

114TH CONGRESS
1ST SESSION

S. 129

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 8, 2015

Mr. JOHNSON introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To repeal executive immigration overreach, to clarify that the proper constitutional authority for immigration policy belongs to the legislative branch, 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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Repeal Executive Amnesty Act of 2015”.

6 (b) **TABLE OF CONTENTS.**—The table of contents is
7 as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Severability.

TITLE I—PAROLE AUTHORITY

- Sec. 101. Parole reform.
- Sec. 102. Adjustment of status limited to aliens admitted to the United States.
- Sec. 103. Presence in the United States pursuant to parole added to priority date.
- Sec. 104. Admission and lawful presence required for employment authorization.

TITLE II—LIMITATION ON EXECUTIVE OVERREACH

- Sec. 201. Denial of funds for implementation of unauthorized actions.
- Sec. 202. Prohibition on hiring by U.S. Citizenship and Immigration Services.

TITLE III—UNACCOMPANIED ALIEN CHILDREN

- Sec. 301. Repatriation of unaccompanied alien children.
- Sec. 302. Special immigrant juvenile status for immigrants unable to reunite with either parent.
- Sec. 303. Modifications to preferential availability for asylum for unaccompanied alien minors.
- Sec. 304. Unaccompanied alien child defined.

TITLE IV—ELIGIBILITY CRITERIA FOR ALIENS TO RECEIVE CERTAIN BENEFITS

- Sec. 401. Aliens without lawful status ineligible to receive social security and medicare benefits.
- Sec. 402. Applying citizenship and immigration status eligibility criteria for Federal programs to Affordable Care Act benefits.
- Sec. 403. Aliens paroled into the United States ineligible for Federal public benefits.

TITLE V—STATE AND LOCAL ENFORCEMENT OF THE IMMIGRATION LAWS

- Sec. 501. Definitions.
- Sec. 502. Immigration law enforcement by States and localities.
- Sec. 503. Immunity.
- Sec. 504. Federal custody of inadmissible and deportable aliens in the United States apprehended by State or local law enforcement.
- Sec. 505. State Criminal Alien Assistance Program (SCAAP).
- Sec. 506. Limitation on State receipt of Federal funding.
- Sec. 507. ICE detainees.
- Sec. 508. Preservation of the Secure Communities program and removal of deportable aliens identified under the interoperable law enforcement and intelligence electronic data system.

TITLE VI—ASYLUM REFORM AND BORDER PROTECTION

- Sec. 601. Clarification of intent regarding taxpayer-provided counsel.
- Sec. 602. Credible fear interviews.
- Sec. 603. Recording expedited removal and credible fear interviews.
- Sec. 604. Safe third country.

TITLE VII—MISCELLANEOUS

- Sec. 701. Suspension of effectiveness of certain laws.
- Sec. 702. Temporary protected status reform.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act, or the application of such
3 provision to any person or circumstance, is held invalid,
4 the remainder of this Act, and the application of such pro-
5 vision to other persons not similarly situated or to other
6 circumstances, shall not be affected by such invalidation.

7 **TITLE I—PAROLE AUTHORITY**

8 **SEC. 101. PAROLE REFORM.**

9 (a) IN GENERAL.—Paragraph (5) of section 212(d)
10 (8 U.S.C. 1182(d)) is amended to read as follows:

11 “(5) HUMANITARIAN AND PUBLIC INTEREST PA-
12 ROLE.—

13 “(A) IN GENERAL.—Subject to the provisions of
14 this paragraph and section 214(f)(2), the Secretary
15 of Homeland Security, in the sole discretion of the
16 Secretary of Homeland Security, may on a case-by-
17 case basis parole an alien into the United States
18 temporarily, under such conditions as the Secretary
19 of Homeland Security may prescribe, only—

20 “(i) for an urgent humanitarian reason (as
21 described under subparagraph (B)); or

22 “(ii) for a reason deemed strictly in the
23 public interest (as described under subpara-
24 graph (C)).

25 “(B) HUMANITARIAN PAROLE.—The Secretary
26 of Homeland Security may parole an alien based on

1 an urgent humanitarian reason described in this
2 subparagraph only if—

3 “(i) the alien has a medical emergency and
4 the alien cannot obtain necessary treatment in
5 the foreign state in which the alien is residing
6 or the medical emergency is life-threatening and
7 there is insufficient time for the alien to be ad-
8 mitted through the normal visa process;

9 “(ii) the alien is needed in the United
10 States in order to donate an organ or other tis-
11 sue for transplant into a close family member;
12 or

13 “(iii) the alien has a close family member
14 in the United States whose death is imminent
15 and the alien could not arrive in the United
16 States in time to see such family member alive
17 if the alien were to be admitted through the
18 normal visa process.

19 “(C) PUBLIC INTEREST PAROLE.—The Sec-
20 retary of Homeland Security may parole an alien
21 based on a reason deemed strictly in the public in-
22 terest described in this subparagraph only if the
23 alien has assisted the United States Government in
24 a matter, such as a criminal investigation, espio-
25 nage, or other similar law enforcement activity, and

1 either the alien’s presence in the United States is re-
2 quired by the Government or the alien’s life would
3 be threatened if the alien were not permitted to
4 come to the United States.

5 “(D) LIMITATIONS ON THE USE OF PAROLE AU-
6 THORITY.—

7 “(i) ALIENS INELIGIBLE FOR REFUGEE
8 STATUS.—The Secretary of Homeland Security
9 may not use the parole authority under this
10 paragraph to permit to come to the United
11 States aliens who have applied for and have
12 been found to be ineligible for refugee status or
13 any alien to whom the provisions of this para-
14 graph do not apply.

