

104TH CONGRESS
1ST SESSION

H. R. 756

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

JANUARY 31, 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. GREENWOOD, Mr. COLLINS of Georgia, Mr. CANADY of Florida, Mr. GOODLATTE, Mr. MCKEON, Mr. BILBRAY, and Mr. SHAW) introduced the following bill; which was referred to the Committee on the Judiciary and, in addition, to the Committees on National Security, Ways and Means, Banking and Financial Services, 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”.

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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
 16 an increase in the number of agents of the Border Patrol

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

5 **SEC. 103. INTERIOR REPATRIATION PROGRAM.**

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

15 **SEC. 104. DETENTION FACILITIES.**

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

23 (b) **TRANSFER OF CLOSED MILITARY BASES FOR**
24 **FEDERAL ILLEGAL ALIEN INCARCERATION FACILI-**
25 **TIES.**—

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

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

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

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

20 (C) Section 2687 of title 10, United States
21 Code.

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

1 **SEC. 105. NOTICE TO SERVICE OF PORT OF ENTRY**
2 **ARRIVALS.**

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

7 **SEC. 106. BORDER CROSSING FEE.**

8 The Commissioner shall collect a user fee for each
9 entry into the United States by land after December 31,
10 1995. The amount of the fee to be charged shall be deter-
11 mined by the Commission and the Attorney General and
12 such amount (rounded to the nearest whole dollar) shall
13 not exceed the current fee charged to persons entering the
14 United States by air. The Commissioner by regulation
15 may establish a reduced fee or a multiple-crossing fee for
16 frequent border crossers.

17 **SEC. 107. BORDER CONTROL TRUST FUND.**

18 There is established a Border Control Trust Fund
19 ("Fund") under the control of the Commissioner. The fees
20 collected under section 106 shall be deposited into the
21 Fund. Amounts deposited into the Fund and the earnings
22 thereon shall be expended by the Commissioner exclusively
23 for (1) measures, personnel, structures, and devices to
24 deter and prevent illegal entry of persons and contraband
25 into the United States by land or by sea, (2) construction
26 and operation of facilities to expedite lawful border traffic

1 and reduce, where practical, extensive delays in the time
2 required for lawful entry of goods and persons, (3) depor-
3 tation of aliens, (4) construction and operation of facilities
4 used to detain individuals who have entered the United
5 States illegally at the border including the mandate costs
6 necessary to fully utilize INS Service Processing Center
7 facilities, available local and State facilities, and available
8 contract facilities, and (5) financial and other assistance
9 to State and local law enforcement agencies that have en-
10 tered into cooperative arrangements with the Immigration
11 and Naturalization Service. Not less than 80 percent of
12 the sum of (a) amounts deposited into the Fund during
13 a fiscal year and (b) the earnings of the Fund during that
14 fiscal year shall be expended during that or the subsequent
15 fiscal year.

16 **TITLE II—ALIEN SMUGGLING**

17 **SEC. 201. EXPANDED FORFEITURE FOR SMUGGLING OR** 18 **HARBORING ILLEGAL ALIENS.**

19 (a) IN GENERAL.—Paragraph (1) of section 274(b)
20 of the Immigration and Nationality Act (8 U.S.C.
21 1324(b)) is amended to read as follows:

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

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

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

5 “(I) constitutes, or is derived from or
6 traceable to, the proceeds obtained directly or
7 indirectly from the commission of a violation of
8 subsection (a), or

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

12 “(B)(i) No property used by any person as a common
13 carrier in the transaction of business as a common carrier
14 shall be forfeited under this section, unless the owner or
15 other person with lawful custody of the property was a
16 consenting party to or privy to the violation of subsection
17 (a) or of section 274A(a)(1) or 274A(a)(2).

18 “(ii) No property shall be forfeited under the provi-
19 sions of this section by reason of any act or omission es-
20 tablished by the owner to have been committed or omitted
21 by a person other than the owner while the property was
22 unlawfully in the possession of a person other than the
23 owner in violation of the criminal laws of the United
24 States or of any State.

1 “(iii) No property shall be forfeited under the provi-
2 sions of this section to the extent of an interest of the
3 owner, by reason of any act or omission established by
4 the owner to have been committed or omitted without the
5 knowledge, consent, or willful disregard of the owner, un-
6 less the act or omission was committed or omitted by an
7 employee or agent of the owner or other person with lawful
8 custody of the property with the intent of furthering the
9 business interests of, or to confer any other benefit upon,
10 the owner or other person with lawful custody of the prop-
11 erty.”.

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

14 (1) in paragraph (2)—

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

17 (B) by striking “is being used in” and in-
18 serting “is being used in, is facilitating, has fa-
19 cilitated, is facilitating or was intended to facili-
20 tate”; and

21 (2) in paragraphs (4) and (5), by striking “a
22 conveyance”, “any conveyance”, and “conveyance”
23 and inserting “property” each place it appears.

