

114TH CONGRESS
1ST SESSION

S. 1640

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

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2015

Mr. SESSIONS (for himself, Mr. COTTON, Mr. PERDUE, Mr. VITTER, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 “Michael Davis, Jr. and
5 Danny Oliver in Honor of State and Local Law Enforce-
6 ment Act”.

7 **SEC. 2. TABLE OF CONTENTS.**

8 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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- Sec. 102. Immigration law enforcement by States and localities.
- Sec. 103. Listing of immigration violators in the national crime information center database.
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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.

18 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**
 19 **AND LOCALITIES.**

20 (a) IN GENERAL.—Subject to section 274A(h)(2) of
 21 the Immigration and Nationality Act (8 U.S.C.

1 1324a(h)(2)), States, or political subdivisions of States,
2 may enact, implement and enforce criminal penalties that
3 penalize the same conduct that is prohibited in the crimi-
4 nal provisions of immigration laws (as defined in section
5 101(a)(17) of the Immigration and Nationality Act (8
6 U.S.C. 1101(a)(17))), as long as the criminal penalties do
7 not exceed the relevant Federal criminal penalties (without
8 regard to ancillary issues such as the availability of proba-
9 tion or pardon). States, or political subdivisions of States,
10 may enact, implement and enforce civil penalties that pe-
11 nalize the same conduct that is prohibited in the civil pro-
12 visions of immigration laws (as defined in such section
13 101(a)(17)), as long as the civil penalties do not exceed
14 the relevant Federal civil penalties.

15 (b) LAW ENFORCEMENT PERSONNEL.—Subject to
16 section 274A(h)(2) of the Immigration and Nationality
17 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of
18 a State, or of a political subdivision of a State, may inves-
19 tigate, identify, apprehend, arrest, detain, or transfer to
20 Federal custody aliens for the purposes of enforcing the
21 immigration laws of the United States to the same extent
22 as Federal law enforcement personnel. Law enforcement
23 personnel of a State, or of a political subdivision of a
24 State, may also investigate, identify, apprehend, arrest, or
25 detain aliens for the purposes of enforcing the immigration

1 laws of a State or of a political subdivision of State, as
2 long as those immigration laws are permissible under this
3 section. Law enforcement personnel of a State, or of a po-
4 litical subdivision of a State, may not admit aliens to or
5 remove them 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 visa 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 (10) If applicable, the phone number and email
16 address pertaining to the alien.

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

22 (d) REIMBURSEMENT.—The Secretary shall reim-
23 burse States, and political subdivisions of a State, for all
24 reasonable costs, as determined by the Secretary, incurred

1 by the State, or the political subdivision of a State, as
2 a result of providing information under subsection (a).

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

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

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

15 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING
16 AND PROCESSING CERTAIN ALIENS.—From amounts
17 made available to make grants under this section, the Sec-
18 retary shall make grants to States, and to political subdivi-
19 sions of States, for procurement of equipment, technology,
20 facilities, and other products that facilitate and are di-
21 rectly related to investigating, apprehending, arresting,
22 detaining, or transporting aliens who are inadmissible or
23 deportable, including additional administrative costs in-
24 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) GAO AUDIT.—Not later than 3 years after the
12 date of the enactment of this Act, the Comptroller General
13 of the United States shall conduct an audit of funds dis-
14 tributed to States, and to political subdivisions of a State,
15 under subsection (a).

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

17 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
18 FACILITIES.—

19 (1) IN GENERAL.—The Secretary shall con-
20 struct or acquire, in addition to existing facilities for
21 the detention of aliens, detention facilities in the
22 United States, for aliens detained pending removal
23 from the United States or a decision regarding such
24 removal. Each facility shall have a number of beds
25 necessary to effectuate the purposes of this title.

1 “(1) request that the relevant State or local law
2 enforcement agency temporarily hold the alien in
3 their custody or transport the alien for transfer to
4 Federal custody; and

5 “(2) if the State or local law enforcement agen-
6 cy is unable to transport the alien for transfer to
7 Federal custody, take the alien into custody not
8 later than 48 hours (excluding Saturdays, Sundays,
9 and holidays) after the alien’s release from the cus-
10 tody of the State or political subdivision of the
11 State.

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

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

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

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

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

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

24 “(e) TRANSFER.—

1 “(1) IN GENERAL.—In carrying out this sec-
2 tion, the Secretary of Homeland Security shall es-
3 tablish a regular circuit and schedule for the prompt
4 transfer of apprehended aliens from the custody of
5 States, and political subdivisions of a State, to Fed-
6 eral custody.

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

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

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

13 (b) GAO AUDIT.—Not later than 3 years after the
14 date of the enactment of this Act, the Comptroller General
15 of the United States shall conduct an audit of compensa-
16 tion to States, and to political subdivisions of a State, for
17 the incarceration of inadmissible or deportable aliens
18 under section 240D(a) of the Immigration and Nationality
19 Act (as added by subsection (a)(1)).

20 (c) EFFECTIVE DATE.—Section 240D of the Immi-
21 gration and Nationality Act, as added by subsection (a),
22 shall take effect on the date of the enactment of this Act,
23 except that subsection (e) of such section shall take effect

1 on the date that is 120 day after the date of the enactment
2 of this Act.

3 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
4 **MENT PERSONNEL RELATING TO THE EN-**
5 **FORCEMENT OF IMMIGRATION LAWS.**

6 (a) ESTABLISHMENT OF TRAINING MANUAL AND
7 POCKET GUIDE.—Not later than 180 days after the date
8 of the enactment of this Act, the Secretary shall estab-
9 lish—

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

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

23 (b) AVAILABILITY.—The training manual and pocket
24 guide established in accordance with subsection (a) shall

1 be made available to all State and local law enforcement
2 personnel.

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

7 (d) COSTS.—The Secretary shall be responsible for
8 any costs incurred in establishing the training manual and
9 pocket guide.

10 (e) TRAINING FLEXIBILITY.—

11 (1) IN GENERAL.—The Secretary shall make
12 training of State and local law enforcement officers
13 available through as many means as possible, includ-
14 ing through residential training at the Center for
15 Domestic Preparedness, onsite training held at State
16 or local police agencies or facilities, online training
17 courses by computer, teleconferencing, and video-
18 tape, or the digital video display (DVD) of a train-
19 ing course or courses. E-learning through a secure,
20 encrypted distributed learning system that has all its
21 servers based in the United States, is scalable, sur-
22 vivable, and can have a portal in place not later than
23 30 days after the date of the enactment of this Act,
24 shall be made available by the Federal Law Enforce-

1 ment Training Center Distributed Learning Pro-
2 gram for State and local law enforcement personnel.

3 (2) FEDERAL PERSONNEL TRAINING.—The
4 training of State and local law enforcement per-
5 sonnel under this section shall not displace the train-
6 ing of Federal personnel.

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

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

16 **SEC. 110. IMMUNITY.**

17 Notwithstanding any other provision of law, a law en-
18 forcement officer of a State or local law enforcement agen-
19 cy who is acting within the scope of the officer's official
20 duties shall be immune, to the same extent as a Federal
21 law enforcement officer, from personal liability arising out
22 of the performance of any duty described in this title, in-
23 cluding the authorities to investigate, identify, apprehend,
24 arrest, detain, or transfer to Federal custody, an alien for
25 the purposes of enforcing the immigration laws of the

1 United States (as defined in section 101(a)(17) of the Im-
2 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or
3 the immigration laws of a State or a political subdivision
4 of a State.

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

6 (a) CONTINUATION AND EXPANSION.—

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

9 (A) identifies removable criminal aliens in
10 Federal and State correctional facilities;

11 (B) ensures such aliens are not released
12 into the community; and

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

15 (2) EXPANSION.—The program shall be ex-
16 tended to all States. Any State that receives Federal
17 funds for the incarceration of criminal aliens (pursu-
18 ant to the State Criminal Alien Assistance Program
19 authorized under section 241(i) of the Immigration
20 and Nationality Act (8 U.S.C. 1231(i)) or other
21 similar program) shall—

22 (A) cooperate with officials of the program;

23 (B) expeditiously and systematically iden-
24 tify criminal aliens in its prison and jail popu-
25 lations; and

1 (C) promptly convey such information to
2 officials of such program as a condition of re-
3 ceiving such funds.

4 (b) AUTHORIZATION FOR DETENTION AFTER COM-
5 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
6 enforcement officers of a State, or of a political subdivision
7 of a State, are authorized to—

8 (1) hold a criminal alien for a period of up to
9 48 hours (excluding Saturdays, Sundays, and holi-
10 days) after the alien has completed the alien’s sen-
11 tence under State or local law in order to effectuate
12 the transfer of the alien to Federal custody when the
13 alien is inadmissible or deportable; or

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

18 (c) TECHNOLOGY USAGE.—Technology, such as video
19 conferencing, shall be used to the maximum extent prac-
20 ticable in order to make the program available in remote
21 locations. Mobile access to Federal databases of aliens and
22 live scan technology shall be used to the maximum extent
23 practicable in order to make these resources available to
24 State and local law enforcement agencies in remote loca-
25 tions.

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

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

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

8 (1) in paragraph (1) by striking “may enter”
9 and all that follows through the period at the end
10 and inserting the following: “shall enter into a writ-
11 ten agreement with a State, or any political subdivi-
12 sion of a State, upon request of the State or political
13 subdivision, pursuant to which an officer or em-
14 ployee of the State or subdivision, who is determined
15 by the Secretary to be qualified to perform a func-
16 tion of an immigration officer in relation to the in-
17 vestigation, apprehension, or detention of aliens in
18 the United States (including the transportation of
19 such aliens across State lines to detention centers),
20 may carry out such function at the expense of the
21 State or political subdivision and to extent consistent
22 with State and local law. No request from a bona
23 fide State or political subdivision or bona fide law
24 enforcement agency shall be denied absent a compel-
25 ling reason. No limit on the number of agreements

1 under this subsection may be imposed. The Sec-
2 retary shall process requests for such agreements
3 with all due haste, and in no case shall take not
4 more than 90 days from the date the request is
5 made until the agreement is consummated.”;

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

9 (3) by inserting after paragraph (1) the fol-
10 lowing:

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

19 “(3) No Federal program or technology directed
20 broadly at identifying inadmissible or deportable aliens
21 shall substitute for such agreements, including those es-
22 tablishing a jail model, and shall operate in addition to
23 any agreement under this subsection.

24 “(4)(A) No agreement under this subsection shall be
25 terminated absent a compelling reason.

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

7 “(ii) The State or political subdivision shall have a
8 cause of action against the Secretary in a United States
9 District Court within the State regarding the termination
10 of the agreement, and if the ruling is against the State
11 or political subdivision, to appeal the ruling to the Federal
12 Circuit Court of Appeals and, if the ruling is against the
13 State or political subdivision, to the Supreme Court.

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

16 (4) by inserting after paragraph (5) (as redesign-
17 nated) the following:

18 “(6) The Secretary of Homeland Security shall make
19 training of State and local law enforcement officers avail-
20 able through as many means as possible, including
21 through residential training at the Center for Domestic
22 Preparedness and the Federal Law Enforcement Training
23 Center, onsite training held at State or local police agen-
24 cies or facilities, online training courses by computer, tele-
25 conferencing, and videotape, or the digital video display

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

13 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
14 **(SCAAP).**

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

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

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

23 (3) in paragraph (3)(A), by inserting “charged
24 with or” before “convicted”.

1 **SEC. 114. STATE VIOLATIONS OF ENFORCEMENT OF IMMI-**
2 **GRATION LAWS.**

3 (a) IN GENERAL.—Section 642 of the Illegal Immi-
4 gration Reform and Immigrant Responsibility Act of 1996
5 (8 U.S.C. 1373) is amended—

6 (1) by striking “Immigration and Naturaliza-
7 tion Service” each place it appears and inserting
8 “Department of Homeland Security”;

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

11 (3) in subsection (b)—

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

14 (B) by striking “doing any of the following
15 with respect to information” and inserting “un-
16 dertaking any of the following law enforcement
17 activities”; and

18 (C) by striking paragraphs (1) through (3)
19 and inserting the following:

20 “(1) Notifying the Federal Government regard-
21 ing the presence of inadmissible and deportable
22 aliens who are encountered by law enforcement per-
23 sonnel of a State or political subdivision of a State.

24 “(2) Complying with requests for information
25 from Federal law enforcement.

1 “(3) Issuing policies in the form of a resolu-
2 tions, ordinances, administrative actions, general or
3 special orders, or departmental policies that violate
4 Federal law or restrict a State or political subdivi-
5 sion of a State from complying with Federal law or
6 coordinating with Federal law enforcement.”; and

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

8 “(d) COMPLIANCE.—

9 “(1) IN GENERAL.—A State, or a political sub-
10 division of a State, that has in effect a statute, pol-
11 icy, or practice that prohibits law enforcement offi-
12 cers of the State, or of a political subdivision of the
13 State, from assisting or cooperating with Federal
14 immigration law enforcement in the course of car-
15 rying out the officers’ routine law enforcement du-
16 ties shall not be eligible to receive—

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

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

1 “(2) ANNUAL DETERMINATION.—The Secretary
2 shall determine annually which State or political
3 subdivision of a State are not in compliance with
4 this section and shall report such determinations to
5 Congress on March 1 of each year.

6 “(3) REPORTS.—The Attorney General shall
7 issue a report concerning the compliance of any par-
8 ticular State or political subdivision at the request of
9 the House or Senate Judiciary Committee. Any ju-
10 risdiction that is found to be out of compliance shall
11 be ineligible to receive Federal financial assistance
12 as provided in paragraph (1) for a minimum period
13 of 1 year, and shall only become eligible again after
14 the Attorney General certifies that the jurisdiction is
15 in compliance.

16 “(4) REALLOCATION.—Any funds that are not
17 allocated to a State or to a political subdivision of
18 a State, due to the failure of the State, or of the po-
19 litical subdivision of the State, to comply with sub-
20 section (c) shall be reallocated to States, or to polit-
21 ical subdivisions of States, that comply with such
22 subsection.

23 “(e) CONSTRUCTION.—Nothing in this section shall
24 require law enforcement officials from States, or from po-

1 litical subdivisions of States, to report or arrest victims
2 or witnesses of a criminal offense.”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act, except that subsection (d) of section 642 of
6 the Illegal Immigration Reform and Immigrant Responsi-
7 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
8 tion, shall take effect beginning one year after the date
9 of the enactment of this Act.

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

11 (a) **IN GENERAL.**—Except as otherwise provided by
12 Federal law or rule of procedure, the Secretary of Home-
13 land Security shall execute all lawful writs, process, and
14 orders issued under the authority of the United States,
15 and shall command all necessary assistance to execute the
16 Secretary’s duties.

17 (b) **STATE AND LOCAL COOPERATION WITH DHS**
18 **DETAINERS.**—A State, or a political subdivision of a
19 State, that has in effect a statute or policy or practice
20 providing that it not comply with any Department of
21 Homeland Security detainer ordering that it temporarily
22 hold an alien in their custody so that the alien may be
23 taken into Federal custody, or transport the alien for
24 transfer to Federal custody, shall not be eligible to re-
25 ceive—

1 (1) any of the funds that would otherwise be al-
2 located to the State or political subdivision under
3 section 241(i) of the Immigration and Nationality
4 Act (8 U.S.C. 1231(i)) or the “Cops on the Beat”
5 program under part Q of title I of the Omnibus
6 Crime Control and Safe Streets Act of 1968 (42
7 U.S.C. 3796dd et seq.); or

8 (2) any other law enforcement or Department
9 of Homeland Security grant.

10 (c) IMMUNITY.—A State or a political subdivision of
11 a State acting in compliance with a Department of Home-
12 land Security detainer who temporarily holds aliens in its
13 custody so that they may be taken into Federal custody,
14 or transports the aliens for transfer to Federal custody,
15 shall be considered to be acting under color of Federal
16 authority for purposes of determining its liability, and im-
17 munity from suit, in civil actions brought by the aliens
18 under Federal or State law.

19 (d) PROBABLE CAUSE.—It is the sense of Congress
20 that the Department of Homeland Security has probable
21 cause to believe that an alien is inadmissible or deportable
22 when it issues a detainer regarding such alien under the
23 standards in place on the date of introduction of this Act.

