to clauses (i)  
14 and (iii) of this subparagraph has engaged in—

15 “(i) any activity—

16 “(I) to violate any law of the  
17 United States relating to espionage or  
18 sabotage; or

19 “(II) to violate or evade any law  
20 prohibiting the export from the  
21 United States of goods, technology, or  
22 sensitive information;

23 “(ii) any other unlawful activity; or

24 “(iii) any activity a purpose of which  
25 is the opposition to, or the control or over-

1                   throw of, the Government of the United  
2                   States by force, violence, or other unlawful  
3                   means;  
4                   is inadmissible.”.

5 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**  
6                   **THE POSSESSION OF FIREARMS BY, CERTAIN**  
7                   **ALIENS.**

8                   Section 922 of title 18, United States Code, is  
9 amended—

10                   (1) in subsection (d)(5), in subparagraph (B),  
11                   by striking “(y)(2)” and all that follows and insert-  
12                   ing “(y), is in the United States not as an alien law-  
13                   fully admitted for permanent residence”;

14                   (2) in subsection (g)(5), in subparagraph (B),  
15                   by striking “(y)(2)” and all that follows and insert-  
16                   ing “(y), is in the United States not as an alien law-  
17                   fully admitted for permanent residence”; and

18                   (3) in subsection (y)—

19                   (A) in the header, by striking “ADMITTED  
20                   UNDER NONIMMIGRANT VISAS.—” and insert-  
21                   ing “NOT LAWFULLY ADMITTED FOR PERMA-  
22                   NENT RESIDENCE”;

23                   (B) in paragraph (1), by amending sub-  
24                   paragraph (B) to read as follows:

1           “(B) the term ‘lawfully admitted for per-  
2           manent residence’ has the same meaning as in  
3           section 101(a)(20) of the Immigration and Na-  
4           tionality Act (8 U.S.C. 1101(a)(20)).”

5           (C) in paragraph (2), by striking “under a  
6           nonimmigrant visa” and inserting “but not law-  
7           fully admitted for permanent residence”; and

8           (D) in paragraph (3)(A), by striking “ad-  
9           mitted to the United States under a non-  
10          immigrant visa” and inserting “lawfully admit-  
11          ted to the United States but not as an alien  
12          lawfully admitted for permanent residence”.

13 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**  
14 **TAIN IMMIGRATION, NATURALIZATION, AND**  
15 **PEONAGE OFFENSES.**

16          Section 3291 of title 18, United States Code, is  
17          amended by striking “No person” through the period at  
18          the end and inserting the following: “No person shall be  
19          prosecuted, tried, or punished for a violation of any section  
20          of chapters 69 (relating to nationality and citizenship of-  
21          fenses) and 75 (relating to passport, visa, and immigration  
22          offenses), or for a violation of any criminal provision of  
23          sections 243, 266, 274, 275, 276, 277, or 278 of the Im-  
24          migration and Nationality Act, or for an attempt or con-  
25          spiracy to violate any such section, unless the indictment

1 is returned or the information is filed within ten years  
2 after the commission of the offense.”.

3 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**  
4 **OF RACKETEERING ACTIVITY.**

5 Section 1961(1) of title 18, United States Code, is  
6 amended by striking “section 1542” through “section  
7 1546 (relating to fraud and misuse of visas, permits, and  
8 other documents)” and inserting “sections 1541-1548 (re-  
9 lating to passports and visas)”.

10 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**  
11 **VATED FELONY DEFINITION.**

12 (a) IN GENERAL.—Subparagraph (P) of section  
13 101(a)(43) of the Immigration and Nationality Act (8  
14 U.S.C. 1101(a)(43)) is amended—

15 (1) by striking “(i) which either is falsely mak-  
16 ing, forging, counterfeiting, mutilating, or altering a  
17 passport or instrument in violation of section 1543  
18 of title 18, United States Code, or is described in  
19 section 1546(a) of such title (relating to document  
20 fraud) and (ii)” and inserting “which is described in  
21 any section of chapter 75 of title 18, United States  
22 Code,”; and

23 (2) by inserting after “first offense” the fol-  
24 lowing: “(i) that is not described in section 1548 of  
25 such title (relating to increased penalties), and (ii)”.

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 acts that occur before,  
4 on, or after the date of the enactment of this Act.

5 **SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT**  
6 **OF STATUS FOR AGGRAVATED FELONS.**

7 (a) IN GENERAL.—Section 209(c) of the Immigration  
8 and Nationality Act (8 U.S.C. 1159(c)) is amended by  
9 adding at the end thereof the following: “However, an  
10 alien who is convicted of an aggravated felony is not eligi-  
11 ble for a waiver or for adjustment of status under this  
12 section.”.

13 (b) EFFECTIVE DATE.—The amendment made by  
14 subsection (a) shall apply—

15 (1) to any act that occurred before, on, or after  
16 the date of the enactment of this Act; and

17 (2) to all aliens who are required to establish  
18 admissibility on or after such date, and in all re-  
19 moval, deportation, or exclusion proceedings that are  
20 filed, pending, or reopened, on or after such date.

21 **SEC. 309. INADMISSIBILITY AND DEPORTABILITY OF**  
22 **DRUNK DRIVERS.**

23 (a) IN GENERAL.—Section 101(a)(43) of the Immi-  
24 gration and Nationality Act (8 U.S.C. 1101(a)(43)) is  
25 amended—



1 (1) in subparagraph (T), by striking “and”;

2 (2) in subparagraph (U); by striking the period  
3 at the end and inserting “; and”; and

4 (3) by inserting after subparagraph (U) the fol-  
5 lowing:.

6 “(V) A second conviction for driving while in-  
7 toxicated (including a conviction for driving while  
8 under the influence of or impaired by alcohol or  
9 drugs) without regard to whether the conviction is  
10 classified as a misdemeanor or felony under State  
11 law.”.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 subsection (a) shall take effect on the date of the enact-  
14 ment of this Act and apply to convictions entered on or  
15 after such date.

16 **SEC. 310. DETENTION OF DANGEROUS ALIENS.**

17 (a) IN GENERAL.—Section 241(a) of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—

19 (1) by striking “Attorney General” each place  
20 it appears, except for the first reference in para-  
21 graph (4)(B)(i), and inserting “Secretary of Home-  
22 land Security”;

23 (2) in paragraph (1), by amending subpara-  
24 graph (B) to read as follows:

1           “(B) BEGINNING OF PERIOD.—The re-  
2           moval period begins on the latest of the fol-  
3           lowing:

4                   “(i) The date the order of removal be-  
5                   comes administratively final.

6                   “(ii) If the alien is not in the custody  
7                   of the Secretary on the date the order of  
8                   removal becomes administratively final, the  
9                   date the alien is taken into such custody.

10                   “(iii) If the alien is detained or con-  
11                   fined (except under an immigration proc-  
12                   ess) on the date the order of removal be-  
13                   comes administratively final, the date the  
14                   alien is taken into the custody of the Sec-  
15                   retary, after the alien is released from such  
16                   detention or confinement.”;

17           (3) in paragraph (1), by amending subpara-  
18           graph (C) to read as follows:

19                   “(C) SUSPENSION OF PERIOD.—

20                   “(i) EXTENSION.—The removal period  
21                   shall be extended beyond a period of 90  
22                   days and the Secretary may, in the Sec-  
23                   retary’s sole discretion, keep the alien in  
24                   detention during such extended period if—

1           “(I) the alien fails or refuses to  
2           make all reasonable efforts to comply  
3           with the removal order, or to fully co-  
4           operate with the Secretary’s efforts to  
5           establish the alien’s identity and carry  
6           out the removal order, including mak-  
7           ing timely application in good faith  
8           for travel or other documents nec-  
9           essary to the alien’s departure or con-  
10          spires or acts to prevent the alien’s  
11          removal that is subject to an order of  
12          removal;

13           “(II) a court, the Board of Immi-  
14          gration Appeals, or an immigration  
15          judge orders a stay of removal of an  
16          alien who is subject to an administra-  
17          tively final order of removal;

18           “(III) the Secretary transfers  
19          custody of the alien pursuant to law  
20          to another Federal agency or a State  
21          or local government agency in connec-  
22          tion with the official duties of such  
23          agency; or

24           “(IV) a court or the Board of  
25          Immigration Appeals orders a remand

1 to an immigration judge or the Board  
2 of Immigration Appeals, during the  
3 time period when the case is pending  
4 a decision on remand (with the re-  
5 moval period beginning anew on the  
6 date that the alien is ordered removed  
7 on remand).

8 “(ii) RENEWAL.—If the removal pe-  
9 riod has been extended under clause (C)(i),  
10 a new removal period shall be deemed to  
11 have begun on the date—

12 “(I) the alien makes all reason-  
13 able efforts to comply with the re-  
14 moval order, or to fully cooperate with  
15 the Secretary’s efforts to establish the  
16 alien’s identity and carry out the re-  
17 moval order;

18 “(II) the stay of removal is no  
19 longer in effect; or

20 “(III) the alien is returned to the  
21 custody of the Secretary.

22 “(iii) MANDATORY DETENTION FOR  
23 CERTAIN ALIENS.—In the case of an alien  
24 described in subparagraphs (A) through  
25 (D) of section 236(c)(1), the Secretary

1 shall keep that alien in detention during  
2 the extended period described in clause (i).

3 “(iv) SOLE FORM OF RELIEF.—An  
4 alien may seek relief from detention under  
5 this subparagraph only by filing an appli-  
6 cation for a writ of habeas corpus in ac-  
7 cordance with chapter 153 of title 28,  
8 United States Code. No alien whose period  
9 of detention is extended under this sub-  
10 paragraph shall have the right to seek re-  
11 lease on bond.”;

12 (4) in paragraph (3)—

13 (A) by adding after “If the alien does not  
14 leave or is not removed within the removal pe-  
15 riod” the following: “or is not detained pursu-  
16 ant to paragraph (6) of this subsection”; and

17 (B) by striking subparagraph (D) and in-  
18 serting the following:

19 “(D) to obey reasonable restrictions on the  
20 alien’s conduct or activities that the Secretary  
21 prescribes for the alien, in order to prevent the  
22 alien from absconding, for the protection of the  
23 community, or for other purposes related to the  
24 enforcement of the immigration laws.”;

1 (5) in paragraph (4)(A), by striking “paragraph  
2 (2)” and inserting “subparagraph (B)”; and

3 (6) by striking paragraph (6) and inserting the  
4 following:

5 “(6) ADDITIONAL RULES FOR DETENTION OR  
6 RELEASE OF CERTAIN ALIENS.—

7 “(A) DETENTION REVIEW PROCESS FOR  
8 COOPERATIVE ALIENS ESTABLISHED.—For an  
9 alien who is not otherwise subject to mandatory  
10 detention, who has made all reasonable efforts  
11 to comply with a removal order and to cooper-  
12 ate fully with the Secretary of Homeland Secu-  
13 rity’s efforts to establish the alien’s identity and  
14 carry out the removal order, including making  
15 timely application in good faith for travel or  
16 other documents necessary to the alien’s depar-  
17 ture, and who has not conspired or acted to  
18 prevent removal, the Secretary shall establish  
19 an administrative review process to determine  
20 whether the alien should be detained or released  
21 on conditions. The Secretary shall make a de-  
22 termination whether to release an alien after  
23 the removal period in accordance with subpara-  
24 graph (B). The determination shall include con-  
25 sideration of any evidence submitted by the

1 alien, and may include consideration of any  
2 other evidence, including any information or as-  
3 sistance provided by the Secretary of State or  
4 other Federal official and any other information  
5 available to the Secretary of Homeland Security  
6 pertaining to the ability to remove the alien.

7 “(B) AUTHORITY TO DETAIN BEYOND RE-  
8 MOVAL PERIOD.—

9 “(i) IN GENERAL.—The Secretary of  
10 Homeland Security, in the exercise of the  
11 Secretary’s sole discretion, may continue to  
12 detain an alien for 90 days beyond the re-  
13 moval period (including any extension of  
14 the removal period as provided in para-  
15 graph (1)(C)). An alien whose detention is  
16 extended under this subparagraph shall  
17 have no right to seek release on bond.

18 “(ii) SPECIFIC CIRCUMSTANCES.—The  
19 Secretary of Homeland Security, in the ex-  
20 ercise of the Secretary’s sole discretion,  
21 may continue to detain an alien beyond the  
22 90 days authorized in clause (i)—

23 “(I) until the alien is removed, if  
24 the Secretary, in the Secretary’s sole

1 discretion, determines that there is a  
2 significant likelihood that the alien—

3 “(aa) will be removed in the  
4 reasonably foreseeable future; or

5 “(bb) would be removed in  
6 the reasonably foreseeable future,  
7 or would have been removed, but  
8 for the alien’s failure or refusal  
9 to make all reasonable efforts to  
10 comply with the removal order,  
11 or to cooperate fully with the  
12 Secretary’s efforts to establish  
13 the alien’s identity and carry out  
14 the removal order, including  
15 making timely application in  
16 good faith for travel or other doc-  
17 uments necessary to the alien’s  
18 departure, or conspires or acts to  
19 prevent removal;

20 “(II) until the alien is removed,  
21 if the Secretary of Homeland Security  
22 certifies in writing—

23 “(aa) in consultation with  
24 the Secretary of Health and  
25 Human Services, that the alien



1 has a highly contagious disease  
2 that poses a threat to public safe-  
3 ty;

4 “(bb) after receipt of a writ-  
5 ten recommendation from the  
6 Secretary of State, that release  
7 of the alien is likely to have seri-  
8 ous adverse foreign policy con-  
9 sequences for the United States;

10 “(cc) based on information  
11 available to the Secretary of  
12 Homeland Security (including  
13 classified, sensitive, or national  
14 security information, and without  
15 regard to the grounds upon  
16 which the alien was ordered re-  
17 moved), that there is reason to  
18 believe that the release of the  
19 alien would threaten the national  
20 security of the United States; or

21 “(dd) that the release of the  
22 alien will threaten the safety of  
23 the community or any person,  
24 conditions of release cannot rea-  
25 sonably be expected to ensure the

1 safety of the community or any  
2 person, and either (AA) the alien  
3 has been convicted of one or  
4 more aggravated felonies (as de-  
5 fined in section 101(a)(43)(A))  
6 or of one or more crimes identi-  
7 fied by the Secretary of Home-  
8 land Security by regulation, or of  
9 one or more attempts or conspir-  
10 acies to commit any such aggra-  
11 vated felonies or such identified  
12 crimes, if the aggregate term of  
13 imprisonment for such attempts  
14 or conspiracies is at least 5  
15 years; or (BB) the alien has com-  
16 mitted one or more crimes of vio-  
17 lence (as defined in section 16 of  
18 title 18, United States Code, but  
19 not including a purely political  
20 offense) and, because of a mental  
21 condition or personality disorder  
22 and behavior associated with that  
23 condition or disorder, the alien is  
24 likely to engage in acts of vio-  
25 lence in the future; or

1                   “(III) pending a certification  
2                   under subclause (II), so long as the  
3                   Secretary of Homeland Security has  
4                   initiated the administrative review  
5                   process not later than 30 days after  
6                   the expiration of the removal period  
7                   (including any extension of the re-  
8                   moval period, as provided in para-  
9                   graph (1)(C)).

10                   “(iii) NO RIGHT TO BOND HEARING.—  
11                   An alien whose detention is extended under  
12                   this subparagraph shall have no right to  
13                   seek release on bond, including by reason  
14                   of a certification under clause (ii)(II).

15                   “(C) RENEWAL AND DELEGATION OF CER-  
16                   TIFICATION.—

17                   “(i) RENEWAL.—The Secretary of  
18                   Homeland Security may renew a certifi-  
19                   cation under subparagraph (B)(ii)(II)  
20                   every 6 months, after providing an oppor-  
21                   tunity for the alien to request reconsider-  
22                   ation of the certification and to submit  
23                   documents or other evidence in support of  
24                   that request. If the Secretary does not  
25                   renew a certification, the Secretary may

1 not continue to detain the alien under sub-  
2 paragraph (B)(ii)(II).