15 “(ii) ALIENS PRESENT IN THE UNITED
16 STATES INELIGIBLE FOR PAROLE.—The Sec-
17 retary of Homeland Security may not parole
18 into the United States an alien who—

19 “(I) is physically present in the
20 United States; and

21 “(II)(aa) has not been admitted to the
22 United States; or

23 “(bb) was lawfully admitted to the
24 United States as a nonimmigrant and re-

1 mained in the United States unlawfully
2 after the period of authorized stay ended.

3 “(iii) LIMITATION ON WORK AUTHORIZA-
4 TION AND ADJUSTMENT OF STATUS.—In the
5 case of an alien who is present in the United
6 States pursuant to a grant of parole under this
7 paragraph, the Secretary of Homeland Security
8 may not—

9 “(I) grant employment authorization
10 to the alien; or

11 “(II) admit the alien to the United
12 States as a nonimmigrant or as an alien
13 admitted for lawful permanent residence.

14 “(E) PAROLE NOT AN ADMISSION.—Parole of
15 an alien under this paragraph shall not be consid-
16 ered an admission of the alien into the United
17 States. When the purposes of the parole of an alien
18 have been served, as determined by the Secretary of
19 Homeland Security, the alien shall immediately re-
20 turn or be returned to the custody from which the
21 alien was paroled and the alien shall be considered
22 for admission to the United States on the same
23 basis as other similarly situated applicants for ad-
24 mission.

1 **SEC. 103. PRESENCE IN THE UNITED STATES PURSUANT TO**
2 **PAROLE ADDED TO PRIORITY DATE.**

3 Section 203(e) of the Immigration and Nationality
4 Act (8 U.S.C. 1153(e)) is amended—

5 (1) in paragraph (3), by striking the period at
6 the end and inserting “, in accordance with the re-
7 quirement under paragraph (4).”; and

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

9 “(4) In the case of an applicant for a visa
10 under this section who is present in the United
11 States pursuant to a grant of parole under section
12 212(d)(5) for a period of time after making such ap-
13 plication, the time period during which the applicant
14 is present in the United States pursuant to such a
15 grant of parole shall be added to the applicant’s pri-
16 ority date.”.

17 **SEC. 104. ADMISSION AND LAWFUL PRESENCE REQUIRED**
18 **FOR EMPLOYMENT AUTHORIZATION.**

19 Paragraph (3) of section 274A(h) of the Immigration
20 and Nationality Act (8 U.S.C. 1324a(h)) is amended—

21 (1) by inserting “an alien otherwise admitted to
22 the United States and present in the United States
23 with a lawful immigration status, who is” before
24 “authorized to be so employed by this Act”; and

25 (2) by striking “or by the Attorney General”.

1 **TITLE II—LIMITATION ON**
2 **EXECUTIVE OVERREACH**

3 **SEC. 201. DENIAL OF FUNDS FOR IMPLEMENTATION OF UN-**
4 **AUTHORIZED ACTIONS.**

5 Notwithstanding any other provision of law, no funds
6 or fees made available to the Secretary of Homeland Secu-
7 rity, or to the head of any other Federal agency, may be
8 used to implement, administer, enforce, or carry out (in-
9 cluding through the issuance of any regulations) any of
10 the policy changes set forth in the following memoranda:

11 (1) The memorandum from the Director of
12 U.S. Immigration and Customs Enforcement enti-
13 tled “Civil Immigration Enforcement: Priorities for
14 the Apprehension, Detention, and Removal of
15 Aliens” (March 2, 2011).

16 (2) The memorandum from the Director of
17 U.S. Immigration and Customs Enforcement enti-
18 tled “Exercising Prosecutorial Discretion Consistent
19 with the Civil Immigration Enforcement Priorities of
20 the Agency for the Apprehension, Detention, and
21 Removal of Aliens” (June 17, 2011).

22 (3) The memorandum from the Director of
23 U.S. Immigration and Customs Enforcement enti-
24 tled “Prosecutorial Discretion: Certain Victims, Wit-
25 nesses, and Plaintiffs” (June 17, 2011).

1 (4) The U.S. Citizenship and Immigration Serv-
2 ices policy memorandum entitled “Revised Guidance
3 for the Referral of Cases and Issuance of Notices to
4 Appear (NTAs) in Cases Involving Inadmissible and
5 Removable Aliens” (November 17, 2011).

6 (5) The memorandum from the Principal Legal
7 Advisor of U.S. Immigration and Customs Enforce-
8 ment entitled “Case-by-Case Review of Incoming
9 and Certain Pending Cases” (November 17, 2011).

10 (6) The recommendations included in the report
11 from the Director of U.S. Immigration and Customs
12 Enforcement entitled “ICE Response to the Task
13 Force on Secure Communities Findings and Rec-
14 ommendations” (April 27, 2012).

15 (7) The memorandum from the Secretary of
16 Homeland Security entitled “Exercising Prosecu-
17 torial Discretion with Respect to Individuals Who
18 Came to the United States as Children” (June 15,
19 2012).

20 (8) The memorandum from the Director of
21 U.S. Immigration and Customs Enforcement enti-
22 tled “Civil Immigration Enforcement: Guidance on
23 the Use of Detainers in the Federal, State, Local,
24 and Tribal Criminal Justice Systems” (December
25 21, 2012).

1 (9) The U.S. Citizenship and Immigration Serv-
2 ices policy memorandum entitled “Adjudication of
3 Adjustment of Status Applications for Individuals
4 Admitted to the United States Under the Visa Waiv-
5 er Program” (November 14, 2013).

6 (10) The memorandum from the Secretary of
7 Homeland Security entitled “Southern Border and
8 Approaches Campaign” (November 20, 2014).

9 (11) The memorandum from the Secretary of
10 Homeland Security entitled “Policies for the Appre-
11 hension, Detention and Removal of Undocumented
12 Immigrants” (November 20, 2014).

13 (12) The memorandum from the Secretary of
14 Homeland Security entitled “Secure Communities”
15 (November 20, 2014).