1 **SEC. 202. INCLUDING ALIEN SMUGGLING AS A RACKETEER-**
2 **ING ACTIVITY FOR PURPOSES OF RACK-**
3 **ETEERING INFLUENCED AND CORRUPT OR-**
4 **GANIZATIONS (RICO) ENFORCEMENT AU-**
5 **THORITY.**

6 Section 1961(1) of title 18, United States Code, is
7 amended—

- 8 (1) by striking “or” before “(E) any act”, and
9 (2) by inserting before the period at the end the
10 following: “, or (F) any act which is indictable under
11 section 274(a)(1) of the Immigration and National-
12 ity Act (relating to alien smuggling)”.

13 **SEC. 203. ENHANCED PENALTIES FOR CERTAIN ALIEN**
14 **SMUGGLING AND FOR EMPLOYERS WHO**
15 **KNOWINGLY EMPLOY SMUGGLED ALIENS.**

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

- 18 (1) by striking “or” at the end of subparagraph
19 (C),
20 (2) by striking the comma at the end of sub-
21 paragraph (D) and inserting “; or”,
22 (3) by inserting after subparagraph (D) the fol-
23 lowing:
24 “(E) contracts or agrees with another party for
25 that party to provide, for employment by the person
26 or another, an alien who is not authorized to be em-

1 employed in the United States, knowing that such
2 party intends to cause such alien to be brought into
3 the United States in violation of the laws of the
4 United States,” and

5 (4) by striking “five years” and inserting “ten
6 years”.

7 **SEC. 204. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
8 **VESTIGATIONS.**

9 Section 2516(1) of title 18, United State Code, is
10 amended—

11 (1) in paragraph (c) by inserting after “weap-
12 ons),” the following: “or a felony violation of section
13 1028 (relating to production of false identification
14 documentation), section 1542 (relating to false
15 statements in passport applications), section 1546
16 (relating to fraud and misuse of visas, permits, and
17 other documents),”;

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

21 (3) by inserting after paragraph (l) the follow-
22 ing new paragraph:

23 “(m) a violation of section 274 of the Immigration
24 and Nationality Act (8 U.S.C. 1324) (relating to alien
25 smuggling), of section 277 of the Immigration and Nation-

1 ality Act (8 U.S.C. 1327) (relating to the smuggling of
2 aliens convicted of aggravated felonies or of aliens subject
3 to exclusion on grounds of national security), or of section
4 278 of the Immigration and Nationality Act (8 U.S.C.
5 1328) (relating to smuggling of aliens for the purpose of
6 prostitution or other immoral purpose);”.

7 **TITLE III—EMPLOYMENT**

8 **SEC. 301. IMPROVEMENT OF WORK ELIGIBILITY DOCU-** 9 **MENTS.**

10 (a) WORK ELIGIBILITY DOCUMENTS AND VERIFICA-
11 TION OF ELIGIBILITY TO WORK.—Section 274A(b) of the
12 Immigration and Nationality Act is amended—

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

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

21 “(A) examining the individual’s Social Se-
22 curity account number card issued pursuant to
23 subsection (d)(1), and

24 “(B) verifying the individual’s Social Secu-
25 rity account number through the verification

1 system established pursuant to subsection
2 (d)(4).”

3 (2) by inserting the following paragraph and re-
4 designating the subsequent paragraphs accordingly:

5 “(2) VERIFICATION OF CONTINUED WORK ELI-
6 GIBILITY FOR ALIENS WITH LIMITED WORK AU-
7 THORIZATION.—In the case of an alien whose work
8 authorization has an expiration date, a person or en-
9 tity who continues to employ such an alien after the
10 date the employment authorization expires must ver-
11 ify, through the verification system established pur-
12 suant to subsection (d)(4), that the alien’s work au-
13 thorization has been extended.”, and

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

15 “(7) Notwithstanding any other provision of
16 law, a person or entity may not be considered to dis-
17 criminate by requesting the production of the docu-
18 mentation required under this subsection in the hir-
19 ing, recruiting, or referring of an individual for em-
20 ployment in the United States.”.

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

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

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

5 “(d) EMPLOYMENT VERIFICATION SYSTEM.—

6 “(1) ENHANCEMENT OF SOCIAL SECURITY
7 CARDS.—

8 “(A) ISSUANCE OF ENHANCED CARD FOR
9 CITIZENS.—The Secretary shall cause to be is-
10 sued enhanced Social Security account number
11 cards to United States citizens and United
12 States nationals who are 16 years of age or
13 older upon application, proof of identity, proof
14 of citizenship or nationality, and payment of a
15 reasonable fee.

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

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

3 “(i) be uniform in appearance,

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

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

9 “(iv) contain the name, sex, date of birth,
10 citizenship status, and Social Security account
11 number of the issuee, and

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

14 “(B) The cards issued pursuant to paragraph
15 (1)(B) to aliens who are not permanent resident
16 aliens shall indicate whether the work authorization
17 granted to the alien has an expiration date.

18 “(3) IMPLEMENTATION.—(A) All Social Secu-
19 rity account number cards issued after July 1, 1996,
20 must be issued pursuant to the requirements under
21 this subsection.