3 “(ii) DELEGATION.—Notwithstanding  
4 section 103, the Secretary of Homeland  
5 Security may not delegate the authority to  
6 make or renew a certification described in  
7 item (bb), (cc), or (dd) of subparagraph  
8 (B)(ii)(II) below the level of the Assistant  
9 Secretary for Immigration and Customs  
10 Enforcement.

11 “(iii) HEARING.—The Secretary of  
12 Homeland Security may request that the  
13 Attorney General or the Attorney General’s  
14 designee provide for a hearing to make the  
15 determination described in item (dd)(BB)  
16 of subparagraph (B)(ii)(II).

17 “(D) RELEASE ON CONDITIONS.—If it is  
18 determined that an alien should be released  
19 from detention by a Federal court, the Board of  
20 Immigration Appeals, or if an immigration  
21 judge orders a stay of removal, the Secretary of  
22 Homeland Security, in the exercise of the Sec-  
23 retary’s discretion, may impose conditions on  
24 release as provided in paragraph (3).

1           “(E) REDETENTION.—The Secretary of  
2           Homeland Security, in the exercise of the Sec-  
3           retary’s discretion, without any limitations  
4           other than those specified in this section, may  
5           again detain any alien subject to a final re-  
6           moval order who is released from custody, if re-  
7           moval becomes likely in the reasonably foresee-  
8           able future, the alien fails to comply with the  
9           conditions of release, or to continue to satisfy  
10          the conditions described in subparagraph (A),  
11          or if, upon reconsideration, the Secretary, in  
12          the Secretary’s sole discretion, determines that  
13          the alien can be detained under subparagraph  
14          (B). This section shall apply to any alien re-  
15          turned to custody pursuant to this subpara-  
16          graph, as if the removal period terminated on  
17          the day of the redetention.

18           “(F) REVIEW OF DETERMINATIONS BY  
19           SECRETARY.—A determination by the Secretary  
20           under this paragraph shall not be subject to re-  
21           view by any other agency.”.

22          (b) DETENTION OF ALIENS DURING REMOVAL PRO-  
23          CEEDINGS.—

24           (1) CLERICAL AMENDMENT.—(A) Section 236  
25          of the Immigration and Nationality Act (8 U.S.C.

1 1226) is amended by striking “Attorney General”  
2 each place it appears (except in the second place  
3 that term appears in section 236(a)) and inserting  
4 “Secretary of Homeland Security”.

5 (B) Section 236(a) of such Act (8 U.S.C.  
6 1226(a)) is amended by inserting “the Secretary of  
7 Homeland Security or” before “the Attorney Gen-  
8 eral—”.

9 (C) Section 236(e) of such Act (8 U.S.C.  
10 1226(e)) is amended by striking “Attorney Gen-  
11 eral’s” and inserting “Secretary of Homeland Secu-  
12 rity’s”.

13 (2) LENGTH OF DETENTION.—Section 236 of  
14 such Act (8 U.S.C. 1226) is amended by adding at  
15 the end the following:

16 “(f) LENGTH OF DETENTION.—

17 “(1) IN GENERAL.—Notwithstanding any other  
18 provision of this section, an alien may be detained  
19 under this section for any period, without limitation,  
20 except as provided in subsection (h), until the alien  
21 is subject to a final order of removal.

22 “(2) CONSTRUCTION.—The length of detention  
23 under this section shall not affect detention under  
24 section 241.”.

1           (3) DETENTION OF CRIMINAL ALIENS.—Section  
2           236(c)(1) of the Immigration and Nationality Act (8  
3           U.S.C. 1226(c)(1)) is amended, in the matter fol-  
4           lowing subparagraph (D) to read as follows:

5           “any time after the alien is released, without regard  
6           to whether an alien is released related to any activ-  
7           ity, offense, or conviction described in this para-  
8           graph; to whether the alien is released on parole, su-  
9           pervised release, or probation; or to whether the  
10          alien may be arrested or imprisoned again for the  
11          same offense. If the activity described in this para-  
12          graph does not result in the alien being taken into  
13          custody by any person other than the Secretary,  
14          then when the alien is brought to the attention of  
15          the Secretary or when the Secretary determines it is  
16          practical to take such alien into custody, the Sec-  
17          retary shall take such alien into custody.”.

18          (4) ADMINISTRATIVE REVIEW.—Section 236 of  
19          the Immigration and Nationality Act (8 U.S.C.  
20          1226), as amended by paragraph (2), is further  
21          amended by adding at the end the following:

22          “(g) ADMINISTRATIVE REVIEW.—

23                 “(1) IN GENERAL.—The Attorney General’s re-  
24                 view of the Secretary’s custody determinations under  
25                 subsection (a) for the following classes of aliens shall

1 be limited to whether the alien may be detained, re-  
2 leased on bond (of at least \$1,500 with security ap-  
3 proved by the Secretary), or released with no bond:

4 “(A) Aliens in exclusion proceedings.

5 “(B) Aliens described in section 212(a)(3)  
6 or 237(a)(4).

7 “(C) Aliens described in subsection (c).

8 “(2) SPECIAL RULE.—The Attorney General’s  
9 review of the Secretary’s custody determinations  
10 under subsection (a) for aliens in deportation pro-  
11 ceedings subject to section 242(a)(2) of the Act (as  
12 in effect prior to April 1, 1997, and as amended by  
13 section 440(c) of Public Law 104–132) shall be lim-  
14 ited to a determination of whether the alien is prop-  
15 erly included in such category.

16 “(h) RELEASE ON BOND.—

17 “(1) IN GENERAL.—An alien detained under  
18 subsection (a) may seek release on bond. No bond  
19 may be granted except to an alien who establishes  
20 by clear and convincing evidence that the alien is not  
21 a flight risk or a risk to another person or the com-  
22 munity.

23 “(2) CERTAIN ALIENS INELIGIBLE.—No alien  
24 detained under subsection (c) may seek release on  
25 bond.”.



1           (5) CLERICAL AMENDMENTS.—(A) Section  
2           236(a)(2)(B) of the Immigration and Nationality  
3           Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-  
4           ing “conditional parole” and inserting “recog-  
5           nizance”.

6           (B) Section 236(b) of such Act (8 U.S.C.  
7           1226(b)) is amended by striking “parole” and in-  
8           serting “recognizance”.

9           (c) SEVERABILITY.—If any of the provisions of this  
10          section or any amendment by this section, or the applica-  
11          tion of any such provision to any person or circumstance,  
12          is held to be invalid for any reason, the remainder of this  
13          section and of amendments made by this section, and the  
14          application of the provisions and of the amendments made  
15          by this section to any other person or circumstance shall  
16          not be affected by such holding.

17          (d) EFFECTIVE DATES.—

18                 (1) The amendments made by subsection (a)  
19                 shall take effect upon the date of enactment of this  
20                 Act, and section 241 of the Immigration and Na-  
21                 tionality Act, as so amended, shall in addition apply  
22                 to—

23                         (A) all aliens subject to a final administra-  
24                         tive removal, deportation, or exclusion order

1           that was issued before, on, or after the date of  
2           the enactment of this Act; and

3                   (B) acts and conditions occurring or exist-  
4           ing before, on, or after such date.

5           (2) The amendments made by subsection (b)  
6           shall take effect upon the date of the enactment of  
7           this Act, and section 236 of the Immigration and  
8           Nationality Act, as so amended, shall in addition  
9           apply to any alien in detention under provisions of  
10          such section on or after such date.

11 **SEC. 311. GROUNDS OF INADMISSIBILITY AND DEPORT-**  
12 **ABILITY FOR ALIEN GANG MEMBERS.**

13          (a) DEFINITION OF GANG MEMBER.—Section 101(a)  
14 of the Immigration and Nationality Act (8 U.S.C.  
15 1101(a)) is amended by adding at the end the following:

16          “(53)(A) The term ‘criminal gang’ means an ongoing  
17 group, club, organization, or association of 5 or more per-  
18 sons that has as one of its primary purposes the commis-  
19 sion of 1 or more of the following criminal offenses and  
20 the members of which engage, or have engaged within the  
21 past 5 years, in a continuing series of such offenses, or  
22 that has been designated as a criminal gang by the Sec-  
23 retary of Homeland Security, in consultation with the At-  
24 torney General, as meeting these criteria. The offenses de-  
25 scribed, whether in violation of Federal or State law or

1 foreign law and regardless of whether the offenses oc-  
2 curred before, on, or after the date of the enactment of  
3 this paragraph, are the following:

4           “(i) A ‘felony drug offense’ (as defined in sec-  
5 tion 102 of the Controlled Substances Act (21  
6 U.S.C. 802)).

7           “(ii) An offense under section 274 (relating to  
8 bringing in and harboring certain aliens), section  
9 277 (relating to aiding or assisting certain aliens to  
10 enter the United States), or section 278 (relating to  
11 importation of alien for immoral purpose).

12           “(iii) A crime of violence (as defined in section  
13 16 of title 18, United States Code).

14           “(iv) A crime involving obstruction of justice,  
15 tampering with or retaliating against a witness, vic-  
16 tim, or informant, or burglary.

17           “(v) Any conduct punishable under sections  
18 1028 and 1029 of title 18, United States Code (re-  
19 lating to fraud and related activity in connection  
20 with identification documents or access devices), sec-  
21 tions 1581 through 1594 of such title (relating to  
22 peonage, slavery and trafficking in persons), section  
23 1952 of such title (relating to interstate and foreign  
24 travel or transportation in aid of racketeering enter-  
25 prises), section 1956 of such title (relating to the

1       laundering of monetary instruments), section 1957  
2       of such title (relating to engaging in monetary trans-  
3       actions in property derived from specified unlawful  
4       activity), or sections 2312 through 2315 of such title  
5       (relating to interstate transportation of stolen motor  
6       vehicles or stolen property).

7               “(vi) A conspiracy to commit an offense de-  
8       scribed in clauses (i) through (v).

9       “(B) Notwithstanding any other provision of law (in-  
10      cluding any effective date), the term applies regardless of  
11      whether the conduct occurred before, on, or after the date  
12      of the enactment of this paragraph.”.

13       (b) INADMISSIBILITY.—Section 212(a)(2) of such Act  
14      (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)  
15      of this Act, is further amended by adding at the end the  
16      following:

17               “(N) ALIENS ASSOCIATED WITH CRIMINAL  
18               GANGS.—Any alien is inadmissible who a con-  
19               sular officer, the Secretary of Homeland Secu-  
20               rity, or the Attorney General knows or has rea-  
21               son to believe—

22                       “(i) to be or to have been a member  
23                       of a criminal gang (as defined in section  
24                       101(a)(53)); or

1           “(ii) to have participated in the activi-  
2           ties of a criminal gang (as defined in sec-  
3           tion 101(a)(53)), knowing or having reason  
4           to know that such activities will promote,  
5           further, aid, or support the illegal activity  
6           of the criminal gang.”.

7           (c) DEPORTABILITY.—Section 237(a)(2) of the Im-  
8           migration and Nationality Act (8 U.S.C. 1227(a)(2)), as  
9           amended by section 302(c) of this Act, is further amended  
10          by adding at the end the following:

11           “(H) ALIENS ASSOCIATED WITH CRIMINAL  
12           GANGS.—Any alien is deportable who the Sec-  
13           retary of Homeland Security or the Attorney  
14           General knows or has reason to believe—

15           “(i) is or has been a member of a  
16           criminal gang (as defined in section  
17           101(a)(53)); or

18           “(ii) has participated in the activities  
19           of a criminal gang (as so defined), knowing  
20           or having reason to know that such activi-  
21           ties will promote, further, aid, or support  
22           the illegal activity of the criminal gang.”.

23          (d) DESIGNATION.—

24           (1) IN GENERAL.—Chapter 2 of title II of the  
25           Immigration and Nationality Act (8 U.S.C. 1182) is

1 amended by inserting after section 219 the fol-  
2 lowing:

3 “DESIGNATION

4 “SEC. 220. (a) IN GENERAL.—The Secretary of  
5 Homeland Security, in consultation with the Attorney  
6 General, and the Secretary of State may designate a  
7 groups or association as a criminal street gangs if their  
8 conduct is described in section 101(a)(53) or if the group  
9 or association conduct poses a significant risk that threat-  
10 ens the security and the public safety of United States  
11 nationals or the national security, homeland security, for-  
12 eign policy, or economy of the United States.

13 “(b) EFFECTIVE DATE.—Designations under sub-  
14 section (a) shall remain in effect until the designation is  
15 revoked after consultation between the Secretary of Home-  
16 land Security, the Attorney General, and the Secretary of  
17 State or is terminated in accordance with Federal law.”.

18 (2) CLERICAL AMENDMENT.—The table of con-  
19 tents for such Act is amended by inserting after the  
20 item relating to section 219 the following:

“220. Designation.”.

21 (e) MANDATORY DETENTION OF CRIMINAL STREET  
22 GANG MEMBERS.—

23 (1) IN GENERAL.—Section 236(c)(1)(D) of the  
24 Immigration and Nationality Act (8 U.S.C.  
25 1226(c)(1)(D)) is amended—

1 (A) by inserting “or 212(a)(2)(N)” after  
2 “212(a)(3)(B)”;

3 (B) by inserting “or 237(a)(2)(H)” before  
4 “237(a)(4)(B)”.

5 (2) ANNUAL REPORT.—Not later than March 1  
6 of each year (beginning 1 year after the date of the  
7 enactment of this Act), the Secretary of Homeland  
8 Security, after consultation with the appropriate  
9 Federal agencies, shall submit a report to the Com-  
10 mittees on the Judiciary of the House of Represent-  
11 atives and of the Senate on the number of aliens de-  
12 tained under the amendments made by paragraph  
13 (1).

14 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-  
15 ATION.—

16 (1) INAPPLICABILITY OF RESTRICTION ON RE-  
17 MOVAL TO CERTAIN COUNTRIES.—Section  
18 241(b)(3)(B) of the Immigration and Nationality  
19 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the  
20 matter preceding clause (i), by inserting “who is de-  
21 scribed in section 212(a)(2)(N)(i) or section  
22 237(a)(2)(H)(i) or who is” after “to an alien”.

23 (2) INELIGIBILITY FOR ASYLUM.—Section  
24 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))  
25 is amended—

1 (A) in clause (v), by striking “or” at the  
2 end;

3 (B) by redesignating clause (vi) as clause  
4 (vii); and

5 (C) by inserting after clause (v) the fol-  
6 lowing:

7 “(vi) the alien is described in section  
8 212(a)(2)(N)(i) or section 237(a)(2)(H)(i)  
9 (relating to participation in criminal street  
10 gangs); or”.

11 (g) TEMPORARY PROTECTED STATUS.—Section 244  
12 of such Act (8 U.S.C. 1254a) is amended—

13 (1) by striking “Attorney General” each place  
14 it appears and inserting “Secretary of Homeland Se-  
15 curity”;

16 (2) in subparagraph (c)(2)(B), by adding at the  
17 end the following:

18 “(iii) the alien is, or at any time after  
19 admission has been, a member of a crimi-  
20 nal gang (as defined in section  
21 101(a)(53)).”; and

22 (3) in subsection (d)—

23 (A) by striking paragraph (3); and

24 (B) in paragraph (4), by adding at the end  
25 the following: “The Secretary of Homeland Se-



1           curity may detain an alien provided temporary  
2           protected status under this section whenever  
3           appropriate under any other provision of law.”.

4           (h) **EFFECTIVE DATE.**—The amendments made by  
5 this section shall take effect on the date of the enactment  
6 of this Act and shall apply to acts that occur before, on,  
7 or after the date of the enactment of this Act.

8 **SEC. 312. EXTENSION OF IDENTITY THEFT OFFENSES.**

9           (a) **FRAUD AND RELATED ACTIVITIES RELATING TO**  
10 **IDENTIFICATION DOCUMENTS.**—Section 1028 of title 18,  
11 United States Code, is amended in subsection (a)(7), by  
12 striking “of another person” and inserting “that is not  
13 his or her own”.

14           (b) **AGGRAVATED IDENTITY THEFT.**—Section  
15 1028A(a) of title 18, United States Code, is amended by  
16 striking “of another person” both places it appears and  
17 inserting “that is not his or her own”.

