

104TH CONGRESS
1ST SESSION

H. R. 1018

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien smuggling, fraudulent document use by aliens, asylum, terrorist aliens, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1995

Mr. HUNTER (for himself, Mr. MOORHEAD, Mr. YOUNG of Alaska, Mr. ROHRABACHER, Mr. MCCOLLUM, Mr. KIM, Mr. CUNNINGHAM, Mr. CALVERT, Mr. STUMP, Mr. BURTON of Indiana, Mr. BRYANT of Tennessee, Mr. GALLEGLY, Mr. COLLINS of Georgia, Mr. CANADY of Florida, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, Mr. SHAW, Mr. SAM JOHNSON of Texas, Mr. SAXTON, Mr. HOLDEN, Mr. DOOLITTLE, Mr. PACKARD, Mr. DREIER, Mr. RIGGS, Mr. HERGER, Mr. BAKER of California, Mr. POMBO, Mr. RADANOVICH, Mrs. SEASTRAND, Mr. LEWIS of California, Mr. BONO, Mr. DORNAN, Mrs. MEYERS of Kansas, Mr. BEREUTER, Mr. COX of California, Mr. HORN, Mr. ROYCE, and Mr. THOMAS) introduced the following bill; which was referred to the Committee on the Judiciary and, in addition, to the Committees on National Security, Banking and Financial Services, Ways and Means, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act and other laws of the United States relating to border security, illegal immigration, alien eligibility for Federal financial benefits and services, criminal activity by aliens, alien

smuggling, fraudulent document use by aliens, asylum, terrorist aliens, 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 “Illegal Immigration
5 Control Act of 1995”.

6 **SEC. 2. TABLE OF CONTENTS.**

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

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1 **TITLE I—INTERDICTION**

2 **SEC. 101. PHYSICAL BARRIERS.**

3 The Attorney General, in consultation with the Com-
 4 missioner of the Immigration and Naturalization Service,
 5 shall take action to install additional physical barriers at
 6 the United States border to deter unauthorized crossings
 7 in areas of high illegal entry into the United States. Such
 8 additional barriers shall include barriers similar to those
 9 in use in the San Diego, California, vicinity.

10 **SEC. 102. BORDER PATROL AGENTS.**

11 In addition to such amounts as are otherwise author-
 12 ized to be appropriated, there is authorized to be appro-
 13 priated for each of the fiscal years 1996, 1997, 1998,
 14 1999, and 2000 for salaries and expenses of the Border
 15 Patrol such amounts as may be necessary to provide for

1 an increase in the number of agents of the Border Patrol
2 to 10,000 full-time equivalent agent positions (and nec-
3 essary support personnel positions) beyond the number of
4 such positions authorized for the Border Patrol as of Octo-
5 ber 1, 1994.

6 **SEC. 103. INTERIOR REPATRIATION PROGRAM.**

7 Not later than 180 days after the date of enactment
8 of this Act, the Attorney General and the Commissioner
9 of the Immigration and Naturalization Service shall de-
10 velop and implement a program in which aliens who pre-
11 viously have illegally entered the United States not less
12 than 3 times and are deported or returned to a country
13 contiguous to the United States will be returned to loca-
14 tions not less than 500 kilometers from that country's bor-
15 der with the United States.

16 **SEC. 104. DETENTION FACILITIES.**

17 (a) **BORDER DETENTION FACILITIES.**—Not later
18 than 180 days after the date of enactment of this Act,
19 the Attorney General and the Commissioner of the Immi-
20 gration and Naturalization Service shall take appropriate
21 action to increase the capability of the Immigration and
22 Naturalization Service to detain individuals who have ille-
23 gally entered the United States at a border area.

1 (b) TRANSFER OF CLOSED MILITARY BASES FOR
2 FEDERAL ILLEGAL ALIEN INCARCERATION FACILI-
3 TIES.—

4 (1) PRIORITY AVAILABILITY TO DEPARTMENT
5 OF JUSTICE.—Notwithstanding any other provision
6 of law, a military installation or facility of the De-
7 partment of Defense to be closed under a base clo-
8 sure law may be made available, as determined by
9 the Attorney General, to the Bureau of Prisons of
10 the Department of Justice for use as a facility for
11 the incarceration of aliens who are subject to exclu-
12 sion or deportation from the United States.

13 (2) DEFINITION.—For purposes of this sub-
14 section, the term “base closure law” means each of
15 the following:

16 (A) The Defense Base Closure and Re-
17 alignment Act of 1990 (part A of title XXIX of
18 Public Law 101–510; 10 U.S.C. 2687 note).

19 (B) Title II of the Defense Authorization
20 Amendments and Base Closure and Realign-
21 ment Act (Public Law 100–526; 10 U.S.C.
22 2687 note).

23 (C) Section 2687 of title 10, United States
24 Code.

1 (D) Any other similar law enacted after
2 the date of the enactment of this Act.

3 **SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY ARRIV-**
4 **ALS.**

5 The Attorney General is authorized to require, by
6 regulation, not less than 24 hour advance notice to the
7 Immigration and Naturalization Service of the intention
8 of any vessel to arrive at any port of entry.

9 **TITLE II—ALIEN SMUGGLING**

10 **SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR**
11 **HARBORING ILLEGAL ALIENS.**

12 (a) IN GENERAL.—Paragraph (1) of section 274(b)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1324(b)) is amended to read as follows:

15 “(1)(A) Except as provided in subparagraph (B), the
16 following property shall be subject to seizure and forfeit-
17 ure:

18 “(i) Any conveyance, including any vessel, vehi-
19 cle, or aircraft, which has been or is being used in
20 the commission of a violation of subsection (a).

21 “(ii) Any property, real or personal, which—

22 “(I) constitutes, or is derived from or
23 traceable to, the proceeds obtained directly or
24 indirectly from the commission of a violation of
25 subsection (a), or

1 “(II) is used to facilitate, or is intended to
2 be so used in the commission of, a violation of
3 subsection (a)(1)(A).

4 “(B)(i) No property used by any person as a common
5 carrier in the transaction of business as a common carrier
6 shall be forfeited under this section, unless the owner or
7 other person with lawful custody of the property was a
8 consenting party to or privy to the violation of subsection
9 (a) or of section 274A(a)(1) or 274A(a)(2).

10 “(ii) No property shall be forfeited under the provi-
11 sions of this section by reason of any act or omission es-
12 tablished by the owner to have been committed or omitted
13 by a person other than the owner while the property was
14 unlawfully in the possession of a person other than the
15 owner in violation of the criminal laws of the United
16 States or of any State.

17 “(iii) No property shall be forfeited under the provi-
18 sions of this section to the extent of an interest of the
19 owner, by reason of any act or omission established by
20 the owner to have been committed or omitted without the
21 knowledge, consent, or willful disregard of the owner, un-
22 less the act or omission was committed or omitted by an
23 employee or agent of the owner or other person with lawful
24 custody of the property with the intent of furthering the
25 business interests of, or to confer any other benefit upon,

1 the owner or other person with lawful custody of the prop-
2 erty.”.

3 (b) CONFORMING AMENDMENTS.—Section 274(b) of
4 such Act (8 U.S.C. 1324(b)) is amended—

5 (1) in paragraph (2)—

6 (A) by striking “conveyance” and inserting
7 “property” each place it appears, and

8 (B) by striking “is being used in” and in-
9 serting “is being used in, is facilitating, has fa-
10 cilitated, is facilitating or was intended to facili-
11 tate”; and

12 (2) in paragraphs (4) and (5), by striking “a
13 conveyance”, “any conveyance”, and “conveyance”
14 and inserting “property” each place it appears.

15 **SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**
16 **ING ACTIVITY FOR PURPOSES OF RACK-**
17 **ETEERING INFLUENCED AND CORRUPT OR-**
18 **GANIZATIONS (RICO) ENFORCEMENT AU-**
19 **THORITY.**

20 Section 1961(1) of title 18, United States Code, is
21 amended—

22 (1) by striking “or” before “(E) any act”, and

23 (2) by inserting before the period at the end the
24 following: “, or (F) any act which is indictable under

1 section 274(a)(1) of the Immigration and National-
2 ity Act (relating to alien smuggling)”.

