

Union Calendar No. 9

104TH CONGRESS
1ST SESSION

H. R. 668

[Report No. 104-22]

A BILL

To control crime by further streamlining
deportation of criminal aliens.

FEBRUARY 6, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Union Calendar No. 9

104TH CONGRESS
1ST SESSION

H. R. 668

[Report No. 104-22]

To control crime by further streamlining deportation of criminal aliens.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 1995

Mr. McCOLLUM introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 6, 1995

Additional sponsors: Mr. KING, Mr. BLILEY, and Mr. ENGLISH of Pennsylvania

FEBRUARY 6, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on January 25, 1995]

A BILL

To control crime by further streamlining deportation of criminal aliens.

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) *SHORT TITLE.*—This Act may be cited as the
3 “Criminal Alien Deportation Improvements Act of 1995”.

4 (b) *TABLE OF CONTENTS.*—The table of contents of this
5 Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Additional expansion of definition of aggravated felony.

Sec. 3. Deportation procedures for certain criminal aliens who are not permanent residents.

Sec. 4. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.

Sec. 5. Limitation on collateral attacks on underlying deportation order.

Sec. 6. Criminal alien identification system.

Sec. 7. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.

Sec. 8. Wiretap authority for alien smuggling investigations.

Sec. 9. Expansion of criteria for deportation for crimes of moral turpitude.

Sec. 10. Payments to political subdivisions for costs of incarcerating illegal aliens.

Sec. 11. Compensation for incarceration of undocumented criminal aliens.

Sec. 12. Miscellaneous provisions.

Sec. 13. Construction of expedited deportation requirements.

6 **SEC. 2. ADDITIONAL EXPANSION OF DEFINITION OF AGGRA-**
7 **VATED FELONY.**

8 (a) *IN GENERAL.*—Section 101(a)(43) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1101(a)(43)), as amend-
10 ed by section 222 of the Immigration and Nationality Tech-
11 nical Corrections Act of 1994 (Public Law 103–416), is
12 amended—

13 (1) in subparagraph (J), by inserting “, or an
14 offense described in section 1084 (if it is a second or
15 subsequent offense) or 1955 of that title (relating to
16 gambling offenses),” after “corrupt organizations”;

17 (2) in subparagraph (K)—

1 (A) by striking “or” at the end of clause (i),

2 (B) by redesignating clause (ii) as clause

3 (iii), and

4 (C) by inserting after clause (i) the follow-

5 ing new clause:

6 “(ii) is described in section 2421, 2422,

7 or 2423 of title 18, United States Code (re-

8 lating to transportation for the purpose of

9 prostitution) for commercial advantage; or”;

10 (3) by amending subparagraph (N) to read as

11 follows:

12 “(N) an offense described in paragraph

13 (1)(A) or (2) of section 274(a) (relating to alien

14 smuggling) for which the term of imprisonment

15 imposed (regardless of any suspension of impris-

16 onment) is at least 5 years;”;

17 (4) by amending subparagraph (O) to read as

18 follows:

19 “(O) an offense (i) which either is falsely

20 making, forging, counterfeiting, mutilating, or

21 altering a passport or instrument in violation of

22 section 1543 of title 18, United States Code, or

23 is described in section 1546(a) of such title (re-

24 lating to document fraud) and (ii) for which the

25 term of imprisonment imposed (regardless of any

1 *suspension of such imprisonment) is at least 18*
2 *months;”*

3 *(5) in subparagraph (P), by striking “15 years”*
4 *and inserting “5 years”, and by striking “and” at the*
5 *end;*

6 *(6) by redesignating subparagraphs (O), (P),*
7 *and (Q) as subparagraphs (P), (Q), and (U), respec-*
8 *tively;*

9 *(7) by inserting after subparagraph (N) the fol-*
10 *lowing new subparagraph:*

11 *“(O) an offense described in section 275(a)*
12 *or 276 committed by an alien who was pre-*
13 *viously deported on the basis of a conviction for*
14 *an offense described in another subparagraph of*
15 *this paragraph;”;* and

16 *(8) by inserting after subparagraph (Q), as so*
17 *redesignated, the following new subparagraphs:*

18 *“(R) an offense relating to commercial brib-*
19 *ery, counterfeiting, forgery, or trafficking in ve-*
20 *hicles the identification numbers of which have*
21 *been altered for which a sentence of 5 years’ im-*
22 *prisonment or more may be imposed;*

23 *“(S) an offense relating to obstruction of*
24 *justice, perjury or subornation of perjury, or*

1 *bribery of a witness, for which a sentence of 5*
2 *years' imprisonment or more may be imposed;*