18 **SEC. 313. LAUNDERING OF MONETARY INSTRUMENTS.**

19           (a) **ADDITIONAL PREDICATE OFFENSES.**—Section  
20 1956(c)(7)(D) of title 18, United States Code, is amend-  
21 ed—

22                   (1) by inserting “section 1590 (relating to traf-  
23           ficking with respect to peonage, slavery, involuntary  
24           servitude, or forced labor),” after “section 1363 (re-

1       lating to destruction of property within the special  
2       maritime and territorial jurisdiction),”; and

3               (2) by inserting “section 274(a) of the Immi-  
4       gration and Nationality Act (8 U.S.C.1324(a)) (re-  
5       lating to bringing in and harboring certain aliens),”  
6       after “section 590 of the Tariff Act of 1930 (19  
7       U.S.C. 1590) (relating to aviation smuggling),”.

8       (b) INTENT TO CONCEAL OR DISGUISE.—Section  
9       1956(a) of title 18, United States Code, is amended—

10               (1) in paragraph (1) so that subparagraph (B)  
11       reads as follows:

12                       “(B) knowing that the transaction—

13                               “(i) conceals or disguises, or is in-  
14                               tended to conceal or disguise, the nature,  
15                               source, location, ownership, or control of  
16                               the proceeds of some form of unlawful ac-  
17                               tivity; or

18                               “(ii) avoids, or is intended to avoid, a  
19                               transaction reporting requirement under  
20                               State or Federal law,”; and

21               (2) in paragraph (2) so that subparagraph (B)  
22       reads as follows:

23                       “(B) knowing that the monetary instru-  
24                       ment or funds involved in the transportation,  
25                       transmission, or transfer represent the proceeds

1 of some form of unlawful activity, and knowing  
2 that such transportation, transmission, or  
3 transfer—

4 “(i) conceals or disguises, or is in-  
5 tended to conceal or disguise, the nature,  
6 source, location, ownership, or control of  
7 the proceeds of some form of unlawful ac-  
8 tivity; or

9 “(ii) avoids, or is intended to avoid, a  
10 transaction reporting requirement under  
11 State or Federal law.”.

12 **SEC. 314. INCREASED CRIMINAL PENALTIES RELATING TO**  
13 **ALIEN SMUGGLING AND RELATED OFFENSES.**

14 (a) IN GENERAL.—Section 274 of the Immigration  
15 and Nationality Act (8 U.S.C. 1324), is amended to read  
16 as follows:

17 **“SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.**

18 **“(a) CRIMINAL OFFENSES AND PENALTIES.—**

19 **“(1) PROHIBITED ACTIVITIES.—**Except as pro-  
20 vided in paragraph (3), a person shall be punished  
21 as provided under paragraph (2), if the person—

22 **“(A) facilitates, encourages, directs, or in-**  
23 **duces a person to come to or enter the United**  
24 **States, or to cross the border to the United**  
25 **States, knowing or in reckless disregard of the**

1 fact that such person is an alien who lacks law-  
2 ful authority to come to, enter, or cross the bor-  
3 der to the United States;

4 “(B) facilitates, encourages, directs, or in-  
5 duces a person to come to or enter the United  
6 States, or to cross the border to the United  
7 States, at a place other than a designated port  
8 of entry or place other than as designated by  
9 the Secretary of Homeland Security, knowing  
10 or in reckless disregard of the fact that such  
11 person is an alien and regardless of whether  
12 such alien has official permission or lawful au-  
13 thority to be in the United States;

14 “(C) transports, moves, harbors, conceals,  
15 or shields from detection a person outside of  
16 the United States knowing or in reckless dis-  
17 regard of the fact that such person is an alien  
18 in unlawful transit from one country to another  
19 or on the high seas, under circumstances in  
20 which the alien is seeking to enter the United  
21 States without official permission or lawful au-  
22 thority;

23 “(D) encourages or induces a person to re-  
24 side in the United States, knowing or in reck-  
25 less disregard of the fact that such person is an

1 alien who lacks lawful authority to reside in the  
2 United States;

3 “(E) transports or moves a person in the  
4 United States, knowing or in reckless disregard  
5 of the fact that such person is an alien who  
6 lacks lawful authority to enter or be in the  
7 United States, if the transportation or move-  
8 ment will further the alien’s illegal entry into or  
9 illegal presence in the United States;

10 “(F) harbors, conceals, or shields from de-  
11 tection a person in the United States, knowing  
12 or in reckless disregard of the fact that such  
13 person is an alien who lacks lawful authority to  
14 be in the United States; or

15 “(G) conspires or attempts to commit any  
16 of the acts described in subparagraphs (A)  
17 through (F).

18 “(2) CRIMINAL PENALTIES.—A person who vio-  
19 lates any provision under paragraph (1) shall, for  
20 each alien in respect to whom a violation of para-  
21 graph (1) occurs—

22 “(A) except as provided in subparagraphs  
23 (C) through (G), if the violation was not com-  
24 mitted for commercial advantage, profit, or pri-  
25 vate financial gain, be fined under title 18,

1 United States Code, imprisoned for not more  
2 than 5 years, or both;

3 “(B) except as provided in subparagraphs  
4 (C) through (G), if the violation was committed  
5 for commercial advantage, profit, or private fi-  
6 nancial gain—

7 “(i) be fined under such title, impris-  
8 oned for not more than 20 years, or both,  
9 if the violation is the offender’s first viola-  
10 tion under this subparagraph; or

11 “(ii) be fined under such title, impris-  
12 oned for not less than 3 years or more  
13 than 20 years, or both, if the violation is  
14 the offender’s second or subsequent viola-  
15 tion of this subparagraph;

16 “(C) if the violation furthered or aided the  
17 commission of any other offense against the  
18 United States or any State that is punishable  
19 by imprisonment for more than 1 year, be fined  
20 under such title, imprisoned for not less than 5  
21 years or more than 20 years, or both;

22 “(D) be fined under such title, imprisoned  
23 not less than 5 years or more than 20 years, or  
24 both, if the violation created a substantial and  
25 foreseeable risk of death, a substantial and

1           foreseeable risk of serious bodily injury (as de-  
2           fined in section 2119(2) of title 18, United  
3           States Code), or inhumane conditions to an-  
4           other person, including—

5                   “(i) transporting the person in an en-  
6                   gine compartment, storage compartment,  
7                   or other confined space;

8                   “(ii) transporting the person at an ex-  
9                   cessive speed or in excess of the rated ca-  
10                  pacity of the means of transportation; or

11                  “(iii) transporting the person in, har-  
12                  boring the person in, or otherwise sub-  
13                  jecting the person to crowded or dangerous  
14                  conditions;

15                  “(E) if the violation caused serious bodily  
16                  injury (as defined in section 2119(2) of title 18,  
17                  United States Code) to any person, be fined  
18                  under such title, imprisoned for not less than 7  
19                  years or more than 30 years, or both;

20                  “(F) be fined under such title and impris-  
21                  oned for not less than 10 years or more than  
22                  30 years if the violation involved an alien who  
23                  the offender knew or had reason to believe  
24                  was—

1                   “(i) engaged in terrorist activity (as  
2                   defined in section 212(a)(3)(B)); or

3                   “(ii) intending to engage in terrorist  
4                   activity;

5                   “(G) if the violation caused or resulted in  
6                   the death of any person, be punished by death  
7                   or imprisoned for a term of years not less than  
8                   10 years and up to life, and fined under title  
9                   18, United States Code.

10                  “(3) LIMITATION.—It is not a violation of sub-  
11                  paragraph (D), (E), or (F) of paragraph (1) for a  
12                  religious denomination having a bona fide nonprofit,  
13                  religious organization in the United States, or the  
14                  agents or officers of such denomination or organiza-  
15                  tion, to encourage, invite, call, allow, or enable an  
16                  alien who is present in the United States to perform  
17                  the vocation of a minister or missionary for the de-  
18                  nomination or organization in the United States as  
19                  a volunteer who is not compensated as an employee,  
20                  notwithstanding the provision of room, board, travel,  
21                  medical assistance, and other basic living expenses,  
22                  provided the minister or missionary has been a  
23                  member of the denomination for at least 1 year.



1           “(4) EXTRATERRITORIAL JURISDICTION.—

2           There is extraterritorial Federal jurisdiction over the  
3           offenses described in this subsection.

4           “(b) SEIZURE AND FORFEITURE.—

5           “(1) IN GENERAL.—Any real or personal prop-  
6           erty used to commit or facilitate the commission of  
7           a violation of this section, the gross proceeds of such  
8           violation, and any property traceable to such prop-  
9           erty or proceeds, shall be subject to forfeiture.

10           “(2) APPLICABLE PROCEDURES.—Seizures and  
11           forfeitures under this subsection shall be governed  
12           by the provisions of chapter 46 of title 18, United  
13           States Code, relating to civil forfeitures, except that  
14           such duties as are imposed upon the Secretary of  
15           the Treasury under the customs laws described in  
16           section 981(d) shall be performed by such officers,  
17           agents, and other persons as may be designated for  
18           that purpose by the Secretary of Homeland Security.

19           “(3) PRIMA FACIE EVIDENCE IN DETERMINA-  
20           TIONS OF VIOLATIONS.—In determining whether a  
21           violation of subsection (a) has occurred, prima facie  
22           evidence that an alien involved in the alleged viola-  
23           tion lacks lawful authority to come to, enter, reside  
24           in, remain in, or be in the United States or that  
25           such alien had come to, entered, resided in, re-

1       mained in, or been present in the United States in  
2       violation of law may include:

3               “(A) any order, finding, or determination  
4               concerning the alien’s status or lack of status  
5               made by a Federal judge or administrative ad-  
6               judicator (including an immigration judge or  
7               immigration officer) during any judicial or ad-  
8               ministrative proceeding authorized under Fed-  
9               eral immigration law;

10              “(B) official records of the Department of  
11              Homeland Security, the Department of Justice,  
12              or the Department of State concerning the  
13              alien’s status or lack of status; and

14              “(C) testimony by an immigration officer  
15              having personal knowledge of the facts con-  
16              cerning the alien’s status or lack of status.

17       “(c) **AUTHORITY TO ARREST.**—No officer or person  
18 shall have authority to make any arrests for a violation  
19 of any provision of this section except:

20              “(1) officers and employees designated by the  
21              Secretary of Homeland Security, either individually  
22              or as a member of a class; and

23              “(2) other officers responsible for the enforce-  
24              ment of Federal criminal laws.

1           “(d) ADMISSIBILITY OF VIDEOTAPED WITNESS TES-  
2 TIMONY.—Notwithstanding any provision of the Federal  
3 Rules of Evidence, the videotaped or otherwise audio-  
4 visually preserved deposition of a witness to a violation  
5 of subsection (a) who has been deported or otherwise ex-  
6 pelled from the United States, or is otherwise unavailable  
7 to testify, may be admitted into evidence in an action  
8 brought for that violation if:

9           “(1) the witness was available for cross exam-  
10 ination at the deposition by the party, if any, oppos-  
11 ing admission of the testimony; and

12           “(2) the deposition otherwise complies with the  
13 Federal Rules of Evidence.

14           “(e) DEFINITIONS.—In this section:

15           “(1) CROSS THE BORDER TO THE UNITED  
16 STATES.—The term ‘cross the border’ refers to the  
17 physical act of crossing the border, regardless of  
18 whether the alien is free from official restraint.

19           “(2) LAWFUL AUTHORITY.—The term ‘lawful  
20 authority’ means permission, authorization, or li-  
21 cense that is expressly provided for in the immigra-  
22 tion laws of the United States or accompanying reg-  
23 ulations. The term does not include any such au-  
24 thority secured by fraud or otherwise obtained in  
25 violation of law or authority sought, but not ap-

1 proved. No alien shall be deemed to have lawful au-  
2 thority to come to, enter, reside in, remain in, or be  
3 in the United States if such coming to, entry, resi-  
4 dence, remaining, or presence was, is, or would be  
5 in violation of law.

6 “(3) PROCEEDS.—The term ‘proceeds’ includes  
7 any property or interest in property obtained or re-  
8 tained as a consequence of an act or omission in vio-  
9 lation of this section.

10 “(4) UNLAWFUL TRANSIT.—The term ‘unlawful  
11 transit’ means travel, movement, or temporary pres-  
12 ence that violates the laws of any country in which  
13 the alien is present or any country from which or to  
14 which the alien is traveling or moving.”.

15 (b) CLERICAL AMENDMENT.—The table of contents  
16 for the Immigration and Nationality Act is amended by  
17 striking the item relating to section 274 and inserting the  
18 following:

“Sec. 274. Alien smuggling and related offenses.”.

19 (c) PROHIBITING CARRYING OR USING A FIREARM  
20 DURING AND IN RELATION TO AN ALIEN SMUGGLING  
21 CRIME.—Section 924(c) of title 18, United States Code,  
22 is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (A)——

1 (i) by inserting “, alien smuggling  
2 crime,” after “any crime of violence”; and

3 (ii) by inserting “, alien smuggling  
4 crime,” after “such crime of violence”; and

5 (B) in subparagraph (D)(ii), by inserting  
6 “, alien smuggling crime,” after “crime of vio-  
7 lence”; and

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

9 “(6) For purposes of this subsection, the term  
10 ‘alien smuggling crime’ means any felony punishable  
11 under section 274(a), 277, or 278 of the Immigra-  
12 tion and Nationality Act (8 U.S.C. 1324(a), 1327,  
13 and 1328).”.

14 **SEC. 315. PENALTIES FOR ILLEGAL ENTRY.**

15 (a) IN GENERAL.—Section 275 of the Immigration  
16 and Nationality Act (8 U.S.C. 1325) is amended to read  
17 as follows:

18 “ILLEGAL ENTRY

19 “SEC. 275. (a) IN GENERAL.—

20 “(1) ILLEGAL ENTRY.—An alien shall be sub-  
21 ject to the penalties set forth in paragraph (2) if the  
22 alien:

23 “(A) knowingly enters or crosses the bor-  
24 der into the United States at any time or place  
25 other than as designated by the Secretary of  
26 Homeland Security;

1           “(B) knowingly eludes, at any time or  
2 place, examination or inspection by an author-  
3 ized immigration, customs, or agriculture offi-  
4 cer (including by failing to stop at the com-  
5 mand of such officer);

6           “(C) knowingly enters or crosses the bor-  
7 der to the United States and, upon examination  
8 or inspection, knowingly makes a false or mis-  
9 leading representation or the knowing conceal-  
10 ment of a material fact (including such rep-  
11 resentation or concealment in the context of ar-  
12 rival, reporting, entry, or clearance require-  
13 ments of the customs laws, immigration laws,  
14 agriculture laws, or shipping laws); or

15           “(D) knowingly violates for a period of 90  
16 days or more the terms or conditions of the  
17 alien’s admission or parole into the United  
18 States.

19           “(2) CRIMINAL PENALTIES.—Any alien who  
20 violates any provision under paragraph (1):

21           “(A) shall, for the first violation, be fined  
22 under title 18, United States Code, imprisoned  
23 not more than 6 months, or both;

24           “(B) shall, for a second or subsequent vio-  
25 lation, or following an order of voluntary depar-

1           ture, be fined under such title, imprisoned not  
2           more than 2 years, or both;

3           “(C) if the violation occurred after the  
4           alien had been convicted of 3 or more mis-  
5           demeanors or for a felony, shall be fined under  
6           such title, imprisoned not more than 10 years,  
7           or both;

8           “(D) if the violation occurred after the  
9           alien had been convicted of a felony for which  
10          the alien received a term of imprisonment of  
11          not less than 30 months, shall be fined under  
12          such title, imprisoned not more than 15 years,  
13          or both; and

14          “(E) if the violation occurred after the  
15          alien had been convicted of a felony for which  
16          the alien received a term of imprisonment of  
17          not less than 60 months, such alien shall be  
18          fined under such title, imprisoned not more  
19          than 20 years, or both.

20          “(3) PRIOR CONVICTIONS.—The prior convic-  
21          tions described in subparagraphs (C) through (E) of  
22          paragraph (2) are elements of the offenses described  
23          and the penalties in such subparagraphs shall apply  
24          only in cases in which the conviction or convictions  
25          that form the basis for the additional penalty are—

1           “(A) alleged in the indictment or informa-  
2           tion; and

3           “(B) proven beyond a reasonable doubt at  
4           trial or admitted by the defendant.