3 **SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN**
4 **SMUGGLING AND FOR EMPLOYERS WHO**
5 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

6 Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amend-
7 ed—

8 (1) by striking “or” at the end of subparagraph
9 (C),

10 (2) by striking the comma at the end of sub-
11 paragraph (D) and inserting “; or”,

12 (3) by inserting after subparagraph (D) the fol-
13 lowing:

14 “(E) contracts or agrees with another party for
15 that party to provide, for employment by the person
16 or another, an alien who is not authorized to be em-
17 ployed in the United States, knowing that such
18 party intends to cause such alien to be brought into
19 the United States in violation of the laws of the
20 United States,” and

21 (4) by striking “five years” and inserting “ten
22 years”.

1 **SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
2 **VESTIGATIONS.**

3 Section 2516(1) of title 18, United State Code, is
4 amended—

5 (1) in paragraph (c) by inserting after “weap-
6 ons),” the following: “or a felony violation of section
7 1028 (relating to production of false identification
8 documentation), section 1542 (relating to false
9 statements in passport applications), section 1546
10 (relating to fraud and misuse of visas, permits, and
11 other documents),”;

12 (2) by striking out “or” after paragraph (l) and
13 redesignating paragraphs (m), (n), and (o) as para-
14 graphs (n), (o), and (p), respectively; and

15 (3) by inserting after paragraph (l) the follow-
16 ing new paragraph:

17 “(m) a violation of section 274 of the Immigration
18 and Nationality Act (8 U.S.C. 1324) (relating to alien
19 smuggling), of section 277 of the Immigration and Nation-
20 ality Act (8 U.S.C. 1327) (relating to the smuggling of
21 aliens convicted of aggravated felonies or of aliens subject
22 to exclusion on grounds of national security), or of section
23 278 of the Immigration and Nationality Act (8 U.S.C.
24 1328) (relating to smuggling of aliens for the purpose of
25 prostitution or other immoral purpose);”.

TITLE III—EMPLOYMENT**SEC. 301. IMPROVEMENT OF WORK ELIGIBILITY DOCUMENTS.**

(a) WORK ELIGIBILITY DOCUMENTS AND VERIFICATION OF ELIGIBILITY TO WORK.—Section 274A(b) of the Immigration and Nationality Act is amended—

(1) by striking paragraph (1) of subsection (b) and inserting:

“(1) ATTESTATION AFTER EXAMINATION AND VERIFICATION OF DOCUMENTATION.—The person or entity must attest, under penalty or perjury and on a form designated or established by the Attorney General by regulation, that it has verified that the individual is not an unauthorized alien by—

“(A) examining the individual’s Social Security account number card issued pursuant to subsection (d)(1), and

“(B) verifying the individual’s Social Security account number through the verification system established pursuant to subsection (d)(4).”,

(2) by inserting the following paragraph and redesignating the subsequent paragraphs accordingly:

“(2) VERIFICATION OF CONTINUED WORK ELIGIBILITY FOR ALIENS WITH LIMITED WORK AU-

1 THORIZATION.—In the case of an alien whose work
2 authorization has an expiration date, a person or en-
3 tity who continues to employ such an alien after the
4 date the employment authorization expires must ver-
5 ify, through the verification system established pur-
6 suant to subsection (d)(4), that the alien’s work au-
7 thorization has been extended.”, and

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

9 “(7) Notwithstanding any other provision of
10 law, a person or entity may not be considered to dis-
11 criminate by requesting the production of the docu-
12 mentation required under this subsection in the hir-
13 ing, recruiting, or referring of an individual for em-
14 ployment in the United States.”.

15 (b) EFFECTIVE DATES.—(1) Subsection (a)(1) shall
16 be effective as of July 1, 1996.

17 (2) Paragraphs (2) and (3) of subsection (a) shall
18 be effective upon enactment of this Act.

19 (c) ENHANCEMENT OF SOCIAL SECURITY CARDS
20 AND ESTABLISHMENT OF EMPLOYMENT VERIFICATION
21 SYSTEM.—Section 274A(d) of the Immigration and Na-
22 tionality Act is amended to read as follows:

23 “(d) EMPLOYMENT VERIFICATION SYSTEM.—

24 “(1) ENHANCEMENT OF SOCIAL SECURITY
25 CARDS.—

1 “(A) ISSUANCE OF ENHANCED CARD FOR
2 CITIZENS.—The Secretary shall cause to be is-
3 sued enhanced Social Security account number
4 cards to United States citizens and United
5 States nationals who are 16 years of age or
6 older upon application, proof of identity, proof
7 of citizenship or nationality, and payment of a
8 reasonable fee.

9 “(B) ISSUANCE OF ENHANCED CARD FOR
10 ALIENS.—The Secretary shall cause to be is-
11 sued enhanced Social Security account number
12 cards to aliens lawfully admitted for permanent
13 residence or who are otherwise authorized to
14 work in the United States and who are 16 years
15 of age or older upon application, proof of iden-
16 tity, verification of status by the Immigration
17 and Naturalization Service, and payment of a
18 reasonable fee.

19 “(2) REQUIREMENTS OF NEW CARDS.—(A) The
20 cards issued pursuant to paragraph (1) shall—

21 “(i) be uniform in appearance,

22 “(ii) be as tamper-proof and counterfeit-re-
23 sistant as is practicable,

1 “(iii) contain a photograph and such other
2 identifying information that is specific to each
3 person as the Secretary shall determine,

4 “(iv) contain the name, sex, date of birth,
5 citizenship status, and Social Security account
6 number of the issuee, and

7 “(v) incorporate a machine-readable encod-
8 ing of the information contained in the card.

9 “(B) The cards issued pursuant to paragraph
10 (1)(B) to aliens who are not permanent resident
11 aliens shall indicate whether the work authorization
12 granted to the alien has an expiration date.

13 “(3) IMPLEMENTATION.—(A) All Social Secu-
14 rity account number cards issued after July 1, 1996,
15 must be issued pursuant to the requirements under
16 this subsection.

17 “(B) After July 1, 1996, individuals applying
18 for employment shall be required to apply for en-
19 hanced Social Security account cards to be issued
20 pursuant to paragraph (1).

21 “(C) By January 1, 2000, all individuals who
22 are 16 years of age or older and who have a Social
23 Security account number must apply for Social Se-
24 curity account number card issued pursuant to para-
25 graph (1).

1 “(4) VERIFICATION SYSTEM.—

2 “(A) IN GENERAL.—The Secretary, in con-
3 sultation with the Attorney General, shall make
4 such modifications and improvements as are
5 necessary to current data bases and systems to
6 develop and implement a verification system
7 that a person or entity can access by telephone
8 or other electronic means. Such system shall
9 allow for verification that an individual’s Social
10 Security account number—

11 “(i) has been issued,

12 “(ii) was issued to an individual au-
13 thorized to work in the United States, and

14 “(iii) is not a number issued to a de-
15 ceased individual that has not been re-
16 issued.

17 The system shall also provide any other infor-
18 mation that the Secretary and Attorney General
19 determine is needed to verify that the number
20 is a number issued validly to the individual and
21 that such individual is authorized to work in
22 the United States.

23 “(B) ACCESS FEE.—A fee, not to exceed
24 \$2 plus any line charges payable to a telephone
25 carrier or equivalent entity, shall be charged for

1 each instance of accessing the verification sys-
2 tem to pay for the costs of operating the sys-
3 tem.

4 “(C) EFFECTIVE DATE.—The verification
5 system required by this paragraph shall be
6 operational by July 1, 1996.

7 “(5) FUNDING OF EMPLOYMENT VERIFICATION
8 SYSTEM.—

9 “(A) The amount of the fee that is to be
10 charged under paragraph (1) shall be the
11 amount (rounded to the nearest whole dollar),
12 not exceeding \$40, required to cover the costs
13 of issuing the cards. The Secretary shall pro-
14 vide for the waiver of any fee for persons un-
15 able to pay.