16 (13) The memorandum from the Secretary of
17 Homeland Security entitled “Exercising Prosecu-
18 torial Discretion with Respect to Individuals Who
19 Came to the United States as Children and with Re-
20 spect to Certain Individuals Who Are the Parents of
21 U.S. Citizens or Permanent Residents” (November
22 20, 2014).

23 (14) The memorandum from the Secretary of
24 Homeland Security entitled “Expansion of the Pro-
25 visional Waiver Program” (November 20, 2014).

1 (15) The memorandum from the Secretary of
2 Homeland Security entitled “Policies Supporting
3 U.S. High-Skilled Businesses and Workers” (No-
4 vember 20, 2014).

5 (16) The memorandum from the Secretary of
6 Homeland Security entitled “Families of U.S.
7 Armed Forces Members and Enlistees” (November
8 20, 2014).

9 (17) The memorandum from the Secretary of
10 Homeland Security entitled “Directive to Provide
11 Consistency Regarding Advance Parole” (November
12 20, 2014).

13 (18) The memorandum from the Secretary of
14 Homeland Security entitled “Policies to Promote
15 and Increase Access to U.S. Citizenship” (November
16 20, 2014).

17 (19) The memorandum from the President enti-
18 tled “Modernizing and Streamlining the U.S. Immig-
19 grant Visa System for the 21st Century” (November
20 21, 2014).

21 (20) The memorandum from the President enti-
22 tled “Creating Welcoming Communities and Fully
23 Integrating Immigrants and Refugees” (November
24 21, 2014).

1 **SEC. 202. PROHIBITION ON HIRING BY U.S. CITIZENSHIP**
2 **AND IMMIGRATION SERVICES.**

3 The head of U.S. Citizenship and Immigration Serv-
4 ices may not appoint an individual to any position in U.S.
5 Citizenship and Immigration Services until after the date
6 that the President rescinds each memorandum described
7 in paragraphs (10) through (20) of section 201.

8 **TITLE III—UNACCOMPANIED**
9 **ALIEN CHILDREN**

10 **SEC. 301. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
11 **DREN.**

12 (a) IN GENERAL.—Section 235 of the William Wil-
13 berforce Trafficking Victims Protection Reauthorization
14 Act of 2008 (8 U.S.C. 1232) is amended—

15 (1) in subsection (a)—

16 (A) in paragraph (2)—

17 (i) by amending the heading to read
18 as follows: “RULES FOR UNACCOMPANIED
19 ALIEN CHILDREN.”;

20 (ii) in subparagraph (A);

21 (I) in the matter preceding clause
22 (i), by striking “who is a national or
23 habitual resident of a country that is
24 contiguous with the United States”;

25 (II) in clause (i), by inserting
26 “and” at the end;

1 (III) in clause (ii), by striking “;
2 and” and inserting a period; and

3 (IV) by striking clause (iii);
4 (iii) in subparagraph (B)—

5 (I) in the matter preceding clause
6 (i), by striking “(8 U.S.C. 1101 et
7 seq.) may—” and inserting “(8
8 U.S.C. 1101 et seq.)—”;

9 (II) in clause (i), by inserting be-
10 fore “permit such child to withdraw”
11 the following: “may”; and

12 (III) in clause (ii), by inserting
13 before “return such child” the fol-
14 lowing: “shall”; and

15 (iv) in subparagraph (C)—

16 (I) by amending the heading to
17 read as follows: “AGREEMENTS WITH
18 FOREIGN COUNTRIES.”; and

19 (II) in the matter preceding
20 clause (i), by striking “The Secretary
21 of State shall negotiate agreements
22 between the United States and coun-
23 tries contiguous to the United States”
24 and inserting “The Secretary of State
25 may negotiate agreements between the

1 United States and any foreign country
2 that the Secretary determines appro-
3 priate”; and

4 (B) in paragraph (5)(D)—

5 (i) in the matter preceding clause (i),
6 by striking “, except for an unaccompanied
7 alien child from a contiguous country sub-
8 ject to the exceptions under subsection
9 (a)(2),” and inserting “who does not meet
10 the criteria listed in paragraph (2)(A)”;
11 and

12 (ii) in clause (i), by inserting before
13 the semicolon at the end the following: “,
14 which shall include a hearing before an im-
15 migration judge not later than 14 days
16 after being screened under paragraph (4)”;

17 (2) in subsection (b)—

18 (A) in paragraph (2)—

19 (i) in the matter preceding subpara-
20 graph (A), by striking “48 hours” and in-
21 serting “7 days”;

22 (ii) in subparagraph (A), by inserting
23 before the semicolon the following: “be-
24 lieved not to meet the criteria listed in sub-
25 section (a)(2)(A)”;

1 (iii) in subparagraph (B), by inserting
2 before the period the following: “and does
3 not meet the criteria listed in subsection
4 (a)(2)(A)”;

5 (B) in paragraph (3), by striking “an un-
6 accompanied alien child in custody shall” and
7 all that follows, and inserting the following: “an
8 unaccompanied alien child in custody—

9 “(A) in the case of a child who does not
10 meet the criteria listed in subsection (a)(2)(A),
11 shall transfer the custody of such child to the
12 Secretary of Health and Human Services not
13 later than 30 days after determining that such
14 child is an unaccompanied alien child who does
15 not meet such criteria; or

16 “(B) in the case of child who meets the
17 criteria listed in subsection (a)(2)(A), may
18 transfer the custody of such child to the Sec-
19 retary of Health and Human Services after de-
20 termining that such child is an unaccompanied
21 alien child who meets such criteria.”;

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

23 “(5) INFORMATION SHARING.—The Secretary
24 of Health and Human Services shall share with the
25 Secretary of Homeland Security any information re-

1 quested on a child who has been determined to be
2 an unaccompanied alien child and who is or has
3 been in the custody of the Secretary of Health and
4 Human Services, including the location of the child
5 and any person to whom custody of the child has
6 been transferred, for any legitimate law enforcement
7 objective, including enforcement of the immigration
8 laws.”; and

9 (4) in subsection (c)—

10 (A) in paragraph (3), by inserting at the
11 end the following:

12 “(D) INFORMATION ABOUT INDIVIDUALS
13 WITH WHOM CHILDREN ARE PLACED.—

14 “(i) INFORMATION TO BE PROVIDED
15 TO HOMELAND SECURITY.—Before placing
16 a child with an individual, the Secretary of
17 Health and Human Services shall provide
18 to the Secretary of Homeland Security, re-
19 garding the individual with whom the child
20 will be placed, the following information:

21 “(I) The name of the individual.