1 **TITLE II—NATIONAL SECURITY**

2 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
3 **RORIST ALIENS.**

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

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

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

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

21 (b) CANCELLATION OF REMOVAL.—Section
22 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-
23 ed—

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

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

3 (c) VOLUNTARY DEPARTURE.—Section
4 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is
5 amended by striking “deportable under section
6 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-
7 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

8 (d) RESTRICTION ON REMOVAL.—Section
9 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
10 amended—

11 (1) in the matter preceding clause (i), by insert-
12 ing “or the Secretary of Homeland Security” after
13 “Attorney General” each place it appears;

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

15 (3) in clause (iv), by striking the period at the
16 end and inserting a semicolon;

17 (4) by striking the flush matter that follows
18 after clause (iv); and

19 (5) by inserting after clause (iv) the following:

20 “(v) the alien is described in subpara-
21 graph (B)(i) or (F) of section 212(a)(3);
22 or”.

23 (e) RECORD OF ADMISSION.—

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

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

4 “SEC. 249. The Secretary of Homeland Security, in
5 the discretion of the Secretary and under such regulations
6 as the Secretary may prescribe, may enter a record of law-
7 ful admission for permanent residence in the case of any
8 alien, if no such record is otherwise available and the
9 alien—

10 “(1) entered the United States before January
11 1, 1972;

12 “(2) has continuously resided in the United
13 States since such entry;

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

16 “(4) is not ineligible for citizenship;

17 “(5) is not described in paragraph (1)(A)(iv),
18 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

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

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

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents for such Act is amended by amending the item
3 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.”.

4 (f) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on the date of enactment of
6 this Act and sections 208(b)(2)(A), 212(a), 240A, 240B,
7 241(b)(3), and 249 of the Immigration and Nationality
8 Act, as so amended, shall apply to—

9 (1) all aliens in removal, deportation, or exclu-
10 sion proceedings;

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

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

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

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

23 (1) in the matter preceding paragraph (1), by
24 striking “who, during the period for which good

1 moral character is required to be established, is,”
2 and inserting “who is”;

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) one who the Secretary of Homeland Secu-
6 rity or Attorney General determines to have been at
7 any time an alien described in section 212(a)(3) or
8 237(a)(4), which determination may be based upon
9 any relevant information or evidence, including clas-
10 sified, sensitive, or national security information;”;

11 (3) in paragraph (8), by striking “subsection
12 (a)(43);” and inserting “subsection (a)(43)), re-
13 gardless whether the crime was classified as an ag-
14 gravated felony at the time of conviction;” and

15 (4) in the matter following paragraph (9), by
16 striking the first sentence and inserting the fol-
17 lowing: “The fact that any person is not within any
18 of the foregoing classes shall not preclude a discre-
19 tionary finding for other reasons that such a person
20 is or was not of good moral character. The Secretary
21 or the Attorney General shall not be limited to the
22 applicant’s conduct during the period for which good
23 moral character is required, but may take into con-
24 sideration as a basis for determination the appli-
25 cant’s conduct and acts at any time.”.

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

4 “(b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect on November 29, 1990,
6 and shall apply to convictions occurring before, on or after
7 such date.”.

8 (c) TECHNICAL CORRECTION TO THE INTELLIGENCE
9 REFORM ACT.—Section 5504(2) of the Intelligence Re-
10 form and Terrorism Prevention Act of 2004 (Public Law
11 108–458) is amended by striking “adding at the end” and
12 inserting “inserting after paragraph (8)”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 subsections (a) and (b) shall take effect on the date of
15 enactment of this Act, shall apply to any act that occurred
16 before, on, or after such date and shall apply to any appli-
17 cation for naturalization or any other benefit or relief, or
18 any other case or matter under the immigration laws
19 pending on or filed after such date. The amendments
20 made by subsection (c) shall take effect as if enacted in
21 the Intelligence Reform and Terrorism Prevention Act of
22 2004 (Public Law 108–458).

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

24 (a) NATURALIZATION OF PERSONS ENDANGERING
25 THE NATIONAL SECURITY.—Section 316 of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1427) is amended by
2 adding at the end the following:

3 “(g) PERSONS ENDANGERING THE NATIONAL SECU-
4 RITY.—No person shall be naturalized who the Secretary
5 of Homeland Security determines to have been at any time
6 an alien described in section 212(a)(3) or 237(a)(4). Such
7 determination may be based upon any relevant informa-
8 tion or evidence, including classified, sensitive, or national
9 security information.”.

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

1 has established his eligibility for naturalization as required
2 by this title;”.

3 (c) PENDING DENATURALIZATION OR REMOVAL
4 PROCEEDINGS.—Section 204(b) of the Immigration and
5 Nationality Act (8 U.S.C. 1154(b)) is amended by adding
6 at the end the following: “No petition shall be approved
7 pursuant to this section if there is any administrative or
8 judicial proceeding (whether civil or criminal) pending
9 against the petitioner that could (whether directly or indi-
10 rectly) result in the petitioner’s denaturalization or the
11 loss of the petitioner’s lawful permanent resident status.”.

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

18 (e) DISTRICT COURT JURISDICTION.—Subsection
19 336(b) of the Immigration and Nationality Act (8 U.S.C.
20 1447(b)) is amended to read as follows:

21 “(b) If there is a failure to render a final administra-
22 tive decision under section 335 before the end of the 180-
23 day period after the date on which the Secretary of Home-
24 land Security completes all examinations and interviews
25 conducted under such section, as such terms are defined

1 by the Secretary of Homeland Security pursuant to regu-
2 lations, the applicant may apply to the district court for
3 the district in which the applicant resides for a hearing
4 on the matter. Such court shall only have jurisdiction to
5 review the basis for delay and remand the matter to the
6 Secretary of Homeland Security for the Secretary's deter-
7 mination on the application.”.

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

11 (1) by inserting “, not later than the date that
12 is 120 days after the Secretary of Homeland Secu-
13 rity's final determination,” after “seek”; and

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

1 purposes of an application for naturalization, an
2 alien is a person of good moral character, whether
3 the alien understands and is attached to the prin-
4 ciples of the Constitution of the United States, or
5 whether an alien is well disposed to the good order
6 and happiness of the United States.”.

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

13 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

14 (a) IN GENERAL.—Section 340 of the Immigration
15 and Nationality Act is amended—

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

18 (2) by inserting after subsection (e) the fol-
19 lowing:

20 “(f)(1) If a person who has been naturalized partici-
21 pates in any act described in paragraph (2), the Attorney
22 General is authorized to find that, as of the date of such
23 naturalization, such person was not attached to the prin-
24 ciples of the Constitution of the United States and was
25 not well disposed to the good order and happiness of the

1 United States at the time of naturalization, and upon such
2 finding shall set aside the order admitting such person to
3 citizenship and cancel the certificate of naturalization as
4 having been obtained by concealment of a material fact
5 or by willful misrepresentation, and such revocation and
6 setting aside of the order admitting such person to citizen-
7 ship and such canceling of certificate of naturalization
8 shall be effective as of the original date of the order and
9 certificate, respectively.

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

12 “(A) Any activity a purpose of which is the op-
13 position to, or the control or overthrow of, the Gov-
14 ernment of the United States by force, violence, or
15 other unlawful means.

16 “(B) Engaging in a terrorist activity (as de-
17 fined in clauses (iii) and (iv) of section
18 212(a)(3)(B)).

19 “(C) Incitement of terrorist activity under cir-
20 cumstances indicating an intention to cause death or
21 serious bodily harm.

22 “(D) Receiving military-type training (as de-
23 fined in section 2339D(c)(1) of title 18, United
24 States Code) from or on behalf of any organization
25 that, at the time the training was received, was a

1 terrorist organization (as defined in section
2 212(a)(3)(B)(vi)).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to acts that occur on
6 or after such date.

7 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
8 **FOR NATIONAL SECURITY PURPOSES.**

9 (a) SPECIAL AGRICULTURAL WORKERS.—Section
10 210(b)(6) of the Immigration and Nationality Act (8
11 U.S.C. 1160(b)(6)) is amended—

12 (1) by striking “Attorney General” each place
13 such term appears and inserting “Secretary of
14 Homeland Security”;

15 (2) in subparagraph (A), by striking “Depart-
16 ment of Justice,” and inserting “Department of
17 Homeland Security,”;

18 (3) by redesignating subparagraphs (C) and
19 (D) as subparagraphs (D) and (E), respectively;

20 (4) by inserting after subparagraph (B) the fol-
21 lowing:

22 “(C) AUTHORIZED DISCLOSURES.—

23 “(i) CENSUS PURPOSE.—The Sec-
24 retary of Homeland Security may provide,
25 in his discretion, for the furnishing of in-

1 formation furnished under this section in
2 the same manner and circumstances as
3 census information may be disclosed under
4 section 8 of title 13, United States Code.

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

13 (5) in subparagraph (D), as redesignated, by
14 striking “Service” and inserting “Department of
15 Homeland Security”.

16 (b) ADJUSTMENT OF STATUS UNDER THE IMMIGRA-
17 TION REFORM AND CONTROL ACT OF 1986.—Section
18 245A(c)(5) of the Immigration and Nationality Act (8
19 U.S.C. 1255a(c)(5)), is amended—

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

23 (2) in subparagraph (A), by striking “Depart-
24 ment of Justice,” and inserting “Department of
25 Homeland Security,”;

1 (3) by amending subparagraph (C) to read as
2 follows:

3 “(C) AUTHORIZED DISCLOSURES.—

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

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

19 (4) in subparagraph (D)(i), striking “Service”
20 and inserting “Department of Homeland Security”.

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

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

1 “(h) Notwithstanding any other provision of law
2 (statutory or nonstatutory), including but not limited to
3 section 309 of Public Law 107–173, sections 1361 and
4 1651 of title 28, United States Code, and section 706(1)
5 of title 5, United States Code, neither the Secretary of
6 Homeland Security, the Attorney General, nor any court
7 may—

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

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

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

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

1 “(i) Notwithstanding any other provision of law (stat-
2 utory or nonstatutory), including but not limited to section
3 309 of Public Law 107–173, sections 1361 and 1651 of
4 title 28, United States Code, and section 706(1) of title
5 5, United States Code, neither the Secretary of Homeland
6 Security nor the Attorney General may be required to—

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

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

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

18 “(4) issue or order the issuance of any docu-
19 mentation evidencing or related to any such grant,
20 until any suspected or alleged materially false infor-
21 mation, material misrepresentation or omission, con-
22 cealment of a material fact, fraud or forgery, coun-
23 terfeiting, or alteration, or falsification of a docu-
24 ment, as determined by the Secretary, relating to
25 the adjudication of an application or petition for any

1 status (including the granting of adjustment of sta-
2 tus), relief, protection from removal, or other benefit
3 under this subsection has been investigated and re-
4 solved to the Secretary’s satisfaction.

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

14 (b) CONSTRUCTION.—

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

18 “CONSTRUCTION

19 “SEC. 362. (a) IN GENERAL.—Nothing in this Act
20 or any other law, except as provided in subsection (d),
21 shall be construed to require the Secretary of Homeland
22 Security, the Attorney General, the Secretary of State, the
23 Secretary of Labor, or a consular officer to grant any ap-
24 plication, approve any petition, or grant or continue any
25 relief, protection from removal, employment authorization,

1 or any other status or benefit under the immigration laws
2 by, to, or on behalf of—

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

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

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

22 “(c) JURISDICTION.—Notwithstanding any other pro-
23 vision of law (statutory or nonstatutory), including section
24 309 of the Enhanced Border Security and Visa Entry Re-
25 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title

1 28, United States Code, and section 706(1) of title 5,
2 United States Code, no court shall have jurisdiction to re-
3 view a decision to deny or withhold adjudication pursuant
4 to subsection (b) of this section.

5 “(d) WITHHOLDING OF REMOVAL AND TORTURE
6 CONVENTION.—This section does not limit or modify the
7 applicability of section 241(b)(3) or the United Nations
8 Convention Against Torture and Other Cruel, Inhuman or
9 Degrading Treatment or Punishment, subject to any res-
10 ervations, understandings, declarations and provisos con-
11 tained in the United States Senate resolution of ratifica-
12 tion of the Convention, as implemented by section 2242
13 of the Foreign Affairs Reform and Restructuring Act of
14 1998 (Public Law 105–277) with respect to an alien oth-
15 erwise eligible for protection under such provisions.”.

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

“Sec. 362. Construction.”.

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

1 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
2 **TELLIGENCE REFORM AND TERRORISM PRE-**
3 **VENTION ACT OF 2004.**

4 (a) TRANSIT WITHOUT VISA PROGRAM.—Section
5 7209(d) of the Intelligence Reform and Terrorism Preven-
6 tion Act of 2004 (8 U.S.C. 1185 note) is amended by
7 striking “the Secretary, in conjunction with the Secretary
8 of Homeland Security,” and inserting “the Secretary of
9 Homeland Security, in consultation with the Secretary of
10 State,”.

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

15 **TITLE III—REMOVAL OF**
16 **CRIMINAL ALIENS**

17 **SEC. 301. DEFINITION OF AGGRAVATED FELONY.**

18 (a) DEFINITION OF AGGRAVATED FELONY.—Section
19 101(a)(43) of the Immigration and Nationality Act (8
20 U.S.C. 1101(a)(43)) is amended—

21 (1) by striking “The term ‘aggravated felony’
22 means—” and inserting “Notwithstanding any other
23 provision of law, the term ‘aggravated felony’ applies
24 to an offense described in this paragraph, whether in
25 violation of Federal or State law, or in violation of
26 the law of a foreign country for which the term of

1 imprisonment was completed within the previous 15
2 years, even if the length of the term of imprisonment
3 for the offense is based on recidivist or other en-
4 hancements and regardless of whether the conviction
5 was entered before, on, or after September 30, 1996,
6 and means—”;

7 (2) in subparagraph (A), by striking “murder,
8 rape, or sexual abuse of a minor;” and inserting “an
9 offense relating to murder, manslaughter, homicide,
10 rape (whether the victim was conscious or uncon-
11 scious), or any offense of a sexual nature involving
12 a victim under the age of 18 years;”;

13 (3) in subparagraph (B), by inserting “an of-
14 fense relating to” before “illicit trafficking”;

15 (4) in subparagraph (C), by inserting “an of-
16 fense relating to” before “illicit trafficking in fire-
17 arms”;

18 (5) in subparagraph (F), by inserting “an of-
19 fense relating to” before “a crime of violence”;

20 (6) in subparagraph (G), by striking “a theft
21 offense (including receipt of stolen property) or a
22 burglary offense” and inserting “an offense relating
23 to theft (including receipt of stolen property) or bur-
24 glary”;

1 (7) in subparagraph (I), by striking “or 2252”
2 and inserting “2252, or 2252A”;

3 (8) in subparagraph (N), by striking “para-
4 graph (1)(A) or (2) of” and all that follows through
5 the end and inserting “section 274(a) (relating to
6 alien smuggling);”;

7 (9) in subparagraph (O), by striking “section
8 275(a) or 276 committed by an alien who was pre-
9 viously deported on the basis of a conviction for an
10 offense described in another subparagraph of this
11 paragraph;” and inserting “section 275 or 276 for
12 which the term of imprisonment is at least 6
13 months;”;

14 (10) in subparagraph (U), by striking “an at-
15 tempt or conspiracy to commit an offense described
16 in this paragraph” and inserting “attempting or
17 conspiring to commit an offense described in this
18 paragraph, or aiding, abetting, counseling, pro-
19 curing, commanding, inducing, or soliciting the com-
20 mission of such an offense”; and

21 (11) by striking the undesignated matter fol-
22 lowing subparagraph (U).

23 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
24 MENTS.—

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

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

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

7 (2) APPLICATION OF IIRIRA AMENDMENTS.—

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

15 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**
16 **VICTED OF AGGRAVATED FELONIES OR**
17 **OTHER SERIOUS OFFENSES.**

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

21 (1) in subsection (a)(2)(A)(i)—

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

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

1 (C) by inserting after subclause (II) the
2 following:

3 “(III) a violation of (or a con-
4 spiracy or attempt to violate) an of-
5 fense described in section 408 of title
6 42, United States Code (relating to
7 social security account numbers or so-
8 cial security cards) or section 1028 of
9 title 18, United States Code (relating
10 to fraud and related activity in con-
11 nection with identification documents,
12 authentication features, and informa-
13 tion),”;

14 (2) by adding at the end of subsection (a)(2)
15 the following:

16 “(J) PROCUREMENT OF CITIZENSHIP OR
17 NATURALIZATION UNLAWFULLY.—Any alien
18 convicted of, or who admits having committed,
19 or who admits committing acts which constitute
20 the essential elements of, a violation of, or an
21 attempt or a conspiracy to violate, subsection
22 (a) or (b) of section 1425 of title 18, United
23 States Code (relating to the procurement of
24 citizenship or naturalization unlawfully) is inad-
25 missible.