16 “(B) Any costs incurred in developing and
17 implementing the new Social Security account
18 number cards and verification system estab-
19 lished under this subsection that exceed the fees
20 collected under paragraph (1) shall not be paid
21 for out of any trust fund established under the
22 Social Security Act.

23 “(6) PRIVACY PROTECTIONS.—

24 “(A) Any personal information utilized by
25 the system may not be made available to Gov-

1 ernment agencies, employers, and other persons
2 except to the extent necessary to verify that an
3 individual is not an unauthorized alien.

4 “(B) The system must protect the privacy
5 and security of personal information and identi-
6 fiers utilized in the system.

7 “(C) A verification that an employee or
8 prospective employee is eligible to be employed
9 in the United States may not be withheld or re-
10 voked under the system for any reason other
11 than that the employee or prospective employee
12 is an unauthorized alien.

13 “(D) The system may not be used for law
14 enforcement purposes, other than for enforce-
15 ment of this Act or section 1001, 1028, 1546,
16 and 1621 of title 18, United States Code.

17 “(E) The cards issued pursuant to this
18 subsection may not be required to be presented
19 for any purpose other than under this Act (or
20 enforcement of sections 1001, 1028, 1546, and
21 1621 of title 18, United States Code) nor to be
22 carried on one’s person.

23 “(F) Unauthorized use or disclosure of the
24 information or identifiers contained in the em-

1 employment verification system shall be punishable
2 by civil and criminal penalties.

3 “(7) MONITORING AND IMPROVEMENTS IN SYS-
4 TEM.—(A) The Attorney General shall provide for
5 the monitoring and evaluation of the degree to which
6 the employment verification system established
7 under subsection (b) provides a secure system to de-
8 termine employment eligibility in the United States.

9 “(B) To the extent that the system established
10 under this subsection and subsection (b) is found
11 not to be a secure system to determine employment
12 eligibility in the United States, the Attorney General
13 shall recommend such changes in (including addi-
14 tions to) the system as may be necessary to establish
15 such a system.

16 “(8) DEFINITIONS.—For purposes of this sub-
17 section—

18 “(A) the term ‘Secretary’ means the Sec-
19 retary of Health and Human Services, and

20 “(B) the term ‘State’ means one of the
21 United States, the District of Columbia, or
22 Puerto Rico.”.

23 (d) CONFORMING AMENDMENTS.—(1) Section 274A
24 of the Immigration and Nationality Act is amended—

1 (A) in subsection (b), by striking “following
2 three paragraphs” and inserting “following four
3 paragraphs”, and

4 (B) by striking subsections (i), (j), (k), (l), (m),
5 and (n).

6 (2) This subsection shall be effective on July 1, 1996.

7 **SEC. 302. IMMIGRATION AND NATURALIZATION SERVICE**
8 **INVESTIGATORS.**

9 In addition to such amounts as are otherwise author-
10 ized to be appropriated, there is authorized to be appro-
11 priated for each of the fiscal years 1996, 1997, 1998,
12 1999, and 2000 for salaries and expenses of the Immigra-
13 tion and Naturalization Service such amounts as may be
14 necessary to provide for an increase in the number of in-
15 vestigators of the Immigration and Naturalization Service
16 by 1,000 full-time equivalent investigator positions (and
17 such support personnel as are necessary) beyond the num-
18 ber of such positions authorized as of October 1, 1994.

19 **TITLE IV—GOVERNMENT**
20 **BENEFITS**

21 **SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CAT-**
22 **EGORIES OF ALIENS.**

23 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Sub-
24 ject to subsection (b) and the Immigration and Nationality
25 Act, and notwithstanding any other provision of law, an

1 alien not lawfully within the United States as a permanent
2 resident, a refugee, an asylee, or a parolee is not eligible
3 for any direct Federal financial benefit or social insurance
4 benefit (whether through grant, loan, guarantee, or other-
5 wise) as such benefits are identified by the Attorney Gen-
6 eral in consultation with other appropriate heads of the
7 various departments and agencies of the Federal Govern-
8 ment.

9 (b) EMERGENCY MEDICAL CARE.—Subsection (a)
10 shall not apply with respect to the Federal reimbursement
11 of emergency medical care for aliens, as determined by the
12 Secretary of Health and Human Services by regulation.

13 **SEC. 402. UNEMPLOYMENT BENEFITS.**

14 (a) An alien who has not been granted employment
15 authorization pursuant to the Immigration and National-
16 ity Act or other Federal law shall be ineligible for unem-
17 ployment compensation under an unemployment com-
18 pensation law of a State or the United States.

19 (b) An alien granted temporary work authorization
20 shall be eligible only for unemployment compensation
21 under an employment compensation law of a State or the
22 United States that accrued during such time as the alien
23 was authorized to work.

1 **SEC. 403. HOUSING BENEFITS.**

2 (a) LIMITATION.—Notwithstanding section 401 or
3 any other provision of law, no alien who is not a perma-
4 nent resident, a refugee, an asylee, or a parolee shall be
5 eligible for benefits under the following provisions of law:

6 (1) The program of rental assistance on behalf
7 of low-income families provided under section 8 of
8 the United States Housing Act of 1937 (42 U.S.C.
9 1437f).

10 (2) The program of assistance to public housing
11 under title I of the United States Housing Act of
12 1937 (42 U.S.C. 1437 et seq.).

13 (3) The loan program under section 502 of the
14 Housing Act of 1949 (42 U.S.C. 1472).

15 (4) The program of interest reduction payments
16 pursuant to contracts entered into by the Secretary
17 of Housing and Urban Development under section
18 236 of the National Housing Act (12 U.S.C. 1715z–
19 1).

20 (5) The program of loans for rental and cooper-
21 ative housing under section 515 of the Housing Act
22 of 1949 (42 U.S.C. 1485).

23 (6) The program of rental assistance payments
24 pursuant to contracts entered into under section
25 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C.
26 1490a(a)(2)(A)).

1 (7) The program of assistance payments on be-
2 half of homeowners under section 235 of the Na-
3 tional Housing Act (12 U.S.C. 1715z).

4 (8) The program of rent supplement payments
5 on behalf of qualified tenants pursuant to contracts
6 entered into under section 101 of the Housing and
7 Urban Development Act of 1965 (12 U.S.C. 1701s).

8 (9) The loan and grant programs under section
9 504 of the Housing Act of 1949 (42 U.S.C. 1474)
10 for repairs and improvements to rural dwellings.

11 (10) The loan and assistance programs under
12 sections 514 and 516 of the Housing Act of 1949
13 (42 U.S.C. 1484, 1486) for housing for farm labor.

14 (11) The program of grants for preservation
15 and rehabilitation of housing under section 533 of
16 the Housing Act of 1949 (42 U.S.C. 1490m).

17 (12) The program of grants and loans for mu-
18 tual and self-help housing and technical assistance
19 under section 523 of the Housing Act of 1949 (42
20 U.S.C. 1490c).

21 (13) The program of site loans under section
22 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

23 (b) REGULATIONS.—Not later than January 1, 1995,
24 the Secretary of Housing and Urban Development shall
25 issue final regulations to carry out subsection (a).

1 **SEC. 404. SAVE SYSTEM.**

2 There are authorized to be appropriated for each of
3 the fiscal years 1996, 1997, 1998, 1999, and 2000 such
4 sums as may be necessary to carry out the purposes of
5 the automated SAVE system established under section
6 121 of the Immigration Reform and Control Act of 1986
7 (Public Law 99-603).

8 **SEC. 405. LIMITATION ON FEDERAL FINANCIAL ASSIST-**
9 **ANCE TO LOCALITIES THAT REFUSE TO CO-**
10 **OPERATE IN THE ARREST AND DEPORTATION**
11 **OF UNLAWFUL ALIENS.**

12 Notwithstanding any other provision of law, Federal
13 financial assistance shall be reduced by 20 percent to any
14 local government on and after such date as the Attorney
15 General certifies that the local government has an official
16 policy of refusing to cooperate with officers or employees
17 of the Department of Justice (including the Immigration
18 and Naturalization Service) with respect to the arrest and
19 deportation of aliens who are not lawfully present within
20 the United States. Such reduction in assistance is not re-
21 imburseable and shall continue for as long as the policy
22 of noncooperation remains in effect.