22 “(II) The social security number
23 of the individual.

24 “(III) The date of birth of the in-
25 dividual.

1 “(IV) The location of the individ-
2 ual’s residence where the child will be
3 placed.

4 “(V) The immigration status of
5 the individual, if known.

6 “(VI) Contact information for
7 the individual.

8 “(ii) SPECIAL RULE.—In the case of a
9 child who was apprehended on or after
10 June 15, 2012, and before the date of the
11 enactment of the Repeal Executive Am-
12 nesty Act of 2015, who the Secretary of
13 Health and Human Services placed with
14 an individual, the Secretary shall provide
15 the information listed in clause (i) to the
16 Secretary of Homeland Security not later
17 than 90 days after the date of the enact-
18 ment of the Repeal Executive Amnesty Act
19 of 2015.

20 “(iii) ACTIVITIES OF THE SECRETARY
21 OF HOMELAND SECURITY.—Not later than
22 30 days after receiving the information
23 listed in clause (i), the Secretary of Home-
24 land Security shall—

1 “(I) in the case that the immi-
2 gration status of an individual with
3 whom a child is placed is unknown,
4 investigate the immigration status of
5 that individual; and

6 “(II) upon determining that an
7 individual with whom a child is placed
8 is unlawfully present in the United
9 States, initiate removal proceedings
10 pursuant to chapter 4 of title II of the
11 Immigration and Nationality Act (8
12 U.S.C. 1221 et seq.)”;

13 (B) in paragraph (5)—

14 (i) by inserting after “to the greatest
15 extent practicable” the following: “(at no
16 expense to the Government)”;

17 (ii) by striking “have counsel to rep-
18 resent them” and inserting “have access to
19 counsel to represent them”.

20 (b) **EFFECTIVE DATE.**—The amendments made by
21 this section shall apply to any unauthorized alien child ap-
22 prehended on or after June 15, 2012.

1 **SEC. 302. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
2 **MIGRANTS UNABLE TO REUNITE WITH EI-**
3 **THER PARENT.**

4 Section 101(a)(27)(J)(i) of the Immigration and Na-
5 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
6 striking “1 or both of the immigrant’s parents” and in-
7 serting “either of the immigrant’s parents”.

8 **SEC. 303. MODIFICATIONS TO PREFERENTIAL AVAIL-**
9 **ABILITY FOR ASYLUM FOR UNACCOMPANIED**
10 **ALIEN MINORS.**

11 Section 208 of the Immigration and Nationality Act
12 (8 U.S.C. 1158) is amended—

13 (1) by striking subsection (a)(2)(E); and

14 (2) by striking subsection (b)(3)(C).

15 **SEC. 304. UNACCOMPANIED ALIEN CHILD DEFINED.**

16 Section 462(g)(2) of the Homeland Security Act of
17 2002 (6 U.S.C. 279(g)(2)) is amended to read as follows:

18 “(2) The term ‘unaccompanied alien child’—

19 “(A) means an alien who—

20 “(i) has no lawful immigration status
21 in the United States;

22 “(ii) has not attained 18 years of age;

23 and

24 “(iii) with respect to whom—

25 “(I) there is no parent or legal
26 guardian in the United States;

1 “(II) no parent or legal guardian
2 in the United States is available to
3 provide care and physical custody; or

4 “(III) no sibling over 18 years of
5 age, aunt, uncle, grandparent, or
6 cousin over 18 years of age is avail-
7 able to provide care and physical cus-
8 tody; except that

9 “(B) such term shall cease to include an
10 alien if at any time a parent, legal guardian,
11 sibling over 18 years of age, aunt, uncle, grand-
12 parent, or cousin over 18 years of age of the
13 alien is found in the United States and is avail-
14 able to provide care and physical custody (and
15 the Secretary of Homeland Security and the
16 Secretary of Health and Human Services shall
17 revoke accordingly any prior designation of the
18 alien under this paragraph).”.

1 **TITLE IV—ELIGIBILITY CRI-**
2 **TERIA FOR ALIENS TO RE-**
3 **CEIVE CERTAIN BENEFITS**

4 **SEC. 401. ALIENS WITHOUT LAWFUL STATUS INELIGIBLE**
5 **TO RECEIVE SOCIAL SECURITY AND MEDI-**
6 **CARE BENEFITS.**

7 Section 401(b) of the Personal Responsibility and
8 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
9 1611(b)) is amended—

10 (1) in paragraph (2), by adding at the end the
11 following: “For purposes of this paragraph, the term
12 ‘alien who is lawfully present in the United States’
13 means an alien who has been admitted to the United
14 States, and whose period of lawful admission has not
15 expired, and does not include an alien who is present
16 in the United States pursuant to a grant of parole
17 under section 212(d)(5) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1182(d)(5)).”; and

19 (2) in paragraph (3), by adding at the end the
20 following: “For purposes of this paragraph, the term
21 ‘alien who is lawfully present in the United States’
22 has the meaning given such term in paragraph (2).”.