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

14 “(L) AGGRAVATED FELONS.—Any alien
15 who has been convicted of an aggravated felony
16 at any time is inadmissible.

17 “(M) CRIMES OF DOMESTIC VIOLENCE,
18 STALKING, OR VIOLATION OF PROTECTION OR-
19 DERS, CRIMES AGAINST CHILDREN.—

20 “(i) DOMESTIC VIOLENCE, STALKING,
21 AND CHILD ABUSE.—Any alien who at any
22 time is convicted of, or who admits having
23 committed or admits committing acts
24 which constitute the essential elements of,
25 a crime of domestic violence, a crime of

1 stalking, or a crime of child abuse, child
2 neglect, or child abandonment is inadmis-
3 sible. For purposes of this clause, the term
4 ‘crime of domestic violence’ means any
5 crime of violence (as defined in section 16
6 of title 18, United States Code) against a
7 person committed by a current or former
8 spouse of the person, by an individual with
9 whom the person shares a child in com-
10 mon, by an individual who is cohabiting
11 with or has cohabited with the person as a
12 spouse, by an individual similarly situated
13 to a spouse of the person under the domes-
14 tic or family violence laws of the jurisdic-
15 tion where the offense occurs, or by any
16 other individual against a person who is
17 protected from that individual’s acts under
18 the domestic or family violence laws of the
19 United States or any State, Indian tribal
20 government, or unit of local or foreign gov-
21 ernment.

22 “(ii) VIOLATORS OF PROTECTION OR-
23 DERS.—Any alien who at any time is en-
24 joined under a protection order issued by
25 a court and whom the court determines

1 has engaged in conduct that violates the
2 portion of a protection order that involves
3 protection against credible threats of vio-
4 lence, repeated harassment, or bodily in-
5 jury to the person or persons for whom the
6 protection order was issued is inadmissible.
7 For purposes of this clause, the term ‘pro-
8 tection order’ means any injunction issued
9 for the purpose of preventing violent or
10 threatening acts of domestic violence, in-
11 cluding temporary or final orders issued by
12 civil or criminal courts (other than support
13 or child custody orders or provisions)
14 whether obtained by filing an independent
15 action or as a independent order in an-
16 other proceeding.

17 “(iii) WAIVER AUTHORIZED.—The
18 waiver authority available under section
19 237(a)(7) with respect to section
20 237(a)(2)(E)(i) shall be available on a
21 comparable basis with respect to this sub-
22 paragraph.”; and

23 (3) in subsection (h)—

24 (A) by striking “The Attorney General
25 may, in his discretion, waive the application of

1 subparagraphs (A)(i)(I), (B), (D), and (E) of
2 subsection (a)(2)” and inserting “The Attorney
3 General or the Secretary of Homeland Security
4 may, in the discretion of the Attorney General
5 or the Secretary, waive the application of sub-
6 paragraphs (A)(i)(I), (III), (B), (D), (E), or
7 (M) of subsection (a)(2)”;

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

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

17 (D) by inserting “or Secretary of Home-
18 land Security” after “the Attorney General”
19 each place it appears.

20 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
21 237(a)(3)(B) of the Immigration and Nationality Act (8
22 U.S.C. 1227(a)(3)(B)) is amended—

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

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

25 and

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

2 “(iv) of a violation of, or an attempt
3 or a conspiracy to violate, section 1425(a)
4 or (b) of title 18 (relating to the procure-
5 ment of citizenship or naturalization un-
6 lawfully),”.

7 (c) DEPORTABILITY; OTHER CRIMINAL OFFENSES.—
8 Section 237(a)(2) of the Immigration and Nationality Act
9 (8 U.S.C. 1227(a)(2)) is amended by adding at the end
10 the following:

11 “(G) FRAUD AND RELATED ACTIVITY AS-
12 SOCIATED WITH SOCIAL SECURITY ACT BENE-
13 FITS AND IDENTIFICATION DOCUMENTS.—Any
14 alien who at any time after admission has been
15 convicted of a violation of (or a conspiracy or
16 attempt to violate) section 208 of the Social Se-
17 curity Act (42 U.S.C. 408) (relating to social
18 security account numbers or social security
19 cards) or section 1028 of title 18, United States
20 Code (relating to fraud and related activity in
21 connection with identification) is deportable.”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply—

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

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

5 (e) CONSTRUCTION.—The amendments made by sub-
6 section (a) shall not be construed to create eligibility for
7 relief from removal under former section 212(c) of the Im-
8 migration and Nationality Act where such eligibility did
9 not exist before these amendments became effective.

10 **SEC. 303. ESPIONAGE CLARIFICATION.**

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

14 “(A) IN GENERAL.—Any alien who a con-
15 sular officer, the Attorney General, or the Sec-
16 retary of Homeland Security knows, or has rea-
17 sonable ground to believe, seeks to enter the
18 United States to engage solely, principally, or
19 incidentally in, or who is engaged in, or with re-
20 spect to clauses (i) and (iii) of this subpara-
21 graph has engaged in—

22 “(i) any activity—

23 “(I) to violate any law of the
24 United States relating to espionage or
25 sabotage; or

1 “(II) to violate or evade any law
2 prohibiting the export from the
3 United States of goods, technology, or
4 sensitive information;
5 “(ii) any other unlawful activity; or
6 “(iii) any activity a purpose of which
7 is the opposition to, or the control or over-
8 throw of, the Government of the United
9 States by force, violence, or other unlawful
10 means;
11 is inadmissible.”.

12 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
13 **THE POSSESSION OF FIREARMS BY, CERTAIN**
14 **ALIENS.**

15 Section 922 of title 18, United States Code, is
16 amended—

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

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

25 (3) in subsection (y)—

1 (A) in the header, by striking “ADMITTED
2 UNDER NONIMMIGRANT VISAS.—” and insert-
3 ing “NOT LAWFULLY ADMITTED FOR PERMA-
4 NENT RESIDENCE.—”;

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

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

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

14 (D) in paragraph (3)(A), by striking “ad-
15 mitted to the United States under a non-
16 immigrant visa” and inserting “lawfully admit-
17 ted to the United States but not as an alien
18 lawfully admitted for permanent residence”.

19 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
20 **TAIN IMMIGRATION, NATURALIZATION, AND**
21 **PEONAGE OFFENSES.**

22 Section 3291 of title 18, United States Code, is
23 amended by striking “No person” and all that follows
24 through the period at the end and inserting the following:
25 “No person shall be prosecuted, tried, or punished for a

1 violation of any section of chapters 69 (relating to nation-
2 ality and citizenship offenses) and 75 (relating to pass-
3 port, visa, and immigration offenses), or for a violation
4 of any criminal provision of section 243, 266, 274, 275,
5 276, 277, or 278 of the Immigration and Nationality Act,
6 or for an attempt or conspiracy to violate any such section,
7 unless the indictment is returned or the information is
8 filed within ten years after the commission of the of-
9 fense.”.

10 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
11 **OF RACKETEERING ACTIVITY.**

12 Section 1961(1) of title 18, United States Code, is
13 amended by striking “section 1542” through “section
14 1546 (relating to fraud and misuse of visas, permits, and
15 other documents)” and inserting “sections 1541–1548 (re-
16 lating to passports and visas)”.

17 **SEC. 307. CONFORMING AMENDMENTS FOR THE AGGRA-**
18 **VATED FELONY DEFINITION.**

19 (a) IN GENERAL.—Subparagraph (P) of section
20 101(a)(43) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(43)) is amended to read as follows:

22 “(P) an offense which is described in any
23 section of chapter 75 of title 18, United States
24 Code, for which the term of imprisonment is at
25 least 12 months;”.

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. PRECLUDING WITHHOLDING OF REMOVAL FOR**
22 **AGGRAVATED FELONS.**

23 (a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.
24 1231(b)(3)(B)), as amended by section 201, is further

1 amended by inserting after clause (v), as inserted by sec-
2 tion 201, the following:

3 “(vi) the alien is convicted of an ag-
4 gravated felony.”

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply—

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

9 (2) to all aliens who are required to establish
10 admissibility on or after such date, and in all re-
11 moval, deportation, or exclusion proceedings that are
12 filed, pending, or reopened on or after such date.

13 **SEC. 310. INADMISSIBILITY AND DEPORTABILITY OF**
14 **DRUNK DRIVERS.**

15 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
17 amended by this Act) is further amended—

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

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

21 (3) by inserting after subparagraph (U) the fol-
22 lowing:

23 “(V) a second or subsequent conviction for
24 driving while intoxicated (including a conviction
25 for driving while under the influence of or im-

1 paired by alcohol or drugs) without regard to
2 whether the conviction is classified as a mis-
3 demeanor or felony under State law.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall take effect on the date of the enactment
6 of this Act and apply to convictions entered on or after
7 such date.

8 **SEC. 311. DETENTION OF DANGEROUS ALIENS.**

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

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

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

17 “(B) **BEGINNING OF PERIOD.**—The re-
18 moval period begins on the latest of the fol-
19 lowing:

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

22 “(ii) If the alien is not in the custody
23 of the Secretary on the date the order of
24 removal becomes administratively final, the
25 date the alien is taken into such custody.

1 “(iii) If the alien is detained or con-
2 fined (except under an immigration proc-
3 ess) on the date the order of removal be-
4 comes administratively final, the date the
5 alien is taken into the custody of the Sec-
6 retary, after the alien is released from such
7 detention or confinement.”;

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

10 “(C) SUSPENSION OF PERIOD.—

11 “(i) EXTENSION.—The removal period
12 shall be extended beyond a period of 90
13 days and the Secretary may, in the Sec-
14 retary’s sole discretion, keep the alien in
15 detention during such extended period if—

16 “(I) the alien fails or refuses to
17 make all reasonable efforts to comply
18 with the removal order, or to fully co-
19 operate with the Secretary’s efforts to
20 establish the alien’s identity and carry
21 out the removal order, including mak-
22 ing timely application in good faith
23 for travel or other documents nec-
24 essary to the alien’s departure or con-
25 spires or acts to prevent the alien’s

1 removal that is subject to an order of
2 removal;

3 “(II) a court, the Board of Immi-
4 gration Appeals, or an immigration
5 judge orders a stay of removal of an
6 alien who is subject to an administra-
7 tively final order of removal;

8 “(III) the Secretary transfers
9 custody of the alien pursuant to law
10 to another Federal agency or a State
11 or local government agency in connec-
12 tion with the official duties of such
13 agency; or

14 “(IV) a court or the Board of
15 Immigration Appeals orders a remand
16 to an immigration judge or the Board
17 of Immigration Appeals, during the
18 time period when the case is pending
19 a decision on remand (with the re-
20 moval period beginning anew on the
21 date that the alien is ordered removed
22 on remand).

23 “(ii) RENEWAL.—If the removal pe-
24 riod has been extended under clause (C)(i),

1 a new removal period shall be deemed to
2 have begun on the date—

3 “(I) the alien makes all reason-
4 able efforts to comply with the re-
5 moval order, or to fully cooperate with
6 the Secretary’s efforts to establish the
7 alien’s identity and carry out the re-
8 moval order;

9 “(II) the stay of removal is no
10 longer in effect; or

11 “(III) the alien is returned to the
12 custody of the Secretary.

13 “(iii) MANDATORY DETENTION FOR
14 CERTAIN ALIENS.—In the case of an alien
15 described in section 236(c)(1), the Sec-
16 retary shall keep that alien in detention
17 during the extended period described in
18 clause (i).

19 “(iv) SOLE FORM OF RELIEF.—An
20 alien may seek relief from detention under
21 this subparagraph only by filing an appli-
22 cation for a writ of habeas corpus in ac-
23 cordance with chapter 153 of title 28,
24 United States Code. No alien whose period
25 of detention is extended under this sub-

1 paragraph shall have the right to seek re-
2 lease on bond.”;

3 (4) in paragraph (3)—

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

8 (B) by striking subparagraph (D) and in-
9 serting the following:

10 “(D) to obey reasonable restrictions on the
11 alien’s conduct or activities that the Secretary
12 prescribes for the alien, in order to prevent the
13 alien from absconding, for the protection of the
14 community, or for other purposes related to the
15 enforcement of the immigration laws.”;

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

18 (6) by striking paragraph (6) and inserting the
19 following:

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

22 “(A) DETENTION REVIEW PROCESS FOR
23 COOPERATIVE ALIENS ESTABLISHED.—For an
24 alien who is not otherwise subject to mandatory
25 detention, who has made all reasonable efforts

1 to comply with a removal order and to cooper-
2 ate fully with the Secretary of Homeland Secu-
3 rity's efforts to establish the alien's identity and
4 carry out the removal order, including making
5 timely application in good faith for travel or
6 other documents necessary to the alien's depar-
7 ture, and who has not conspired or acted to
8 prevent removal, the Secretary shall establish
9 an administrative review process to determine
10 whether the alien should be detained or released
11 on conditions. The Secretary shall make a de-
12 termination whether to release an alien after
13 the removal period in accordance with subpara-
14 graph (B). The determination shall include con-
15 sideration of any evidence submitted by the
16 alien, and may include consideration of any
17 other evidence, including any information or as-
18 sistance provided by the Secretary of State or
19 other Federal official and any other information
20 available to the Secretary of Homeland Security
21 pertaining to the ability to remove the alien.

22 “(B) AUTHORITY TO DETAIN BEYOND RE-
23 MOVAL PERIOD.—

24 “(i) IN GENERAL.—The Secretary of
25 Homeland Security, in the exercise of the

1 Secretary’s sole discretion, may continue to
2 detain an alien for 90 days beyond the re-
3 moval period (including any extension of
4 the removal period as provided in para-
5 graph (1)(C)). An alien whose detention is
6 extended under this subparagraph shall
7 have no right to seek release on bond.

8 “(ii) SPECIFIC CIRCUMSTANCES.—The
9 Secretary of Homeland Security, in the ex-
10 ercise of the Secretary’s sole discretion,
11 may continue to detain an alien beyond the
12 90 days authorized in clause (i)—

13 “(I) until the alien is removed, if
14 the Secretary, in the Secretary’s sole
15 discretion, determines that there is a
16 significant likelihood that the alien—

17 “(aa) will be removed in the
18 reasonably foreseeable future; or

19 “(bb) would be removed in
20 the reasonably foreseeable future,
21 or would have been removed, but
22 for the alien’s failure or refusal
23 to make all reasonable efforts to
24 comply with the removal order,
25 or to cooperate fully with the

1 Secretary's efforts to establish
2 the alien's identity and carry out
3 the removal order, including
4 making timely application in
5 good faith for travel or other doc-
6 uments necessary to the alien's
7 departure, or conspires or acts to
8 prevent removal;

9 “(II) until the alien is removed,
10 if the Secretary of Homeland Security
11 certifies in writing—

12 “(aa) in consultation with
13 the Secretary of Health and
14 Human Services, that the alien
15 has a highly contagious disease
16 that poses a threat to public safe-
17 ty;

18 “(bb) after receipt of a writ-
19 ten recommendation from the
20 Secretary of State, that release
21 of the alien is likely to have seri-
22 ous adverse foreign policy con-
23 sequences for the United States;

24 “(cc) based on information
25 available to the Secretary of

1 Homeland Security (including
2 classified, sensitive, or national
3 security information, and without
4 regard to the grounds upon
5 which the alien was ordered re-
6 moved), that there is reason to
7 believe that the release of the
8 alien would threaten the national
9 security of the United States; or
10 “(dd) that the release of the
11 alien will threaten the safety of
12 the community or any person,
13 conditions of release cannot rea-
14 sonably be expected to ensure the
15 safety of the community or any
16 person, and either—
17 “(AA) the alien has
18 been convicted of one or
19 more aggravated felonies (as
20 defined in section
21 101(a)(43)(A)) or of one or
22 more crimes identified by
23 the Secretary of Homeland
24 Security by regulation, or of
25 one or more attempts or

1 conspiracies to commit any
2 such aggravated felonies or
3 such identified crimes, if the
4 aggregate term of imprison-
5 ment for such attempts or
6 conspiracies is at least 5
7 years; or

8 “(BB) the alien has
9 committed one or more
10 crimes of violence (as de-
11 fined in section 16 of title
12 18, United States Code, but
13 not including a purely polit-
14 ical offense) and, because of
15 a mental condition or per-
16 sonality disorder and behav-
17 ior associated with that con-
18 dition or disorder, the alien
19 is likely to engage in acts of
20 violence in the future; or

21 “(III) pending a certification
22 under subclause (II), so long as the
23 Secretary of Homeland Security has
24 initiated the administrative review
25 process not later than 30 days after

1 the expiration of the removal period
2 (including any extension of the re-
3 moval period, as provided in para-
4 graph (1)(C)).