22 “(B) After July 1, 1996, individuals applying
23 for employment shall be required to apply for en-
24 hanced Social Security account cards to be issued
25 pursuant to paragraph (1).

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

6 “(4) VERIFICATION SYSTEM.—

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

16 “(i) has been issued,

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

19 “(iii) is not a number issued to a de-
20 ceased individual that has not been re-
21 issued.

22 The system shall also provide any other infor-
23 mation that the Secretary and Attorney General
24 determine is needed to verify that the number
25 is a number issued validly to the individual and

1 that such individual is authorized to work in
2 the United States.

3 “(B) ACCESS FEE.—A fee, not to exceed
4 \$2 plus any line charges payable to a telephone
5 carrier or equivalent entity, shall be charged for
6 each instance of accessing the verification sys-
7 tem to pay for the costs of operating the sys-
8 tem.

9 “(C) EFFECTIVE DATE.—The verification
10 system required by this paragraph shall be
11 operational by July 1, 1996.

12 “(5) FUNDING OF EMPLOYMENT VERIFICATION
13 SYSTEM.—

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

21 “(B) Any costs incurred in developing and
22 implementing the new Social Security account
23 number cards and verification system estab-
24 lished under this subsection that exceed the fees
25 collected under paragraph (1) shall not be paid

1 for out of any trust fund established under the
2 Social Security Act.

3 “(6) PRIVACY PROTECTIONS.—

4 “(A) Any personal information utilized by
5 the system may not be made available to Gov-
6 ernment agencies, employers, and other persons
7 except to the extent necessary to verify that an
8 individual is not an unauthorized alien.

9 “(B) The system must protect the privacy
10 and security of personal information and identi-
11 fiers utilized in the system.

12 “(C) A verification that an employee or
13 prospective employee is eligible to be employed
14 in the United States may not be withheld or re-
15 voked under the system for any reason other
16 than that the employee or prospective employee
17 is an unauthorized alien.

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

22 “(E) The cards issued pursuant to this
23 subsection may not be required to be presented
24 for any purpose other than under this Act (or
25 enforcement of sections 1001, 1028, 1546, and

1 1621 of title 18, United States Code) nor to be
2 carried on one's person.

3 “(F) Unauthorized use or disclosure of the
4 information or identifiers contained in the em-
5 ployment verification system shall be punishable
6 by civil and criminal penalties.

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

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

20 “(8) DEFINITIONS.—For purposes of this sub-
21 section—

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

1 “(B) the term ‘State’ means one of the
2 United States, the District of Columbia, or
3 Puerto Rico.”.

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

6 (A) in subsection (b), by striking “following
7 three paragraphs” and inserting “following four
8 paragraphs”, and

9 (B) by striking subsections (i), (j), (k), (l), (m),
10 and (n).

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

12 **SEC. 302. IMMIGRATION AND NATURALIZATION SERVICE**
13 **INVESTIGATORS.**

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

1 **TITLE IV—GOVERNMENT**
2 **BENEFITS**

3 **SEC. 401. PROHIBITION OF BENEFITS FOR CERTAIN CAT-**
4 **EGORIES OF ALIENS.**

5 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Sub-
6 ject to subsection (b) and the Immigration and Nationality
7 Act, and notwithstanding any other provision of law, an
8 alien not lawfully within the United States as a permanent
9 resident, a refugee, an asylee, or a parolee is not eligible
10 for any direct Federal financial benefit or social insurance
11 benefit (whether through grant, loan, guarantee, or other-
12 wise) as such benefits are identified by the Attorney Gen-
13 eral in consultation with other appropriate heads of the
14 various departments and agencies of the Federal Govern-
15 ment.

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

20 **SEC. 402. UNEMPLOYMENT BENEFITS.**

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

1 (b) An alien granted temporary work authorization
2 shall be eligible only for unemployment compensation
3 under an employment compensation law of a State or the
4 United States that accrued during such time as the alien
5 was authorized to work.

6 **SEC. 403. HOUSING BENEFITS.**

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

11 (1) The program of rental assistance on behalf
12 of low-income families provided under section 8 of
13 the United States Housing Act of 1937 (42 U.S.C.
14 1437f).

15 (2) The program of assistance to public housing
16 under title I of the United States Housing Act of
17 1937 (42 U.S.C. 1437 et seq.).

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

20 (4) The program of interest reduction payments
21 pursuant to contracts entered into by the Secretary
22 of Housing and Urban Development under section
23 236 of the National Housing Act (12 U.S.C.
24 1715z-1).

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

4 (6) The program of rental assistance payments
5 pursuant to contracts entered into under section
6 521(a)(2)(A) of the Housing Act of 1949 (42 U.S.C.
7 1490a(a)(2)(A)).

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

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

15 (9) The loan and grant programs under section
16 504 of the Housing Act of 1949 (42 U.S.C. 1474)
17 for repairs and improvements to rural dwellings.

18 (10) The loan and assistance programs under
19 sections 514 and 516 of the Housing Act of 1949
20 (42 U.S.C. 1484, 1486) for housing for farm labor.