1 **SEC. 402. APPLYING CITIZENSHIP AND IMMIGRATION STA-**
2 **TUS ELIGIBILITY CRITERIA FOR FEDERAL**
3 **PROGRAMS TO AFFORDABLE CARE ACT BEN-**
4 **EFITS.**

5 (a) APPLYING QUALIFIED ALIEN ELIGIBILITY CRI-
6 TERIA TO ACA BENEFITS.—

7 (1) TEMPORARY HIGH RISK HEALTH INSUR-
8 ANCE POOL PROGRAM.—Section 1101(d)(1) of the
9 Patient Protection and Affordable Care Act (42
10 U.S.C. 18001(d)(1)) is amended by striking “or is
11 lawfully present” and all that follows through “sec-
12 tion 1411)” and inserting “or is a qualified alien (as
13 defined in section 431 of the Personal Responsibility
14 and Work Opportunity Reconciliation Act of 1996 (8
15 U.S.C. 1641)), as determined in accordance with
16 section 1411”.

17 (2) ELIGIBILITY TO PARTICIPATE IN EX-
18 CHANGES.—Section 1312(f)(3) of such Act (42
19 U.S.C. 18032(f)(3)) is amended—

20 (A) in the paragraph heading, by inserting
21 “CERTAIN” after “LIMITED TO”; and

22 (B) by striking “an alien lawfully present
23 in the United States” and inserting “an alien
24 who is a qualified alien (as defined in section
25 431 of the Personal Responsibility and Work

1 Opportunity Reconciliation Act of 1996 (8
2 U.S.C. 1641))”.

3 (3) STATE HEALTH PROGRAMS FOR LOW-IN-
4 COME INDIVIDUALS NOT ELIGIBLE FOR MEDICAID.—
5 Section 1331(e)(1)(B) of such Act (42 U.S.C.
6 18051(e)(1)(B)) is amended by striking “lawfully
7 present in the United States” and inserting “who is
8 a qualified alien (as defined in section 431 of the
9 Personal Responsibility and Work Opportunity Rec-
10 onciliation Act of 1996 (8 U.S.C. 1641))”.

11 (4) TAX CREDIT PROVIDING PREMIUM ASSIST-
12 ANCE FOR COVERAGE UNDER QUALIFIED HEALTH
13 PLANS.—Section 36B of the Internal Revenue of
14 1986 is amended—

15 (A) in subsection (c)(1)(B)—

16 (i) in the heading, by striking “INDI-
17 VIDUALS LAWFULLY PRESENT IN THE
18 UNITED STATES” and inserting “QUALI-
19 FIED ALIENS”; and

20 (ii) in clause (ii), by striking “an alien
21 lawfully present in the United States” and
22 inserting “an alien who is a qualified alien
23 (as defined in section 431 of the Personal
24 Responsibility and Work Opportunity Rec-

1 conciliation Act of 1996 (8 U.S.C. 1641))”;

2 and

3 (B) in subsection (e)(2), by striking “law-
4 fully present in the United States” and insert-
5 ing “who is a qualified alien (as defined in sec-
6 tion 431 of the Personal Responsibility and
7 Work Opportunity Reconciliation Act of 1996
8 (8 U.S.C. 1641))”.

9 (5) REDUCED COST-SHARING FOR CERTAIN IN-
10 DIVIDUALS UNDER QUALIFIED HEALTH PLANS.—
11 Section 1402(e)(2) of the Patient Protection and Af-
12 fordable Care Act (42 U.S.C. 18071(e)(2)) is
13 amended by striking “lawfully present in the United
14 States” and inserting “who is a qualified alien (as
15 defined in section 431 of the Personal Responsibility
16 and Work Opportunity Reconciliation Act of 1996 (8
17 U.S.C. 1641))”.

18 (6) ELIGIBILITY DETERMINATIONS.—Section
19 1411 of the Patient Protection and Affordable Care
20 Act (42 U.S.C. 18081) is amended—

21 (A) in subsection (a)(1), by striking “an
22 alien lawfully present in the United States” and
23 inserting “a qualified alien (as defined in sec-
24 tion 431 of the Personal Responsibility and

1 Work Opportunity Reconciliation Act of 1996
2 (8 U.S.C. 1641))”]; and

3 (B) in subsection (c)(2)(B)—

4 (i) in clause (i)(I), by striking “an
5 alien lawfully present in the United
6 States” and inserting “a qualified alien (as
7 defined in section 431 of the Personal Re-
8 sponsibility and Work Opportunity Rec-
9 onciliation Act of 1996 (8 U.S.C. 1641))”];
10 and

11 (ii) in clause (ii)(II), by striking “an
12 alien lawfully present in the United
13 States” and inserting “a qualified alien (as
14 defined in section 431 of the Personal Re-
15 sponsibility and Work Opportunity Rec-
16 onciliation Act of 1996 (8 U.S.C. 1641))”.

17 (7) ADVANCE DETERMINATION AND PAYMENT
18 OF PREMIUM TAX CREDITS AND COST-SHARING RE-
19 DUCTIONS.—Section 1412(d) of the Patient Protec-
20 tion and Affordable Care Act (42 U.S.C. 18082(d))
21 is amended—

22 (A) in the heading, by striking “LAW-
23 FULLY PRESENT” and inserting “CITIZENS,
24 NATIONALS, OR QUALIFIED ALIENS”]; and

1 (B) by striking “not lawfully present in the
2 United States” and inserting “not citizens or
3 nationals of the United States or aliens who are
4 qualified aliens (as defined in section 431 of the
5 Personal Responsibility and Work Opportunity
6 Reconciliation Act of 1996 (8 U.S.C. 1641))”.

7 (8) MINIMUM ESSENTIAL COVERAGE REQUIRE-
8 MENT.—Section 5000A(d)(3) of the Internal Rev-
9 enue Code of 1986 is amended—

10 (A) in the heading, by striking “LAWFULLY
11 PRESENT” and inserting “CITIZENS, NATION-
12 ALS, OR QUALIFIED ALIENS”; and

13 (B) by striking “an alien lawfully present
14 in the United States” and inserting “a qualified
15 alien (as defined in section 431 of the Personal
16 Responsibility and Work Opportunity Reconcili-
17 ation Act of 1996 (8 U.S.C. 1641))”.