5 “(iii) NO RIGHT TO BOND HEARING.—
6 An alien whose detention is extended under
7 this subparagraph shall have no right to
8 seek release on bond, including by reason
9 of a certification under clause (ii)(II).

10 “(C) RENEWAL AND DELEGATION OF CER-
11 TIFICATION.—

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

23 “(ii) DELEGATION.—Notwithstanding
24 section 103, the Secretary of Homeland
25 Security may not delegate the authority to

1 make or renew a certification described in
2 item (bb), (cc), or (dd) of subparagraph
3 (B)(ii)(II) below the level of the Assistant
4 Secretary for Immigration and Customs
5 Enforcement.

6 “(iii) HEARING.—The Secretary of
7 Homeland Security may request that the
8 Attorney General or the Attorney General’s
9 designee provide for a hearing to make the
10 determination described in item (dd)(BB)
11 of subparagraph (B)(ii)(II).

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

20 “(E) REDETENTION.—The Secretary of
21 Homeland Security, in the exercise of the Sec-
22 retary’s discretion, without any limitations
23 other than those specified in this section, may
24 again detain any alien subject to a final re-
25 moval order who is released from custody, if re-

1 removal becomes likely in the reasonably foresee-
2 able future, the alien fails to comply with the
3 conditions of release, or to continue to satisfy
4 the conditions described in subparagraph (A),
5 or if, upon reconsideration, the Secretary, in
6 the Secretary's sole discretion, determines that
7 the alien can be detained under subparagraph
8 (B). This section shall apply to any alien re-
9 turned to custody pursuant to this subpara-
10 graph, as if the removal period terminated on
11 the day of the redetention.

12 “(F) REVIEW OF DETERMINATIONS BY
13 SECRETARY.—A determination by the Secretary
14 under this paragraph shall not be subject to re-
15 view by any other agency.”.

16 (b) DETENTION OF ALIENS DURING REMOVAL PRO-
17 CEEDINGS.—

18 (1) CLERICAL AMENDMENT.—Section 236 of
19 the Immigration and Nationality Act (8 U.S.C.
20 1226) is amended—

21 (A) by striking “Attorney General” each
22 place it appears (except in the second place that
23 term appears in subsection (a)) and inserting
24 “Secretary of Homeland Security”;

1 (B) in subsection (a) of such Act, by in-
2 serting “the Secretary of Homeland Security
3 or” before “the Attorney General—”; and

4 (C) in subsection (e) by striking “Attorney
5 General’s” and inserting “Secretary of Home-
6 land Security’s”.

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

10 “(f) LENGTH OF DETENTION.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of this section, an alien may be detained,
13 and for an alien described in subsection (c) shall be
14 detained, under this section without time limitation,
15 except as provided in subsection (h), during the
16 pendency of removal proceedings.

17 “(2) CONSTRUCTION.—The length of detention
18 under this section shall not affect detention under
19 section 241.”.

20 (3) DETENTION OF CRIMINAL ALIENS.—Section
21 236(c)(1) of the Immigration and Nationality Act (8
22 U.S.C. 1226(c)(1)) is amended to read as follows:

23 “(1) CUSTODY.—

24 “(A) IN GENERAL.—The Secretary of
25 Homeland Security shall take into custody any

1 alien who is described in paragraph (2) or (3)
2 of section 212(a), section 237(a)(2), section
3 237(a)(4), or who has no lawful status in the
4 United States and has been convicted one or
5 more times for driving while intoxicated (includ-
6 ing a conviction for driving while under the in-
7 fluence or impaired by alcohol or drugs), any
8 time after the alien is released, without regard-
9 ing to whether—

10 “(i) an alien is released related to any
11 activity, offense, or conviction described in
12 this paragraph;

13 “(ii) the alien is released on parole,
14 supervised release or probation; or

15 “(iii) the alien may be arrested or im-
16 prisoned again for the same offense.

17 “(B) SUBSEQUENT CUSTODY.—If the ac-
18 tivity described in this paragraph does not re-
19 sult in the alien being taken into custody by
20 any person other than the Secretary of Home-
21 land Security, then when the alien is brought to
22 the attention of the Secretary or when the Sec-
23 retary determines it is practical to take such
24 alien into custody, the Secretary shall take such
25 alien into custody.”.

1 (4) RELEASE ON BOND.—Section 236 of the
2 Immigration and Nationality Act (8 U.S.C. 1226),
3 as amended by paragraph (2), is further amended by
4 adding at the end the following:

5 “(g) RELEASE ON BOND.—

6 “(1) IN GENERAL.—An alien detained under
7 subsection (a) may seek release on bond. No bond
8 may be granted except to an alien who establishes
9 by clear and convincing evidence that the alien is not
10 a flight risk or a risk to another person or the com-
11 munity.

12 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
13 detained under subsection (c) may seek release on
14 bond.”.

15 (5) CLERICAL AMENDMENTS.—Section 236 of
16 the Immigration and Nationality Act (8 U.S.C.
17 1226) is amended—

18 (A) in subsection (a)(2)(B), by striking
19 “conditional parole;” and inserting “recog-
20 nizance;”; and

21 (B) in subsection (b), by striking “parole”
22 and inserting “recognizance”.

23 (c) SEVERABILITY.—If any of the provisions of this
24 section or any amendment by this section, or the applica-
25 tion of any such provision to any person or circumstance,

1 is held to be invalid for any reason, the remainder of this
2 section and of amendments made by this section, and the
3 application of the provisions and of the amendments made
4 by this section to any other person or circumstance shall
5 not be affected by such holding.

6 (d) EFFECTIVE DATES.—

7 (1) SUBSECTION (a).—The amendments made
8 by subsection (a) shall take effect upon the date of
9 enactment of this Act, and section 241 of the Immig-
10 ration and Nationality Act, as so amended, shall in
11 addition apply to—

12 (A) all aliens subject to a final administra-
13 tive removal, deportation, or exclusion order
14 that was issued before, on, or after the date of
15 the enactment of this Act; and

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

18 (2) SUBSECTION (b).—The amendments made
19 by subsection (b) shall take effect upon the date of
20 the enactment of this Act, and section 236 of the
21 Immigration and Nationality Act, as so amended,
22 shall in addition apply to any alien in detention
23 under provisions of such section on or after such
24 date.

1 **SEC. 312. GROUNDS OF INADMISSIBILITY AND DEPORT-**
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
4 of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)) is amended by adding at the end the following:

6 “(53)(A) The term ‘criminal gang’ means an ongoing
7 group, club, organization, or association of 5 or more per-
8 sons that has as one of its primary purposes the commis-
9 sion of 1 or more of the following criminal offenses and
10 the members of which engage, or have engaged within the
11 past 5 years, in a continuing series of such offenses, or
12 that has been designated as a criminal gang by the Sec-
13 retary of Homeland Security, in consultation with the At-
14 torney General, as meeting these criteria. The offenses de-
15 scribed, whether in violation of Federal or State law or
16 foreign law and regardless of whether the offenses oc-
17 curred before, on, or after the date of the enactment of
18 this paragraph, are the following:

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

22 “(ii) An offense under section 274 (relating to
23 bringing in and harboring certain aliens), section
24 277 (relating to aiding or assisting certain aliens to
25 enter the United States), or section 278 (relating to
26 importation of alien for immoral purpose).

1 “(iii) A crime of violence (as defined in section
2 16 of title 18, United States Code).

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

6 “(v) Any conduct punishable under sections
7 1028 and 1029 of title 18, United States Code (re-
8 lating to fraud and related activity in connection
9 with identification documents or access devices), sec-
10 tions 1581 through 1594 of such title (relating to
11 peonage, slavery and trafficking in persons), section
12 1952 of such title (relating to interstate and foreign
13 travel or transportation in aid of racketeering enter-
14 prises), section 1956 of such title (relating to the
15 laundering of monetary instruments), section 1957
16 of such title (relating to engaging in monetary trans-
17 actions in property derived from specified unlawful
18 activity), or sections 2312 through 2315 of such title
19 (relating to interstate transportation of stolen motor
20 vehicles or stolen property).

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

23 “(B) Notwithstanding any other provision of law (in-
24 cluding any effective date), the term applies regardless of

1 whether the conduct occurred before, on, or after the date
2 of the enactment of this paragraph.”.

3 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
4 (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
5 of this Act, is further amended by adding at the end the
6 following:

7 “(O) ALIENS ASSOCIATED WITH CRIMINAL
8 GANGS.—Any alien is inadmissible who a con-
9 sular officer, the Secretary of Homeland Secu-
10 rity, or the Attorney General knows or has rea-
11 son to believe—

12 “(i) to be or to have been a member
13 of a criminal gang (as defined in section
14 101(a)(53)); or

15 “(ii) to have participated in the activi-
16 ties of a criminal gang (as defined in sec-
17 tion 101(a)(53)), knowing or having reason
18 to know that such activities will promote,
19 further, aid, or support the illegal activity
20 of the criminal gang.”.

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

1 “(H) ALIENS ASSOCIATED WITH CRIMINAL
2 GANGS.—Any alien is deportable who the Sec-
3 retary of Homeland Security or the Attorney
4 General knows or has reason to believe—

5 “(i) is or has been a member of a
6 criminal gang (as defined in section
7 101(a)(53)); or

8 “(ii) has participated in the activities
9 of a criminal gang (as so defined), knowing
10 or having reason to know that such activi-
11 ties will promote, further, aid, or support
12 the illegal activity of the criminal gang.”.

13 (d) DESIGNATION.—

14 (1) IN GENERAL.—Chapter 2 of title II of the
15 Immigration and Nationality Act (8 U.S.C. 1182) is
16 amended by inserting after section 219 the fol-
17 lowing:

18 “DESIGNATION

19 “SEC. 220. (a) IN GENERAL.—The Secretary of
20 Homeland Security, in consultation with the Attorney
21 General, and the Secretary of State may designate a group
22 or association as a criminal street gang if their conduct
23 is described in section 101(a)(53) or if the group or asso-
24 ciation conduct poses a significant risk that threatens the
25 security and the public safety of United States nationals

1 or the national security, homeland security, foreign policy,
2 or economy of the United States.

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

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

“220. Designation.”.

11 (e) ANNUAL REPORT ON DETENTION OF CRIMINAL
12 STREET GANG MEMBERS.—Not later than March 1 of
13 each year (beginning 1 year after the date of the enact-
14 ment of this Act), the Secretary of Homeland Security,
15 after consultation with the appropriate Federal agencies,
16 shall submit to the Committee on the Judiciary of the Sen-
17 ate and the Committee on the Judiciary of the House of
18 Representatives a report on the number of aliens detained
19 who are described by subparagraph (O) of section
20 212(a)(2) and subparagraph (H) of section 237(a)(2) of
21 the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)
22 and 1227(a)(2)), as added by subsections (b) and (c).

23 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
24 ATION.—

1 (1) INAPPLICABILITY OF RESTRICTION ON RE-
2 MOVAL TO CERTAIN COUNTRIES.—Section
3 241(b)(3)(B) of the Immigration and Nationality
4 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
5 matter preceding clause (i), by inserting “who is de-
6 scribed in section 212(a)(2)(O)(i) or section
7 237(a)(2)(H)(i) or who is” after “to an alien”.

8 (2) INELIGIBILITY FOR ASYLUM.—Section
9 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
10 (as amended by this Act) is further amended—

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

13 (B) by redesignating clause (vi) as clause
14 (vii); and

15 (C) by inserting after clause (v) the fol-
16 lowing:

17 “(vi) the alien is described in section
18 212(a)(2)(O)(i) or section 237(a)(2)(H)(i)
19 (relating to participation in criminal street
20 gangs); or”.

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

23 (1) by striking “Attorney General” each place
24 it appears and inserting “Secretary of Homeland Se-
25 curity”;

1 (2) in subparagraph (e)(2)(B)—

2 (A) in clause (i), by striking “States, or”
3 and inserting “States;”;

4 (B) in clause (ii), by striking the period
5 and inserting “; or”; and

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

7 “(iii) the alien is, or at any time has
8 been, an alien described in section
9 212(a)(2)(O)(i) or section
10 237(a)(2)(H)(i).”; and

11 (3) in subsection (d)—

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

13 (B) in paragraph (4), by adding at the end
14 the following: “The Secretary of Homeland Se-
15 curity may detain an alien provided temporary
16 protected status under this section whenever
17 appropriate under any other provision of law.”.

18 (h) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act and shall apply to acts that occur before, on,
21 or after the date of the enactment of this Act.

22 **SEC. 313. EXTENSION OF IDENTITY THEFT OFFENSES.**

23 Section 1028A of title 18, United States Code, is
24 amended by adding at the end the following:

1 “(d) STATE OF MIND PROOF REQUIREMENT.—In a
2 prosecution for a violation of subsection (a)(1) predicated
3 on a violation described in subsection (c)(2), (6), (7), (9),
4 or (10) of this section, the Government need not prove
5 that the defendant knew the means of identification was
6 of another person.”.

7 **SEC. 314. LAUNDERING OF MONETARY INSTRUMENTS.**

8 (a) ADDITIONAL PREDICATE OFFENSES.—Section
9 1956(c)(7)(D) of title 18, United States Code, is amend-
10 ed—

11 (1) by inserting “section 1590 (relating to traf-
12 ficking with respect to peonage, slavery, involuntary
13 servitude, or forced labor),” after “section 1363 (re-
14 lating to destruction of property within the special
15 maritime and territorial jurisdiction),”; and

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

21 (b) INTENT TO CONCEAL OR DISGUISE.—Section
22 1956(a) of title 18, United States Code, is amended—

23 (1) in paragraph (1) so that subparagraph (B)
24 reads as follows:

25 “(B) knowing that the transaction—

1 “(i) conceals or disguises, or is intended to
2 conceal or disguise, the nature, source, location,
3 ownership, or control of the proceeds of some
4 form of unlawful activity; or

5 “(ii) avoids, or is intended to avoid, a
6 transaction reporting requirement under State
7 or Federal law,”; and

8 (2) in paragraph (2) so that subparagraph (B)
9 reads as follows:

10 “(B) knowing that the monetary instrument or
11 funds involved in the transportation, transmission,
12 or transfer represent the proceeds of some form of
13 unlawful activity, and knowing that such transpor-
14 tation, transmission, or transfer—

15 “(i) conceals or disguises, or is intended to
16 conceal or disguise, the nature, source, location,
17 ownership, or control of the proceeds of some
18 form of unlawful activity; or

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

22 **SEC. 315. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

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

1 “SEC. 275. (a) IN GENERAL.—

2 “(1) ILLEGAL ENTRY OR PRESENCE.—An alien
3 shall be subject to the penalties set forth in para-
4 graph (2) if the alien—

5 “(A) knowingly enters or crosses the bor-
6 der into the United States at any time or place
7 other than as designated by the Secretary of
8 Homeland Security;

9 “(B) knowingly eludes, at any time or
10 place, examination or inspection by an author-
11 ized immigration, customs, or agriculture offi-
12 cer (including by failing to stop at the com-
13 mand of such officer);

14 “(C) knowingly enters or crosses the bor-
15 der to the United States and, upon examination
16 or inspection, knowingly makes a false or mis-
17 leading representation or the knowing conceal-
18 ment of a material fact (including such rep-
19 resentation or concealment in the context of ar-
20 rival, reporting, entry, or clearance require-
21 ments of the customs laws, immigration laws,
22 agriculture laws, or shipping laws);

23 “(D) knowingly violates the terms or con-
24 ditions of the alien’s admission or parole into
25 the United States; or

1 “(E) knowingly is unlawfully present in the
2 United States (as defined in section
3 212(a)(9)(B)(ii) subject to the exceptions set
4 forth in section 212(a)(9)(B)(iii)).

5 “(2) CRIMINAL PENALTIES.—Any alien who
6 violates any provision under paragraph (1)—

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

10 “(B) shall, for a second or subsequent vio-
11 lation, or following an order of voluntary depar-
12 ture, be fined under such title, imprisoned not
13 more than 2 years (or not more than 6 months
14 in the case of a second or subsequent violation
15 of paragraph (1)(E)), or both;

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

21 “(D) if the violation occurred after the
22 alien had been convicted of a felony for which
23 the alien received a term of imprisonment of
24 not less than 30 months, shall be fined under

1 such title, imprisoned not more than 15 years,
2 or both; and

3 “(E) if the violation occurred after the
4 alien had been convicted of a felony for which
5 the alien received a term of imprisonment of
6 not less than 60 months, such alien shall be
7 fined under such title, imprisoned not more
8 than 20 years, or both.