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

24 (12) The program of grants and loans for mu-
25 tual and self-help housing and technical assistance

1 under section 523 of the Housing Act of 1949 (42
2 U.S.C. 1490c).

3 (13) The program of site loans under section
4 524 of the Housing Act of 1949 (42 U.S.C. 1490d).

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

8 **SEC. 404. SAVE SYSTEM.**

9 There are authorized to be appropriated for each of
10 the fiscal years 1996, 1997, 1998, 1999, and 2000 such
11 sums as may be necessary to carry out the purposes of
12 the automated SAVE system established under section
13 121 of the Immigration Reform and Control Act of 1986
14 (Public Law 99–603).

15 **SEC. 405. LIMITATION ON FEDERAL FINANCIAL ASSIST-**
16 **ANCE TO LOCALITIES THAT REFUSE TO CO-**
17 **OPERATE IN THE ARREST AND DEPORTATION**
18 **OF UNLAWFUL ALIENS.**

19 Notwithstanding any other provision of law, Federal
20 financial assistance shall be reduced by 20 percent to any
21 local government on and after such date as the Attorney
22 General certifies that the local government has an official
23 policy of refusing to cooperate with officers or employees
24 of the Department of Justice (including the Immigration
25 and Naturalization Service) with respect to the arrest and

1 deportation of aliens who are not lawfully present within
2 the United States. Such reduction in assistance is not re-
3 imburseable and shall continue for as long as the policy
4 of noncooperation remains in effect.

5 **SEC. 406. UNIFORM VITAL STATISTICS.**

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

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

6 (c) AUTHORIZATION OF APPROPRIATIONS.—There
7 are authorized to be appropriated for fiscal year 1996 and
8 for subsequent fiscal years such sums as may be necessary
9 to carry out this section.

10 **TITLE V—CRIMINAL ALIENS**

11 **SEC. 501. AUTHORIZING REGISTRATION OF ALIENS ON** 12 **CRIMINAL PROBATION OR CRIMINAL PA-** 13 **ROLE.**

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

19 **SEC. 502. RESTRICTING DEFENSES TO DEPORTATION FOR** 20 **CERTAIN CRIMINAL ALIENS.**

21 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
22 NENT RESIDENCE.—The last sentence of section 212(c)
23 of the Immigration and Nationality Act (8 U.S.C.
24 1182(c)) is amended by striking out “has served for such
25 felony or felonies” and all that follows through the period

1 and inserting in lieu thereof “has been sentenced for such
2 felony or felonies to a term of imprisonment of at least
3 5 years, provided that the time for appealing such convic-
4 tion or sentence has expired and the sentence has become
5 final.”.

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

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

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

13 (2) striking out the “or” at the end of subpara-
14 graph (C) and inserting “or” at the end of subpara-
15 graph (D).

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

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

1 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
2 REQUIREMENTS.—No amendment made by this Act shall
3 be construed to create any right or benefit, substantive
4 or procedural, which is legally enforceable by any party
5 against the United States, its agencies, its officers or any
6 other person.

7 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
8 TATION ORDER.—Section 276 of the Immigration and Na-
9 tionality Act (8 U.S.C. 1326) is amended by inserting
10 after subsection (b) the following new subsection:

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

15 “(1) that the alien exhausted the administrative
16 remedies (if any) that may have been available to
17 seek relief against such order,

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

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

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

24 (a) OPERATION.—The Commissioner of Immigration
25 and Naturalization, with the cooperation of the Director

1 of the Federal Bureau of Investigation and the heads of
2 other agencies, shall, under the authority of section
3 242(a)(3)(A) of the Immigration and Nationality Act (8
4 U.S.C. 1252(a)(3)(A)), operate a criminal alien tracking
5 center.

6 (b) PURPOSE.—The criminal alien tracking center
7 shall be used to assist Federal, State, and local law en-
8 forcement agencies in identifying and locating aliens who
9 may be subject to deportation by reason of their conviction
10 of aggravated felonies.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out this section
13 \$2,000,000 for fiscal year 1996 and \$5,000,000 for each
14 of the fiscal years 1997, 1998, 1999, and 2000.

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

16 (a) REPORT TO CONGRESS.—Not later than 180 days
17 after the date of the enactment of this Act, the Secretary
18 of State and the Attorney General shall submit to the Con-
19 gress a report that describes the use and effectiveness of
20 the Prisoner Transfer Treaty (in this section referred to
21 as the ‘‘Treaty’’) with Mexico to remove from the United
22 States aliens who have been convicted of crimes in the
23 United States.

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

1 (1) The number of aliens convicted of a crimi-
2 nal offense in the United States since November 30,
3 1977, who would have been or are eligible for trans-
4 fer pursuant to the Treaty.

5 (2) The number of aliens described in para-
6 graph (1) who have been transferred pursuant to the
7 Treaty.

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

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

14 (5) The number of aliens described in para-
15 graph (4) who are incarcerated in State and local
16 penal institutions.