5           “(4) DURATION OF OFFENSE.—An offense  
6           under this subsection continues until the alien is dis-  
7           covered within the United States by an immigration,  
8           customs, or agriculture officer.

9           “(5) ATTEMPT.—Whoever attempts to commit  
10          any offense under this section shall be punished in  
11          the same manner as for a completion of such of-  
12          fense.

13          “(b) IMPROPER TIME OR PLACE; CIVIL PEN-  
14          ALTIES.—

15          “(1) IN GENERAL.—Any alien who is appre-  
16          hended while entering, attempting to enter, or know-  
17          ingly crossing or attempting to cross the border to  
18          the United States at a time or place other than as  
19          designated by immigration officers shall be subject  
20          to a civil penalty, in addition to any criminal or  
21          other civil penalties that may be imposed under any  
22          other provision of law, in an amount equal to—

23                  “(A) not less than \$50 or more than \$250  
24                  for each such entry, crossing, attempted entry,  
25                  or attempted crossing; or



1           “(B) twice the amount specified in para-  
2           graph (1) if the alien had previously been sub-  
3           ject to a civil penalty under this subsection.”.

4           (b) CLERICAL AMENDMENT.—The table of contents  
5 for the Immigration and Nationality Act is amended by  
6 striking the item relating to section 275 and inserting the  
7 following:

“275. Illegal entry.”.

8 **SEC. 316. ILLEGAL REENTRY.**

9           Section 276 of the Immigration and Nationality Act  
10 (8 U.S.C. 1326) is amended to read as follows:

11                   “REENTRY OF REMOVED ALIEN

12           “SEC. 276. (a) REENTRY AFTER REMOVAL.—Any  
13 alien who has been denied admission, excluded, deported,  
14 or removed, or who has departed the United States while  
15 an order of exclusion, deportation, or removal is out-  
16 standing, and subsequently enters, attempts to enter,  
17 crosses the border to, attempts to cross the border to, or  
18 is at any time found in the United States, shall be fined  
19 under title 18, United States Code, imprisoned not more  
20 than 2 years, or both.

21           “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-  
22 withstanding the penalty provided in subsection (a), if an  
23 alien described in that subsection was convicted before  
24 such removal or departure:

1           “(1) for 3 or more misdemeanors or for a fel-  
2           ony, the alien shall be fined under title 18, United  
3           States Code, imprisoned not more than 10 years, or  
4           both;

5           “(2) for a felony for which the alien was sen-  
6           tenced to a term of imprisonment of not less than  
7           30 months, the alien shall be fined under such title,  
8           imprisoned not less than 2 years and not more than  
9           15 years, or both;

10           “(3) for a felony for which the alien was sen-  
11           tenced to a term of imprisonment of not less than  
12           60 months, the alien shall be fined under such title,  
13           imprisoned not less than 4 years and not more than  
14           20 years, or both;

15           “(4) for murder, rape, kidnapping, or a felony  
16           offense described in chapter 77 (relating to peonage  
17           and slavery) or 113B (relating to terrorism) of such  
18           title, or for 3 or more felonies of any kind, the alien  
19           shall be fined under such title, imprisoned not less  
20           than 5 years and not more than 25 years, or both.

21           “(c) REENTRY AFTER REPEATED REMOVAL.—Any  
22           alien who has been denied admission, excluded, deported,  
23           or removed 3 or more times and thereafter enters, at-  
24           tempts to enter, crosses the border to, attempts to cross  
25           the border to, or is at any time found in the United States,

1 shall be fined under title 18, United States Code, impris-  
2 oned not more than 10 years, or both.

3 “(d) PROOF OF PRIOR CONVICTIONS.—The prior  
4 convictions described in subsection (b) are elements of the  
5 crimes described, and the penalties in that subsection shall  
6 apply only in cases in which the conviction or convictions  
7 that form the basis for the additional penalty are—

8 “(1) alleged in the indictment or information;  
9 and

10 “(2) proven beyond a reasonable doubt at trial  
11 or admitted by the defendant.

12 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-  
13 firmative defense to a violation of this section that—

14 “(1) prior to the alleged violation, the alien had  
15 sought and received the express consent of the Sec-  
16 retary of Homeland Security to reapply for admis-  
17 sion into the United States; or

18 “(2) with respect to an alien previously denied  
19 admission and removed, the alien—

20 “(A) was not required to obtain such ad-  
21 vance consent under the Immigration and Na-  
22 tionality Act or any prior Act; and

23 “(B) had complied with all other laws and  
24 regulations governing the alien’s admission into  
25 the United States.

1       “(f) LIMITATION ON COLLATERAL ATTACK ON UN-  
2 DERLYING REMOVAL ORDER.—In a criminal proceeding  
3 under this section, an alien may not challenge the validity  
4 of any prior removal order concerning the alien.

5       “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-  
6 PLETION OF TERM OF IMPRISONMENT.—Any alien re-  
7 moved pursuant to section 241(a)(4) who enters, attempts  
8 to enter, crosses the border to, attempts to cross the bor-  
9 der to, or is at any time found in, the United States shall  
10 be incarcerated for the remainder of the sentence of im-  
11 prisonment which was pending at the time of deportation  
12 without any reduction for parole or supervised release un-  
13 less the alien affirmatively demonstrates that the Sec-  
14 retary of Homeland Security has expressly consented to  
15 the alien’s reentry. Such alien shall be subject to such  
16 other penalties relating to the reentry of removed aliens  
17 as may be available under this section or any other provi-  
18 sion of law.

19       “(h) DEFINITIONS.—For purposes of this section and  
20 section 275, the following definitions shall apply:

21               “(1) CROSSES THE BORDER TO THE UNITED  
22 STATES.—The term ‘crosses the border’ refers to the  
23 physical act of crossing the border, regardless of  
24 whether the alien is free from official restraint.

1           “(2) FELONY.—The term ‘felony’ means any  
2 criminal offense punishable by a term of imprison-  
3 ment of more than 1 year under the laws of the  
4 United States, any State, or a foreign government.

5           “(3) MISDEMEANOR.—The term ‘misdemeanor’  
6 means any criminal offense punishable by a term of  
7 imprisonment of not more than 1 year under the ap-  
8 plicable laws of the United States, any State, or a  
9 foreign government.

10           “(4) REMOVAL.—The term ‘removal’ includes  
11 any denial of admission, exclusion, deportation, or  
12 removal, or any agreement by which an alien stipu-  
13 lates or agrees to exclusion, deportation, or removal.

14           “(5) STATE.—The term ‘State’ means a State  
15 of the United States, the District of Columbia, and  
16 any commonwealth, territory, or possession of the  
17 United States.”.

18 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**

19                           **FRAUD OFFENSES.**

20           Chapter 75 of title 18, United States Code, is amend-  
21 ed to read as follows:

22           **“CHAPTER 75—PASSPORTS AND VISAS**

“Sec.

“1541. Issuance without authority.

“1542. False statement in application and use of passport.

“1543. Forgery or false use of passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Attempts and conspiracies.

“1548. Alternative penalties for certain offenses.

“1549. Definitions.

1 **“§ 1541. Issuance without authority**

2 “(a) IN GENERAL.—Whoever—

3 “(1) acting or claiming to act in any office or  
4 capacity under the United States, or a State, with-  
5 out lawful authority grants, issues, or verifies any  
6 passport or other instrument in the nature of a  
7 passport to or for any person; or

8 “(2) being a consular officer authorized to  
9 grant, issue, or verify passports, knowingly grants,  
10 issues, or verifies any such passport to or for any  
11 person not owing allegiance, to the United States,  
12 whether a citizen or not;

13 shall be fined under this title or imprisoned not more than  
14 15 years, or both.

15 “(b) DEFINITION.—In this section, the term ‘State’  
16 means a State of the United States, the District of Colum-  
17 bia, and any commonwealth, territory, or possession of the  
18 United States.

19 **“§ 1542. False statement in application and use of**  
20 **passport**

21 “Whoever knowingly—

22 “(1) makes any false statement in an applica-  
23 tion for passport with intent to induce or secure the  
24 issuance of a passport under the authority of the

1 United States, either for his own use or the use of  
2 another, contrary to the laws regulating the issuance  
3 of passports or the rules prescribed pursuant to such  
4 laws; or

5 “(2) uses or attempts to use, or furnishes to  
6 another for use any passport the issue of which was  
7 secured in any way by reason of any false statement;  
8 shall be fined under this title or imprisoned not more than  
9 15 years, or both.

10 **“§ 1543. Forgery or false use of passport**

11 “Whoever—

12 “(1) falsely makes, forges, counterfeits, muti-  
13 lates, or alters any passport or instrument pur-  
14 porting to be a passport, with intent that the same  
15 may be used; or

16 “(2) knowingly uses, or attempts to use, or fur-  
17 nishes to another for use any such false, forged,  
18 counterfeited, mutilated, or altered passport or in-  
19 strument purporting to be a passport, or any pass-  
20 port validly issued which has become void by the oc-  
21 currence of any condition therein prescribed invali-  
22 dating the same;

23 shall be fined under this title or imprisoned not more than  
24 15 years, or both.

1 **“§ 1544. Misuse of a passport**

2 “Whoever knowingly—

3 “(1) uses any passport issued or designed for  
4 the use of another;

5 “(2) uses any passport in violation of the condi-  
6 tions or restrictions therein contained, or in violation  
7 of the laws, regulations, or rules governing the  
8 issuance and use of the passport;

9 “(3) secures, possesses, uses, receives, buys,  
10 sells, or distributes any passport knowing it to be  
11 forged, counterfeited, altered, falsely made, procured  
12 by fraud, stolen, or produced or issued without law-  
13 ful authority; or

14 “(4) violates the terms and conditions of any  
15 safe conduct duly obtained and issued under the au-  
16 thority of the United States;

17 shall be fined under this title, imprisoned not more than  
18 15 years, or both.

19 **“§ 1545. Schemes to defraud aliens**

20 “Whoever inside the United States, or in or affecting  
21 interstate or foreign commerce, in connection with any  
22 matter that is authorized by or arises under the immigra-  
23 tion laws of the United States or any matter the offender  
24 claims or represents is authorized by or arises under the  
25 immigration laws of the United States, knowingly executes  
26 a scheme or artifice—



1 “(1) to defraud any person, or

2 “(2) to obtain or receive money or anything else  
3 of value from any person by means of false or fraud-  
4 ulent pretenses, representations, or promises;

5 shall be fined under this title, imprisoned not more than  
6 15 years, or both.

7 **“§ 1546. Immigration and visa fraud**

8 “Whoever knowingly—

9 “(1) uses any immigration document issued or  
10 designed for the use of another;

11 “(2) forges, counterfeits, alters, or falsely  
12 makes any immigration document;

13 “(3) mails, prepares, presents, or signs any im-  
14 migration document knowing it to contain any mate-  
15 rially false statement or representation;

16 “(4) secures, possesses, uses, transfers, re-  
17 ceives, buys, sells, or distributes any immigration  
18 document knowing it to be forged, counterfeited, al-  
19 tered, falsely made, stolen, procured by fraud, or  
20 produced or issued without lawful authority;

21 “(5) adopts or uses a false or fictitious name to  
22 evade or to attempt to evade the immigration laws;

23 “(6) transfers or furnishes, without lawful au-  
24 thority, an immigration document to another person  
25 for use by a person other than the person for whom

1 the immigration document was issued or designed;  
2 or

3 “(7) produces, issues, authorizes, or verifies,  
4 without lawful authority, an immigration document;  
5 shall be fined under this title, imprisoned not more than  
6 15 years, or both.

7 **“§ 1547. Attempts and conspiracies**

8 “Whoever attempts or conspires to violate this chap-  
9 ter shall be punished in the same manner as a person who  
10 completes that violation.

11 **“§ 1548. Alternative penalties for certain offenses**

12 “(a) **TERRORISM.**—Whoever violates any section in  
13 this chapter to facilitate an act of international terrorism  
14 or domestic terrorism (as such terms are defined in section  
15 2331), shall be fined under this title or imprisoned not  
16 more than 25 years, or both.

17 “(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-  
18 lates any section in this chapter to facilitate a drug traf-  
19 ficking crime (as defined in section 929(a)) shall be fined  
20 under this title or imprisoned not more than 20 years, or  
21 both.

22 **“§ 1549. Definitions**

23 “In this chapter:

24 “(1) An ‘application for a United States pass-  
25 port’ includes any document, photograph, or other

1 piece of evidence attached to or submitted in support  
2 of the application.

3 “(2) The term ‘immigration document’ means  
4 any instrument on which is recorded, by means of  
5 letters, figures, or marks, matters which may be  
6 used to fulfill any requirement of the Immigration  
7 and Nationality Act.”.

8 **SEC. 318. FORFEITURE.**

9 Section 981(a)(1) of title 18, United States Code, is  
10 amended by adding at the end the following:

11 “(I) Any property, real or personal, that has  
12 been used to commit or facilitate the commission of  
13 a violation of chapter 75, the gross proceeds of such  
14 violation, and any property traceable to any such  
15 property or proceeds.”.

16 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**  
17 **ON CRIMINAL OR SECURITY GROUNDS.**

18 (a) IN GENERAL.—Section 238(b) of the Immigra-  
19 tion and Nationality Act (8 U.S.C. 1228(b)) is amended—

20 (1) in paragraph (1)—

21 (A) by striking “Attorney General” and in-  
22 serting “Secretary of Homeland Security in the  
23 exercise of discretion”; and

1 (B) by striking “set forth in this sub-  
2 section or” and inserting “set forth in this sub-  
3 section, in lieu of removal proceedings under”;

4 (2) in paragraph (3), by striking “paragraph  
5 (1) until 14 calendar days” and inserting “para-  
6 graph (1) or (3) until 7 calendar days”;

7 (3) by striking “Attorney General” each place  
8 it appears in paragraphs (3) and (4) and inserting  
9 “Secretary of Homeland Security”;

10 (4) in paragraph (5)—

11 (A) by striking “described in this section”  
12 and inserting “described in paragraph (1) or  
13 (2)”;

14 (B) by striking “the Attorney General may  
15 grant in the Attorney General’s discretion” and  
16 inserting “the Secretary of Homeland Security  
17 or the Attorney General may grant, in the dis-  
18 cretion of the Secretary or Attorney General, in  
19 any proceeding”;

20 (5) by redesignating paragraphs (3), (4), and  
21 (5) as paragraphs (4), (5), and (6), respectively; and

22 (6) by inserting after paragraph (2) the fol-  
23 lowing new paragraph:

24 “(3) The Secretary of Homeland Security in  
25 the exercise of discretion may determine inadmis-

1 sibility under section 212(a)(2) (relating to criminal  
2 offenses) and issue an order of removal pursuant to  
3 the procedures set forth in this subsection, in lieu of  
4 removal proceedings under section 240, with respect  
5 to an alien who

6 “(A) has not been admitted or paroled;

7 “(B) has not been found to have a credible  
8 fear of persecution pursuant to the procedures  
9 set forth in section 235(b)(1)(B); and

10 “(C) is not eligible for a waiver of inadmis-  
11 sibility or relief from removal.”.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 subsection (a) shall take effect on the date of the enact-  
14 ment of this Act but shall not apply to aliens who are  
15 in removal proceedings under section 240 of the Immigra-  
16 tion and Nationality Act as of such date.

17 **SEC. 320. INCREASED PENALTIES BARRING THE ADMIS-**  
18 **SION OF CONVICTED SEX OFFENDERS FAIL-**  
19 **ING TO REGISTER AND REQUIRING DEPORTA-**  
20 **TION OF SEX OFFENDERS FAILING TO REG-**  
21 **ISTER.**

22 (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1182(a)(2)(A)(i)), as amended by section 302(a) of this  
25 Act, is further amended—

1           (1) in subclause (II), by striking “or” at the  
2 end;

3           (2) in subclause (III), by adding “or” at the  
4 end; and

5           (3) by inserting after subclause (III) the fol-  
6 lowing:

7                                   “(IV) a violation of section 2250  
8                                   of title 18, United States Code (relat-  
9                                   ing to failure to register as a sex of-  
10                                   fender);”.