9 “(3) PRIOR CONVICTIONS.—The prior convic-
10 tions described in subparagraphs (C) through (E) of
11 paragraph (2) are elements of the offenses described
12 and the penalties in such subparagraphs shall apply
13 only in cases in which the conviction or convictions
14 that form the basis for the additional penalty are—

15 “(A) alleged in the indictment or informa-
16 tion; and

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

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

23 “(5) ATTEMPT.—Whoever attempts to commit
24 any offense under this section shall be punished in

1 the same manner as for a completion of such of-
2 fense.

3 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
4 ALTIES.—Any alien who is apprehended while entering, at-
5 tempting to enter, or knowingly crossing or attempting to
6 cross the border to the United States at a time or place
7 other than as designated by immigration officers shall be
8 subject to a civil penalty, in addition to any criminal or
9 other civil penalties that may be imposed under any other
10 provision of law, in an amount equal to—

11 “(1) not less than \$50 or more than \$250 for
12 each such entry, crossing, attempted entry, or at-
13 tempted crossing; or

14 “(2) twice the amount specified in paragraph
15 (1) if the alien had previously been subject to a civil
16 penalty under this subsection.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 for the Immigration and Nationality Act is amended by
19 striking the item relating to section 275 and inserting the
20 following:

“Sec. 275. Illegal entry or presence.”.

21 **SEC. 316. ILLEGAL REENTRY.**

22 Section 276 of the Immigration and Nationality Act
23 (8 U.S.C. 1326) is amended to read as follows:

1 “REENTRY OF REMOVED ALIEN

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

11 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
12 withstanding the penalty provided in subsection (a), if an
13 alien described in that subsection was convicted before
14 such removal or departure—

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

19 “(2) for a felony for which the alien was sen-
20 tenced to a term of imprisonment of not less than
21 30 months, the alien shall be fined under such title,
22 imprisoned not less than 2 years and not more than
23 15 years, or both;

24 “(3) for a felony for which the alien was sen-
25 tenced to a term of imprisonment of not less than

1 60 months, the alien shall be fined under such title,
2 imprisoned not less than 4 years and not more than
3 20 years, or both; or

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

10 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
11 alien who has been denied admission, excluded, deported,
12 or removed 3 or more times and thereafter enters, at-
13 tempts to enter, crosses the border to, attempts to cross
14 the border to, or is at any time found in the United States,
15 shall be fined under title 18, United States Code, impris-
16 oned not more than 10 years, or both.

17 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
18 convictions described in subsection (b) are elements of the
19 crimes described, and the penalties in that subsection shall
20 apply only in cases in which the conviction or convictions
21 that form the basis for the additional penalty are—

22 “(1) alleged in the indictment or information;
23 and

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

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

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

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

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

12 “(B) had complied with all other laws and
13 regulations governing the alien’s admission into
14 the United States.

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

19 “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-
20 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
21 moved pursuant to section 241(a)(4) who enters, attempts
22 to enter, crosses the border to, attempts to cross the bor-
23 der to, or is at any time found in, the United States shall
24 be incarcerated for the remainder of the sentence of im-
25 prisonment which was pending at the time of deportation

1 without any reduction for parole or supervised release un-
2 less the alien affirmatively demonstrates that the Sec-
3 retary of Homeland Security has expressly consented to
4 the alien’s reentry. Such alien shall be subject to such
5 other penalties relating to the reentry of removed aliens
6 as may be available under this section or any other provi-
7 sion of law.

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

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

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

18 “(3) MISDEMEANOR.—The term ‘misdemeanor’
19 means any criminal offense punishable by a term of
20 imprisonment of not more than 1 year under the ap-
21 plicable laws of the United States, any State, or a
22 foreign government.

23 “(4) REMOVAL.—The term ‘removal’ includes
24 any denial of admission, exclusion, deportation, or

1 removal, or any agreement by which an alien stipu-
 2 lates or agrees to exclusion, deportation, or removal.

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

7 **SEC. 317. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
 8 **FRAUD OFFENSES.**

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

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

- “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.

12 **“§ 1541. Issuance without authority**

13 “(a) IN GENERAL.—Whoever—

14 “(1) acting or claiming to act in any office or
 15 capacity under the United States, or a State, with-
 16 out lawful authority grants, issues, or verifies any
 17 passport or other instrument in the nature of a
 18 passport to or for any person; or

19 “(2) being a consular officer authorized to
 20 grant, issue, or verify passports, knowingly grants,
 21 issues, or verifies any such passport to or for any

1 person not owing allegiance, to the United States,
2 whether a citizen or not;
3 shall be fined under this title or imprisoned not more than
4 15 years, or both.

5 “(b) DEFINITION.—In this section, the term ‘State’
6 means a State of the United States, the District of Colum-
7 bia, and any commonwealth, territory, or possession of the
8 United States.

9 **“§ 1542. False statement in application and use of**
10 **passport**

11 “Whoever knowingly—

12 “(1) makes any false statement in an applica-
13 tion for passport with intent to induce or secure the
14 issuance of a passport under the authority of the
15 United States, either for his own use or the use of
16 another, contrary to the laws regulating the issuance
17 of passports or the rules prescribed pursuant to such
18 laws; or

19 “(2) uses or attempts to use, or furnishes to
20 another for use any passport the issue of which was
21 secured in any way by reason of any false statement;
22 shall be fined under this title or imprisoned not more than
23 15 years, or both.

24 **“§ 1543. Forgery or false use of passport**

25 “Whoever—

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

5 “(2) knowingly uses, or attempts to use, or fur-
6 nishes to another for use any such false, forged,
7 counterfeited, mutilated, or altered passport or in-
8 strument purporting to be a passport, or any pass-
9 port validly issued which has become void by the oc-
10 currence of any condition therein prescribed invali-
11 dating the same;

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

14 **“§ 1544. Misuse of a passport**

15 “Whoever knowingly—

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

18 “(2) uses any passport in violation of the condi-
19 tions or restrictions therein contained, or in violation
20 of the laws, regulations, or rules governing the
21 issuance and use of the passport;

22 “(3) secures, possesses, uses, receives, buys,
23 sells, or distributes any passport knowing it to be
24 forged, counterfeited, altered, falsely made, procured

1 by fraud, stolen, or produced or issued without law-
2 ful authority; or

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

6 shall be fined under this title, imprisoned not more than
7 15 years, or both.

8 **“§ 1545. Schemes to defraud aliens**

9 “Whoever inside the United States, or in or affecting
10 interstate or foreign commerce, in connection with any
11 matter that is authorized by or arises under the immigra-
12 tion laws of the United States or any matter the offender
13 claims or represents is authorized by or arises under the
14 immigration laws of the United States, knowingly executes
15 a scheme or artifice—

16 “(1) to defraud any person, or

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

20 shall be fined under this title, imprisoned not more than
21 15 years, or both.

22 **“§ 1546. Immigration and visa fraud**

23 “Whoever knowingly—

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

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

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

6 “(4) secures, possesses, uses, transfers, re-
7 ceives, buys, sells, or distributes any immigration
8 document knowing it to be forged, counterfeited, al-
9 tered, falsely made, stolen, procured by fraud, or
10 produced or issued without lawful authority;

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

13 “(6) transfers or furnishes, without lawful au-
14 thority, an immigration document to another person
15 for use by a person other than the person for whom
16 the immigration document was issued or designed;
17 or

18 “(7) produces, issues, authorizes, or verifies,
19 without lawful authority, an immigration document;

20 shall be fined under this title, imprisoned not more than
21 15 years, or both.

22 **“§ 1547. Attempts and conspiracies**

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

1 **“§ 1548. Alternative penalties for certain offenses**

2 “(a) **TERRORISM.**—Whoever violates any section in
3 this chapter to facilitate an act of international terrorism
4 or domestic terrorism (as such terms are defined in section
5 2331), shall be fined under this title or imprisoned not
6 more than 25 years, or both.

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

12 **“§ 1549. Definitions**

13 “In this chapter:

14 “(1) An ‘application for a United States pass-
15 port’ includes any document, photograph, or other
16 piece of evidence attached to or submitted in support
17 of the application.

18 “(2) The term ‘immigration document’ means
19 any instrument on which is recorded, by means of
20 letters, figures, or marks, matters which may be
21 used to fulfill any requirement of the Immigration
22 and Nationality Act.”.

23 **SEC. 318. FORFEITURE.**

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

1 “(I) Any property, real or personal, that has
 2 been used to commit or facilitate the commission of
 3 a violation of chapter 75, the gross proceeds of such
 4 violation, and any property traceable to any such
 5 property or proceeds.”.

6 **SEC. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
 7 **ON CRIMINAL OR SECURITY GROUNDS.**

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

10 (1) in paragraph (1)—

11 (A) by striking “Attorney General” and in-
 12 serting “Secretary of Homeland Security in the
 13 exercise of discretion”; and

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

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

20 (3) by striking “Attorney General” each place
 21 it appears in paragraphs (3) and (4) and inserting
 22 “Secretary of Homeland Security”;

23 (4) in paragraph (5)—

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

4 (B) by striking “the Attorney General may
5 grant in the Attorney General’s discretion” and
6 inserting “the Secretary of Homeland Security
7 or the Attorney General may grant, in the dis-
8 cretion of the Secretary or Attorney General, in
9 any proceeding”;

10 (5) by redesignating paragraphs (3), (4), and
11 (5) as paragraphs (4), (5), and (6), respectively; and

12 (6) by inserting after paragraph (2) the fol-
13 lowing new paragraph:

14 “(3) The Secretary of Homeland Security in
15 the exercise of discretion may determine inadmis-
16 sibility under section 212(a)(2) (relating to criminal
17 offenses) or section 212(a)(3) (related to security
18 grounds) and issue an order of removal pursuant to
19 the procedures set forth in this subsection, in lieu of
20 removal proceedings under section 240, with respect
21 to an alien who—

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

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

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

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

8 **SEC. 320. INCREASED PENALTIES BARRING THE ADMIS-**
9 **SION OF CONVICTED SEX OFFENDERS FAIL-**
10 **ING TO REGISTER AND REQUIRING DEPORATA-**
11 **TION OF SEX OFFENDERS FAILING TO REG-**
12 **ISTER.**

13 (a) **INADMISSIBILITY.**—Section 212(a)(2)(A)(i) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)(A)(i)), as amended by section 302(a) of this
16 Act, is further amended—

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

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

21 (3) by inserting after subclause (III) the fol-
22 lowing:

23 “(IV) a violation of section 2250
24 of title 18, United States Code (relat-

1 ing to failure to register as a sex of-
2 fender),”.

3 (b) DEPORTABILITY.—Section 237(a)(2) of such Act
4 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and
5 311(c) of this Act, is further amended—

6 (1) in subparagraph (A), by striking clause (v);

7 and

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

9 “(I) FAILURE TO REGISTER AS A SEX OF-
10 FENDER.—Any alien convicted of, or who ad-
11 mits having committed, or who admits commit-
12 ting acts which constitute the essential elements
13 of a violation of section 2250 of title 18, United
14 States Code (relating to failure to register as a
15 sex offender) is deportable.”.

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

20 **SEC. 321. PROTECTING IMMIGRANTS FROM CONVICTED**
21 **SEX OFFENDERS.**

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

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

3 “(viii) Clause (i) shall not apply to a citizen of the
4 United States who has been convicted of an offense de-
5 scribed in subparagraph (A), (I), or (K) of section
6 101(a)(43) or any offense defined in section 111 of the
7 Adam Walsh Child Protection and Safety Act of 2006 (42
8 U.S.C. 16911), unless the Secretary of Homeland Secu-
9 rity, in the Secretary’s sole and unreviewable discretion,
10 determines that the citizen poses no risk to the alien with
11 respect to whom a petition described in clause (i) is filed.”;
12 and

13 (2) in subparagraph (B)(i)—

14 (A) by redesignating the second subclause
15 (I) as subclause (II); and

16 (B) by amending such subclause (II) to
17 read as follows:

18 “(II) Subclause (I) shall not apply in the case of an
19 alien admitted for permanent residence who has been con-
20 victed of an offense described in subparagraph (A), (I),
21 or (K) of section 101(a)(43), unless the Secretary of
22 Homeland Security, in the Secretary’s sole and
23 unreviewable discretion, determines that the alien lawfully
24 admitted for permanent residence poses no risk to the

1 alien with respect to whom a petition described in sub-
2 clause (I) is filed.”.

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

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 petitions filed on or after
10 such date.

11 **SEC. 322. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
12 **DERS.**

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

15 (1) in the matter preceding subparagraph (A)
16 of paragraph (1), by inserting “212(a) or” before
17 “237(a),”; 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. 323. 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 312(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.—In the case of an alien who
16 has been convicted of a crime and is subject to re-
17 moval due to that conviction, if the alien, subsequent
18 to receiving the criminal conviction, is granted a
19 pardon, the alien shall not be deportable by reason
20 of that criminal conviction.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act and shall apply to a pardon granted before,
24 on, or after such date.

1 **SEC. 324. CONVICTIONS.**

2 (a) IN GENERAL.—Section 212(a)(2) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1182(a)(2)) is
4 amended by adding at the end the following subparagraph:

5 “(J) CONVICTIONS.—

6 “(i) IN GENERAL.—For purposes of
7 determining whether an underlying crimi-
8 nal offense constitutes a ground of inad-
9 missibility under this subsection, all stat-
10 utes or common law offenses are divisible
11 so long as any of the conduct encompassed
12 by the statute constitutes an offense that
13 is a ground of inadmissibility.

14 “(ii) OTHER EVIDENCE.—If the con-
15 viction records do not conclusively establish
16 whether a crime constitutes a ground of in-
17 admissibility, the Attorney General or the
18 Secretary of Homeland Security may con-
19 sider other evidence related to the convic-
20 tion that clearly establishes that the con-
21 duct for which the alien was engaged con-
22 stitutes a ground of inadmissibility.”.

23 (b) CRIMINAL OFFENSES.—Section 237(a)(2) of the
24 Immigration and Nationality Act (8 U.S.C. 1227(a)(2))
25 is amended by adding at the end the following subpara-
26 graph:

1 “(G) CRIMINAL OFFENSES.—

2 “(i) IN GENERAL.—For purposes of
3 determining whether an underlying crimi-
4 nal offense constitutes a ground of deport-
5 ability under this subsection, all statutes or
6 common law offenses are divisible so long
7 as any of the conduct encompassed by the
8 statute constitutes an offense that is a
9 ground of deportability.

10 “(ii) OTHER EVIDENCE.—If the con-
11 viction records do not conclusively establish
12 whether a crime constitutes a ground of
13 deportability, the Attorney General or the
14 Secretary of Homeland Security may con-
15 sider other evidence related to the convic-
16 tion that clearly establishes that the con-
17 duct for which the alien was engaged con-
18 stitutes a ground of deportability.”.

19 (c) FINALITY OF SENTENCES FOR IMMIGRATION
20 PURPOSES.—Section 101(a)(48) of the Immigration and
21 Nationality Act (8 U.S.C. 1101(a)(48)) is amended by
22 adding at the end the following subparagraph:

23 “(C) Any modification, clarification, vacatur, or any
24 other such similar action with respect to an alien’s convic-
25 tion, other than a full and complete pardon, made after

1 the initiation of any proceedings to remove the alien from
2 the United States shall have no effect for the purposes
3 of this Act.”.

4 **TITLE IV—VISA SECURITY**

5 **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

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

8 (1) in paragraph (1)—

9 (A) by striking “Attorney General” and in-
10 sserting “Secretary”; and

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

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

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to a visa issued before,
25 on, or after such date.

1 **SEC. 402. VISA INFORMATION SHARING.**

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

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

6 (2) in paragraph (2), in the matter preceding
7 subparagraph (A), by striking “and on the basis of
8 reciprocity”;

9 (3) in paragraph (2)(A)—

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

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

16 (4) in paragraph (2)(B)—

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

19 (B) by striking “or to deny visas to per-
20 sons who would be inadmissible to the United
21 States.” and inserting “; or”; and

22 (5) in paragraph (2), by adding at the end the
23 following:

24 “(C) with regard to any or all aliens in the
25 database specified data elements from each
26 record, if the Secretary of State determines that

1 it is in the national interest to provide such in-
2 formation to a foreign government.”.