23 **SEC. 406. UNIFORM VITAL STATISTICS.**

24 (a) PILOT PROGRAM.—The Secretary of Health and
25 Human Services shall consult with the State agency re-
26 sponsible for registration and certification of births and

1 deaths and, within 3 years of the date of enactment of
2 this Act, shall establish a pilot program for 3 of the 5
3 States with the largest number of undocumented aliens
4 of an electronic network linking the vital statistics records
5 of such States. The network shall provide, where practical,
6 for the matching of deaths with births and shall enable
7 the confirmation of births and deaths of citizens of such
8 States, or of aliens within such States, by any Federal
9 or State agency or official in the performance of official
10 duties. The Secretary and participating State agencies
11 shall institute measures to achieve uniform and accurate
12 reporting of vital statistics into the pilot program network,
13 to protect the integrity of the registration and certification
14 process, and to prevent fraud against the Government and
15 other persons through the use of false birth or death cer-
16 tificates.

17 (b) REPORT.—Not later than 180 days after the es-
18 tablishment of the pilot program under subsection (a), the
19 Secretary shall issue a written report to Congress with rec-
20 ommendations on how the pilot program could effectively
21 be instituted as a national network for the United States.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated for fiscal year 1996 and
24 for subsequent fiscal years such sums as may be necessary
25 to carry out this section.

1 **TITLE V—CRIMINAL ALIENS**

2 **SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON**
3 **CRIMINAL PROBATION OR CRIMINAL PA-**
4 **ROLE.**

5 Section 263(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1303(a)) is amended by striking “and (5)”
7 and inserting “(5) aliens who are or have been on criminal
8 probation or criminal parole pursuant to the laws of the
9 United States or of any State, and (6)”.

10 **SEC. 502. RESTRICTING DEFENSES TO DEPORTATION FOR**
11 **CERTAIN CRIMINAL ALIENS.**

12 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
13 NENT RESIDENCE.—The last sentence of section 212(c)
14 of the Immigration and Nationality Act (8 U.S.C.
15 1182(c)) is amended by striking out “has served for such
16 felony or felonies” and all that follows through the period
17 and inserting in lieu thereof “has been sentenced for such
18 felony or felonies to a term of imprisonment of at least
19 5 years, provided that the time for appealing such convic-
20 tion or sentence has expired and the sentence has become
21 final.”.

22 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
23 TATION.—Section 243(h)(2) of the Immigration and Na-
24 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

1 (1) striking out the final sentence and inserting
2 in lieu thereof the following new subparagraph:

3 “(E) the alien has been convicted of an ag-
4 gravated felony.”; and

5 (2) striking out the “or” at the end of subpara-
6 graph (C) and inserting “or” at the end of subpara-
7 graph (D).

8 **SEC. 503. MISCELLANEOUS AND TECHNICAL CHANGES.**

9 (a) FORM OF DEPORTATION HEARINGS.—The sec-
10 ond sentence of section 242(b) of the Immigration and
11 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
12 ing before the period the following: “; except that nothing
13 in this subsection shall preclude the Attorney General
14 from authorizing proceedings by electronic or telephonic
15 media (with or without the consent of the alien) or, where
16 waived or agreed to by the parties, in the absence of the
17 alien.”.

18 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
19 REQUIREMENTS.—No amendment made by this Act shall
20 be construed to create any right or benefit, substantive
21 or procedural, which is legally enforceable by any party
22 against the United States, its agencies, its officers or any
23 other person.

24 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
25 TATION ORDER.—Section 276 of the Immigration and Na-

1 tionality Act (8 U.S.C. 1326) is amended by inserting
2 after subsection (b) the following new subsection:

3 “(c) In any criminal proceeding under this section,
4 no alien may challenge the validity of the deportation
5 order described in subsection (a)(1) or subsection (b) un-
6 less the alien demonstrates—

7 “(1) that the alien exhausted the administrative
8 remedies (if any) that may have been available to
9 seek relief against such order,

10 “(2) that the deportation proceedings at which
11 such order was issued improperly deprived the alien
12 of the opportunity for judicial review, and

13 “(3) that the entry of such order was fun-
14 damentally unfair.”.

15 **SEC. 504. CRIMINAL ALIEN TRACKING CENTER.**

16 (a) OPERATION.—The Commissioner of Immigration
17 and Naturalization, with the cooperation of the Director
18 of the Federal Bureau of Investigation and the heads of
19 other agencies, shall, under the authority of section
20 242(a)(3)(A) of the Immigration and Nationality Act (8
21 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking
22 center.

23 (b) PURPOSE.—The criminal alien tracking center
24 shall be used to assist Federal, State, and local law en-
25 forcement agencies in identifying and locating aliens who

1 may be subject to deportation by reason of their conviction
2 of aggravated felonies.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated to carry out this section
5 \$2,000,000 for fiscal year 1996 and \$5,000,000 for each
6 of the fiscal years 1997, 1998, 1999, and 2000.

7 **SEC. 505. PRISONER TRANSFER TREATY STUDY.**

8 (a) REPORT TO CONGRESS.—Not later than 180 days
9 after the date of the enactment of this Act, the Secretary
10 of State and the Attorney General shall submit to the Con-
11 gress a report that describes the use and effectiveness of
12 the Prisoner Transfer Treaty (in this section referred to
13 as the “Treaty”) with Mexico to remove from the United
14 States aliens who have been convicted of crimes in the
15 United States.

16 (b) USE OF TREATY.—The report under subsection
17 (a) shall include the following information:

18 (1) The number of aliens convicted of a crimi-
19 nal offense in the United States since November 30,
20 1977, who would have been or are eligible for trans-
21 fer pursuant to the Treaty.

22 (2) The number of aliens described in para-
23 graph (1) who have been transferred pursuant to the
24 Treaty.

1 (3) The number of aliens described in para-
2 graph (2) who have been incarcerated in full compli-
3 ance with the Treaty.

4 (4) The number of aliens who are incarcerated
5 in a penal institution in the United States who are
6 eligible for transfer pursuant to the Treaty.

7 (5) The number of aliens described in para-
8 graph (4) who are incarcerated in State and local
9 penal institutions.

10 (c) EFFECTIVENESS OF TREATY.—The report under
11 subsection (a) shall include the recommendations of the
12 Secretary of State and the Attorney General to increase
13 the effectiveness and use of, and full compliance with, the
14 Treaty. In considering the recommendations under this
15 subsection, the Secretary and the Attorney General shall
16 consult with such State and local officials in areas dis-
17 proportionately impacted by aliens convicted of criminal
18 offenses as the Secretary and the Attorney General con-
19 sider appropriate. Such recommendations shall address
20 the following areas:

21 (1) Changes in Federal laws, regulations, and
22 policies affecting the identification, prosecution, and
23 deportation of aliens who have committed a criminal
24 offense in the United States.

1 (2) Changes in State and local laws, regula-
2 tions, and policies affecting the identification, pros-
3 ecution, and deportation of aliens who have commit-
4 ted a criminal offense in the United States.

5 (3) Changes in the Treaty that may be nec-
6 essary to increase the number of aliens convicted of
7 crimes who may be transferred pursuant to the
8 Treaty.

9 (4) Methods for preventing the unlawful re-
10 entry into the United States of aliens who have been
11 convicted of criminal offenses in the United States
12 and transferred pursuant to the Treaty.

13 (5) Any recommendations of appropriate offi-
14 cials of the Mexican Government on programs to
15 achieve the goals of, and ensure full compliance
16 with, the Treaty.

17 (6) An assessment of whether the recommenda-
18 tions under this subsection require the renegotiation
19 of the Treaty.

20 (7) The additional funds required to implement
21 each recommendation under this subsection.

22 **SEC. 506. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
23 **EXCLUSION.**

24 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
25 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))

1 is amended by adding at the end the following new sub-
2 paragraph:

3 “(E) CONVICTED DEFINED.—In this para-
4 graph, the term ‘convicted’ means a judge or
5 jury has found the alien guilty or the alien has
6 entered a plea of guilty or nolo contendere,
7 whether or not the alien appeals therefrom.”.