11           (b) DEPORTABILITY.—Section 237(a)(2) of such Act  
12 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and  
13 311(c) of this Act, is further amended—

14           (1) in subparagraph (A), by striking clause (v);  
15 and

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

17                                   “(I) Any alien convicted of, or who admits  
18                                   having committed, or who admits committing  
19                                   acts which constitute the essential elements of  
20                                   a violation of section 2250 of title 18, United  
21                                   States Code (relating to failure to register as a  
22                                   sex offender) is deportable.”.

23           (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall take effect on the date of the enactment

1 of this Act and shall apply to acts that occur before, on,  
2 or after the date of the enactment of this Act.

3 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED**  
4 **SEX OFFENDERS.**

5 (a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-  
6 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-  
7 ed—

8 (1) in subparagraph (A), by amending clause  
9 (viii) to read as follows:

10 “(viii) Clause (i) shall not apply to a citizen of the  
11 United States who has been convicted of an offense de-  
12 scribed in subparagraph (A), (I), or (K) of section  
13 101(a)(43), unless the Secretary of Homeland Security,  
14 in the Secretary’s sole and unreviewable discretion, deter-  
15 mines that the citizen poses no risk to the alien with re-  
16 spect to whom a petition described in clause (i) is filed.”;  
17 and

18 (2) in subparagraph (B)(i)—

19 (A) by redesignating the second subclause  
20 (I) as subclause (II); and

21 (B) by amending such subclause (II) to  
22 read as follows:

23 “(II) Subclause (I) shall not apply in the case of an  
24 alien admitted for permanent residence who has been con-  
25 victed of an offense described in subparagraph (A), (I),

1 or (K) of section 101(a)(43), unless the Secretary of  
2 Homeland Security, in the Secretary's sole and  
3 unreviewable discretion, determines that the alien lawfully  
4 admitted for permanent residence poses no risk to the  
5 alien with respect to whom a petition described in sub-  
6 clause (I) is filed.”.

7 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of  
8 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-  
9 ing “204(a)(1)(A)(viii)(I)” each place such term appears  
10 and inserting “204(a)(1)(A)(viii)”.

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on the date of the enactment  
13 of this Act and shall apply to petitions filed on or after  
14 such date.

15 **SEC. 322. CLARIFICATION TO CRIMES OF VIOLENCE AND**  
16 **CRIMES INVOLVING MORAL TURPITUDE.**

17 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of  
18 the Immigration and Nationality Act (8 U.S.C.  
19 1182(a)(2)(A)) is amended by adding at the end the fol-  
20 lowing:

21 “(iii) CLARIFICATION.—If the convic-  
22 tion records do not conclusively establish  
23 whether a crime constitutes a crime involv-  
24 ing moral turpitude, the Attorney General  
25 may consider other evidence related to the



1 conviction that clearly establishes that the  
2 conduct for which the alien was engaged  
3 constitutes a crime involving moral turpi-  
4 tude.”.

5 (b) DEPORTABLE ALIENS.—

6 (1) GENERAL CRIMES.—Section 237(a)(2)(A)  
7 of such Act (8 U.S.C. 1227(a)(2)(A)), as amended  
8 by section 320(b) of this Act, is further amended by  
9 inserting after clause (iv) the following:

10 “(v) CRIMES INVOLVING MORAL TUR-  
11 PITUDE.—If the conviction records do not  
12 conclusively establish whether a crime con-  
13 stitutes a crime involving moral turpitude,  
14 the Attorney General may consider other  
15 evidence related to the conviction that  
16 clearly establishes that the conduct for  
17 which the alien was engaged constitutes a  
18 crime involving moral turpitude.”.

19 (2) DOMESTIC VIOLENCE.—Section  
20 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))  
21 is amended by adding at the end the following:

22 “(iii) CRIMES OF VIOLENCE.—If the  
23 conviction records do not conclusively es-  
24 tablish whether a crime of domestic vio-  
25 lence constitutes a crime of violence (as de-

1                    fined in section 16 of title 18, United  
2                    States Code), the Attorney General may  
3                    consider other evidence related to the con-  
4                    viction that clearly establishes that the  
5                    conduct for which the alien was engaged  
6                    constitutes a crime of violence.”.

7            (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall take effect on the date of the enactment  
9 of this Act and shall apply to acts that occur before, on,  
10 or after the date of the enactment of this Act.

11 **SEC. 323. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**  
12 **DERS.**

13            (a) IN GENERAL.—Section 243(a)(1) of the Immi-  
14 gration and Nationality Act (8 U.S.C. 1253(a)(1)) is  
15 amended—

16                    (1) by inserting “212(a) or” before “237(a),” ;

17                    and

18                    (2) by striking paragraph (3).

19            (b) EFFECTIVE DATE.—The amendments made by  
20 subsection (a) shall take effect on the date of the enact-  
21 ment of this Act and shall apply to acts that are described  
22 in subparagraphs (A) through (D) of section 243(a)(1) of  
23 the Immigration and Nationality Act (8 U.S.C.  
24 1253(a)(1)) that occur on or after the date of the enact-  
25 ment of this Act.

1 **SEC. 324. PARDONS.**

2 (a) DEFINITION.—Section 101(a) of the Immigration  
3 and Nationality Act (8 U.S.C. 1101(a)), as amended by  
4 section 311(a) of this Act, is further amended by adding  
5 at the end the following:

6 “(54) The term ‘pardon’ means a full and uncondi-  
7 tional pardon granted by the President of the United  
8 States, Governor of any of the several States or constitu-  
9 tionally recognized body.”.

10 (b) DEPORTABILITY.—Section 237(a) of such Act (8  
11 U.S.C. 1227(a)) is amended—

12 (1) in paragraph (2)(A), by striking clause (vi);

13 and

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

15 “(8) PARDONS.—

16 “(A) IN GENERAL.—In the case of an alien  
17 who has been convicted of a crime and is sub-  
18 ject to removal due to that conviction, if the  
19 alien, subsequent to receiving the criminal con-  
20 viction, is granted a pardon, the alien shall not  
21 be deportable by reason of that criminal convic-  
22 tion.

23 “(B) EXCEPTION.—Subparagraph (A)  
24 shall not apply in the case of an alien granted  
25 a pardon if the pardon is granted in whole or

1           in part to eliminate that alien’s condition of de-  
2           portability.”.

3           (c) 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 a pardon granted before,  
6 on, or after such date.

## 7           **TITLE IV—VISA SECURITY**

### 8           **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

9           (a) IN GENERAL.—Section 222(g) of the Immigra-  
10 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

11           (1) in paragraph (1)—

12                   (A) by striking “Attorney General” and in-  
13                   serting “Secretary”; and

14                   (B) by inserting “and any other non-  
15                   immigrant visa issued by the United States that  
16                   is in the possession of the alien” after “such  
17                   visa”; and

18           (2) in paragraph (2)(A), by striking “(other  
19           than the visa described in paragraph (1)) issued in  
20           a consular office located in the country of the alien’s  
21           nationality” and inserting “(other than a visa de-  
22           scribed in paragraph (1)) issued in a consular office  
23           located in the country of the alien’s nationality or  
24           foreign residence”.

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 a visa issued before,  
4 on, or after such date.

5 **SEC. 402. VISA INFORMATION SHARING.**

6 (a) IN GENERAL.—Section 222(f) of the Immigration  
7 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

8 (1) by striking “issuance or refusal” and insert-  
9 ing “issuance, refusal, or revocation”;

10 (2) in paragraph (2), by striking “and on the  
11 basis of reciprocity”;

12 (3) in paragraph (2)(A)—

13 (A) by inserting “ (i)” after “for the pur-  
14 pose of”; and

15 (B) by striking “illicit weapons; or” and  
16 inserting “illicit weapons, or (ii) determining a  
17 person’s deportability or eligibility for a visa,  
18 admission, or other immigration benefit;”;

19 (4) in paragraph (2)(B)—

20 (A) by striking “for the purposes” and in-  
21 serting “for one of the purposes”; and

22 (B) by striking “or to deny visas to per-  
23 sons who would be inadmissible to the United  
24 States” and inserting “; or”; and

1           (5) by adding before the period at the end the  
2 following:

3           “(C) with regard to any or all aliens in the  
4 database specified data elements from each  
5 record, if the Secretary of State determines that  
6 it is in the national interest to provide such in-  
7 formation to a foreign government.”.

8           (b) **EFFECTIVE DATE.**—The amendments made by  
9 subsection (a) shall take effect 60 days after the date of  
10 the enactment of the Act.

11 **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

12           Section 222(h) of the Immigration and Nationality  
13 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

14           (1) in paragraph (1)(C), by inserting “, in con-  
15 sultation with the Secretary of Homeland Security,”  
16 after “if the Secretary”;

17           (2) in paragraph (1)(C)(i), by inserting “,  
18 where such national interest shall not include facili-  
19 tation of travel of foreign nationals to the United  
20 States, reduction of visa application processing  
21 times, or the allocation of consular resources”;

22           (3) in paragraph (2)—

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

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

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

4 “(G) is an individual—

5 “(i) determined to be in a class of  
6 aliens determined by the Secretary of  
7 Homeland Security to be threats to na-  
8 tional security;

9 “(ii) identified by the Secretary of  
10 Homeland Security as a person of concern;

11 or

12 “(iii) applying for a visa in a visa cat-  
13 egory with respect to which the Secretary  
14 of Homeland Security has determined that  
15 a waiver of the visa interview would create  
16 a high risk of degradation of visa program  
17 integrity.”.

18 **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**  
19 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**  
20 **APPLICANTS.**

21 (a) IN GENERAL.—Section 222(h)(1) of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is  
23 amended by inserting “ the alien is determined by the Sec-  
24 retary of State to be ineligible for a visa based upon review  
25 of the application or” after “unless”.

1 (b) GUIDANCE.—Not later than 90 days after the  
2 date of the enactment of this Act, the Secretary of State  
3 shall issue guidance to consular officers on the standards  
4 and processes for implementing the authority to deny visa  
5 applications without interview in cases where the alien is  
6 determined by the Secretary of State to be ineligible for  
7 a visa based upon review of the application.

8 (c) REPORTS.—Not less frequently than once each  
9 quarter, the Secretary of State shall submit to the Con-  
10 gress a report on the denial of visa applications without  
11 interview, including—

12 (1) the number of such denials; and

13 (2) a post-by-post breakdown of such denials.

14 **SEC. 405. VISA REFUSAL AND REVOCATION.**

15 (a) AUTHORITY OF THE SECRETARY OF HOMELAND  
16 SECURITY AND THE SECRETARY OF STATE.—

17 (1) IN GENERAL.—Section 428 of the Home-  
18 land Security Act of 2002 (6 U.S.C. 236) is amend-  
19 ed by striking subsections (b) and (c) and inserting  
20 the following:

21 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND  
22 SECURITY.—

23 “(1) IN GENERAL.—Notwithstanding section  
24 104(a) of the Immigration and Nationality Act (8  
25 U.S.C. 1104(a)) or any other provision of law, and



1       except as provided in subsection (c) and except for  
2       the authority of the Secretary of State under sub-  
3       paragraphs (A) and (G) of section 101(a)(15) of the  
4       Immigration and Nationality Act (8 U.S.C.  
5       1101(a)(15)), the Secretary—

6               “(A) shall have exclusive authority to issue  
7       regulations, establish policy, and administer and  
8       enforce the provisions of the Immigration and  
9       Nationality Act (8 U.S.C. 1101 et seq.) and all  
10      other immigration or nationality laws relating  
11      to the functions of consular officers of the  
12      United States in connection with the granting  
13      and refusal of a visa; and

14              “(B) may refuse or revoke any visa to any  
15      alien or class of aliens if the Secretary, or des-  
16      ignee, determines that such refusal or revoca-  
17      tion is necessary or advisable in the security in-  
18      terests of the United States.

19              “(2) EFFECT OF REVOCATION.—The revocation  
20      of any visa under paragraph (1)(B)—

21                      “(A) shall take effect immediately; and

22                      “(B) shall automatically cancel any other  
23      valid visa that is in the alien’s possession.

24              “(3) JUDICIAL REVIEW.—Notwithstanding any  
25      other provision of law, including section 2241 of title

1 28, United States Code, or any other habeas corpus  
2 provision, and sections 1361 and 1651 of such title,  
3 no court shall have jurisdiction to review a decision  
4 by the Secretary of Homeland Security to refuse or  
5 revoke a visa, and no court shall have jurisdiction to  
6 hear any claim arising from, or any challenge to,  
7 such a refusal or revocation.

8 “(c) AUTHORITY OF THE SECRETARY OF STATE.—

9 “(1) IN GENERAL.—The Secretary of State may  
10 direct a consular officer to refuse a visa requested  
11 by an alien if the Secretary of State determines such  
12 refusal to be necessary or advisable in the interests  
13 of the United States.

14 “(2) LIMITATION.—No decision by the Sec-  
15 retary of State to approve a visa may override a de-  
16 cision by the Secretary of Homeland Security under  
17 subsection (b).”.

18 (2) CONFORMING AMENDMENT.—Section  
19 237(a)(1)(B) of the Immigration and Nationality  
20 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-  
21 ing “under section 221(i)”.

22 (3) EFFECTIVE DATE.—The amendment made  
23 by paragraph (1) shall take effect on the date of the  
24 enactment of this Act and shall apply to visa refus-

1       als and revocations occurring before, on, or after  
2       such date.

3       (b) **TECHNICAL CORRECTIONS TO THE HOMELAND**  
4 **SECURITY ACT.**—Section 428(a) of the Homeland Secu-  
5 rity Act of 2002 (6 U.S.C. 236) is amended by—

6           (1) striking “subsection” and inserting “sec-  
7       tion”; and

8           (2) striking “consular office” and inserting  
9       “consular officer”.

10 **SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.**

11       (a) **IN GENERAL.**—The Department of State and Re-  
12 lated Agency Appropriations Act, 2005 (title IV of division  
13 B of Public Law 108–447) is amended, in the fourth para-  
14 graph under the heading “Diplomatic and Consular Pro-  
15 grams”, by striking “Beginning” through the period at  
16 the end and inserting the following: “Beginning in fiscal  
17 year 2005 and thereafter, the Secretary of State is author-  
18 ized to charge surcharges related to consular services in  
19 support of enhanced border security that are in addition  
20 to the immigrant visa fees in effect on January 1, 2004:  
21 Provided, That funds collected pursuant to this authority  
22 shall be credited to the appropriation for U.S. Immigra-  
23 tion and Customs Enforcement for the fiscal year in which  
24 the fees were collected, and shall be available until ex-  
25 pended for the funding of the Visa Security Program es-

1 tablished by the Secretary of Homeland Security under  
2 section 428(e) of the Homeland Security Act of 2002  
3 (Public Law 107–296): Provided further, That such sur-  
4 charges shall be 10 percent of the fee assessed on immi-  
5 grant visa applications.”.

6 (b) REPAYMENT OF APPROPRIATED FUNDS.—Twen-  
7 ty percent of the funds collected each fiscal year under  
8 the heading “Diplomatic and Consular Programs” in the  
9 Department of State and Related Agency Appropriations  
10 Act, 2005 (title IV of division B of Public Law 108–447),  
11 as amended by subsection (a), shall be deposited into the  
12 general fund of the Treasury as repayment of funds ap-  
13 propriated pursuant to section 407(c) of this Act until the  
14 entire appropriated sum has been repaid.

15 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**  
16 **PROGRAM TO HIGH-RISK POSTS.**

17 (a) IN GENERAL.—Section 428(i) of the Homeland  
18 Security Act of 2002 (6 U.S.C. 236(i)) is amended to read  
19 as follows:

20 “(i) VISA ISSUANCE AT DESIGNATED HIGH-RISK  
21 POSTS.—Notwithstanding any other provision of law, the  
22 Secretary of Homeland Security shall conduct an on-site  
23 review of all visa applications and supporting documenta-  
24 tion before adjudication at the top 30 visa-issuing posts

1 designated jointly by the Secretaries of State and Home-  
2 land Security as high-risk posts.”.