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

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

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

9 (1) in paragraph (1)(C), by inserting “, in con-
10 sultation with the Secretary of Homeland Security,”
11 after “if the Secretary”;

12 (2) in paragraph (1)(C)(i), by inserting “,
13 where such national interest shall not include facili-
14 tation of travel of foreign nationals to the United
15 States, reduction of visa application processing
16 times, or the allocation of consular resources” before
17 the semicolon at the end; and

18 (3) in paragraph (2)—

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

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

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

24 “(G) is an individual—

1 “(i) determined to be in a class of
2 aliens determined by the Secretary of
3 Homeland Security to be threats to na-
4 tional security;

5 “(ii) identified by the Secretary of
6 Homeland Security as a person of concern;
7 or

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

14 **SEC. 404. NON-INTERVIEW OF CERTAIN INELIGIBLE VISA**
15 **APPLICANTS.**

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

21 (b) **GUIDANCE.**—Not later than 90 days after the
22 date of the enactment of this Act, the Secretary of State
23 shall issue guidance to consular officers on the standards
24 and processes for implementing the authority to deny visa
25 applications without interview in cases where the alien is

1 determined by the Secretary of State to be ineligible for
2 a visa based upon review of the application.

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

7 (1) the number of such denials; and

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

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

10 (a) AUTHORITY OF THE SECRETARY OF HOMELAND
11 SECURITY AND THE SECRETARY OF STATE.—

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

16 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
17 SECURITY.—

18 “(1) IN GENERAL.—Notwithstanding section
19 104(a) of the Immigration and Nationality Act (8
20 U.S.C. 1104(a)) or any other provision of law, and
21 except as provided in subsection (c) and except for
22 the authority of the Secretary of State under sub-
23 paragraphs (A) and (G) of section 101(a)(15) of the
24 Immigration and Nationality Act (8 U.S.C.
25 1101(a)(15)), the Secretary—

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

9 “(B) may refuse or revoke any visa to any
10 alien or class of aliens if the Secretary, or des-
11 ignee, determines that such refusal or revoca-
12 tion is necessary or advisable in the security or
13 foreign policy interests of the United States.

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

16 “(A) shall take effect immediately; and

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

19 “(3) JUDICIAL REVIEW.—Notwithstanding any
20 other provision of law, including section 2241 of title
21 28, United States Code, or any other habeas corpus
22 provision, and sections 1361 and 1651 of such title,
23 no court shall have jurisdiction to review a decision
24 by the Secretary of Homeland Security to refuse or
25 revoke a visa, and no court shall have jurisdiction to

1 hear any claim arising from, or any challenge to,
2 such a refusal or revocation.

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

4 “(1) IN GENERAL.—The Secretary of State may
5 direct a consular officer to refuse a visa requested
6 by an alien if the Secretary of State determines such
7 refusal to be necessary or advisable in the security
8 or foreign policy interests of the United States.

9 “(2) LIMITATION.—No decision by the Sec-
10 retary of State to approve a visa may override a de-
11 cision by the Secretary of Homeland Security under
12 subsection (b).”.

13 (2) CONFORMING AMENDMENT.—Section
14 237(a)(1)(B) of the Immigration and Nationality
15 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-
16 ing “under section 221(i)”.

17 (3) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall take effect on the date of the
19 enactment of this Act and shall apply to visa refus-
20 als and revocations occurring before, on, or after
21 such date.

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

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

3 (2) striking “consular office” and inserting
4 “consular officer”.

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

6 (a) IN GENERAL.—The Department of State and Re-
7 lated Agency Appropriations Act, 2005 (title IV of division
8 B of Public Law 108–447) is amended, in the fourth para-
9 graph under the heading “Diplomatic and Consular Pro-
10 grams”, by striking “Beginning” and all that follows
11 through the period at the end and inserting the following:
12 “Beginning in fiscal year 2005 and thereafter, the Sec-
13 retary of State is authorized to charge surcharges related
14 to consular services in support of enhanced border security
15 that are in addition to the immigrant visa fees in effect
16 on January 1, 2004: *Provided*, That funds collected pursu-
17 ant to this authority shall be credited to the appropriation
18 for U.S. Immigration and Customs Enforcement for the
19 fiscal year in which the fees were collected, and shall be
20 available until expended for the funding of the Visa Secu-
21 rity Program established by the Secretary of Homeland
22 Security under section 428(e) of the Homeland Security
23 Act of 2002 (Public Law 107–296): *Provided further*, That
24 such surcharges shall be 10 percent of the fee assessed
25 on immigrant visa applications.”.

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

10 **SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY**
11 **PROGRAM TO HIGH-RISK POSTS.**

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

15 “(i) VISA ISSUANCE AT DESIGNATED HIGH-RISK
16 POSTS.—Notwithstanding any other provision of law, the
17 Secretary of Homeland Security shall conduct an on-site
18 review of all visa applications and supporting documenta-
19 tion before adjudication at the top 30 visa-issuing posts
20 designated jointly by the Secretaries of State and Home-
21 land Security as high-risk posts.”.

22 (b) ASSIGNMENT OF PERSONNEL.—Not later than
23 one year after the date of enactment of this section, the
24 Secretary of Homeland Security shall assign personnel to
25 the visa-issuing posts referenced in section 428(i) of the

1 Homeland Security Act of 2002 (6 U.S.C. 236(i)), as
2 amended by this section, and communicate such assign-
3 ments to the Secretary of State.

4 (c) APPROPRIATIONS.—There is authorized to be ap-
5 propriated \$60,000,000 for each of the fiscal years 2015
6 and 2016, which shall be used to expedite the implementa-
7 tion of section 428(i) of the Homeland Security Act, as
8 amended by this section.

9 **SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DE-**
10 **PARTMENT OF HOMELAND SECURITY PER-**
11 **SONNEL AT OVERSEAS EMBASSIES AND CON-**
12 **SULAR POSTS.**

13 Section 428 of the Homeland Security Act of 2002
14 (6 U.S.C. 236) is amended by adding at the end the fol-
15 lowing:

16 “(j) EXPEDITED CLEARANCE AND PLACEMENT OF
17 DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT
18 OVERSEAS EMBASSIES AND CONSULAR POSTS.—Notwith-
19 standing any other provision of law, and the processes set
20 forth in National Security Defense Directive 38 (dated
21 June 2, 1982) or any successor Directive, the Chief of
22 Mission of a post to which the Secretary of Homeland Se-
23 curity has assigned personnel under subsection (e) or (i)
24 shall ensure, not later than one year after the date on
25 which the Secretary of Homeland Security communicates

1 such assignment to the Secretary of State, that such per-
2 sonnel have been stationed and accommodated at post and
3 are able to carry out their duties.”.

4 **SEC. 409. ACCREDITATION REQUIREMENTS.**

5 (a) COLLEGES, UNIVERSITIES, AND LANGUAGE
6 TRAINING PROGRAMS.—Section 101(a) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

8 (1) in paragraph (15)(F)(i)—

9 (A) by striking “section 214(l) at an estab-
10 lished college, university, seminary, conserv-
11 atory, academic high school, elementary school,
12 or other academic institution or in an accred-
13 ited language training program in the United
14 States” and inserting “section 214(m) at an ac-
15 credited college, university, or language training
16 program, or at an established seminary, con-
17 servatory, academic high school, elementary
18 school, or other academic institution in the
19 United States”;

20 (B) by striking “Attorney General” each
21 place such term appears and inserting “Sec-
22 retary of Homeland Security”; and

23 (C) by striking “and if any such institution
24 of learning or place of study fails to make re-
25 ports promptly the approval shall be with-

1 drawn,” and inserting “and if any such institu-
2 tion of learning of place of study fails to make
3 reports promptly or fails to comply with any ac-
4 creditation requirement (including deadlines for
5 submitting accreditation applications or obtain-
6 ing accreditation) the approval shall be with-
7 drawn,”; and

8 (2) by amending paragraph (52) to read as fol-
9 lows:

10 “(52) Except as provided in section 214(m)(4), the
11 term ‘accredited college, university, or language training
12 program’ means a college, university, or language training
13 program that is accredited by an accrediting agency recog-
14 nized by the Secretary of Education.”.

15 (b) OTHER ACADEMIC INSTITUTIONS.—Section
16 214(m) of the Immigration and Nationality Act (8 U.S.C.
17 1184(m)) is amended by adding at the end the following:

18 “(3) The Secretary of Homeland Security shall re-
19 quire accreditation of an academic institution (except for
20 seminaries or other religious institutions) for purposes of
21 section 101(a)(15)(F) if—

22 “(A) that institution is not already required to
23 be accredited under section 101(a)(15)(F)(i); and

1 “(B) an appropriate accrediting agency recog-
2 nized by the Secretary of Education is able to pro-
3 vide such accreditation.

4 “(4) The Secretary of Homeland Security, in the Sec-
5 retary’s discretion, may waive the accreditation require-
6 ment in paragraph (3) or section 101(a)(15)(F)(i) with
7 respect to an institution if such institution—

8 “(A) is otherwise in compliance with the re-
9 quirements of section 101(a)(15)(F)(i); and

10 “(B) has been a candidate for accreditation for
11 at least 1 year and continues to progress toward ac-
12 creditation by an accrediting agency recognized by
13 the Secretary of Education.”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the amendments made by this section
17 shall—

18 (A) take effect on the date that is 180
19 days after the date of enactment of this Act;
20 and

21 (B) apply with respect to applications for
22 nonimmigrant visas that are filed on or after
23 the effective date described in subparagraph
24 (A).

1 (2) TEMPORARY EXCEPTION.—During the 3-
2 year period beginning on the effective date described
3 in paragraph (1)(A), an institution that is newly re-
4 quired to be accredited under this section may con-
5 tinue to participate in the Student and Exchange
6 Visitor Program notwithstanding the institution’s
7 lack of accreditation if the institution—

8 (A) was certified under the Student and
9 Exchange Visitor Program on such date;

10 (B) submitted an application for accredita-
11 tion to an accrediting agency recognized by the
12 Secretary of Education during the 6-month pe-
13 riod ending on such date; and

14 (C) continues to progress toward accredita-
15 tion by such accrediting agency.

16 **SEC. 410. VISA FRAUD.**

17 (a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—
18 Section 641(d) of the Illegal Immigration Reform and Im-
19 migrant Responsibility Act of 1996 (8 U.S.C. 1372(d)) is
20 amended—

21 (1) in paragraph (1)(A), by striking “institu-
22 tion,,” and inserting “institution,,”; and

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

24 “(3) EFFECT OF REASONABLE SUSPICION OF
25 FRAUD.—If the Secretary of Homeland Security has

1 reasonable suspicion that an owner of, or a des-
2 ignated school official at, an approved institution of
3 higher education, an other approved educational in-
4 stitution, or a designated exchange visitor program
5 has committed fraud or attempted to commit fraud
6 relating to any aspect of the Student and Exchange
7 Visitor Program (SEVP), the Secretary may imme-
8 diately suspend, without notice, such official's or
9 such school's access to the Student and Exchange
10 Visitor Information System (SEVIS), including the
11 ability to issue Form I-20s, pending a final deter-
12 mination by the Secretary with respect to the insti-
13 tution's certification under the Student and Ex-
14 change Visitor Program.”.

15 (b) EFFECT OF CONVICTION FOR VISA FRAUD.—
16 Such section 641(d), as amended by subsection (a)(2), is
17 further amended by adding at the end the following:

18 “(4) PERMANENT DISQUALIFICATION FOR
19 FRAUD.—A designated school official at, or an owner
20 of, an approved institution of higher education, an
21 other approved educational institution, or a des-
22 ignated exchange visitor program who is convicted
23 for fraud relating to any aspect of the Student and
24 Exchange Visitor Program shall be permanently dis-
25 qualified from filing future petitions and from hav-

1 ing an ownership interest or a management role, in-
 2 cluding serving as a principal, owner, officer, board
 3 member, general partner, designated school official,
 4 or any other position of substantive authority for the
 5 operations or management of the institution, in any
 6 United States educational institution that enrolls
 7 nonimmigrant alien students described in subpara-
 8 graph (F) or (M) of section 101(a)(15) the Immi-
 9 gration and Nationality Act (8 U.S.C.
 10 1101(a)(15)).”.

11 **SEC. 411. BACKGROUND CHECKS.**

12 (a) IN GENERAL.—Section 641(d) of the Illegal Im-
 13 migration Reform and Immigrant Responsibility Act of
 14 1996 (8 U.S.C. 1372(d)), as amended by section 411(b)
 15 of this Act, is further amended by adding at the end the
 16 following:

17 “(5) BACKGROUND CHECK REQUIREMENT.—

18 “(A) IN GENERAL.—An individual may not
 19 serve as a designated school official or be grant-
 20 ed access to SEVIS unless the individual is a
 21 national of the United States or an alien law-
 22 fully admitted for permanent residence and dur-
 23 ing the most recent 3-year period—

24 “(i) the Secretary of Homeland Secu-
 25 rity has—

1 “(I) conducted a thorough back-
2 ground check on the individual, in-
3 cluding a review of the individual’s
4 criminal and sex offender history and
5 the verification of the individual’s im-
6 migration status; and

7 “(II) determined that the indi-
8 vidual has not been convicted of any
9 violation of United States immigration
10 law and is not a risk to national secu-
11 rity of the United States; and

12 “(ii) the individual has successfully
13 completed an on-line training course on
14 SEVP and SEVIS, which has been devel-
15 oped by the Secretary.

16 “(B) INTERIM DESIGNATED SCHOOL OFFI-
17 CIAL.—

18 “(i) IN GENERAL.—An individual may
19 serve as an interim designated school offi-
20 cial during the period that the Secretary is
21 conducting the background check required
22 by subparagraph (A)(i)(I).

23 “(ii) REVIEWS BY THE SECRETARY.—
24 If an individual serving as an interim des-
25 ignated school official under clause (i) does

1 not successfully complete the background
2 check required by subparagraph (A)(i)(I),
3 the Secretary shall review each Form I-20
4 issued by such interim designated school
5 official.

6 “(6) FEE.—The Secretary is authorized to col-
7 lect a fee from an approved school for each back-
8 ground check conducted under paragraph (6)(A)(i).
9 The amount of such fee shall be equal to the average
10 amount expended by the Secretary to conduct such
11 background checks.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect on the date that is 1 year
14 after the date of the enactment of this Act.

15 **SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.**

16 Section 641(d) of the Illegal Immigration Reform and
17 Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)),
18 as amended by section 412(a) of this Act, is further
19 amended by adding at the end the following:

20 “(7) NUMBER OF DESIGNATED SCHOOL OFFI-
21 CIALS.—School officials may nominate as many Des-
22 ignated School Officials (DSOs) in addition to the
23 school’s Principal Designated School Official
24 (PDSO) as they determine necessary to adequately
25 provide recommendations to students enrolled at the

1 school regarding maintenance of nonimmigrant sta-
2 tus under subparagraph (F) or (M) of section
3 101(a)(15) and to support timely and complete rec-
4 ordkeeping and reporting to the Secretary of Home-
5 land Security, as required by this section, except
6 that a school may not have less than one DSO per
7 every 200 students who have nonimmigrant status
8 pursuant to subparagraph (F), (J), or (M) of such
9 section. School officials shall not permit a DSO or
10 PDSO nominee access to SEVIS until the Secretary
11 approves the nomination.”.

12 **SEC. 413. REPORTING REQUIREMENT.**

13 Section 442(a) of the Homeland Security Act of 2002
14 (6 U.S.C. 252(a)) is amended—

15 (1) by redesignating paragraph (5) as para-
16 graph (6); and

17 (2) by inserting after paragraph (4) the fol-
18 lowing:

19 “(5) STUDENT AND EXCHANGE VISITOR PRO-
20 GRAM.—In administering the program under para-
21 graph (4), the Secretary shall, not later than one
22 year after the date of the enactment of this para-
23 graph, prescribe regulations to require an institution
24 or exchange visitor program sponsor participating in
25 the Student Exchange Visitor Program to ensure

1 that each student or exchange visitor who has non-
2 immigrant status pursuant to subparagraph (F),
3 (J), or (M) of section 101(a)(15) of the Immigration
4 and Nationality Act (8 U.S.C. 1101(a)(15)) enrolled
5 at the institution or attending the exchange visitor
6 program is reported to the Department within 10
7 days of—

8 “(A) transferring to another institution or
9 program;

10 “(B) changing academic majors; or

11 “(C) any other changes to information re-
12 quired to be maintained in the system described
13 in paragraph (4).”.