8 (b) DEPORTATION OF CONVICTED ALIENS.—

9 (1) IMMEDIATE DEPORTATION.—Section 242(h)
10 of such Act (8 U.S.C. 1252(h)) is amended—

11 (A) by striking “(h) An alien” and insert-
12 ing “(h)(1) Subject to paragraph (2), an alien”;
13 and

14 (B) by adding at the end the following new
15 paragraph:

16 “(2) An alien sentenced to imprisonment may be de-
17 ported prior to the termination of such imprisonment by
18 the release of the alien from confinement, if the Service
19 petitions the appropriate court or other entity with author-
20 ity concerning the alien to release the alien into the cus-
21 tody of the Service for execution of an order of deporta-
22 tion.”.

23 (2) PROHIBITION OF REENTRY INTO THE
24 UNITED STATES.—Section 212(a)(2) of such Act (8
25 U.S.C. 1182(a)(2)) is amended—

1 (A) by redesignating subparagraph (F) as
2 subparagraph (G); and

3 (B) by inserting after subparagraph (E)
4 the following new subparagraph:

5 “(F) ALIENS DEPORTED BEFORE SERVING
6 MINIMUM PERIOD OF CONFINEMENT.—In addi-
7 tion to any other period of exclusion which may
8 apply an alien deported pursuant to section
9 242(h)(2) is excludable during the minimum pe-
10 riod of confinement to which the alien was sen-
11 tenced.”.

12 (c) EXECUTION OF DEPORTATION ORDERS.—Section
13 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
14 ing at the end the following: “An order of deportation may
15 not be executed until all direct appeals relating to the con-
16 viction which is the basis of the deportation order have
17 been exhausted.”.

18 **TITLE VI—TERRORIST ALIENS**

19 **SEC. 601. REMOVAL OF ALIEN TERRORISTS.**

20 The Immigration and Nationality Act (8 U.S.C. 1101
21 et seq.) is amended by inserting the following new section:

22 “REMOVAL OF ALIEN TERRORISTS

23 “SEC. 242C. (a) DEFINITIONS.—As used in this sec-
24 tion—

25 “(1) the term ‘alien terrorist’ means any alien
26 described in section 241(a)(4)(B);

1 “(2) the term ‘classified information’ has the
2 same meaning as defined in section 1(a) of the Clas-
3 sified Information Procedures Act (18 U.S.C. App.
4 IV);

5 “(3) the term ‘national security’ has the same
6 meaning as defined in section 1(b) of the Classified
7 Information Procedures Act (18 U.S.C. App. IV);

8 “(4) the term ‘special court’ means the court
9 described in subsection (c) of this section; and

10 “(5) the term ‘special removal hearing’ means
11 the hearing described in subsection (e) of this sec-
12 tion.

13 “(b) APPLICATION FOR USE OF PROCEDURES.—The
14 provisions of this section shall apply whenever the Attor-
15 ney General certifies under seal to the special court that—

16 “(1) the Attorney General or Deputy Attorney
17 General has approved of the proceeding under this
18 section;

19 “(2) an alien terrorist is physically present in
20 the United States; and

21 “(3) removal of such alien terrorist by deporta-
22 tion proceedings described in sections 242, 242A, or
23 242B would pose a risk to the national security of
24 the United States because such proceedings would
25 disclose classified information.

1 “(c) SPECIAL COURT.—(1) The Chief Justice of the
2 United States shall publicly designate up to 7 judges from
3 up to 7 United States judicial districts to hear and decide
4 cases arising under this section, in a manner consistent
5 with the designation of judges described in section 103(a)
6 of the Foreign Intelligence Surveillance Act (50 U.S.C.
7 1803(a)).

8 “(2) The Chief Justice may, in the Chief Justice’s
9 discretion, designate the same judges under this section
10 as are designated pursuant to 50 U.S.C. 1803(a).

11 “(d) INVOCATION OF SPECIAL COURT PROCE-
12 DURE.—(1) When the Attorney General makes the appli-
13 cation described in subsection (b), a single judge of the
14 special court shall consider the application in camera and
15 ex parte.

16 “(2) The judge shall invoke the procedures of sub-
17 section (e), if the judge determines that there is probable
18 cause to believe that—

19 “(A) the alien who is the subject of the applica-
20 tion has been correctly identified;

21 “(B) a deportation proceeding described in sec-
22 tions 242, 242A, or 242B would pose a risk to the
23 national security of the United States because such
24 proceedings would disclose classified information;
25 and

1 “(C) the threat posed by the alien’s physical
2 presence is immediate and involves the risk of death
3 or serious bodily harm.

4 “(e) SPECIAL REMOVAL HEARING.—(1) Except as
5 provided in paragraph (4), the special removal hearing au-
6 thorized by a showing of probable cause described in sub-
7 section (d)(2) shall be open to the public.

8 “(2) The alien shall have a right to be present at such
9 hearing and to be represented by counsel. Any alien finan-
10 cially unable to obtain counsel shall be entitled to have
11 counsel assigned to represent such alien. Counsel may be
12 appointed as described in section 3006A of title 18, United
13 States Code.

14 “(3) The alien shall have a right to introduce evi-
15 dence on his own behalf, and except as provided in para-
16 graph (4), shall have a right to cross-examine any witness
17 or request that the judge issue a subpoena for the pres-
18 ence of a named witness.

19 “(4) The judge shall authorize the introduction in
20 camera and ex parte of any item of evidence for which
21 the judge determines that public disclosure would pose a
22 risk to the national security of the United States because
23 it would disclose classified information.

1 “(5) With respect to any evidence described in para-
2 graph (4), the judge shall cause to be delivered to the alien
3 either—

4 “(A)(i) the substitution for such evidence of a
5 statement admitting relevant facts that the specific
6 evidence would tend to prove, or (ii) the substitution
7 for such evidence of a summary of the specific evi-
8 dence; or

9 “(B) if disclosure of even the substituted evi-
10 dence described in subparagraph (A) would create a
11 substantial risk of death or serious bodily harm to
12 any person, a statement informing the alien that no
13 such summary is possible.

14 “(6) If the judge determines—

15 “(A) that the substituted evidence described in
16 paragraph (4)(B) will provide the alien with sub-
17 stantially the same ability to make his defense as
18 would disclosure of the specific evidence, or

19 “(B) that disclosure of even the substituted evi-
20 dence described in paragraph (5)(A) would create a
21 substantial risk of death or serious bodily harm to
22 any person,

23 then the determination of deportation (described in sub-
24 section (f)) may be made pursuant to this section.

1 “(f) DETERMINATION OF DEPORTATION.—(1) If the
2 determination in subsection (e)(6)(A) has been made, the
3 judge shall, considering the evidence on the record as a
4 whole, require that the alien be deported if the Attorney
5 General proves, by clear and convincing evidence, that the
6 alien is subject to deportation because he is an alien as
7 described in section 241(a)(4)(B).

8 “(2) If the determination in subsection (e)(6)(B) has
9 been made, the judge shall, considering the evidence re-
10 ceived (in camera and otherwise), require that the alien
11 be deported if the Attorney General proves, by clear, con-
12 vincing, and unequivocal evidence, that the alien is subject
13 to deportation because he is an alien as described in sec-
14 tion 241(a)(4)(B).

15 “(g) APPEALS.—(1) The alien may appeal a deter-
16 mination under subsection (f) to the court of appeals for
17 the Federal Circuit, by filing a notice of appeal with such
18 court within 20 days of the determination under such sub-
19 section.

20 “(2)(A) The Attorney General may appeal a deter-
21 mination under subsection (d), (e), or (f) to the court of
22 appeals for the Federal Circuit, by filing a notice of appeal
23 with such court within 20 days of the determination under
24 any one of such subsections.

1 “(B) When requested by the Attorney General, the
2 entire record of the proceeding under this section shall be
3 transmitted to the court of appeals under seal. If the At-
4 torney General is appealing a determination under sub-
5 section (d) or (e), the court of appeals shall consider such
6 appeal in camera and ex parte.”.