3 (b) ASSIGNMENT OF PERSONNEL.—Not later than  
4 one year after the date of enactment of this section, the  
5 Secretary of Homeland Security shall assign personnel to  
6 the visa-issuing posts referenced in section 428(i) of the  
7 Homeland Security Act of 2002 (6 U.S.C. 236(i)), as  
8 amended by this section, and communicate such assign-  
9 ments to the Secretary of State.

10 (c) APPROPRIATIONS.—There is authorized to be ap-  
11 propriated \$60,000,000 for each of the fiscal years 2014  
12 and 2015, which shall be used to expedite the implementa-  
13 tion of section 428(i) of the Homeland Security Act, as  
14 amended by this section.

15 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**  
16 **PARTMENT OF HOMELAND SECURITY PER-**  
17 **SONNEL AT OVERSEAS EMBASSIES AND CON-**  
18 **SULAR POSTS.**

19 Section 428 of the Homeland Security Act of 2002  
20 (6 U.S.C. 236) is amended by adding at the end the fol-  
21 lowing:

22 “(j) EXPEDITED CLEARANCE AND PLACEMENT OF  
23 DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT  
24 OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwith-  
25 standing any other provision of law, and the processes set

1 forth in National Security Defense Directive 38 (dated  
 2 June 2, 1982) or any successor Directive, the Chief of  
 3 Mission of a post to which the Secretary of Homeland Se-  
 4 curity has assigned personnel under subsection (e) or (i)  
 5 shall ensure, not later than one year after the date on  
 6 which the Secretary of Homeland Security communicates  
 7 such assignment to the Secretary of State, that such per-  
 8 sonnel have been stationed and accommodated at post and  
 9 are able to carry out their duties.”.

10 **SEC. 409. INCREASED CRIMINAL PENALTIES FOR STUDENT**  
 11 **VISA INTEGRITY.**

12 Section 1546 of title 18, United States Code, is  
 13 amended by striking “10 years” and inserting “15 years  
 14 (if the offense was committed by an owner, official, or em-  
 15 ployee of an educational institution with respect to such  
 16 institution’s participation in the Student and exchange  
 17 Visitor Program), 10 years”.

18 **SEC. 410. ACCREDITATION REQUIREMENTS.**

19 (a) COLLEGES, UNIVERSITIES, AND LANGUAGE  
 20 TRAINING PROGRAMS.—Section 101(a) of the Immigra-  
 21 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

22 (1) in paragraph (15)(F)(i)—

23 (A) by striking “section 214(1) at an es-  
 24 tablished college, university, seminary, conserv-  
 25 atory or in an accredited language training pro-

1           gram in the United States” and inserting “sec-  
2           tion 214(m) at an accredited college, university,  
3           or language training program, or at an estab-  
4           lished seminary, conservatory, academic high  
5           school, elementary school, or other academic in-  
6           stitution in the United States”; and

7                   (B) by striking “Attorney General” each  
8           place such term appears and inserting “Sec-  
9           retary of Homeland Security”; and

10                   (C) by amending paragraph (52) to read  
11           as follows:

12                   “(52) Except as provided in section 214(m)(4),  
13           the term ‘accredited college, university, or language  
14           training program’ means a college, university, or  
15           language training program that is accredited by an  
16           accrediting agency recognized by the Secretary of  
17           Education.”.

18           (b) OTHER ACADEMIC INSTITUTIONS.—Section  
19           214(m) of the Immigration and Nationality Act (8 U.S.C.  
20           1184(m)) is amended by adding at the end the following:

21                   “(3) The Secretary of Homeland Security shall  
22           require accreditation of an academic institution (ex-  
23           cept for seminaries or other religious institutions)  
24           for purposes of section 101(a)(15)(F) if—

1           “(A) that institution is not already re-  
2           quired to be accredited under section  
3           101(a)(15)(F)(i); and

4           “(B) an appropriate accrediting agency  
5           recognized by the Secretary of Education is  
6           able to provide such accreditation.

7           “(4) The Secretary of Homeland Security, in  
8           the Secretary’s discretion, may waive the accredita-  
9           tion requirement in paragraph (3) or section  
10          101(a)(15)(F)(i) with respect to an institution if  
11          such institution—

12           “(A) is otherwise in compliance with the  
13           requirements of section 101(a)(15)(F)(i); and

14           “(B) has been a candidate for accredita-  
15           tion for at least 1 year and continues to  
16           progress toward accreditation by an accrediting  
17           agency recognized by the Secretary of Edu-  
18           cation.”.

19          (c) EFFECTIVE DATE.—

20           (1) IN GENERAL.—Except as provided in para-  
21           graph (2), the amendments made by this section  
22           shall—

23           (A) take effect on the date that is 180  
24           days after the date of enactment of this Act;  
25           and



1 (B) apply with respect to applications for  
2 nonimmigrant visas that are filed on or after  
3 the effective date described in subparagraph  
4 (A).

5 (2) TEMPORARY EXCEPTION.—During the 3-  
6 year period beginning on the effective date described  
7 in paragraph (1)(A), an institution that is newly re-  
8 quired to be accredited under this section may con-  
9 tinue to participate in the Student and Exchange  
10 Visitor Program notwithstanding the institution’s  
11 lack of accreditation if the institution—

12 (A) was certified under the Student and  
13 Exchange Visitor Program on such date;

14 (B) submitted an application for accredita-  
15 tion to an accrediting agency recognized by the  
16 Secretary of Education during the 6-month pe-  
17 riod ending on such date; and

18 (C) continues to progress toward accredita-  
19 tion by such accrediting agency.

20 **SEC. 411. VISA FRAUD.**

21 (a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—  
22 Section 641(d) of the Illegal Immigration Reform and Im-  
23 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is  
24 amended—

1 (1) in paragraph (1)(A), by striking “institu-  
2 tion,” and inserting “institution,”; and

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

4 “(3) EFFECT OF REASONABLE SUSPICION OF  
5 FRAUD.—If the Secretary of Homeland Security has  
6 reasonable suspicion that an owner of, or a des-  
7 ignated school official at, an approved institution of  
8 higher education, an other approved educational in-  
9 stitution, or a designated exchange visitor program  
10 has committed fraud or attempted to commit fraud  
11 relating to any aspect of the Student and Exchange  
12 Visitor Program, the Secretary may immediately  
13 suspend, without notice, such official’s or such  
14 school’s access to the Student and Exchange Visitor  
15 Information System (SEVIS), including the ability  
16 to issue Form I–20s, pending a final determination  
17 by the Secretary with respect to the institution’s cer-  
18 tification under the Student and Exchange Visitor  
19 Program.”.

20 (b) EFFECT OF CONVICTION FOR VISA FRAUD.—

21 Such section 641(d), as amended by subsection (a)(2), is  
22 further amended by adding at the end the following:

23 “(4) PERMANENT DISQUALIFICATION FOR  
24 FRAUD.—A designated school official at, or an owner  
25 of, an approved institution of higher education, an

1 other approved educational institution, or a des-  
2 ignated exchange visitor program who is convicted  
3 for fraud relating to any aspect of the Student and  
4 Exchange Visitor Program shall be permanently dis-  
5 qualified from filing future petitions and from hav-  
6 ing an ownership interest or a management role, in-  
7 cluding serving as a principal, owner, officer, board  
8 member, general partner, designated school official,  
9 or any other position of substantive authority for the  
10 operations or management of the institution, in any  
11 United States educational institution that enrolls  
12 nonimmigrant alien students described in subpara-  
13 graph (F) or (M) of section 101(a)(15) the Immi-  
14 gration and Nationality Act (8 U.S.C.  
15 1101(a)(15)).”.

16 **SEC. 412. BACKGROUND CHECKS.**

17 (a) IN GENERAL.—Section 641(d) of the Illegal Im-  
18 migration Reform and Immigrant Responsibility Act of  
19 1996 (8 U.S.C. 1372(d)), as amended by section 411(b)  
20 of this Act, is further amended by adding at the end the  
21 following:

22 “(5) BACKGROUND CHECK REQUIREMENT.—

23 “(A) IN GENERAL.—An individual may not  
24 serve as a designated school official or be grant-  
25 ed access to SEVIS unless the individual is a

1 national of the United States or an alien law-  
2 fully admitted for permanent residence and dur-  
3 ing the most recent 3-year period—

4 “(i) the Secretary of Homeland Secu-  
5 rity has—

6 “(I) conducted a thorough back-  
7 ground check on the individual, in-  
8 cluding a review of the individual’s  
9 criminal and sex offender history and  
10 the verification of the individual’s im-  
11 migration status; and

12 “(II) determined that the indi-  
13 vidual has not been convicted of any  
14 violation of United States immigration  
15 law and is not a risk to national secu-  
16 rity of the United States; and

17 “(ii) the individual has successfully  
18 completed an on-line training course on  
19 SEVP and SEVIS, which has been devel-  
20 oped by the Secretary.

21 “(B) INTERIM DESIGNATED SCHOOL OFFI-  
22 CIAL.—

23 “(i) IN GENERAL.—An individual may  
24 serve as an interim designated school offi-  
25 cial during the period that the Secretary is

1           conducting the background check required  
2           by subparagraph (A)(i)(I).

3           “(ii) **REVIEWS BY THE SECRETARY.**—  
4           If an individual serving as an interim des-  
5           ignated school official under clause (i) does  
6           not successfully complete the background  
7           check required by subparagraph (A)(i)(I),  
8           the Secretary shall review each Form I–20  
9           issued by such interim designated school  
10          official.

11          “(6) **FEE.**—The Secretary is authorized to col-  
12          lect a fee from an approved school for each back-  
13          ground check conducted under paragraph (6)(A)(i).  
14          The amount of such fee shall be equal to the average  
15          amount expended by the Secretary to conducted  
16          such background checks.”.

17          (b) **EFFECTIVE DATE.**—The amendment made by  
18          subsection (a) shall take effect on the date that is 1 year  
19          after the date of the enactment of this Act.

20          **SEC. 413. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

21          (a) **IN GENERAL.**—Except as provided in subsection  
22          (b), the Secretary of Homeland Security shall prohibit any  
23          flight school in the United States from accessing SEVIS  
24          or issuing a Form I–20 to an alien seeking a student visa  
25          pursuant to subparagraph (F)(i) or (M)(i) of section

1 101(a)(15) of the Immigration and Nationality Act (8  
2 U.S.C. 1101(a)(15)) if the flight school has not been cer-  
3 tified to the satisfaction of the Secretary and by the Fed-  
4 eral Aviation Administration pursuant to part 141 or part  
5 142 of title 14, Code of Federal Regulations (or similar  
6 successor regulations).

7 (b) TEMPORARY EXCEPTION.—During the 5-year pe-  
8 riod beginning on the date of the enactment of this Act,  
9 the Secretary may waive the requirement under subsection  
10 (a) that a flight school be certified by the Federal Aviation  
11 Administration if such flight school—

12 (1) was certified under the Student and Ex-  
13 change Visitor Program on the date of the enact-  
14 ment of this Act;

15 (2) submitted an application for certification  
16 with the Federal Aviation Administration during the  
17 1-year period beginning on such date; and

18 (3) continues to progress toward certification by  
19 the Federal Aviation Administration.

20 **SEC. 414. REVOCATION OF ACCREDITATION.**

21 At the time an accrediting agency or association is  
22 required to notify the Secretary of Education and the ap-  
23 propriate State licensing or authorizing agency of the final  
24 denial, withdrawal, suspension, or termination of accredi-  
25 tation of an institution pursuant to section 496 of the

1 Higher Education Act of 1965 (20 U.S.C. 1099b), such  
2 accrediting agency or association shall notify the Secretary  
3 of Homeland Security of such determination and the Sec-  
4 retary of Homeland Security shall immediately withdraw  
5 the school from the SEVP and prohibit the school from  
6 accessing SEVIS.

7 **SEC. 415. REPORT ON RISK ASSESSMENT.**

8 Not later than 180 days after the date of the enact-  
9 ment of this Act, the Secretary of Homeland Security shall  
10 submit to the Committee on the Judiciary of the Senate  
11 and the Committee on the Judiciary of the House of Rep-  
12 resentatives a report that contains the risk assessment  
13 strategy that will be employed by the Secretary to identify,  
14 investigate, and take appropriate action against schools  
15 and school officials that are facilitating the issuance of  
16 Form I-20 and the maintenance of student visa status  
17 in violation of the immigration laws of the United States.

18 **SEC. 416. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

19 Not later than 180 days after the date of the enact-  
20 ment of this act, the Secretary of Homeland Security shall  
21 submit to the Committee on the Judiciary of the Senate  
22 and the Committee on the Judiciary of the House of Rep-  
23 resentatives a report that describes—

24 (1) the process in place to identify and assess  
25 risks in the SEVP;

1           (2) a risk assessment process to allocate  
2 SEVP's resources based on risk;

3           (3) the procedures in place for consistently en-  
4 suring a school's eligibility, including consistently  
5 verifying in lieu of letters;

6           (4) how SEVP identified and addressed missing  
7 school case files;

8           (5) a plan to develop and implement a process  
9 to monitor state licensing and accreditation status of  
10 all SEVP-certified schools;

11           (6) whether all flight schools that have not been  
12 certified to the satisfaction of the Secretary and by  
13 the Federal Aviation Administration have been re-  
14 moved from the program and have been restricted  
15 from accessing SEVIS;

16           (7) the standard operating procedures that gov-  
17 ern coordination among SEVP, Counterterrorism  
18 and Criminal Exploitation Unit, and U.S. Immigra-  
19 tion and Customs Enforcement field offices; and

20           (8) the established criteria for referring cases of  
21 a potentially criminal nature from SEVP to the  
22 counterterrorism and intelligence community.

23 **SEC. 417. IMPLEMENTATION OF SEVIS II.**

24           Not later than 2 years after the date of the enact-  
25 ment of this Act, the Secretary of Homeland Security shall



1 complete the deployment of both phases of the 2nd genera-  
2 tion Student and Exchange Visitor Information System  
3 (commonly known as “SEVIS II”).

4 **SEC. 418. DEFINITIONS.**

5 (a) DEFINITIONS.—For purposes of this title:

6 (1) SEVIS.—The term “SEVIS” means the  
7 Student and Exchange Visitor Information System  
8 of the Department of Homeland Security.

9 (2) SEVP.—The term “SEVP” means the Stu-  
10 dent and Exchange Visitor Program of the Depart-  
11 ment of Homeland Security.

12 **TITLE V—AID TO U.S. IMMIGRA-**  
13 **TION AND CUSTOMS EN-**  
14 **FORCEMENT OFFICERS**

15 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

16 (a) IN GENERAL.—The Secretary of Homeland Secu-  
17 rity shall authorize all immigration enforcement agents  
18 and deportation officers of the Department of Homeland  
19 Security who have successfully completed basic immigra-  
20 tion law enforcement training to exercise the powers con-  
21 ferred by—

22 (1) section 287(a)(5)(A) of the Immigration  
23 and Nationality Act to arrest for any offense against  
24 the United States;

1           (2) section 287(a)(5)(B) of such Act to arrest  
2 for any felony;

3           (3) section 274(a) of such Act to arrest for  
4 bringing in, transporting, or harboring certain  
5 aliens, or inducing them to enter;

6           (4) section 287(a) of such Act to execute war-  
7 rants of arrest for administrative immigration viola-  
8 tions issued under section 236 of the Act or to exe-  
9 cute warrants of criminal arrest issued under the  
10 authority of the United States; and

11           (5) section 287(a) of such Act to carry fire-  
12 arms, provided that they are individually qualified by  
13 training and experience to handle and safely operate  
14 the firearms they are permitted to carry, maintain  
15 proficiency in the use of such firearms, and adhere  
16 to the provisions of the enforcement standard gov-  
17 erning the use of force.

18           (b) PAY.—Immigration enforcement agents shall be  
19 paid on the same scale as Immigration and Customs En-  
20 forcement deportation officers and shall receive the same  
21 benefits.

22 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

23           (a) AUTHORIZATION.—The Secretary of Homeland  
24 Security is authorized to hire 2,500 Immigration and Cus-  
25 toms Enforcement detention enforcement officers.