14 **SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.**

15 (a) IN GENERAL.—Except as provided in subsection
16 (b), the Secretary of Homeland Security shall prohibit any
17 flight school in the United States from accessing SEVIS
18 or issuing a Form I-20 to an alien seeking a student visa
19 pursuant to subparagraph (F)(i) or (M)(i) of section
20 101(a)(15) of the Immigration and Nationality Act (8
21 U.S.C. 1101(a)(15)) if the flight school has not been cer-
22 tified to the satisfaction of the Secretary and by the Fed-
23 eral Aviation Administration pursuant to part 141 or part
24 142 of title 14, Code of Federal Regulations (or similar
25 successor regulations).

1 (b) TEMPORARY EXCEPTION.—During the 5-year pe-
2 riod beginning on the date of the enactment of this Act,
3 the Secretary may waive the requirement under subsection
4 (a) that a flight school be certified by the Federal Aviation
5 Administration if such flight school—

6 (1) was certified under the Student and Ex-
7 change Visitor Program on the date of the enact-
8 ment of this Act;

9 (2) submitted an application for certification
10 with the Federal Aviation Administration during the
11 1-year period beginning on such date; and

12 (3) continues to progress toward certification by
13 the Federal Aviation Administration.

14 **SEC. 415. REVOCATION OF ACCREDITATION.**

15 At the time an accrediting agency or association is
16 required to notify the Secretary of Education and the ap-
17 propriate State licensing or authorizing agency of the final
18 denial, withdrawal, suspension, or termination of accredi-
19 tation of an institution pursuant to section 496 of the
20 Higher Education Act of 1965 (20 U.S.C. 1099b), such
21 accrediting agency or association shall notify the Secretary
22 of Homeland Security of such determination and the Sec-
23 retary of Homeland Security shall immediately terminate
24 the school's Student and Exchange Visitor Program
25 (SEVP) certification and prohibit the school from access-

1 ing the Student and Exchange Visitor Information System
2 (SEVIS).

3 **SEC. 416. REPORT ON RISK ASSESSMENT.**

4 Not later than 180 days after the date of the enact-
5 ment of this Act, the Secretary of Homeland Security shall
6 submit to the Committee on the Judiciary of the Senate
7 and the Committee on the Judiciary of the House of Rep-
8 resentatives a report that contains the risk assessment
9 strategy that will be employed by the Secretary to identify,
10 investigate, and take appropriate action against schools
11 and school officials that are facilitating the issuance of
12 Form I-20 and the maintenance of student visa status
13 in violation of the immigration laws of the United States.

14 **SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

15 Not later than 180 days after the date of the enact-
16 ment of this act, the Secretary of Homeland Security shall
17 submit to the Committee on the Judiciary of the Senate
18 and the Committee on the Judiciary of the House of Rep-
19 resentatives a report that describes—

20 (1) the process in place to identify and assess
21 risks in the SEVP;

22 (2) a risk assessment process to allocate
23 SEVP's resources based on risk;

1 (3) the procedures in place for consistently en-
2 suring a school’s eligibility, including consistently
3 verifying in lieu of letters;

4 (4) how SEVP identified and addressed missing
5 school case files;

6 (5) a plan to develop and implement a process
7 to monitor State licensing and accreditation status
8 of all SEVP-certified schools;

9 (6) whether all flight schools that have not been
10 certified to the satisfaction of the Secretary and by
11 the Federal Aviation Administration have been re-
12 moved from the program and have been restricted
13 from accessing SEVIS;

14 (7) the standard operating procedures that gov-
15 ern coordination among SEVP, the U.S. Immigra-
16 tion and Customs Enforcement (ICE) Counterter-
17 rorism and Criminal Exploitation Unit, and ICE
18 field offices; and

19 (8) the established criteria for referring cases of
20 a potentially criminal nature from SEVP to the
21 counterterrorism and intelligence community.

22 **SEC. 418. IMPLEMENTATION OF SEVIS II.**

23 Not later than 2 years after the date of the enact-
24 ment of this Act, the Secretary of Homeland Security shall
25 complete the deployment of both phases of the 2nd genera-

1 tion Student and Exchange Visitor Information System
2 (commonly known as “SEVIS II”).

3 **SEC. 419. DEFINITIONS.**

4 (a) DEFINITIONS.—For purposes of this title:

5 (1) SEVIS.—The term “SEVIS” means the
6 Student and Exchange Visitor Information System
7 of the Department of Homeland Security.

8 (2) SEVP.—The term “SEVP” means the Stu-
9 dent and Exchange Visitor Program of the Depart-
10 ment of Homeland Security.

11 **TITLE V—AID TO U.S. IMMIGRA-**
12 **TION AND CUSTOMS EN-**
13 **FORCEMENT OFFICERS**

14 **SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.**

15 (a) IN GENERAL.—The Secretary of Homeland Secu-
16 rity shall authorize all immigration enforcement agents
17 and deportation officers of the Department of Homeland
18 Security who have successfully completed basic immigra-
19 tion law enforcement training to exercise the powers con-
20 ferred by—

21 (1) section 287(a)(5)(A) of the Immigration
22 and Nationality Act to arrest for any offense against
23 the United States;

24 (2) section 287(a)(5)(B) of such Act to arrest
25 for any felony;

1 (3) section 274(a) of such Act to arrest for
2 bringing in, transporting, or harboring certain
3 aliens, or inducing them to enter;

4 (4) section 287(a) of such Act to execute war-
5 rants of arrest for administrative immigration viola-
6 tions issued under section 236 of the Act or to exe-
7 cute warrants of criminal arrest issued under the
8 authority of the United States; and

9 (5) section 287(a) of such Act to carry fire-
10 arms, provided that they are individually qualified by
11 training and experience to handle and safely operate
12 the firearms they are permitted to carry, maintain
13 proficiency in the use of such firearms, and adhere
14 to the provisions of the enforcement standard gov-
15 erning the use of force.

16 (b) ARREST POWERS.—Section 287(a)(2) of the Im-
17 migration and Nationality Act (8 U.S.C. 1357(a)(2)) is
18 amended by striking “regulation and is likely to escape
19 before a warrant can be obtained for his arrest,” and in-
20 serting “regulation,”.

21 (c) PAY.—Immigration enforcement agents shall be
22 paid on the same scale as Immigration and Customs En-
23 forcement deportation officers and shall receive the same
24 benefits.

1 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

2 (a) AUTHORIZATION.—The Secretary of Homeland
3 Security is authorized to hire 2,500 Immigration and Cus-
4 toms Enforcement detention enforcement officers.

5 (b) DUTIES.—Immigration and Customs Enforce-
6 ment detention enforcement officers who have successfully
7 completed detention enforcement officers' basic training
8 shall be responsible for—

9 (1) taking and maintaining custody of any per-
10 son who has been arrested by an immigration offi-
11 cer;

12 (2) transporting and guarding immigration de-
13 tainees;

14 (3) securing Department of Homeland Security
15 detention facilities; and

16 (4) assisting in the processing of detainees.

17 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND**
18 **AGENTS.**

19 (a) BODY ARMOR.—The Secretary of Homeland Se-
20 curity shall ensure that every Immigration and Customs
21 Enforcement deportation officer and immigration enforce-
22 ment agent on duty is issued high-quality body armor that
23 is appropriate for the climate and risks faced by the agent.
24 Enough body armor must be purchased to cover every
25 agent in the field.

1 (b) WEAPONS.—Such Secretary shall ensure that Im-
2 migration and Customs Enforcement deportation officers
3 and immigration enforcement agents are equipped with
4 weapons that are reliable and effective to protect them-
5 selves, their fellow agents, and innocent third parties from
6 the threats posed by armed criminals. Such weapons shall
7 include, at a minimum, standard-issue handguns, M-4 (or
8 equivalent) rifles, and Tasers.

9 (c) EFFECTIVE DATE.—This section shall take effect
10 90 days after the date of the enactment of this Act.

11 **SEC. 504. ICE ADVISORY COUNCIL.**

12 (a) ESTABLISHMENT.—An ICE Advisory Council
13 shall be established not later than 3 months after the date
14 of the enactment of this Act.

15 (b) MEMBERSHIP.—The ICE Advisor Council shall
16 be comprised of 7 members.

17 (c) APPOINTMENT.—Members shall to be appointed
18 in the following manner:

19 (1) One member shall be appointed by the
20 President.

21 (2) One member shall be appointed by the
22 Chairman of the Judiciary Committee of the House
23 of Representatives.

24 (3) One member shall be appointed by the
25 Chairman of the Judiciary Committee of the Senate.

1 (4) One member shall be appointed by the
2 Local 511, the ICE prosecutor's union.

3 (5) Three members shall be appointed by the
4 National Immigration and Customs Enforcement
5 Council.

6 (d) TERM.—Members shall serve renewable, 2-year
7 terms.

8 (e) VOLUNTARY.—Membership shall be voluntary and
9 non-remunerated, except that members will receive reim-
10 bursement from the Secretary of Homeland Security for
11 travel and other related expenses.

12 (f) RETALIATION PROTECTION.—Members who are
13 employed by the Secretary of Homeland Security shall be
14 protected from retaliation by their supervisors, managers,
15 and other Department of Homeland Security employees
16 for their participation on the Council.

17 (g) PURPOSE.—The purpose of the Council is to ad-
18 vise the Congress and the Secretary of Homeland Security
19 on issues including the following:

20 (1) The current status of immigration enforce-
21 ment efforts, including prosecutions and removals,
22 the effectiveness of such efforts, and how enforce-
23 ment could be improved.

24 (2) The effectiveness of cooperative efforts be-
25 tween the Secretary of Homeland Security and other

1 law enforcement agencies, including additional types
2 of enforcement activities that the Secretary should
3 be engaged in, such as State and local criminal task
4 forces.

5 (3) Personnel, equipment, and other resource
6 needs of field personnel.

7 (4) Improvements that should be made to the
8 organizational structure of the Department of
9 Homeland Security, including whether the position
10 of immigration enforcement agent should be merged
11 into the deportation officer position.

12 (5) The effectiveness of specific enforcement
13 policies and regulations promulgated by the Sec-
14 retary of Homeland Security, and whether other en-
15 forcement priorities should be considered.

16 (h) REPORTS.—The Council shall provide quarterly
17 reports to the Chairmen and Ranking Members of the Ju-
18 diciary Committees of the Senate and the House of Rep-
19 resentatives and to the Secretary of Homeland Security.
20 The Council members shall meet directly with the Chair-
21 men and Ranking Members (or their designated represent-
22 atives) and with the Secretary to discuss their reports
23 every 6 months.

1 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
2 **ESSING.**

3 (a) IN GENERAL.—The Secretary of Homeland Secu-
4 rity shall establish a pilot program in at least five of the
5 ten Immigration and Customs Enforcement field offices
6 with the largest removal caseloads to allow Immigration
7 and Customs deportation officers and immigration en-
8 forcement agents to—

9 (1) electronically process and serve charging
10 documents, including Notices to Appear, while in the
11 field; and

12 (2) electronically process and place detainers
13 while in the field.

14 (b) DUTIES.—The pilot program described in sub-
15 section (a) shall be designed to allow deportation officers
16 and immigration enforcement agents to use handheld or
17 vehicle-mounted computers to—

18 (1) enter any required data, including personal
19 information about the alien subject and the reason
20 for issuing the document;

21 (2) apply the electronic signature of the issuing
22 officer or agent;

23 (3) set the date the alien is required to appear
24 before an immigration judge, in the case of Notices
25 to Appear;

1 (4) print any documents the alien subject may
2 be required to sign, along with additional copies of
3 documents to be served on the alien; and

4 (5) interface with the ENFORCE database so
5 that all data is stored and retrievable.

6 (c) CONSTRUCTION.—The pilot program described in
7 subsection (a) shall be designed to replace, to the extent
8 possible, the current paperwork and data-entry process
9 used for issuing such charging documents and detainers.

10 (d) DEADLINE.—The Secretary shall initiate the pilot
11 program described in subsection (a) within 6 months of
12 the date of enactment of this Act.

13 (e) REPORT.—The Government Accountability Office
14 shall report to the Judiciary Committee of the Senate and
15 the House of Representatives no later than 18 months
16 after the date of enactment of this Act on the effectiveness
17 of the pilot program and provide recommendations for im-
18 proving it.

19 (f) ADVISORY COUNCIL.—The ICE Advisory Council
20 established by section 504 shall include recommendations
21 on how the pilot program should work in the first quar-
22 terly report of the Council, and shall include assessments
23 of the program and recommendations for improvement in
24 each subsequent report.

1 (g) EFFECTIVE DATE.—This section shall take effect
2 180 days after the date of the enactment of this Act.

3 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
4 **SUPPORT STAFF.**

5 (a) IN GENERAL.—The Secretary of Homeland Secu-
6 rity shall, subject to the availability of appropriations for
7 such purpose, increase the number of positions for full-
8 time active-duty Immigration and Customs Enforcement
9 deportation officers by 5,000 above the number of full-
10 time positions for which funds were appropriated for fiscal
11 year 2013. The Secretary will determine the rate at which
12 the additional officers will be added with due regard to
13 filling the positions as expeditiously as possible without
14 making any compromises in the selection or the training
15 of the additional officers.

16 (b) SUPPORT STAFF.—The Secretary shall, subject
17 to the availability of appropriations for such purpose, in-
18 crease the number of positions for full-time support staff
19 for Immigration and Customs Enforcement deportation
20 officers by 700 above the number of full-time positions for
21 which funds were appropriated for fiscal year 2013.

22 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

23 The Secretary of Homeland Security shall increase
24 by 60 the number of full-time trial attorneys working for

1 the Immigration and Customs Enforcement Office of the
2 Principal Legal Advisor.

3 **TITLE VI—MISCELLANEOUS**
4 **ENFORCEMENT PROVISIONS**

5 **SEC. 601. TIMELY REPATRIATION.**

6 (a) LISTING OF COUNTRIES.—Beginning on the date
7 that is 6 months after the date of enactment of this Act,
8 and every 6 months thereafter, the Secretary of Homeland
9 Security shall publish a report including the following:

10 (1) A list of the following:

11 (A) Countries that have refused or unrea-
12 sonably delayed repatriation of an alien who is
13 a national of that country since the date of en-
14 actment of this Act and the total number of
15 such aliens, disaggregated by nationality.

16 (B) Countries that have an excessive repa-
17 triation failure rate.

18 (2) A list of each country that was included
19 under subparagraph (B) or (C) of paragraph (1) in
20 both the report preceding the current report and the
21 current report.

22 (b) SANCTIONS.—Beginning on the date that a coun-
23 try is included in a list under subsection (a)(2) and ending
24 on the date that such country is not included in such list,
25 such country shall be subject to the following:

1 (1) The Secretary of State may not issue visas
2 under section 101(a)(15)(A)(iii) of the Immigration
3 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))
4 to attendants, servants, personal employees, and
5 members of their immediate families, of the officials
6 and employees of such country who receive non-
7 immigrant status under clause (i) or (ii) of section
8 101(a)(15)(A) of such Act.

9 (2) Each 6 months thereafter that the country
10 is included in that list, the Secretary of State shall
11 reduce the number of visas available under clause (i)
12 or (ii) of section 101(a)(15)(A) of the Immigration
13 and Nationality Act in a fiscal year to nationals of
14 that country by an amount equal to 10 percent of
15 the baseline visa number for such country. Except as
16 provided under section 243(d) of the Immigration
17 and Nationality Act (8 U.S.C. 1253), the Secretary
18 may not reduce the number to a level below 20 per-
19 cent of the baseline visa number.

20 (c) WAIVERS.—

21 (1) NATIONAL SECURITY WAIVER.—If the Sec-
22 retary of State submits to Congress a written deter-
23 mination that significant national security interests
24 of the United States require a waiver of the sanc-
25 tions under subsection (b), the Secretary may waive

1 any reduction below 80 percent of the baseline visa
2 number. The Secretary of Homeland Security may
3 not delegate the authority under this subsection.

4 (2) TEMPORARY EXIGENT CIRCUMSTANCES.—If
5 the Secretary of State submits to Congress a written
6 determination that temporary exigent circumstances
7 require a waiver of the sanctions under subsection
8 (b), the Secretary may waive any reduction below 80
9 percent of the baseline visa number during 6-month
10 renewable periods. The Secretary of Homeland Secu-
11 rity may not delegate the authority under this sub-
12 section.

13 (d) EXEMPTION.—The Secretary of Homeland Secu-
14 rity, in consultation with the Secretary of State, may ex-
15 empt a country from inclusion in a list under subsection
16 (a)(2) if the total number of nonrepatriations outstanding
17 is less than 10 for the preceding 3-year period.