7 **SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**
8 **A BASIS FOR EXCLUSION FROM THE UNITED**
9 **STATES UNDER THE IMMIGRATION AND NA-**
10 **TIONALITY ACT.**

11 Section 212(a)(3)(B) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

13 (1) in clause (i)(II) by inserting “or” at the
14 end;

15 (2) by adding after clause (i)(II) the following:

16 “(III) is a member of an organi-
17 zation that engages in, or has engaged
18 in, terrorist activity or who actively
19 supports or advocates terrorist activ-
20 ity,”; and

21 (3) by adding after clause (iii) the following:

22 “(iv) TERRORIST ORGANIZATION DE-
23 FINED.—As used in this Act, the term ‘ter-
24 rorist organization’ means an organization
25 which commits terrorist activity as deter-

1 mined by the Attorney General, in con-
2 sultation with the Secretary of State.”.

3 **TITLE VII—INSPECTIONS**

4 **SEC. 701. PREINSPECTION AT FOREIGN AIRPORTS.**

5 (a) IN GENERAL.—The Immigration and Nationality
6 Act is amended by inserting after section 235 the following
7 new section:

8 “PREINSPECTION AT FOREIGN AIRPORTS

9 “SEC. 235A. (a) ESTABLISHMENT OF
10 PREINSPECTION STATIONS.—(1) Subject to paragraph
11 (4), not later than 2 years after the date of the enactment
12 of this section, the Attorney General, in consultation with
13 the Secretary of State, shall establish and maintain
14 preinspection stations in at least 5 of the foreign airports
15 that are among the 10 foreign airports which the Attorney
16 General identifies as serving as last points of departure
17 for the greatest numbers of passengers who arrive from
18 abroad by air at ports of entry within the United States.
19 Such preinspection stations shall be in addition to any
20 preinspection stations established prior to the date of the
21 enactment of this section.

22 “(2) Not later than November 1, 1995, and each sub-
23 sequent November 1, the Attorney General shall compile
24 data identifying—

25 “(A) the foreign airports which served as last
26 points of departure for aliens who arrived by air at

1 United States ports of entry without valid docu-
2 mentation during the preceding fiscal years,

3 “(B) the number and nationality of such aliens
4 arriving from each such foreign airport, and

5 “(C) the primary routes such aliens followed
6 from their country of origin to the United States.

7 “(3) Subject to paragraph (4), not later than 4 years
8 after the date of enactment of this section, the Attorney
9 General, in consultation with the Secretary of State, shall
10 establish preinspection stations in at least 5 additional for-
11 eign airports which the Attorney General, in consultation
12 with the Secretary of State, determines based on the data
13 compiled under paragraph (2) and such other information
14 as may be available would most effectively reduce the
15 number of aliens who arrive from abroad by air at points
16 of entry within the United States without valid docu-
17 mentation. Such preinspection stations shall be in addition
18 to those established prior to or pursuant to paragraph (1).

19 “(4) Prior to the establishment of a preinspection
20 station the Attorney General, in consultation with the Sec-
21 retary of State, shall ensure that—

22 “(A) employees of the United States stationed
23 at the preinspection station and their accompanying
24 family members will receive appropriate protection,

1 “(B) such employees and their families will not
2 be subject to unreasonable risks to their welfare and
3 safety, and

4 “(C) the country in which the preinspection sta-
5 tion is to be established maintains practices and pro-
6 cedures with respect to asylum seekers and refugees
7 in accordance with the Convention Relating to the
8 Status of Refugees (done at Geneva, July 28, 1951),
9 or the Protocol Relating to the Status of Refugees
10 (done at New York, January 31, 1967).

11 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
12 PROGRAM.—The Attorney General shall assign additional
13 immigration officers to assist air carriers in the detection
14 of fraudulent documents at foreign airports which, based
15 on the records maintained pursuant to subsection (a)(2),
16 served as a point of departure for a significant number
17 of arrivals at United States ports of entry without valid
18 documentation, but where no preinspection station exists.

19 “(c) CLERICAL AMENDMENT.—The table of contents
20 is amended by inserting after the item relating to section
21 235 the following new item:

“Sec. 235A. Preinspection at foreign airports.”.

22 **SEC. 702. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
23 **TION OF FRAUDULENT DOCUMENTS.**

24 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
25 1356(h)(2)(A)) is amended—

1 (1) in clause (iv), by inserting “, including
2 training of, and technical assistance to, commercial
3 airline personnel on such detection” after “United
4 States”, and

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

6 “The Attorney General shall provide for expenditures for
7 training and assistance described in clause (iv) in an
8 amount, for any fiscal year, not less than 5 percent of
9 the total of the expenses incurred that are described in
10 the previous sentence.”.

11 (b) COMPLIANCE WITH DETECTION REGULA-
12 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
13 adding at the end the following: “Whenever the Attorney
14 General finds that a commercial airline has failed to com-
15 ply with regulations of the Attorney General relating to
16 requirements of airlines for the detection of fraudulent
17 documents used by passengers traveling to the United
18 States (including the training of personnel in such detec-
19 tion), the Attorney General may suspend the entry of some
20 or all aliens transported to the United States by such air-
21 line.”.

22 (c) EFFECTIVE DATES.—

23 (1) The amendments made by subsection (a)
24 shall apply to expenses incurred during or after fis-
25 cal year 1995.

1 (2) The Attorney General shall first issue, in
2 proposed form, regulations referred to in the second
3 sentence of section 212(f) of the Immigration and
4 Nationality Act, as added by the amendment made
5 by subsection (b), by not later than 90 days after
6 the date of the enactment of this Act.

7 **TITLE VIII—ASYLUM**

8 **SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION** 9 **OFFICERS.**

10 (a) IN GENERAL.—Section 235(b) (8 U.S.C.
11 1225(b)) is amended to read as follows:

12 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
13 OFFICERS.—

14 “(1) An immigration officer shall inspect each
15 alien who is seeking entry to the United States.

16 “(2)(A) If the examining immigration officer
17 determines that an alien seeking entry—

18 “(i) does not present the documentation
19 required (if any) to obtain legal entry to the
20 United States; and

21 “(ii) does not indicate either an intention
22 to apply for provisional asylum (under section
23 208) or a fear of persecution,

24 the officer shall order the alien excluded from the
25 United States without further hearing or review.

1 “(B) The examining immigration officer shall
2 refer for immediate inspection at the port of entry
3 by an asylum officer under subparagraph (C) any
4 alien who (i) does not present the documentation re-
5 quired (if any) to obtain legal entry to the United
6 States, and (ii) has indicated an intention to apply
7 for provisional asylum or a fear of persecution. Such
8 an alien shall not be considered to have been in-
9 spected and admitted for purposes of this Act.

10 “(C)(i) If an asylum officer determines that an
11 alien has a credible fear of persecution, the alien
12 shall be entitled to apply for provisional asylum
13 under section 208.

14 “(ii)(I) Subject to subclause (II), if an asylum
15 officer determines that an alien does not have a
16 credible fear of persecution the officer shall order
17 the alien excluded from the United States without
18 further hearing or review.

19 “(II) The Attorney General shall promulgate
20 regulations to provide for the immediate review by
21 another asylum officer at the port of entry of a deci-
22 sion under subclause (I).

23 “(iii) For the purposes of this subparagraph,
24 the term ‘credible fear of persecution’ means (I) that
25 it is more probable than not that the statements

1 made by the alien in support of his or her claim are
2 true, and (II) that there is a significant possibility,
3 in light of such statements and of such other facts
4 as are known to the officer that the alien could es-
5 tablish eligibility for provisional asylum under sec-
6 tion 208.

7 “(iv) Notwithstanding any other provision of
8 law, no court shall have jurisdiction to review, except
9 by petition for habeas corpus, any determination
10 made with respect to an alien found excludable pur-
11 suant to this paragraph. In any such case, review by
12 habeas corpus shall be limited to examination of
13 whether the petitioner (I) is an alien, and (II) was
14 ordered excluded from the United States pursuant to
15 this paragraph.