1 (b) DUTIES.—Immigration and Customs Enforce-  
2 ment detention enforcement officers who have successfully  
3 completed detention enforcement officers’ basic training  
4 shall be responsible for—

5 (1) taking and maintaining custody of any per-  
6 son who has been arrested by an immigration offi-  
7 cer;

8 (2) transporting and guarding immigration de-  
9 tainees;

10 (3) securing Department of Homeland Security  
11 detention facilities; and

12 (4) assisting in the processing of detainees.

13 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**  
14 **AGENTS.**

15 (a) BODY ARMOR.—The Secretary of Homeland Se-  
16 curity shall ensure that every Immigration and Customs  
17 Enforcement deportation officer and immigration enforce-  
18 ment agent on duty is issued high-quality body armor that  
19 is appropriate for the climate and risks faced by the agent.  
20 Enough body armor must be purchased to cover every  
21 agent in the field.

22 (b) WEAPONS.—Such Secretary shall ensure that Im-  
23 migration and Customs Enforcement deportation officers  
24 and immigration enforcement agents are equipped with  
25 weapons that are reliable and effective to protect them-

1 selves, their fellow agents, and innocent third parties from  
2 the threats posed by armed criminals. Such weapons shall  
3 include, at a minimum, standard-issue handguns, M-4 (or  
4 equivalent) rifles, and Tasers.

5 (c) EFFECTIVE DATE.—This section shall take effect  
6 90 days after the date of the enactment of this Act.

7 **SEC. 504. ICE ADVISORY COUNCIL.**

8 (a) ESTABLISHMENT.—An ICE Advisory Council  
9 shall be established not later than 3 months after the date  
10 of the enactment of this Act.

11 (b) MEMBERSHIP.—The ICE Advisor Council shall  
12 be comprised of 7 members.

13 (c) APPOINTMENT.—Members shall to be appointed  
14 in the following manner:

15 (1) One member shall be appointed by the  
16 President;

17 (2) One member shall be appointed by the  
18 Chairman of the Judiciary Committee of the House  
19 of Representatives;

20 (3) One member shall be appointed by the  
21 Chairman of the Judiciary Committee of the Senate;

22 (4) One member shall be appointed by the  
23 Local 511, the ICE prosecutor's union; and

1           (5) Three members shall be appointed by the  
2       National Immigration and Customs Enforcement  
3       Council.

4       (d) TERM.—Members shall serve renewable, 2-year  
5       terms.

6       (e) VOLUNTARY.—Membership shall be voluntary and  
7       non-remunerated, except that members will receive reim-  
8       bursement from the Secretary of Homeland Security for  
9       travel and other related expenses.

10       (f) RETALIATION PROTECTION.—Members who are  
11       employed by the Secretary of Homeland Security shall be  
12       protected from retaliation by their supervisors, managers,  
13       and other Department of Homeland Security employees  
14       for their participation on the Council.

15       (g) PURPOSE.—The purpose of the Council is to ad-  
16       vise the Congress and the Secretary of Homeland Security  
17       on issues including the following:

18           (1) The current status of immigration enforce-  
19       ment efforts, including prosecutions and removals,  
20       the effectiveness of such efforts, and how enforce-  
21       ment could be improved;

22           (2) The effectiveness of cooperative efforts be-  
23       tween the Secretary of Homeland Security and other  
24       law enforcement agencies, including additional types  
25       of enforcement activities that the Secretary should

1 be engaged in, such as State and local criminal task  
2 forces;

3 (3) Personnel, equipment, and other resource  
4 needs of field personnel;

5 (4) Improvements that should be made to the  
6 organizational structure of the Department of  
7 Homeland Security, including whether the position  
8 of immigration enforcement agent should be merged  
9 into the deportation officer position; and

10 (5) The effectiveness of specific enforcement  
11 policies and regulations promulgated by the Sec-  
12 retary of Homeland Security, and whether other en-  
13 forcement priorities should be considered.

14 (h) REPORTS.—The Council shall provide quarterly  
15 reports to the Chairmen and Ranking Members of the Ju-  
16 diciary Committees of the Senate and the House of Rep-  
17 resentatives and to the Secretary of Homeland Security.  
18 The Council members shall meet directly with the Chair-  
19 men and Ranking Members (or their designated represent-  
20 atives) and with the Secretary to discuss their reports  
21 every 6 months.

22 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**  
23 **ESSING.**

24 (a) IN GENERAL.—The Secretary of Homeland Secu-  
25 rity shall establish a pilot program in at least five of the

1 10 Immigration and Customs Enforcement field offices  
2 with the largest removal caseloads to allow Immigration  
3 and Customs deportation officers and immigration en-  
4 forcement agents to—

5 (1) electronically process and serve charging  
6 documents, including Notices to Appear, while in the  
7 field; and

8 (2) electronically process and place detainees  
9 while in the field.

10 (b) DUTIES.—The pilot program described in sub-  
11 section (a) shall be designed to allow deportation officers  
12 and immigration enforcement agents to use handheld or  
13 vehicle-mounted computers to—

14 (1) enter any required data, including personal  
15 information about the alien subject and the reason  
16 for issuing the document;

17 (2) apply the electronic signature of the issuing  
18 officer or agent;

19 (3) set the date the alien is required to appear  
20 before an immigration judge, in the case of Notices  
21 to Appear;

22 (4) print any documents the alien subject may  
23 be required to sign, along with additional copies of  
24 documents to be served on the alien; and

1           (5) interface with the ENFORCE database so  
2           that all data is stored and retrievable.

3           (c) CONSTRUCTION.—The pilot program described in  
4           subsection (a) shall be designed to replace, to the extent  
5           possible, the current paperwork and data-entry process  
6           used for issuing such charging documents and detainers.

7           (d) DEADLINE.—The Secretary shall initiate the pilot  
8           program described in subsection (a) within 6 months of  
9           the date of enactment of this Act.

10          (e) REPORT.—The Government Accountability Office  
11          shall report to the Judiciary Committee of the Senate and  
12          the House of Representatives no later than 18 months  
13          after the date of enactment of this Act on the effectiveness  
14          of the pilot program and provide recommendations for im-  
15          proving it.

16          (f) ADVISORY COUNCIL.—The ICE Advisory Council  
17          established by section 504 shall include an recommenda-  
18          tions on how the pilot program should work in the first  
19          quarterly report of the Council, and shall include assess-  
20          ments of the program and recommendations for improve-  
21          ment in each subsequent report.

22          (g) EFFECTIVE DATE.—This section shall take effect  
23          180 days after the date of the enactment of this Act.



1 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**  
2 **SUPPORT STAFF.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-  
4 rity shall, subject to the availability of appropriations for  
5 such purpose, increase the number of positions for full-  
6 time active-duty Immigration and Customs Enforcement  
7 deportation officers by 5,000 above the number of full-  
8 time positions for which funds were appropriated for fiscal  
9 year 2013.

10 (b) SUPPORT STAFF.—The Secretary shall, subject  
11 to the availability of appropriations for such purpose, in-  
12 crease the number of positions for full-time support staff  
13 for Immigration and Customs Enforcement deportation  
14 officers by 700 above the number of full-time positions for  
15 which funds were appropriated for fiscal year 2013.

16 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

17 The Secretary of Homeland Security shall increase  
18 by 60 the number of full-time trial attorneys working for  
19 the Immigration and Customs Enforcement Office of the  
20 Principal Legal Advisor.

21 **TITLE VI—MISCELLANEOUS**  
22 **ENFORCEMENT PROVISIONS**

23 **SEC. 601. ENCOURAGING ALIENS TO DEPART VOLUN-**  
24 **TARILY.**

25 (a) IN GENERAL.—Section 240B of the Immigration  
26 and Nationality Act (8 U.S.C. 1229c) is amended—

1 (1) in subsection (a)—

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

4 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If  
5 an alien is not described in paragraph (2)(A)(iii) or  
6 (4) of section 237(a), the Secretary of Homeland Se-  
7 curity may permit the alien to voluntarily depart the  
8 United States at the alien’s own expense under this  
9 subsection instead of being subject to proceedings  
10 under section 240.”;

11 (B) by striking paragraph (3);

12 (C) by redesignating paragraph (2) as  
13 paragraph (3);

14 (D) by adding after paragraph (1) the fol-  
15 lowing:

16 “(2) BEFORE THE CONCLUSION OF REMOVAL  
17 PROCEEDINGS.—If an alien is not described in para-  
18 graph (2)(A)(iii) or (4) of section 237(a), the Attor-  
19 ney General may permit the alien to voluntarily de-  
20 part the United States at the alien’s own expense  
21 under this subsection after the initiation of removal  
22 proceedings under section 240 and before the con-  
23 clusion of such proceedings before an immigration  
24 judge.”;

25 (E) in paragraph (3), as redesignated—

1 (i) by amending subparagraph (A) to  
2 read as follows:

3 “(A) INSTEAD OF REMOVAL.—Subject to  
4 subparagraph (C), permission to voluntarily de-  
5 part under paragraph (1) shall not be valid for  
6 any period in excess of 120 days. The Secretary  
7 may require an alien permitted to voluntarily  
8 depart under paragraph (1) to post a voluntary  
9 departure bond, to be surrendered upon proof  
10 that the alien has departed the United States  
11 within the time specified.”;

12 (ii) by redesignating subparagraphs  
13 (B), (C), and (D) as paragraphs (C), (D),  
14 and (E), respectively;

15 (iii) by adding after subparagraph (A)  
16 the following:

17 “(B) BEFORE THE CONCLUSION OF RE-  
18 MOVAL PROCEEDINGS.—Permission to volun-  
19 tarily depart under paragraph (2) shall not be  
20 valid for any period in excess of 60 days, and  
21 may be granted only after a finding that the  
22 alien has the means to depart the United States  
23 and intends to do so. An alien permitted to vol-  
24 untarily depart under paragraph (2) shall post  
25 a voluntary departure bond, in an amount nec-

1           essary to ensure that the alien will depart, to be  
2           surrendered upon proof that the alien has de-  
3           parted the United States within the time speci-  
4           fied. An immigration judge may waive the re-  
5           quirement to post a voluntary departure bond  
6           in individual cases upon a finding that the alien  
7           has presented compelling evidence that the  
8           posting of a bond will pose a serious financial  
9           hardship and the alien has presented credible  
10          evidence that such a bond is unnecessary to  
11          guarantee timely departure.”;

12                   (iv) in subparagraph (C), as redesign-  
13                   nated, by striking “subparagraphs (C)  
14                   and(D)(ii)” and inserting “subparagraphs  
15                   (D) and (E)(ii)”;

16                   (v) in subparagraph (D), as redesign-  
17                   nated, by striking “subparagraph (B)”  
18                   each place that term appears and inserting  
19                   “subparagraph (C)”;

20                   (vi) in subparagraph (E), as redesign-  
21                   nated, by striking “subparagraph (B)”  
22                   each place that term appears and inserting  
23                   “subparagraph (C)”;

1 (F) in paragraph (4), by striking “para-  
2 graph (1)” and inserting “paragraphs (1) and  
3 (2)”;

4 (2) in subsection (b)(2), by striking “a period  
5 exceeding 60 days” and inserting “any period in ex-  
6 cess of 45 days”;

7 (3) by amending subsection (c) to read as fol-  
8 lows:

9 “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

10 “(1) VOLUNTARY DEPARTURE AGREEMENT.—

11 Voluntary departure may only be granted as part of  
12 an affirmative agreement by the alien. A voluntary  
13 departure agreement under subsection (b) shall in-  
14 clude a waiver of the right to any further motion,  
15 appeal, application, petition, or petition for review  
16 relating to removal or relief or protection from re-  
17 moval.

18 “(2) CONCESSIONS BY THE SECRETARY.—In  
19 connection with the alien’s agreement to depart vol-  
20 untarily under paragraph (1), the Secretary of  
21 Homeland Security may agree to a reduction in the  
22 period of inadmissibility under subparagraph (A) or  
23 (B)(i) of section 212(a)(9).

24 “(3) ADVISALS.—Agreements relating to vol-  
25 untary departure granted during removal pro-

1       ceedings under section 240, or at the conclusion of  
2       such proceedings, shall be presented on the record  
3       before the immigration judge. The immigration  
4       judge shall advise the alien of the consequences of  
5       a voluntary departure agreement before accepting  
6       such agreement.

7               “(4) FAILURE TO COMPLY WITH AGREE-  
8       MENT.—

9               “(A) IN GENERAL.—If an alien agrees to  
10       voluntary departure under this section and fails  
11       to depart the United States within the time al-  
12       lowed for voluntary departure or fails to comply  
13       with any other terms of the agreement (includ-  
14       ing failure to timely post any required bond),  
15       the alien is—

16               “(i) ineligible for the benefits of the  
17       agreement;

18               “(ii) subject to the penalties described  
19       in subsection (d); and

20               “(iii) subject to an alternate order of  
21       removal if voluntary departure was granted  
22       under subsection (a)(2) or (b).

23               “(B) EFFECT OF FILING TIMELY AP-  
24       PEAL.—If, after agreeing to voluntary depart-  
25       ture, the alien files a timely appeal of the immi-

1           gration judge’s decision granting voluntary de-  
2           parture, the alien may pursue the appeal in-  
3           stead of the voluntary departure agreement.  
4           Such appeal operates to void the alien’s vol-  
5           untary departure agreement and the con-  
6           sequences of such agreement, but precludes the  
7           alien from another grant of voluntary departure  
8           while the alien remains in the United States.

9           “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-  
10          FFECTED.—Except as expressly agreed to by the Sec-  
11          retary in writing in the exercise of the Secretary’s  
12          discretion before the expiration of the period allowed  
13          for voluntary departure, no motion, appeal, applica-  
14          tion, petition, or petition for review shall affect, rein-  
15          state, enjoin, delay, stay, or toll the alien’s obligation  
16          to depart from the United States during the period  
17          agreed to by the alien and the Secretary.”;

18           (4) by amending subsection (d) to read as fol-  
19          lows:

20          “(d) PENALTIES FOR FAILURE TO DEPART.—If an  
21          alien is permitted to voluntarily depart under this section  
22          and fails to voluntarily depart from the United States  
23          within the time period specified or otherwise violates the  
24          terms of a voluntary departure agreement, the alien will  
25          be subject to the following penalties:

1           “(1) CIVIL PENALTY.—The alien shall be liable  
2           for a civil penalty of \$3,000. The order allowing vol-  
3           untary departure shall specify the amount of the  
4           penalty, which shall be acknowledged by the alien on  
5           the record. If the Secretary thereafter establishes  
6           that the alien failed to depart voluntarily within the  
7           time allowed, no further procedure will be necessary  
8           to establish the amount of the penalty, and the Sec-  
9           retary may collect the civil penalty at any time  
10          thereafter and by whatever means provided by law.  
11          An alien will be ineligible for any benefits under this  
12          chapter until this civil penalty is paid.

13          “(2) INELIGIBILITY FOR RELIEF.—The alien  
14          shall be ineligible during the time the alien remains  
15          in the United States and for a period of 10 years  
16          after the alien’s departure for any further relief  
17          under this section and sections 240A, 245, 248, and  
18          249. The order permitting the alien to depart volun-  
19          tarily shall inform the alien of the penalties under  
20          this subsection.

21          “(3) REOPENING.—The alien shall be ineligible  
22          to reopen the final order of removal that took effect  
23          upon the alien’s failure to depart, or upon the alien’s  
24          other violations of the conditions for voluntary de-  
25          parture, during the period described in paragraph



1 (2). This paragraph does not preclude a motion to  
2 reopen to seek withholding of removal under section  
3 241(b)(3) or protection against torture, if the mo-  
4 tion—

5 “(A) presents material evidence of changed  
6 country conditions arising after the date of the  
7 order granting voluntary departure in the coun-  
8 try to which the alien would be removed; and

9 “(B) makes a sufficient showing to the sat-  
10 isfaction of the Attorney General that the alien  
11 is otherwise eligible for such protection.”;

12 (5) by amending subsection (e) to read as fol-  
13 lows:

14 “(e) ELIGIBILITY.—

15 “(1) PRIOR GRANT OF VOLUNTARY DEPAR-  
16 TURE.—An alien shall not be permitted to volun-  
17 tarily depart under this section if the Secretary of  
18 Homeland Security or the Attorney General pre-  
19 viously permitted the alien to depart voluntarily.