18 (9) MEDICAID POPULATION.—Section
19 1903(v)(1) of the Social Security Act is amended by
20 striking “who is not lawfully admitted for permanent
21 residence or otherwise permanently residing in the
22 United States under color of law” and inserting
23 “who is not a qualified alien (as defined in section
24 431 of the Personal Responsibility and Work Oppor-
25 tunity Reconciliation Act of 1996 (8 U.S.C. 1641))”.

1 (b) CLARIFICATION THAT CERTAIN ACA BENEFITS
2 TREATED AS FEDERAL PUBLIC BENEFITS.—Section
3 401(c) of the Personal Responsibility and Work Oppor-
4 tunity Reconciliation Act of 1996 (8 U.S.C. 1611(c)) is
5 amended by adding at the end the following new para-
6 graph:

7 “(3) In applying paragraph (1), the following
8 assistance and benefits are treated as health benefits
9 described in paragraph (1)(B):

10 “(A) Enrollment under the temporary high
11 risk health insurance pool program under sec-
12 tion 1101 of the Patient Protection and Afford-
13 able Care Act (42 U.S.C. 18001).

14 “(B) Participation in an Exchange estab-
15 lished under title I of the Patient Protection
16 and Affordable Care Act.

17 “(C) Participation in the health program
18 established under section 1331(a) of the Pa-
19 tient Protection and Affordable Care Act (42
20 U.S.C. 18051).

21 “(D) Allowance of a tax credit under sec-
22 tion 36B of the Internal Revenue Code of 1986.

23 “(E) Reduction of cost-sharing under
24 qualified health plans under section 1402 of the

1 Patient Protection and Affordable Care Act (42
2 U.S.C. 18071).

3 “(F) Provision of advance payments under
4 section 1412 of the Patient Protection and Af-
5 fordable Care Act (42 U.S.C. 18082).”.

6 (c) CLARIFICATION THAT CERTAIN ACA BENEFITS
7 TREATED AS FEDERAL MEANS-TESTED PUBLIC BENE-
8 FITS.—Section 403(c) of the Personal Responsibility and
9 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
10 1613(c)) is amended by adding at the end the following
11 new paragraph:

12 “(3) In applying this section, assistance and
13 benefits described in section 401(c)(3) are treated as
14 Federal means-tested public benefits to which sub-
15 section (a) applies.”.

16 (d) EFFECTIVE DATE.—

17 (1) IN GENERAL.—Subject to paragraph (2),
18 the amendments made by this section shall apply to
19 coverage months beginning more than 120 days
20 after the date of the enactment of this Act.

21 (2) TRANSITION FOR CURRENT ENROLLEES.—
22 In the case of an individual who is being provided
23 assistance or benefits described in paragraph (3) of
24 section 401(c) of the Personal Responsibility and
25 Work Opportunity Reconciliation Act of 1996 (8

1 U.S.C. 1611(c)), as added by subsection (b), as of
2 the date of the enactment of this Act, the amend-
3 ments made by this section (other than the amend-
4 ments made by subsection (a)(8)) shall not apply
5 with respect to such assistance or benefits provided
6 to such individual for coverage months before Janu-
7 ary of the year after the date of enactment of this
8 Act.

9 **SEC. 403. ALIENS PAROLED INTO THE UNITED STATES IN-**
10 **ELIGIBLE FOR FEDERAL PUBLIC BENEFITS.**

11 Section 431(b) of the Personal Responsibility and
12 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
13 1641(b)) is amended by striking paragraph (4).

14 **TITLE V—STATE AND LOCAL EN-**
15 **FORCEMENT OF THE IMMI-**
16 **GRATION LAWS**

17 **SEC. 501. DEFINITIONS.**

18 In this title:

19 (1) SECRETARY.—The term “Secretary” means
20 the Secretary of Homeland Security.

21 (2) STATE.—The term “State” has the mean-
22 ing given to such term in section 101(a)(36) of the
23 Immigration and Nationality Act (8 U.S.C.
24 1101(a)(36)).

1 **SEC. 502. IMMIGRATION LAW ENFORCEMENT BY STATES**
2 **AND LOCALITIES.**

3 Law enforcement personnel of a State, or of a polit-
4 ical subdivision of a State, may investigate, identify, ap-
5 prehend, arrest, detain, or transfer to Federal custody
6 aliens for the purposes of enforcing the immigration laws
7 of the United States to the same extent as Federal law
8 enforcement personnel. Law enforcement personnel of a
9 State, or of a political subdivision of a State, may also
10 investigate, identify, apprehend, arrest, or detain aliens
11 for the purposes of enforcing the immigration laws of a
12 State or of a political subdivision of State. Law enforce-
13 ment personnel of a State, or of a political subdivision of
14 a State, may not remove aliens from the United States.

15 **SEC. 503. IMMUNITY.**

16 Notwithstanding any other provision of law, a law en-
17 forcement officer of a State or local law enforcement agen-
18 cy who is acting within the scope of the officer's official
19 duties shall be immune, to the same extent as a Federal
20 law enforcement officer, from personal liability arising out
21 of the performance of any duty described in this title, in-
22 cluding the authorities to investigate, identify, apprehend,
23 arrest, detain, or transfer to Federal custody, an alien for
24 the purposes of enforcing the immigration laws of the
25 United States (as defined in section 101(a)(17) of the Im-
26 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or

1 the immigration laws of a State or a political subdivision
2 of a State.