16 “(v) Notwithstanding any other provision of
17 law, no court shall have jurisdiction (I) to review the
18 procedures established by the Attorney General for
19 the determination of exclusion pursuant to this para-
20 graph, or (II) to enter declaratory or injunctive re-
21 lief with respect to the implementation of this para-
22 graph. Regardless of the nature of the suit or claim,
23 no court shall have jurisdiction except by habeas cor-
24 pus petition as provided in clause (iv) to consider
25 the validity of any adjudication or determination

1 under this paragraph or to provide declaratory or in-
2 junctive relief with respect to the exclusion of any
3 alien pursuant to this paragraph.

4 “(vi) In any action brought for the assessment
5 of penalties for improper entry or re-entry of an
6 alien under section 275 or 276, no court shall have
7 jurisdiction to hear claims collaterally attacking the
8 validity of orders of exclusion or deportation entered
9 under sections 235, 236, and 242.

10 “(3)(A) Except as provided in subparagraph
11 (B), if the examining immigration officer determines
12 that an alien seeking entry is not clearly and beyond
13 a doubt entitled to enter, the alien shall be detained
14 for a hearing before a special inquiry officer.

15 “(B) The provisions of subparagraph (A) shall
16 not apply—

17 “(i) to an alien crewman,

18 “(ii) to an alien described in paragraph
19 (2)(A) or 2(B), or

20 “(iii) if the conditions described in section
21 273(d) exist.

22 “(4) The decision of the examining immigration
23 officer, if favorable to the admission of any alien,
24 shall be subject to challenge by any other immigra-
25 tion officer and such challenge shall operate to take

1 the alien, whose privilege to enter is so challenged,
2 before a special inquiry officer for a hearing on ex-
3 clusion of the alien.

4 “(5) An alien has not entered the United States
5 for purposes of this Act unless and until such alien
6 has been inspected and admitted by an immigration
7 officer pursuant to this subsection.

8 (b) CONFORMING AMENDMENTS.—Section 237(a) (8
9 U.S.C. 1227(a)) is amended—

10 (1) in the second sentence of paragraph (1) by
11 striking “Deportation” and inserting “Subject to
12 section 235(b)(2), deportation”;

13 (2) in the first sentence of paragraph (2) by
14 striking “If” and inserting “Subject to section
15 235(b)(2), if”.

16 **SEC. 802. ASYLUM.**

17 (a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is
18 amended to read as follows:

19 **“SEC. 208. ASYLUM.**

20 (a) PROVISIONAL ASYLUM.—

21 “(1) RIGHT TO APPLY.—The Attorney General
22 shall establish a procedure for an alien physically
23 present in the United States or at a land border or
24 port of entry, irrespective of such alien’s status, to

1 apply for provisional asylum in accordance with this
2 section.

3 “(2) CONDITIONS FOR GRANTING.—

4 “(A) MANDATORY CASES.—The Attorney
5 General shall grant provisional asylum to an
6 alien if the alien applies for provisional asylum
7 in accordance with the requirements of this sec-
8 tion and establishes that it is more likely than
9 not that in the alien’s country of nationality
10 (or, in the case of a person having no national-
11 ity, the country in which such alien last habit-
12 ually resided) such alien’s life or freedom would
13 be threatened on account of race, religion, na-
14 tionality, membership in a particular social
15 group, or political opinion.

16 “(B) DISCRETIONARY CASES.—The Attor-
17 ney General may grant provisional asylum to an
18 alien if the alien applies for provisional asylum
19 in accordance with the requirements of this sec-
20 tion and establishes that the alien is a refugee
21 within the meaning of section 101(a)(42).

22 “(C) EXCEPTIONS.—(i) Subparagraphs
23 (A) and (B) shall not apply to an alien if the
24 Attorney General determines that—

1 “(I) the alien ordered, incited, as-
2 sisted, or otherwise participated in the per-
3 secution of any person on account of race,
4 religion, nationality, membership in a par-
5 ticular social group, or political opinion;

6 “(II) the alien, having been convicted
7 by a final judgment of a particularly seri-
8 ous crime, constitutes a danger to the com-
9 munity of the United States;

10 “(III) there are serious reasons for
11 believing that the alien has committed a
12 serious nonpolitical crime outside the
13 United States prior to the arrival of the
14 alien in the United States;

15 “(IV) there are reasonable grounds
16 for regarding the alien as a danger to the
17 security of the United States; or

18 “(V) a country willing to accept the
19 alien has been identified (other than the
20 country described in subparagraph (A)) to
21 which the alien can be deported or re-
22 turned and the alien does not establish
23 that it is more likely than not that the
24 alien’s life or freedom would be threatened
25 in such country on account of race, reli-

1 gion, nationality, membership in a particu-
2 lar social group, or political opinion.

3 “(ii)(I) For purposes of clause (i)(II), an
4 alien who has been convicted of an aggravated
5 felony shall be considered to have committed a
6 particularly serious crime.

7 “(II) The Attorney General shall promul-
8 gate regulations that specify additional crimes
9 that will be considered to be a crime described
10 in clause (i)(II) or (i)(III).

11 “(III) The Attorney General shall promul-
12 gate regulations establishing such additional
13 limitations and conditions as the Attorney Gen-
14 eral considers appropriate under which an alien
15 shall be ineligible to apply for provisional asy-
16 lum under subparagraph (B).

17 “(3) PROVISIONAL ASYLUM STATUS.—In the
18 case of any alien granted provisional asylum under
19 paragraph (2)(A), the Attorney General, in accord-
20 ance with this section—

21 “(A) shall not deport or return the alien to
22 the country described under paragraph (2)(A);

23 “(B) shall authorize the alien to engage in
24 employment in the United States and provide
25 the alien with an ‘employment authorized’ en-

1 dorsement or other appropriate work permit;
2 and

3 “(C) may allow the alien to travel abroad
4 with the prior consent of the Attorney General.

5 “(4) TERMINATION.—Provisional asylum grant-
6 ed under paragraph (2) may be terminated if the At-
7 torney General, pursuant to such regulations as the
8 Attorney General may prescribe, determines that—

9 “(A) the alien no longer meets the condi-
10 tions described in paragraph (2) owing to a
11 change in circumstances in the alien’s country
12 of nationality or, in the case of an alien having
13 no nationality, in the country in which the alien
14 last habitually resided;

15 “(B) the alien meets a condition described
16 in paragraph (2)(C); or

17 “(C) a country willing to accept the alien
18 has been identified (other than the country de-
19 scribed in paragraph (2)) to which the alien can
20 be deported or returned and the alien cannot
21 establish that it is more likely than not that the
22 alien’s life or freedom would be threatened in
23 such country on account of race, religion, na-
24 tionality, membership in a particular social
25 group, or political opinion.

1 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
2 the case of an alien described in paragraph
3 (2)(C)(i)(V) or paragraph (4)(C), the alien’s depor-
4 tation or return shall be directed by the Attorney
5 General in the sole discretion of the Attorney Gen-
6 eral, to any country which is willing to accept the
7 alien into its territory (other than the country de-
8 scribed in paragraph (2)(A)).

9 “(b) PROVISIONAL ASYLUM APPLICATIONS.—

10 “(1) IN GENERAL.—

11 “(A) DEADLINE.—Subject to subpara-
12 graph (B), an alien’s application for provisional
13 asylum shall not be considered under this sec-
14 tion unless—

15 “(i) the alien has filed, not later than
16 30 days after entering or coming to the
17 United States, notice of intention to file
18 such an application, and

19 “(ii) such application is actually filed
20 not later than 60 days after entering or
21 coming to the United States.

22 “(B) EXCEPTION.—An application for pro-
23 visional asylum may be considered, not with-
24 standing that the requirements of subparagraph
25 (A) have not been met, only if the alien dem-

1 onstrates by clear and convincing evidence
2 changed circumstances in the alien’s country of
3 nationality (or in the case of an alien with no
4 nationality, in the country where the alien last
5 habitually resided) affecting eligibility for provi-
6 sional asylum.