20 “(2) RULEMAKING.—The Secretary may pro-  
21 mulgate regulations to limit eligibility or impose ad-  
22 ditional conditions for voluntary departure under  
23 subsection (a)(1) for any class of aliens. The Sec-  
24 retary or Attorney General may by regulation limit  
25 eligibility or impose additional conditions for vol-

1       untary departure under subsections (a)(2) or (b) of  
2       this section for any class or classes of aliens.”; and

3               (6) in subsection (f), by adding at the end the  
4       following: “Notwithstanding section 242(a)(2)(D) of  
5       this Act, sections 1361, 1651, and 2241 of title 28,  
6       United States Code, any other habeas corpus provi-  
7       sion, and any other provision of law (statutory or  
8       nonstatutory), no court shall have jurisdiction to af-  
9       fect, reinstate, enjoin, delay, stay, or toll the period  
10       allowed for voluntary departure under this section.”.

11       (b) RULEMAKING.—The Secretary shall within one  
12       year of the date of enactment of this Act promulgate regu-  
13       lations to provide for the imposition and collection of pen-  
14       alties for failure to depart under section 240B(d) of the  
15       Immigration and Nationality Act (8 U.S.C. 1229c(d)).

16       (c) EFFECTIVE DATES.—

17               (1) IN GENERAL.—Except as provided in para-  
18       graph (2), the amendments made by this section  
19       shall apply with respect to all orders granting vol-  
20       untary departure under section 240B of the Immi-  
21       gration and Nationality Act (8 U.S.C. 1229c) made  
22       on or after the date that is 180 days after the enact-  
23       ment of this Act.

24               (2) EXCEPTION.—The amendment made by  
25       subsection (a)(6) shall take effect on the date of the

1 enactment of this Act and shall apply with respect  
2 to any petition for review which is filed on or after  
3 such date.

4 **SEC. 602. DETERRING ALIENS ORDERED REMOVED FROM**  
5 **REMAINING IN THE UNITED STATES UNLAW-**  
6 **FULLY.**

7 (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of  
8 the Immigration and Nationality Act (8 U.S.C.  
9 1182(a)(9)(A)) is amended—

10 (1) in clause (i), by striking “seeks admission  
11 within 5 years of the date of such removal (or within  
12 20 years” and inserting “seeks admission not later  
13 than 5 years after the date of the alien’s removal (or  
14 not later than 20 years after the alien’s removal”;  
15 and

16 (2) in clause (ii), by striking “seeks admission  
17 within 10 years of the date of such alien’s departure  
18 or removal (or within 20 years of” and inserting  
19 “seeks admission not later than 10 years after the  
20 date of the alien’s departure or removal (or not later  
21 than 20 years after”.

22 (b) BAR ON DISCRETIONARY RELIEF.—Section 274D  
23 of such Act (8 U.S.C. 324d) is amended—

1           (1) in subsection (a), by striking “Commis-  
2           sioner” and inserting “Secretary of Homeland Secu-  
3           rity”; and

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

5           “(c) INELIGIBILITY FOR RELIEF.—

6           “(1) IN GENERAL.—Unless a timely motion to  
7           reopen is granted under section 240(c)(6), an alien  
8           described in subsection (a) shall be ineligible for any  
9           discretionary relief from removal (including cancella-  
10          tion of removal and adjustment of status) during the  
11          time the alien remains in the United States and for  
12          a period of 10 years after the alien’s departure from  
13          the United States.

14          “(2) SAVINGS PROVISION.—Nothing in para-  
15          graph (1) shall preclude a motion to reopen to seek  
16          withholding of removal under section 241(b)(3) or  
17          protection against torture, if the motion—

18                 “(A) presents material evidence of changed  
19                 country conditions arising after the date of the  
20                 final order of removal in the country to which  
21                 the alien would be removed; and

22                 “(B) makes a sufficient showing to the sat-  
23                 isfaction of the Attorney General that the alien  
24                 is otherwise eligible for such protection.”.

1 (c) EFFECTIVE DATES.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act with respect to aliens who are subject to a final  
4 order of removal entered before, on, or after such date.

5 **SEC. 603. REINSTATEMENT OF REMOVAL ORDERS.**

6 (a) IN GENERAL.—Section 241(a)(5) of the Immi-  
7 gration and Nationality Act (8 U.S.C. 1231(a)(5)) is  
8 amended to read as follows:

9 “(5) REINSTATEMENT OF REMOVAL ORDERS  
10 AGAINST ALIENS ILLEGALLY REENTERING.—If the  
11 Secretary of Homeland Security finds that an alien  
12 has entered the United States illegally after having  
13 been removed, deported, or excluded or having de-  
14 parted voluntarily, under an order of removal, depor-  
15 tation, or exclusion, regardless of the date of the  
16 original order or the date of the illegal entry—

17 “(A) the order of removal, deportation, or  
18 exclusion is reinstated from its original date  
19 and is not subject to being reopened or reviewed  
20 notwithstanding section 242(a)(2)(D);

21 “(B) the alien is not eligible and may not  
22 apply for any relief under this Act, regardless  
23 of the date that an application or request for  
24 such relief may have been filed or made; and

1           “(C) the alien shall be removed under the  
2           order of removal, deportation, or exclusion at  
3           any time after the illegal entry.

4           Reinstatement under this paragraph shall not re-  
5           quire proceedings under section 240 or other pro-  
6           ceedings before an immigration judge”.

7           (b) JUDICIAL REVIEW.—Section 242 of the Immigra-  
8           tion and Nationality Act (8 U.S.C. 1252) is amended by  
9           adding at the end the following:

10          “(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER  
11          SECTION 241(a)(5).—

12           “(1) REVIEW OF REINSTATEMENT.—Judicial  
13           review of determinations under section 241(a)(5) is  
14           available in an action under subsection (a).

15           “(2) NO REVIEW OF ORIGINAL ORDER.—Not-  
16           withstanding any other provision of law (statutory or  
17           nonstatutory), including section 2241 of title 28,  
18           United States Code, any other habeas corpus provi-  
19           sion, or sections 1361 and 1651 of such title, no  
20           court shall have jurisdiction to review any cause or  
21           claim, arising from, or relating to, any challenge to  
22           the original order.”.

23           (c) EFFECTIVE DATE.—The amendments made by  
24           subsections (a) and (b) shall take effect as if enacted on  
25           April 1, 1997, and shall apply to all orders reinstated or

1 after that date by the Secretary of Homeland Security (or  
2 by the Attorney General prior to March 1, 2003), regard-  
3 less of the date of the original order.

4 **SEC. 604. CLARIFICATION WITH RESPECT TO DEFINITION**  
5 **OF ADMISSION.**

6 Section 101(a)(13)(A) of the Immigration and Na-  
7 tionality Act (8 U.S.C. 1101(a)(13)(A)) is amended by  
8 adding at the end the following: “An alien’s adjustment  
9 of status to that of lawful permanent resident status under  
10 any provision of this Act, or under any other provision  
11 of law, shall be considered an ‘admission’ for any purpose  
12 under this Act, even if the adjustment of status occurred  
13 while the alien was present in the United States.”.

14 **SEC. 605. REPORTS TO CONGRESS ON THE EXERCISE AND**  
15 **ABUSE OF PROSECUTORIAL DISCRETION.**

16 (a) IN GENERAL.—Not later than 180 days after the  
17 end of each fiscal year, the Secretary of Homeland Secu-  
18 rity and the Attorney General shall each provide to the  
19 Committees on the Judiciary of the House of Representa-  
20 tives and of the Senate a report on the following:

21 (1) Aliens apprehended or arrested by State or  
22 local law enforcement agencies who were identified  
23 by the Department of Homeland Security in the pre-  
24 vious fiscal year and for whom the Department of  
25 Homeland Security did not issue detainers and did

1 not take into custody despite the Department of  
2 Homeland Security's findings that the aliens were  
3 inadmissible or deportable.

4 (2) Aliens who were applicants for admission in  
5 the previous fiscal year but not clearly and beyond  
6 a doubt entitled to be admitted by an immigration  
7 officer and who were not detained as required pursu-  
8 ant to section 235(b)(2)(A) of the Immigration and  
9 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

10 (3) Aliens who in the previous fiscal year were  
11 found by Department of Homeland Security officials  
12 performing duties related to the adjudication of ap-  
13 plications for immigration benefits or the enforce-  
14 ment of the immigration laws to be inadmissible or  
15 deportable who were not issued notices to appear  
16 pursuant to section 239 of such Act (8 U.S.C. 1229)  
17 or placed into removal proceedings pursuant to sec-  
18 tion 240 (8 U.S.C. 1229a), unless the aliens were  
19 placed into expedited removal proceedings pursuant  
20 to section 235(b)(1)(A)(i) (8 U.S.C.  
21 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),  
22 were granted voluntary departure pursuant to sec-  
23 tion 240B, were granted relief from removal pursu-  
24 ant to statute, were granted legal nonimmigrant or



1 immigrant status pursuant to statute, or were deter-  
2 mined not to be inadmissible or deportable.

3 (4) Aliens issued notices to appear that were  
4 cancelled in the previous fiscal year despite the De-  
5 partment of Homeland Security's findings that the  
6 aliens were inadmissible or deportable, unless the  
7 aliens were granted relief from removal pursuant to  
8 statute, were granted voluntary departure pursuant  
9 to section 240B of such Act (8 U.S.C. 1229c), or  
10 were granted legal nonimmigrant or immigrant sta-  
11 tus pursuant to statute.

12 (5) Aliens who were placed into removal pro-  
13 ceedings, whose removal proceedings were termi-  
14 nated in the previous fiscal year prior to their con-  
15 clusion, unless the aliens were granted relief from  
16 removal pursuant to statute, were granted voluntary  
17 departure pursuant to section 240B, were granted  
18 legal nonimmigrant or immigrant status pursuant to  
19 statute, or were determined not to be inadmissible or  
20 deportable.

21 (6) Aliens granted parole pursuant to section  
22 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

23 (7) Aliens granted deferred action, extended  
24 voluntary departure or any other type of relief from  
25 removal not specified in the Immigration and Na-

1           tionality Act or where determined not to be inadmis-  
2           sible or deportable.

3           (b) CONTENTS OF REPORT.—The report shall include  
4 a listing of each alien described in each paragraph of sub-  
5 section (a), including when in the possession of the De-  
6 partment of Homeland Security their names, fingerprint  
7 identification numbers, alien registration numbers, and  
8 reason why each was granted the type of prosecutorial dis-  
9 cretion received. The report shall also include current  
10 criminal histories on each alien from the Federal Bureau  
11 of Investigation.

12 **SEC. 606. WAIVER OF FEDERAL LAWS WITH RESPECT TO**  
13                   **BORDER SECURITY ACTIONS ON DEPART-**  
14                   **MENT OF THE INTERIOR AND DEPARTMENT**  
15                   **OF AGRICULTURE LANDS.**

16           (a) PROHIBITION ON SECRETARIES OF THE INTE-  
17 RIOR AND AGRICULTURE.—The Secretary of the Interior  
18 or the Secretary of Agriculture shall not impede, prohibit,  
19 or restrict activities of U.S. Customs and Border Protec-  
20 tion on Federal land located within 100 miles of an inter-  
21 national land border that is under the jurisdiction of the  
22 Secretary of the Interior or the Secretary of Agriculture,  
23 to execute search and rescue operations and to prevent  
24 all unlawful entries into the United States, including en-  
25 tries by terrorists, other unlawful aliens, instruments of

1 terrorism, narcotics, and other contraband through the  
2 international land borders of the United States.

3 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND  
4 BORDER PROTECTION.—U.S. Customs and Border Pro-  
5 tection shall have immediate access to Federal land within  
6 100 miles of the international land border under the juris-  
7 diction of the Secretary of the Interior or the Secretary  
8 of Agriculture for purposes of conducting the following ac-  
9 tivities on such land that prevent all unlawful entries into  
10 the United States, including entries by terrorists, other  
11 unlawful aliens, instruments of terrorism, narcotics, and  
12 other contraband through the international land borders  
13 of the United States:

14 (1) Construction and maintenance of roads.

15 (2) Construction and maintenance of barriers.

16 (3) Use of vehicles to patrol, apprehend, or res-  
17 cue.

18 (4) Installation, maintenance, and operation of  
19 communications and surveillance equipment and sen-  
20 sors.

21 (5) Deployment of temporary tactical infra-  
22 structure.

23 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-  
24 ITY.—

1           (1) IN GENERAL.—Notwithstanding any other  
2 provision of law (including any termination date re-  
3 lating to the waiver referred to in this subsection),  
4 the waiver by the Secretary of Homeland Security  
5 on April 1, 2008, under section 102(e)(1) of the Ille-  
6 gal Immigration Reform and Immigrant Responsi-  
7 bility Act of 1996 (8 U.S.C. 1103 note; Public Law  
8 104–208) of the laws described in paragraph (2)  
9 with respect to certain sections of the international  
10 border between the United States and Mexico and  
11 between the United States and Canada shall be con-  
12 sidered to apply to all Federal land under the juris-  
13 diction of the Secretary of the Interior or the Sec-  
14 retary of Agriculture within 100 miles of the inter-  
15 national land borders of the United States for the  
16 activities of U.S. Customs and Border Protection de-  
17 scribed in subsection (c).

18           (2) DESCRIPTION OF LAWS WAIVED.—The laws  
19 referred to in paragraph (1) are limited to the Wil-  
20 derness Act (16 U.S.C. 1131 et seq.), the National  
21 Environmental Policy Act of 1969 (42 U.S.C. 4321  
22 et seq.), the Endangered Species Act of 1973 (16  
23 U.S.C. 1531 et seq.), the National Historic Preser-  
24 vation Act (16 U.S.C. 470 et seq.), Public Law 86–  
25 523 (16 U.S.C. 469 et seq.), the Act of June 8,

1 1906 (commonly known as the “Antiquities Act of  
2 1906”; 16 U.S.C. 431 et seq.), the Wild and Scenic  
3 Rivers Act (16 U.S.C. 1271 et seq.), the Federal  
4 Land Policy and Management Act of 1976 (43  
5 U.S.C. 1701 et seq.), the National Wildlife Refuge  
6 System Administration Act of 1966 (16 U.S.C.  
7 668dd et seq.), the Fish and Wildlife Act of 1956  
8 (16 U.S.C. 742a et seq.), the Fish and Wildlife Co-  
9 ordination Act (16 U.S.C. 661 et seq.), subchapter  
10 II of chapter 5, and chapter 7, of title 5, United  
11 States Code (commonly known as the “Administra-  
12 tive Procedure Act”), the National Park Service Or-  
13 ganic Act (16 U.S.C. 1 et seq.), the General Au-  
14 thorities Act of 1970 (Public Law 91–383) (16  
15 U.S.C. 1a–1 et seq.), sections 401(7), 403, and 404  
16 of the National Parks and Recreation Act of 1978  
17 (Public Law 95–625, 92 Stat. 3467), and the Ari-  
18 zona Desert Wilderness Act of 1990 (16 U.S.C.  
19 1132 note; Public Law 101–628).

20 (d) PROTECTION OF LEGAL USES.—This section  
21 shall not be construed to provide—

22 (1) authority to restrict legal uses, such as  
23 grazing, hunting, mining, or public-use recreational  
24 and backcountry airstrips on land under the jurisdic-

1 tion of the Secretary of the Interior or the Secretary  
2 of Agriculture; or

3 (2) any additional authority to restrict legal ac-  
4 cess to such land.

5 (e) EFFECT ON STATE AND PRIVATE LAND.—This  
6 Act shall—

7 (1) have no force or effect on State or private  
8 lands; and

9 (2) not provide authority on or access to State  
10 or private lands.

11 (f) TRIBAL SOVEREIGNTY.—Nothing in this section  
12 supersedes, replaces, negates, or diminishes treaties or  
13 other agreements between the United States and Indian  
14 tribes.

15 (g) REPORT.—Not later than 1 year after the date  
16 of the enactment of this Act, and annually thereafter, the  
17 Secretary of Homeland Security shall submit to the appro-  
18 priate committees of Congress a report describing the ex-  
19 tent to which implementation of this section has affected  
20 the operations of U.S. Customs and Border Protection in  
21 the year preceding the report.

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