3 **SEC. 504. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
4 **PORTABLE ALIENS IN THE UNITED STATES**
5 **APPREHENDED BY STATE OR LOCAL LAW EN-**
6 **FORCEMENT.**

7 (a) IN GENERAL.—Title II of the Immigration and
8 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
9 inserting after section 240C the following:

10 **“SEC. 240D. CUSTODY OF INADMISSIBLE AND DEPORTABLE**
11 **ALIENS PRESENT IN THE UNITED STATES.**

12 “(a) TRANSFER OF CUSTODY BY STATE AND LOCAL
13 OFFICIALS.—If a State, or a political subdivision of a
14 State, exercising authority with respect to the apprehen-
15 sion or arrest of an inadmissible or deportable alien sub-
16 mits to the Secretary of Homeland Security a request that
17 the alien be taken into Federal custody, notwithstanding
18 any other provision of law, regulation, or policy the Sec-
19 retary—

20 “(1) shall take the alien into custody not later
21 than 48 hours after the request has been issued fol-
22 lowing the conclusion of the State or local charging
23 process or dismissal process, or if no State or local
24 charging or dismissal process is required, the Sec-
25 retary shall issue a detainer and take the alien into

1 custody not later than 48 hours after the alien is ap-
2 prehended, in order to determine whether the alien
3 should be detained, placed in removal proceedings,
4 released, or removed; and

5 “(2) shall request that the relevant State or
6 local law enforcement agency temporarily hold the
7 alien in their custody or transport the alien for
8 transfer to Federal custody.

9 “(b) POLICY ON DETENTION IN FEDERAL, CON-
10 TRACT, STATE, OR LOCAL DETENTION FACILITIES.—In
11 carrying out section 241(g)(1), the Attorney General or
12 Secretary of Homeland Security shall ensure that an alien
13 arrested under this title shall be held in custody, pending
14 the alien’s examination under this section, in a Federal,
15 contract, State, or local prison, jail, detention center, or
16 other comparable facility. Notwithstanding any other pro-
17 vision of law, regulation or policy, such facility is adequate
18 for detention, if—

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

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

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

4 “(c) REIMBURSEMENT.—The Secretary of Homeland
5 Security shall reimburse a State, or a political subdivision
6 of a State, for all reasonable expenses, as determined by
7 the Secretary, incurred by the State, or political subdivi-
8 sion, as a result of the incarceration and transportation
9 of an alien who is inadmissible or deportable as described
10 in subsections (a) and (b). Compensation provided for
11 costs incurred under such subsections shall be the average
12 cost of incarceration of a prisoner in the relevant State,
13 as determined by the chief executive officer of a State,
14 or of a political subdivision of a State, plus the cost of
15 transporting the alien from the point of apprehension to
16 the place of detention, and to the custody transfer point
17 if the place of detention and place of custody are different.

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

22 “(e) TRANSFER.—

23 “(1) IN GENERAL.—In carrying out this sec-
24 tion, the Secretary of Homeland Security shall es-
25 tablish a regular circuit and schedule for the prompt

1 transfer of apprehended aliens from the custody of
 2 States, and political subdivisions of a State, to Fed-
 3 eral custody.

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

7 (b) CLERICAL AMENDMENT.—The table of contents
 8 of such Act is amended by inserting after the item relating
 9 to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the
 United States.”.

10 **SEC. 505. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
 11 **(SCAAP).**

12 Subparagraph (A) of section 241(i)(3) of the Immi-
 13 gration and Nationality Act (8 U.S.C. 1231(i)(3)) is
 14 amended by inserting “charged with or” before “con-
 15 victed”.

16 **SEC. 506. LIMITATION ON STATE RECEIPT OF FEDERAL**
 17 **FUNDING.**

18 (a) IN GENERAL.—A State or political subdivision of
 19 a State that has in place a law or policy described in sub-
 20 section (b) may not receive—

21 (1) grants made under subpart 1 of part E of
 22 title I of the Omnibus Crime Control and Safe
 23 Streets Act of 1968 (42 U.S.C. 3750 et seq.);

1 (2) grants made under part Q of title I of the
2 Omnibus Crime Control and Safe Streets Act of
3 1968 (42 U.S.C. 3796dd et seq.); or

4 (3) compensation under section 241(i) of the
5 Immigration and Nationality Act (8 U.S.C. 1231(i)).

6 (b) **LAW OR POLICY DESCRIBED.**—A law or policy
7 is described in this subsection if the law or policy—

8 (1) is in contravention of section 642(a) of the
9 Illegal Immigration Reform and Immigrant Respon-
10 sibility Act of 1996 (8 U.S.C. 1373(a));

11 (2) prohibits or restricts law enforcement offi-
12 cers of that State or political subdivision from col-
13 lecting information relating to an individual’s immi-
14 gration status; or

15 (3) prohibits or restricts compliance with, or
16 the honoring of detainers issued by Immigration and
17 Customs Enforcement.

18 **SEC. 507. ICE DETAINERS.**

19 Section 287(d) of the Immigration and Nationality
20 Act (8 U.S.C. 1357(d)) is amended in the matter pre-
21 ceding paragraph (1), by striking “law relating to con-
22 trolled substances,” and inserting “law,”.

1 **SEC. 508. PRESERVATION OF THE SECURE COMMUNITIES**
2 **PROGRAM AND REMOVAL OF DEPORTABLE**
3 **ALIENS IDENTIFIED UNDER THE INTEROPER-**
4 **ABLE LAW ENFORCEMENT AND INTEL-**
5 **LIGENCE ELECTRONIC DATA SYSTEM.**

6 Section 202 of the Enhanced Border Security and
7 Visa Entry Reform Act of 2002 (8 U.S.C. 1722) is amend-
8 ed—

9 (1) in subsection (a)(2), by adding at the end
10 the following: “Compliance with the requirements of
11 this paragraph shall include, at a minimum, the op-
12 eration of the Secure Communities program, as in
13 effect on November 19, 2014.”; and

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

15 “(c) **REQUIRED ACTION.**—Upon receiving notice
16 under the interoperable law enforcement and intelligence
17 electronic data system established under subsection (a)
18 that a deportable alien is in the custody of Federal, State,
19 or local law enforcement, the Secretary of Homeland Secu-
20 rity shall, following the conclusion of the charging process,
21 dismissal process, or completion of the alien’s sentence,
22 as appropriate, issue a detainer, take the alien into cus-
23 tody, and initiate removal proceedings under section 238
24 or 240 of the Immigration and Nationality Act (8 U.S.C.
25 1228, 1229a), as appropriate.”.