18 (e) UNAUTHORIZED VISA ISSUANCE.—Any visa
19 issued in violation of this section shall be void.

20 (f) NOTICE.—If an alien who has been convicted of
21 a criminal offense before a Federal or State court whose
22 repatriation was refused or unreasonably delayed is to be
23 released from detention by the Secretary of Homeland Se-
24 curity, the Secretary shall provide notice to the State and
25 local law enforcement agency for the jurisdictions in which

1 the alien is required to report or is to be released. When
2 possible, and particularly in the case of violent crime, the
3 Secretary shall make a reasonable effort to provide notice
4 of such release to any crime victims and their immediate
5 family members.

6 (g) DEFINITIONS.—For purposes of this section:

7 (1) REFUSED OR UNREASONABLY DELAYED.—

8 A country is deemed to have refused or unreasonably
9 delayed the acceptance of an alien who is a citizen,
10 subject, national, or resident of such country if, not
11 later than 90 days after receiving a request to repa-
12 triate such alien from an official of the United
13 States who is authorized to make such a request, the
14 country does not accept the alien or issue valid trav-
15 el documents.

16 (2) FAILURE RATE.—The term “failure rate”

17 for a period means the percentage determined by di-
18 viding the total number of repatriation requests for
19 aliens who are citizens, subjects, nationals, or resi-
20 dents of a country that such country refused or un-
21 reasonably delayed during that period by the total
22 number of such requests during that period.

23 (3) EXCESSIVE REPATRIATION FAILURE

24 RATE.—The term “excessive repatriation failure
25 rate” means, with respect to a report under sub-

1 section (a), a failure rate greater than 10 percent
2 for any of the following:

3 (A) The period of the 3 full fiscal years
4 preceding the date of publication of the report.

5 (B) The period of 1 year preceding the
6 date of publication of the report.

7 (4) NUMBER OF NON-REPATRIATIONS OUT-
8 STANDING.—The term “number of non-repatriations
9 outstanding” means, for a period, the number of
10 unique aliens whose repatriation a country has re-
11 fused or unreasonably delayed and whose repatri-
12 ation has not occurred during that period.

13 (5) BASELINE VISA NUMBER.—The term “base-
14 line visa number” means, with respect to a country,
15 the average number of visas issued each fiscal year
16 to nationals of that country under clauses (i) and
17 (ii) of section 101(a)(15)(A) of the Immigration and
18 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3
19 full fiscal years immediately preceding the first re-
20 port under subsection (a) in which such country is
21 included in the list under subsection (a)(2).

22 (h) GAO REPORT.—On the date that is 1 day after
23 the date that the President submits a budget under sec-
24 tion 1105(a) of title 31, United States Code, for fiscal year
25 2016, the Comptroller General of the United States shall

1 submit a report to Congress regarding the progress of the
2 Secretary of Homeland Security and the Secretary of
3 State in implementation of this section and in making re-
4 quests to repatriate aliens as appropriate.

5 **SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-**
6 **TARILY.**

7 (a) IN GENERAL.—Section 240B of the Immigration
8 and Nationality Act (8 U.S.C. 1229c) is amended—

9 (1) in subsection (a)—

10 (A) by amending paragraph (1) to read as
11 follows:

12 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If
13 an alien is not described in paragraph (2)(A)(iii) or
14 (4) of section 237(a), the Secretary of Homeland Se-
15 curity may permit the alien to voluntarily depart the
16 United States at the alien’s own expense under this
17 subsection instead of being subject to proceedings
18 under section 240.”;

19 (B) by striking paragraph (3);

20 (C) by redesignating paragraph (2) as
21 paragraph (3);

22 (D) by adding after paragraph (1) the fol-
23 lowing:

24 “(2) BEFORE THE CONCLUSION OF REMOVAL
25 PROCEEDINGS.—If an alien is not described in para-

1 graph (2)(A)(iii) or (4) of section 237(a), the Attor-
2 ney General may permit the alien to voluntarily de-
3 part the United States at the alien’s own expense
4 under this subsection after the initiation of removal
5 proceedings under section 240 and before the con-
6 clusion of such proceedings before an immigration
7 judge.”;

8 (E) in paragraph (3), as redesignated—

9 (i) by amending subparagraph (A) to
10 read as follows:

11 “(A) INSTEAD OF REMOVAL.—Subject to
12 subparagraph (C), permission to voluntarily de-
13 part under paragraph (1) shall not be valid for
14 any period in excess of 120 days. The Secretary
15 may require an alien permitted to voluntarily
16 depart under paragraph (1) to post a voluntary
17 departure bond, to be surrendered upon proof
18 that the alien has departed the United States
19 within the time specified.”;

20 (ii) by redesignating subparagraphs
21 (B), (C), and (D) as subparagraphs (C),
22 (D), and (E), respectively;

23 (iii) by adding after subparagraph (A)
24 the following:

1 “(B) BEFORE THE CONCLUSION OF RE-
2 MOVAL PROCEEDINGS.—Permission to volun-
3 tarily depart under paragraph (2) shall not be
4 valid for any period in excess of 60 days, and
5 may be granted only after a finding that the
6 alien has the means to depart the United States
7 and intends to do so. An alien permitted to vol-
8 untarily depart under paragraph (2) shall post
9 a voluntary departure bond, in an amount nec-
10 essary to ensure that the alien will depart, to be
11 surrendered upon proof that the alien has de-
12 parted the United States within the time speci-
13 fied.”;

14 (iv) in subparagraph (C), as redesign-
15 ated, by striking “subparagraphs (C) and
16 (D)(ii)” and inserting “subparagraphs (D)
17 and (E)(ii)”;

18 (v) in subparagraph (D), as redesign-
19 ated, by striking “subparagraph (B)”
20 each place that term appears and inserting
21 “subparagraph (C)”;

22 (vi) in subparagraph (E), as redesign-
23 ated, by striking “subparagraph (B)”
24 each place that term appears and inserting
25 “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 proceedings 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 this amount, which
4 shall be acknowledged by the alien on the record. If
5 the Secretary thereafter establishes that the alien
6 failed to depart voluntarily within the time allowed,
7 no further procedure will be necessary to establish
8 the amount of the penalty, and the Secretary may
9 collect the civil penalty at any time thereafter and
10 by whatever means provided by law. An alien will be
11 ineligible for any benefits under this chapter until
12 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 DEPART-
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 subsection (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. 603. 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. 604. 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. 605. 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. 606. REPORTS TO CONGRESS.**

15 (a) IN GENERAL.—Not later than 30 days after the
16 end of each quarter of a fiscal year, the Secretary of
17 Homeland Security and the Attorney General shall each
18 provide to the Committee on the Judiciary of the Senate
19 and the Committee on the Judiciary of the House of Rep-
20 resentatives 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 quarter 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 quarter but not clearly and beyond a
6 doubt entitled to be admitted by an immigration of-
7 ficer 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 quarter 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 quarter despite the Depart-
5 ment of Homeland Security's findings that the aliens
6 were inadmissible or deportable, unless the aliens
7 were granted relief from removal pursuant to stat-
8 ute, were granted voluntary departure pursuant to
9 section 240B of such Act (8 U.S.C. 1229e), or were
10 granted legal nonimmigrant or immigrant status
11 pursuant to statute.

12 (5) Aliens who were placed into removal pro-
13 ceedings, whose removal proceedings were termi-
14 nated or administratively closed in the previous
15 quarter prior to their conclusion, unless the aliens
16 were granted relief from removal pursuant to stat-
17 ute, were granted voluntary departure pursuant to
18 section 240B, were granted legal nonimmigrant or
19 immigrant status pursuant to statute, or were deter-
20 mined not to be inadmissible or 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 (8) Aliens released from custody, including the
4 number of releases, the number of aliens who were
5 released who have a criminal history, the general
6 reasons for release, the conditions of release, and the
7 zip codes of the last known addresses.

8 (9) Aliens granted an administrative stay of re-
9 moval, or otherwise permitted to remain in the
10 United States through any similar process by U.S.
11 Immigration and Customs Enforcement.

12 (b) CONTENTS OF REPORT.—The report shall include
13 a listing of each alien described in each paragraph of sub-
14 section (a), including when in the possession of the De-
15 partment of Homeland Security their names, fingerprint
16 identification numbers, alien registration numbers, and
17 reason why each was granted the type of prosecutorial dis-
18 cretion received. The report shall also include current
19 criminal histories on each alien from the Federal Bureau
20 of Investigation.

21 **SEC. 607. CERTAIN ACTIVITIES RESTRICTED.**

22 (a) IN GENERAL.—

23 (1) PROHIBITION ON USE OF FUNDS.—No
24 funds, resources, or fees made available to the Sec-
25 retary of Homeland Security, or to any other official

1 of a Federal agency, by this Act or any other Act
2 for any fiscal year, including any deposits into the
3 “Immigration Examinations Fee Account” estab-
4 lished under section 286(m) of the Immigration and
5 Nationality Act (8 U.S.C. 1356(m)), may be used to
6 implement, administer, enforce, or carry out (includ-
7 ing through the issuance of any regulations) any of
8 the policy changes set forth in the following memo-
9 randa (or any substantially similar policy changes
10 issued or taken on or after January 9, 2015, wheth-
11 er set forth in memorandum, Executive order, regu-
12 lation, directive, or by other action):

13 (A) The memorandum from the Director of
14 United States Immigration and Customs En-
15 forcement entitled “Civil Immigration Enforce-
16 ment: Priorities for the Apprehension, Deten-
17 tion, and Removal of Aliens” dated March 2,
18 2011.

19 (B) The memorandum from the Director
20 of United States Immigration and Customs En-
21 forcement entitled “Exercising Prosecutorial
22 Discretion Consistent with the Civil Immigra-
23 tion Enforcement Priorities of the Agency for
24 the Apprehension, Detention, and Removal of
25 Aliens” dated June 17, 2011.

1 (C) The memorandum from the Principal
2 Legal Advisor of United States Immigration
3 and Customs Enforcement entitled “Case-by-
4 Case Review of Incoming and Certain Pending
5 Cases” dated November 17, 2011.

6 (D) The memorandum from the Director
7 of United States Immigration and Customs En-
8 forcement entitled “Civil Immigration Enforce-
9 ment: Guidance on the Use of Detainers in the
10 Federal, State, Local, and Tribal Criminal Jus-
11 tice Systems” dated December 21, 2012.

12 (E) The memorandum from the Secretary
13 of Homeland Security entitled “Southern Bor-
14 der and Approaches Campaign” dated Novem-
15 ber 20, 2014.

16 (F) The memorandum from the Secretary
17 of Homeland Security entitled “Policies for the
18 Apprehension, Detention and Removal of Un-
19 documented Immigrants” dated November 20,
20 2014.

21 (G) The memorandum from the Secretary
22 of Homeland Security entitled “Secure Commu-
23 nities” dated November 20, 2014.

24 (H) The memorandum from the Secretary
25 of Homeland Security entitled “Exercising

1 Prosecutorial Discretion with Respect to Indi-
2 viduals Who Came to the United States as Chil-
3 dren and with Respect to Certain Individuals
4 Who Are the Parents of U.S. Citizens or Per-
5 manent Residents” dated November 20, 2014.

6 (I) The memorandum from the Secretary
7 of Homeland Security entitled “Expansion of
8 the Provisional Waiver Program” dated Novem-
9 ber 20, 2014.

10 (J) The memorandum from the Secretary
11 of Homeland Security entitled “Policies Sup-
12 porting U.S. High-Skilled Businesses and
13 Workers” dated November 20, 2014.

14 (K) The memorandum from the Secretary
15 of Homeland Security entitled “Families of
16 U.S. Armed Forces Members and Enlistees”
17 dated November 20, 2014.

18 (L) The memorandum from the Secretary
19 of Homeland Security entitled “Directive to
20 Provide Consistency Regarding Advance Pa-
21 role” dated November 20, 2014.

22 (M) The memorandum from the Secretary
23 of Homeland Security entitled “Policies to Pro-
24 mote and Increase Access to U.S. Citizenship”
25 dated November 20, 2014.

1 (N) The memorandum from the President
2 entitled “Modernizing and Streamlining the
3 U.S. Immigrant Visa System for the 21st Cen-
4 tury” dated November 21, 2014.

5 (O) The memorandum from the President
6 entitled “Creating Welcoming Communities and
7 Fully Integrating Immigrants and Refugees”
8 dated November 21, 2014.

9 (2) NO LEGAL EFFECT.—The memoranda re-
10 ferred to in subsection (a) (or any substantially simi-
11 lar policy changes issued or taken on or after Janu-
12 ary 9, 2015, whether set forth in memorandum, Ex-
13 ecutive order, regulation, directive, or by other ac-
14 tion) have no statutory or constitutional basis and
15 therefore have no legal effect.

16 (3) PROHIBITION ON FEDERAL BENEFITS.—No
17 funds or fees made available to the Secretary of
18 Homeland Security, or to any other official of a
19 Federal agency, by this Act or any other Act for any
20 fiscal year, including any deposits into the “Immi-
21 gration Examinations Fee Account” established
22 under section 286(m) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1356(m)), may be used to
24 grant any Federal benefit to any alien pursuant to
25 any of the policy changes set forth in the memo-

1 randa referred to in subsection (a) (or any substan-
2 tially similar policy changes issued or taken on or
3 after January 9, 2015, whether set forth in memo-
4 randum, Executive order, regulation, directive, or by
5 other action).

6 (b) DEFERRED ACTION FOR CHILDHOOD ARRIV-
7 ALS.—No funds, resources, or fees made available to the
8 Secretary of Homeland Security, or to any other official
9 of a Federal agency, by this Act or any other Act for any
10 fiscal year, including any deposits into the “Immigration
11 Examinations Fee Account” established under section
12 286(m) of the Immigration and Nationality Act (8 U.S.C.
13 1356(m)), may be used to consider or adjudicate any new,
14 renewal, or previously denied application for any alien re-
15 questing consideration of deferred action pursuant to the
16 guidance in the June 15, 2012, memorandum entitled
17 “Exercising Prosecutorial Discretion with Respect to Indi-
18 viduals Who Came to the United States as Children” (or
19 any substantially similar policy changes issued or taken
20 on or after January 9, 2015, whether set forth in memo-
21 randum, Executive order, regulation, directive, or by other
22 action).

23 **SEC. 608. GAO STUDY ON DEATHS IN CUSTODY.**

24 The Comptroller General of the United States shall
25 submit to Congress within 6 months after the date of the

1 enactment of this Act, a report on the deaths in custody
2 of detainees held by the Department of Homeland Secu-
3 rity. The report shall include the following information
4 with respect to any such deaths and in connection there-
5 with:

6 (1) Whether any such deaths could have been
7 prevented by the delivery of medical treatment ad-
8 ministered while the detainee is in the custody of the
9 Department of Homeland Security.

10 (2) Whether Department practice and proce-
11 dures were properly followed and obeyed.

12 (3) Whether such practice and procedures are
13 sufficient to protect the health and safety of such
14 detainees.

15 (4) Whether reports of such deaths were made
16 to the Deaths in Custody Reporting Program.

17 **SEC. 609. REMOVAL PROCEEDINGS.**

18 Subsection (b) of section 240 of the Immigration and
19 Nationality Act (8 U.S.C. 1229a) is amended by adding
20 at the end the following paragraph:

21 “(8) ORDER OF CONSIDERATION OF PRO-
22 CEEDINGS.—Whenever possible, proceedings shall
23 take place in the order in which aliens are placed in
24 proceedings.”.

1 **SEC. 610. ELIMINATING BACKLOG IN THE IMMIGRATION**
2 **COURT SYSTEM.**

3 Section 240A(e) of the Immigration and Nationality
4 Act (8 U.S.C. 1229b(e)) is amended—

5 (1) in paragraph (1), by striking “(2) and (3),”
6 and inserting “(2), (3), and (4),”; and

7 (2) by adding at the end the following para-
8 graph:

9 “(4) PROHIBITION ON DELAY.—The Attorney
10 General may not, except for in cases in which the
11 Attorney General has decided to grant an applica-
12 tion under this section and the fiscal year cap has
13 been reached, in any way delay or suspend making
14 a final decision for an application submitted under
15 this section.”.

16 **SEC. 611. PROPER FILING OF INCOME TAXES REQUIRED**
17 **FOR GOOD MORAL CHARACTER.**

18 Section 101(f) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(f)) is amended by inserting after para-
20 graph (1) the following paragraph:

21 “(2) one who has failed to properly file an in-
22 come tax return for each year that one was required
23 to be filed;”.

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