17 (c) EFFECTIVENESS OF TREATY.—The report under
18 subsection (a) shall include the recommendations of the
19 Secretary of State and the Attorney General to increase
20 the effectiveness and use of, and full compliance with, the
21 Treaty. In considering the recommendations under this
22 subsection, the Secretary and the Attorney General shall
23 consult with such State and local officials in areas dis-
24 proportionately impacted by aliens convicted of criminal
25 offenses as the Secretary and the Attorney General con-

1 sider appropriate. Such recommendations shall address
2 the following areas:

3 (1) Changes in Federal laws, regulations, and
4 policies affecting the identification, prosecution, and
5 deportation of aliens who have committed a criminal
6 offense in the United States.

7 (2) Changes in State and local laws, regulations,
8 and policies affecting the identification, prosecution,
9 and deportation of aliens who have committed a
10 criminal offense in the United States.

11 (3) Changes in the Treaty that may be nec-
12 essary to increase the number of aliens convicted of
13 crimes who may be transferred pursuant to the
14 Treaty.

15 (4) Methods for preventing the unlawful re-
16 entry into the United States of aliens who have been
17 convicted of criminal offenses in the United States
18 and transferred pursuant to the Treaty.

19 (5) Any recommendations of appropriate offi-
20 cials of the Mexican Government on programs to
21 achieve the goals of, and ensure full compliance
22 with, the Treaty.

23 (6) An assessment of whether the recommenda-
24 tions under this subsection require the renegotiation
25 of the Treaty.

1 (7) The additional funds required to implement
2 each recommendation under this subsection.

3 **SEC. 506. EXPEDITING CRIMINAL ALIEN DEPORTATION AND**
4 **EXCLUSION.**

5 (a) CONVICTED DEFINED.—Section 241(a)(2) of the
6 Immigration and Nationality Act (8 U.S.C. 1251(a)(2))
7 is amended by adding at the end the following new sub-
8 paragraph:

9 “(E) CONVICTED DEFINED.—In this para-
10 graph, the term ‘convicted’ means a judge or
11 jury has found the alien guilty or the alien has
12 entered a plea of guilty or nolo contendere,
13 whether or not the alien appeals therefrom.”.

14 (b) DEPORTATION OF CONVICTED ALIENS.—

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

17 (A) by striking “(h) An alien” and insert-
18 ing “(h)(1) Subject to paragraph (2), an alien”;
19 and

20 (B) by adding at the end the following new
21 paragraph:

22 “(2) An alien sentenced to imprisonment may be de-
23 ported prior to the termination of such imprisonment by
24 the release of the alien from confinement, if the Service
25 petitions the appropriate court or other entity with author-

1 ity concerning the alien to release the alien into the cus-
2 tody of the Service for execution of an order of deporta-
3 tion.”.

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

7 (A) by redesignating subparagraph (F) as
8 subparagraph (G); and

9 (B) by inserting after subparagraph (E)
10 the following new subparagraph:

11 “(F) ALIENS DEPORTED BEFORE SERVING
12 MINIMUM PERIOD OF CONFINEMENT.—In addi-
13 tion to any other period of exclusion which may
14 apply an alien deported pursuant to section
15 242(h)(2) is excludable during the minimum pe-
16 riod of confinement to which the alien was sen-
17 tenced.”.

18 (c) EXECUTION OF DEPORTATION ORDERS.—Section
19 242(i) of such Act (8 U.S.C. 1252(i)) is amended by add-
20 ing at the end the following: “An order of deportation may
21 not be executed until all direct appeals relating to the con-
22 viction which is the basis of the deportation order have
23 been exhausted.”.

1 **TITLE VI—TERRORIST ALIENS**

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

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

5 “REMOVAL OF ALIEN TERRORISTS

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

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

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

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

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

19 “(5) the term ‘special removal hearing’ means
20 the hearing described in subsection (e) of this sec-
21 tion.

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

1 “(1) the Attorney General or Deputy Attorney
2 General has approved of the proceeding under this
3 section;

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

6 “(3) removal of such alien terrorist by deporta-
7 tion proceedings described in sections 242, 242A, or
8 242B would pose a risk to the national security of
9 the United States because such proceedings would
10 disclose classified information.

11 “(c) SPECIAL COURT.—(1) The Chief Justice of the
12 United States shall publicly designate up to 7 judges from
13 up to 7 United States judicial districts to hear and decide
14 cases arising under this section, in a manner consistent
15 with the designation of judges described in section 103(a)
16 of the Foreign Intelligence Surveillance Act (50 U.S.C.
17 1803(a)).

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

21 “(d) INVOCATION OF SPECIAL COURT PROCE-
22 DURE.—(1) When the Attorney General makes the appli-
23 cation described in subsection (b), a single judge of the
24 special court shall consider the application in camera and
25 ex parte.

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

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

6 “(B) a deportation proceeding described in sec-
7 tions 242, 242A, or 242B would pose a risk to the
8 national security of the United States because such
9 proceedings would disclose classified information;
10 and

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

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

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

24 “(3) The alien shall have a right to introduce evi-
25 dence on his own behalf, and except as provided in para-

1 graph (4), shall have a right to cross-examine any witness
2 or request that the judge issue a subpoena for the pres-
3 ence of a named witness.