3 *“(T) an offense relating to a failure to ap-*
4 *pear before a court pursuant to a court order to*
5 *answer to or dispose of a charge of a felony for*
6 *which a sentence of 2 years' imprisonment or*
7 *more may be imposed; and”.*

8 *(b) EFFECTIVE DATE.—The amendments made by sub-*
9 *section (a) shall apply to convictions entered on or after*
10 *the date of the enactment of this Act, except that the amend-*
11 *ment made by subsection (a)(3) shall take effect as if in-*
12 *cluded in the enactment of section 222 of the Immigration*
13 *and Nationality Technical Corrections Act of 1994.*

14 **SEC. 3. DEPORTATION PROCEDURES FOR CERTAIN CRIMI-**
15 **NAL ALIENS WHO ARE NOT PERMANENT RESI-**
16 **DENTS.**

17 *(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of*
18 *the Immigration and Nationality Act (8 U.S.C. 1252a(b)),*
19 *as added by section 130004(a) of the Violent Crime Control*
20 *and Law Enforcement Act of 1994 (Public Law 103–322),*
21 *is amended—*

22 *(1) in paragraph (2)—*

23 *(A) by striking “and” at the end of sub-*
24 *paragraph (A) and inserting “or”, and*

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

3 “(B) had permanent resident status on a
4 conditional basis (as described in section 216) at
5 the time that proceedings under this section com-
6 menced.”;

7 (2) in paragraph (3), by striking “30 calendar
8 days” and inserting “14 calendar days”;

9 (3) in paragraph (4)(B), by striking
10 “proceedings” and inserting “proceedings”;

11 (4) in paragraph (4)—

12 (A) by redesignating subparagraphs (D)
13 and (E) as subparagraphs (F) and (G), respec-
14 tively; and

15 (B) by adding after subparagraph (C) the
16 following new subparagraphs:

17 “(D) such proceedings are conducted in, or
18 translated for the alien into, a language the
19 alien understands;

20 “(E) a determination is made for the record
21 at such proceedings that the individual who ap-
22 pears to respond in such a proceeding is an alien
23 subject to such an expedited proceeding under
24 this section and is, in fact, the alien named in
25 the notice for such proceeding.”.

1 (5) by adding at the end the following new para-
2 graph:

3 “(5) No alien described in this section shall be
4 eligible for any relief from deportation that the Attor-
5 ney General may grant in the Attorney General’s dis-
6 cretion.”.

7 (b) *LIMIT ON JUDICIAL REVIEW.*—Subsection (d) of
8 section 106 of the Immigration and Nationality Act (8
9 U.S.C. 1105a), as added by section 130004(b) of the Violent
10 Crime Control and Law Enforcement Act of 1994 (Public
11 Law 103–322), is amended to read as follows:

12 “(d) Notwithstanding subsection (c), a petition for re-
13 view or for habeas corpus on behalf of an alien described
14 in section 242A(c) may only challenge whether the alien
15 is in fact an alien described in such section, and no court
16 shall have jurisdiction to review any other issue.”.

17 (c) *PRESUMPTION OF DEPORTABILITY.*—Section 242A
18 of the Immigration and Nationality Act (8 U.S.C. 1252a)
19 is amended by inserting after subsection (b) the following
20 new subsection:

21 “(c) *PRESUMPTION OF DEPORTABILITY.*—An alien
22 convicted of an aggravated felony shall be conclusively pre-
23 sumed to be deportable from the United States.”.

24 (d) *EFFECTIVE DATE.*—The amendments made by this
25 section shall apply to all aliens against whom deportation

1 *proceedings are initiated after the date of the enactment of*
2 *this Act.*

3 **SEC. 4. RESTRICTING THE DEFENSE TO EXCLUSION BASED**
4 **ON 7 YEARS PERMANENT RESIDENCE FOR**
5 **CERTAIN CRIMINAL ALIENS.**

6 *The last sentence of section 212(c) of the Immigration*
7 *and Nationality Act (8 U.S.C. 1182(c)) is amended by*
8 *striking “has served for such felony or felonies” and all that*
9 *follows through the period and inserting “has been sen-*
10 *tenced for such felony or felonies to a term of imprisonment*
11 *of at least 5 years, if the time for appealing such conviction*
12 *or sentence has expired and the sentence has become final.”.*

13 **SEC. 5. LIMITATION ON COLLATERAL ATTACKS ON UNDER-**
14 **LYING DEPORTATION ORDER.**

15 *(a) IN GENERAL.—Section 276 of the Immigration*
16 *and Nationality Act (8 U.S.C. 1326) is amended by adding*
17 *at the end the following new subsection:*