1 **TITLE VI—ASYLUM REFORM AND**
2 **BORDER PROTECTION**

3 **SEC. 601. CLARIFICATION OF INTENT REGARDING TAX-**
4 **PAYER-PROVIDED COUNSEL.**

5 Section 292 of the Immigration and Nationality Act
6 (8 U.S.C. 1362) is amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “In any removal”;

9 (2) by striking “(at no expense to the Govern-
10 ment)”; and

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

12 “(b) NO EXPENSE TO THE GOVERNMENT.—Notwith-
13 standing any other provision of law, in no instance shall
14 the Government bear any expense for counsel for any per-
15 son in removal proceedings or in any appeal proceedings
16 before the Attorney General from any such removal pro-
17 ceedings.”.

18 **SEC. 602. CREDIBLE FEAR INTERVIEWS.**

19 Section 235(b)(1)(B)(v) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
21 striking “208.” and inserting “208, and it is more prob-
22 able than not that the statements made by the alien in
23 support of the alien’s claim are true.”.

1 **SEC. 603. RECORDING EXPEDITED REMOVAL AND CRED-**
2 **IBLE FEAR INTERVIEWS.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity shall establish quality assurance procedures and take
5 steps to effectively ensure that questions by employees of
6 the Department of Homeland Security exercising expe-
7 dited removal authority under section 235(b) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
9 in a uniform manner, and that both these questions and
10 the answers provided in response to them are recorded in
11 a uniform fashion.

12 (b) FACTORS RELATING TO SWORN STATEMENTS.—
13 Where practicable, any sworn or signed written statement
14 taken of an alien as part of the record of a proceeding
15 under section 235(b)(1)(A) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
17 panied by a recording of the interview which served as the
18 basis for that sworn statement.

19 (c) INTERPRETERS.—The Secretary shall ensure that
20 a competent interpreter, not affiliated with the govern-
21 ment of the country from which the alien may claim asy-
22 lum, is used when the interviewing officer does not speak
23 a language understood by the alien and there is no other
24 Federal, State, or local government employee available
25 who is able to interpret effectively, accurately, and impar-
26 tially.

1 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
2 Recordings of interviews of aliens subject to expedited re-
3 moval shall be included in the record of proceeding and
4 shall be considered as evidence in any further proceedings
5 involving the alien.

6 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
7 section shall be construed to create any right, benefit,
8 trust, or responsibility, whether substantive or procedural,
9 enforceable in law or equity by a party against the United
10 States, its departments, agencies, instrumentalities, enti-
11 ties, officers, employees, or agents, or any person, nor does
12 this section create any right of review in any administra-
13 tive, judicial, or other proceeding.

14 **SEC. 604. SAFE THIRD COUNTRY.**

15 Section 208(a)(2)(A) of the Immigration and Nation-
16 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

17 (1) by striking “Attorney General” and insert-
18 ing “Secretary of Homeland Security”; and

19 (2) by striking “removed, pursuant to a bilat-
20 eral or multilateral agreement, to” and inserting
21 “removed to”.

1 **TITLE VII—MISCELLANEOUS**

2 **SEC. 701. SUSPENSION OF EFFECTIVENESS OF CERTAIN**
3 **LAWS.**

4 (a) WAIVER OF INADMISSIBILITY OF ALIENS UNLAW-
5 FULLY PRESENT.—Section 212(a)(9)(B)(v) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(v))
7 is suspended during the period beginning on the date of
8 the enactment of this Act and ending on January 20,
9 2017.

10 (b) DESIGNATION FOR TEMPORARY PROTECTED
11 STATUS.—No foreign state may be designated or redesign-
12 nated under section 244(b) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1254a(b)) during the period begin-
14 ning on the date of the enactment of this Act and ending
15 on January 20, 2017. The preceding sentence shall not
16 be construed to affect any extension of a designation
17 under paragraph (3)(C) of such section, if the designation
18 was made prior to the date of the enactment of this Act.

19 **SEC. 702. TEMPORARY PROTECTED STATUS REFORM.**

20 Section 244 of the Immigration and Nationality Act
21 (8 U.S.C. 1254a) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (3), by striking subpara-
24 graphs (B) and (C) and redesignating subpara-
25 graph (D) as subparagraph (B); and

1 (B) in paragraph (5), by striking “to deny
2 temporary protected status to an alien based on
3 the alien’s immigration status or”;

4 (2) in subsection (b)—

5 (A) in paragraph (3)—

6 (i) in subparagraph (A), by striking “,
7 and any extended period of designation,”;

8 (ii) in subparagraph (B), by striking
9 “or, if later, the expiration of the most re-
10 cent previous extension under subpara-
11 graph (C)”;

12 (iii) in subparagraph (C), by striking
13 “is extended for” and all that follows, and
14 inserting “may be extended for one addi-
15 tional period of up to 18 months, in the
16 discretion of the Attorney General.”;

17 (B) in paragraph (5)(B), by striking the
18 second sentence;

19 (3) in subsection (c)(1)(A)—

20 (A) in clause (iii), by striking “and” at the
21 end;

22 (B) in clause (iv), by striking the period at
23 the end and inserting “; and”;

24 (C) by adding after clause (iv) the fol-
25 lowing:

1 “(v) the alien had lawful immigration
2 status in the United States on the effective
3 date of the most recent designation of that
4 state.”; and

5 (4) in subsection (g), by striking “aliens who
6 are or may become otherwise deportable or have
7 been paroled into the United States” and inserting
8 “aliens who may become otherwise deportable”.

○