7 “(2) REQUIREMENTS.—An application for pro-
8 visional asylum shall not be considered unless the
9 alien submits to the taking of fingerprints and a
10 photograph in a manner determined by the Attorney
11 General.

12 “(3) PREVIOUS DENIAL OF ASYLUM.—An appli-
13 cation for provisional asylum shall not be considered
14 if the alien has been denied asylum by a country in
15 which the alien had access to a full and fair proce-
16 dure for determining his or her asylum claim in ac-
17 cordance with a bilateral or multilateral agreement
18 between that country and the United States.

19 “(4) FEES.—In the discretion of the Attorney
20 General, the Attorney General may impose reason-
21 able fees for the consideration of an application for
22 provisional asylum, for employment authorization
23 under this section, and for adjustment of status
24 under section 209(b). The Attorney General is au-
25 thorized to provide for the assessment and payment

1 of any such fee over a period of time or by install-
2 ments.

3 “(5) EMPLOYMENT.—An applicant for provi-
4 sional asylum is not entitled to engage in employ-
5 ment in the United States. The Attorney General
6 may authorize an alien who has filed an application
7 for provisional asylum to engage in employment in
8 the United States, in the discretion of the Attorney
9 General.

10 “(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS
11 APPLICATIONS.—At the time of filing a notice of in-
12 tention to apply for provisional asylum, the alien
13 shall be advised of the consequences, under sub-
14 section (e), of filing a frivolous application for provi-
15 sional asylum.

16 “(c) SANCTIONS FOR FAILURE TO APPEAR.—

17 “(1) Subject to paragraph (2), the application
18 for provisional asylum of an alien who does not ap-
19 pear for a hearing on such application shall be sum-
20 marily dismissed unless the alien can show excep-
21 tional circumstances (as defined in section
22 242B(f)(2)) as determined by an asylum officer or
23 immigration judge.

24 “(2) Paragraph (1) shall not apply if written
25 and oral notice were not provided to the alien of the

1 time and place at which the asylum hearing was to
2 be held, and in the case of any change or postpone-
3 ment in such time or place, written and oral notice
4 were provided to the alien of the new time or place
5 of the hearing.

6 “(d) ASYLUM.—

7 “(1) ADJUSTMENT OF STATUS.—Under such
8 regulations as the Attorney General may prescribe,
9 the Attorney General shall adjust to the status of an
10 alien granted asylum the status of any alien granted
11 provisional asylum under subsection (a)(2)(A) or
12 (a)(2)(B) who—

13 “(A) applies for such adjustment;

14 “(B) has been physically present in the
15 United States for at least 1 year after being
16 granted provisional asylum;

17 “(C) continues to be eligible for provisional
18 asylum under this section; and

19 “(D) is admissible under this Act at the
20 time of examination for adjustment of status
21 under this subsection.

22 “(2) TREATMENT OF SPOUSE AND CHIL-
23 DREN.—A spouse or child (as defined in section
24 101(b)(A), (B), (C), (D), or (E)) of an alien whose
25 status is adjusted to that of an alien granted asylum

1 under paragraph (a)(2) may be granted the same
2 status as the alien if accompanying, or following to
3 join, such alien.

4 “(3) APPLICATION FEES.—The Attorney Gen-
5 eral may impose a reasonable fee for the filing of an
6 application for asylum under this subsection.

7 “(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
8 OLOUS APPLICATIONS.—

9 “(1) IN GENERAL.—If the Attorney General de-
10 termines that an alien has made a frivolous applica-
11 tion for provisional asylum under this section and
12 the alien has received the notice under subsection
13 (b)(5), the alien shall be permanently ineligible for
14 any benefits under this Act, effective as of the date
15 of a final determination on such application.

16 “(2) TREATMENT OF MATERIAL MISREPRESENTEN-
17 TATIONS.—For purposes of this subsection, an appli-
18 cation considered to be ‘frivolous’ includes, but is
19 not limited to, an application which contains a will-
20 ful misrepresentation or concealment of a material
21 fact.”.

22 (b) CLERICAL AMENDMENT.—The item in the table
23 of contents relating to section 208 is amended to read as
24 follows:

“Sec. 208. Asylum.”.

1 **SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**
2 **HEARING; JUDICIAL REVIEW.**

3 (a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM
4 HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is
5 amended—

6 (1) in the heading, by striking “ASYLUM” and
7 inserting “PROVISIONAL ASYLUM”;

8 (2) by striking “asylum” each place it appears
9 and inserting “provisional asylum”; and

10 (3) in subparagraph (A), by striking all after
11 clause (iii) and inserting “shall not be eligible for
12 any benefits under this Act.”.

13 (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.
14 1105a) is amended by adding at the end the following sub-
15 section:

16 “(d) The procedure prescribed by, and all the provi-
17 sions of chapter 158 of title 28, United States Code, shall
18 apply to, and shall be the sole and exclusive procedure for,
19 the judicial review of all final orders granting or denying
20 provisional asylum, except that—

21 “(1) a petition for review may be filed not later
22 than 90 days after the date of the issuance of the
23 final order granting or denying provisional asylum;

24 “(2) the venue of any petition for review under
25 this subsection shall be in the judicial circuit in
26 which the administrative proceedings were conducted

1 in whole or in part, or in the judicial circuit wherein
2 is the residence, as defined in this Act, of the peti-
3 tioner, but not in more than one circuit; and

4 “(3) notwithstanding any other provision of
5 law, a determination granting or denying provisional
6 asylum based on changed circumstances pursuant to
7 section 208(b)(1)(A)(ii) shall be in the sole discre-
8 tion of the officer conducting the administrative pro-
9 ceeding.”.

10 **SEC. 804. CONFORMING AMENDMENTS.**

11 (a) LIMITATION ON DEPORTATION.—Section 243 (8
12 U.S.C. 1253) is amended by striking subsection (h).

13 (b) ADJUSTMENT OF STATUS.—Section 209(b) (8
14 U.S.C. 1159(b)) is amended—

15 (1) in paragraph (2) by striking “one year” and
16 inserting “2 years”; and

17 (2) by amending paragraph (3) to read as
18 follows:

19 “(3) continues to be eligible for provisional asy-
20 lum under section 208,”.

21 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-
22 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.
23 1254a(c)(2)(B)(ii)) is amended by striking “section
24 243(h)(2)” and inserting “section 208(a)(2)(C)”.

1 (d) ELIGIBILITY FOR NATURALIZATION.—Section
2 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking
3 “subparagraphs (A) through (D) of paragraph 243(h)(2)”
4 and inserting “section 208(a)(2)(C).”.

5 (e) FAMILY UNITY.—Section 301(e) of the Immigra-
6 tion Act of 1990 (Public Law 101–649) is amended by
7 striking “section 243(h)(2)” and inserting “section
8 208(a)(2)(C).”.

9 **SEC. 805. EFFECTIVE DATES.**

10 (a) IN GENERAL.—Except as otherwise provided, the
11 amendments made by this title shall take effect on the
12 date of the enactment of this Act.

13 (b) EXCEPTIONS.—

14 (1) The amendments made by this title shall
15 not apply to applications for asylum or withholding
16 of deportation made before the first day of the first
17 month that begins more than 180 days after the
18 date of the enactment of this Act and no application
19 for provisional asylum under section 208 of the Im-
20 migration and Nationality Act (as amended by sec-
21 tion 801 of this title) shall be considered before such
22 first day.

23 (2) In applying section 208(b)(1)(A) of the Im-
24 migration and Nationality Act (as amended by this
25 title) in the case of an alien who has entered or

1 came to the United States before the first day de-
2 scribed in paragraph (1), notwithstanding the dead-
3 lines specified in such section—

4 (A) the deadline for the filing of a notice
5 of intention to file an application for provisional
6 asylum is 30 days after such first day, and

7 (B) the deadline for the filing of the appli-
8 cation for provisional asylum is 30 days after
9 the date of filing such notice.

10 (3) The amendments made by section 803(b)
11 (relating to adjustment of status) shall not apply to
12 aliens granted asylum under section 208 of the Im-
13 migration and Nationality Act, as in effect before
14 the date of the enactment of this Act.

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