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

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

12 “(A)(i) the substitution for such evidence of a
13 statement admitting relevant facts that the specific
14 evidence would tend to prove, or

15 “(ii) the substitution for such evidence of a
16 summary of the specific evidence; or

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

22 “(6) If the judge determines—

23 “(A) that the substituted evidence described in
24 paragraph (4)(B) will provide the alien with sub-

1 stantially the same ability to make his defense as
2 would disclosure of the specific evidence, or

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

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

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

16 “(2) If the determination in subsection (e)(6)(B) has
17 been made, the judge shall, considering the evidence re-
18 ceived (in camera and otherwise), require that the alien
19 be deported if the Attorney General proves, by clear, con-
20 vincing, and unequivocal evidence, that the alien is subject
21 to deportation because he is an alien as described in sec-
22 tion 241(a)(4)(B).

23 “(g) APPEALS.—(1) The alien may appeal a deter-
24 mination under subsection (f) to the court of appeals for
25 the Federal Circuit, by filing a notice of appeal with such

1 court within 20 days of the determination under such sub-
2 section.

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

8 “(B) When requested by the Attorney General, the
9 entire record of the proceeding under this section shall be
10 transmitted to the court of appeals under seal. If the At-
11 torney General is appealing a determination under sub-
12 section (d) or (e), the court of appeals shall consider such
13 appeal in camera and ex parte.”.

14 **SEC. 602. MEMBERSHIP IN A TERRORIST ORGANIZATION AS**
15 **A BASIS FOR EXCLUSION FROM THE UNITED**
16 **STATES UNDER THE IMMIGRATION AND NA-**
17 **TIONALITY ACT.**

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

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

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

23 “(III) is a member of an organi-
24 zation that engages in, or has engaged
25 in, terrorist activity or who actively

1 supports or advocates terrorist activ-
2 ity,”; and

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

4 “(iv) TERRORIST ORGANIZATION DE-
5 FINED.—As used in this Act, the term ‘ter-
6 rorist organization’ means an organization
7 which commits terrorist activity as deter-
8 mined by the Attorney General, in con-
9 sultation with the Secretary of State.”.

10 **TITLE VII—INSPECTIONS**

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

12 (a) IN GENERAL.—The Immigration and Nationality
13 Act is amended by inserting after section 235 the following
14 new section:

15 “PREINSPECTION AT FOREIGN AIRPORTS

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

1 preinspection stations established prior to the date of the
2 enactment of this section.

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

6 “(A) the foreign airports which served as last
7 points of departure for aliens who arrived by air at
8 United States ports of entry without valid docu-
9 mentation during the preceding fiscal years,

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

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

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

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

4 “(A) employees of the United States stationed
5 at the preinspection station and their accompanying
6 family members will receive appropriate protection,

7 “(B) such employees and their families will not
8 be subject to unreasonable risks to their welfare and
9 safety, and

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

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

1 tion), the Attorney General may suspend the entry of some
2 or all aliens transported to the United States by such air-
3 line.”.

4 (c) EFFECTIVE DATES.—

5 (1) The amendments made by subsection (a)
6 shall apply to expenses incurred during or after fis-
7 cal year 1995.

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

14 **TITLE VIII—ASYLUM**

15 **SEC. 801. INSPECTION AND EXCLUSION BY IMMIGRATION** 16 **OFFICERS.**

17 (a) IN GENERAL.—Section 235(b) (8 U.S.C.
18 1225(b)) is amended to read as follows:

19 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
20 OFFICERS.—

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

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

1 “(i) does not present the documentation
2 required (if any) to obtain legal entry to the
3 United States; and

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

7 the officer shall order the alien excluded from the
8 United States without further hearing or review.

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

18 “(C)(i) If an asylum officer determines that an
19 alien has a credible fear of persecution, the alien
20 shall be entitled to apply for provisional asylum
21 under section 208.

22 “(ii)(I) Subject to subclause (II), if an asylum
23 officer determines that an alien does not have a
24 credible fear of persecution the officer shall order

1 the alien excluded from the United States without
2 further hearing or review.

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

7 “(iii) For the purposes of this subparagraph,
8 the term ‘credible fear of persecution’ means (I) that
9 it is more probable than not that the statements
10 made by the alien in support of his or her claim are
11 true, and (II) that there is a significant possibility,
12 in light of such statements and of such other facts
13 as are known to the officer that the alien could es-
14 tablish eligibility for provisional asylum under sec-
15 tion 208.

16 “(iv) Notwithstanding any other provision of
17 law, no court shall have jurisdiction to review, except
18 by petition for habeas corpus, any determination
19 made with respect to an alien found excludable pur-
20 suant to this paragraph. In any such case, review by
21 habeas corpus shall be limited to examination of
22 whether the petitioner (I) is an alien, and (II) was
23 ordered excluded from the United States pursuant to
24 this paragraph.