18 *“(c) In a criminal proceeding under this section, an*
19 *alien may not challenge the validity of the deportation*
20 *order described in subsection (a)(1) or subsection (b) unless*
21 *the alien demonstrates that—*

22 *“(1) the alien exhausted any administrative rem-*
23 *edies that may have been available to seek relief*
24 *against the order;*

1 (1) by inserting “section 1028 (relating to fraud
2 and related activity in connection with identification
3 documents) if the act indictable under section 1028
4 was committed for the purpose of financial gain,” be-
5 fore “section 1029”;

6 (2) by inserting “section 1542 (relating to false
7 statement in application and use of passport) if the
8 act indictable under section 1542 was committed for
9 the purpose of financial gain, section 1543 (relating
10 to forgery or false use of passport) if the act indict-
11 able under section 1543 was committed for the pur-
12 pose of financial gain, section 1544 (relating to mis-
13 use of passport) if the act indictable under section
14 1544 was committed for the purpose of financial gain,
15 section 1546 (relating to fraud and misuse of visas,
16 permits, and other documents) if the act indictable
17 under section 1546 was committed for the purpose of
18 financial gain, sections 1581–1588 (relating to peon-
19 age and slavery),” after “section 1513 (relating to re-
20 taliating against a witness, victim, or an inform-
21 ant),”;

22 (3) by striking “or” before “(E)”; and

23 (4) by inserting before the period at the end the
24 following: “; or (F) any act which is indictable under
25 the Immigration and Nationality Act, section 274

1 **SEC. 9. EXPANSION OF CRITERIA FOR DEPORTATION FOR**
2 **CRIMES OF MORAL TURPITUDE.**

3 (a) *IN GENERAL.*—Section 241(a)(2)(A)(i)(II) of the
4 *Immigration and Nationality Act* (8 U.S.C.
5 1251(a)(2)(A)(i)(II)) is amended to read as follows:

6 “(II) is convicted of a crime for
7 which a sentence of one year or longer
8 may be imposed.”

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-
10 section (a) shall apply to aliens against whom deportation
11 proceedings are initiated after the date of the enactment of
12 this Act.

13 **SEC. 10. PAYMENTS TO POLITICAL SUBDIVISIONS FOR**
14 **COSTS OF INCARCERATING ILLEGAL ALIENS.**

15 Amounts appropriated to carry out section 501 of the
16 *Immigration Reform and Control Act of 1986* for fiscal year
17 1995 shall be available to carry out section 242(j) of the
18 *Immigration and Nationality Act* in that fiscal year with
19 respect to undocumented criminal aliens incarcerated under
20 the authority of political subdivisions of a State.

21 **SEC. 11. COMPENSATION FOR INCARCERATION OF UN-**
22 **DOCUMENTED CRIMINAL ALIENS.**

23 Section 20301(c) of the *Violent Crime Control and*
24 *Law Enforcement Act of 1994* (Public Law 103–322) is
25 amended by striking “2004” and inserting “1996”.

1 **SEC. 12. MISCELLANEOUS PROVISIONS.**

2 (a) *USE OF ELECTRONIC AND TELEPHONIC MEDIA IN*
3 *DEPORTATION HEARINGS.*—*The second sentence of section*
4 *242(b) of the Immigration and Nationality Act (8 U.S.C.*
5 *1252(b)) is amended by inserting before the period the fol-*
6 *lowing: “; except that nothing in this subsection shall pre-*
7 *clude the Attorney General from authorizing proceedings by*
8 *electronic or telephonic media (with the consent of the alien)*
9 *or, where waived or agreed to by the parties, in the absence*
10 *of the alien”.*

11 (b) *CODIFICATION.*—

12 (1) *Section 242(i) of such Act (8 U.S.C. 1252(i))*
13 *is amended by adding at the end the following: “Noth-*
14 *ing in this subsection shall be construed to create any*
15 *substantive or procedural right or benefit that is le-*
16 *gally enforceable by any party against the United*
17 *States or its agencies or officers or any other per-*
18 *son.”.*

19 (2) *Section 225 of the Immigration and Nation-*
20 *ality Technical Corrections Act of 1994 (Public Law*
21 *103–416) is amended by striking “and nothing in”*
22 *and all that follows through “1252(i)”.*

23 (3) *The amendments made by this subsection*
24 *shall take effect as if included in the enactment of the*
25 *Immigration and Nationality Technical Corrections*
26 *Act of 1994 (Public Law 103–416).*

1 **SEC. 13. CONSTRUCTION OF EXPEDITED DEPORTATION RE-**
2 **QUIREMENTS.**

3 *No amendment made by this title shall be construed*
4 *to create any substantive or procedural right or benefit that*
5 *is legally enforceable by any party against the United*
6 *States or its agencies or officers or any other person.*