1 “(v) Notwithstanding any other provision of
2 law, no court shall have jurisdiction (I) to review the
3 procedures established by the Attorney General for
4 the determination of exclusion pursuant to this para-
5 graph, or (II) to enter declaratory or injunctive re-
6 lief with respect to the implementation of this para-
7 graph. Regardless of the nature of the suit or claim,
8 no court shall have jurisdiction except by habeas cor-
9 pus petition as provided in clause (iv) to consider
10 the validity of any adjudication or determination
11 under this paragraph or to provide declaratory or in-
12 junctive relief with respect to the exclusion of any
13 alien pursuant to this paragraph.

14 “(vi) In any action brought for the assessment
15 of penalties for improper entry or re-entry of an
16 alien under section 275 or 276, no court shall have
17 jurisdiction to hear claims collaterally attacking the
18 validity of orders of exclusion or deportation entered
19 under sections 235, 236, and 242.

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

1 “(B) The provisions of subparagraph (A) shall
2 not apply—

3 “(i) to an alien crewman,

4 “(ii) to an alien described in paragraph
5 (2)(A) or 2(B), or

6 “(iii) if the conditions described in section
7 273(d) exist.

8 “(4) The decision of the examining immigration
9 officer, if favorable to the admission of any alien,
10 shall be subject to challenge by any other immigra-
11 tion officer and such challenge shall operate to take
12 the alien, whose privilege to enter is so challenged,
13 before a special inquiry officer for a hearing on ex-
14 clusion of the alien.

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

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

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

1 (2) in the first sentence of paragraph (2) by
2 striking “If” and inserting “Subject to section
3 235(b)(2), if”.

4 **SEC. 802. ASYLUM.**

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

7 **“SEC. 208. ASYLUM.**

8 (a) PROVISIONAL ASYLUM.—

9 “(1) RIGHT TO APPLY.—The Attorney General
10 shall establish a procedure for an alien physically
11 present in the United States or at a land border or
12 port of entry, irrespective of such alien’s status, to
13 apply for provisional asylum in accordance with this
14 section.

15 “(2) CONDITIONS FOR GRANTING.—

16 “(A) MANDATORY CASES.—The Attorney
17 General shall 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 it is more likely than
21 not that in the alien’s country of nationality
22 (or, in the case of a person having no national-
23 ity, the country in which such alien last habit-
24 ually resided) such alien’s life or freedom would
25 be threatened on account of race, religion, na-

1 tionality, membership in a particular social
2 group, or political opinion.

3 “(B) DISCRETIONARY CASES.—The Attor-
4 ney General may grant provisional asylum to an
5 alien if the alien applies for provisional asylum
6 in accordance with the requirements of this sec-
7 tion and establishes that the alien is a refugee
8 within the meaning of section 101(a)(42).

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

12 “(I) the alien ordered, incited, as-
13 sisted, or otherwise participated in the per-
14 secution of any person on account of race,
15 religion, nationality, membership in a par-
16 ticular social group, or political opinion;

17 “(II) the alien, having been convicted
18 by a final judgment of a particularly seri-
19 ous crime, constitutes a danger to the com-
20 munity of the United States;

21 “(III) there are serious reasons for
22 believing that the alien has committed a
23 serious nonpolitical crime outside the
24 United States prior to the arrival of the
25 alien in the United States;

1 “(IV) there are reasonable grounds
2 for regarding the alien as a danger to the
3 security of the United States; or

4 “(V) a country willing to accept the
5 alien has been identified (other than the
6 country described in subparagraph (A)) to
7 which the alien can be deported or re-
8 turned and the alien does not establish
9 that it is more likely than not that the
10 alien’s life or freedom would be threatened
11 in such country on account of race, reli-
12 gion, nationality, membership in a particu-
13 lar social group, or political opinion.

14 “(ii)(I) For purposes of clause (i)(II), an
15 alien who has been convicted of an aggravated
16 felony shall be considered to have committed a
17 particularly serious crime.

18 “(II) The Attorney General shall promul-
19 gate regulations that specify additional crimes
20 that will be considered to be a crime described
21 in clause (i)(II) or (i)(III).

22 “(III) The Attorney General shall promul-
23 gate regulations establishing such additional
24 limitations and conditions as the Attorney Gen-
25 eral considers appropriate under which an alien

1 shall be ineligible to apply for provisional asy-
2 lum under subparagraph (B).

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

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

9 “(B) shall authorize the alien to engage in
10 employment in the United States and provide
11 the alien with an ‘employment authorized’ en-
12 dorsement or other appropriate work permit;
13 and

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

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

20 “(A) the alien no longer meets the condi-
21 tions described in paragraph (2) owing to a
22 change in circumstances in the alien’s country
23 of nationality or, in the case of an alien having
24 no nationality, in the country in which the alien
25 last habitually resided;

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

3 “(C) a country willing to accept the alien
4 has been identified (other than the country de-
5 scribed in paragraph (2)) to which the alien can
6 be deported or returned and the alien cannot
7 establish that it is more likely than not that the
8 alien’s life or freedom would be threatened in
9 such country on account of race, religion, na-
10 tionality, membership in a particular social
11 group, or political opinion.

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

20 “(b) PROVISIONAL ASYLUM APPLICATIONS.—

21 “(1) IN GENERAL.—

22 “(A) DEADLINE.—Subject to subpara-
23 graph (B), an alien’s application for provisional
24 asylum shall not be considered under this sec-
25 tion unless—

1 “(i) the alien has filed, not later than
2 30 days after entering or coming to the
3 United States, notice of intention to file
4 such an application, and

5 “(ii) such application is actually filed
6 not later than 60 days after entering or
7 coming to the United States.

8 “(B) EXCEPTION.—An application for pro-
9 visional asylum may be considered, not with-
10 standing that the requirements of subparagraph
11 (A) have not been met, only if the alien dem-
12 onstrates by clear and convincing evidence
13 changed circumstances in the alien’s country of
14 nationality (or in the case of an alien with no
15 nationality, in the country where the alien last
16 habitually resided) affecting eligibility for provi-
17 sional asylum.

18 “(2) REQUIREMENTS.—An application for pro-
19 visional asylum shall not be considered unless the
20 alien submits to the taking of fingerprints and a
21 photograph in a manner determined by the Attorney
22 General.

23 “(3) PREVIOUS DENIAL OF ASYLUM.—An appli-
24 cation for provisional asylum shall not be considered
25 if the alien has been denied asylum by a country in

1 which the alien had access to a full and fair proce-
2 dure for determining his or her asylum claim in ac-
3 cordance with a bilateral or multilateral agreement
4 between that country and the United States.

5 “(4) FEES.—In the discretion of the Attorney
6 General, the Attorney General may impose reason-
7 able fees for the consideration of an application for
8 provisional asylum, for employment authorization
9 under this section, and for adjustment of status
10 under section 209(b). The Attorney General is au-
11 thorized to provide for the assessment and payment
12 of any such fee over a period of time or by install-
13 ments.

14 “(5) EMPLOYMENT.—An applicant for provi-
15 sional asylum is not entitled to engage in employ-
16 ment in the United States. The Attorney General
17 may authorize an alien who has filed an application
18 for provisional asylum to engage in employment in
19 the United States, in the discretion of the Attorney
20 General.

21 “(6) NOTICE OF CONSEQUENCES OF FRIVOLOUS
22 APPLICATIONS.—At the time of filing a notice of in-
23 tention to apply for provisional asylum, the alien
24 shall be advised of the consequences, under sub-

1 section (e), of filing a frivolous application for provi-
2 sional asylum.

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

4 “(1) Subject to paragraph (2), the application
5 for provisional asylum of an alien who does not ap-
6 pear for a hearing on such application shall be sum-
7 marily dismissed unless the alien can show excep-
8 tional circumstances (as defined in section
9 242B(f)(2)) as determined by an asylum officer or
10 immigration judge.

11 “(2) Paragraph (1) shall not apply if written
12 and oral notice were not provided to the alien of the
13 time and place at which the asylum hearing was to
14 be held, and in the case of any change or postpone-
15 ment in such time or place, written and oral notice
16 were provided to the alien of the new time or place
17 of the hearing.

18 “(d) ASYLUM.—

19 “(1) ADJUSTMENT OF STATUS.—Under such
20 regulations as the Attorney General may prescribe,
21 the Attorney General shall adjust to the status of an
22 alien granted asylum the status of any alien granted
23 provisional asylum under subsection (a)(2)(A) or
24 (a)(2)(B) who—

25 “(A) applies for such adjustment;

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

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

6 “(D) is admissible under this Act at the
7 time of examination for adjustment of status
8 under this subsection.

9 “(2) TREATMENT OF SPOUSE AND CHIL-
10 DREN.—A spouse or child (as defined in section
11 101(b)(A), (B), (C), (D), or (E)) of an alien whose
12 status is adjusted to that of an alien granted asylum
13 under paragraph (a)(2) may be granted the same
14 status as the alien if accompanying, or following to
15 join, such alien.

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

19 “(e) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
20 OLOUS APPLICATIONS.—

21 “(1) IN GENERAL.—If the Attorney General de-
22 termines that an alien has made a frivolous applica-
23 tion for provisional asylum under this section and
24 the alien has received the notice under subsection
25 (b)(5), the alien shall be permanently ineligible for

1 any benefits under this Act, effective as of the date
2 of a final determination on such application.

3 “(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an appli-
4 cation considered to be ‘frivolous’ includes, but is
5 not limited to, an application which contains a will-
6 ful misrepresentation or concealment of a material
7 fact.”.

8
9 (b) CLERICAL AMENDMENT.—The item in the table
10 of contents relating to section 208 is amended to read as
11 follows:

“Sec. 208. Asylum.”.

12 **SEC. 803. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**
13 **HEARING; JUDICIAL REVIEW.**

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

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

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

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

1 (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.
2 1105a) is amended by adding at the end the following sub-
3 section:

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

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

12 “(2) the venue of any petition for review under
13 this subsection shall be in the judicial circuit in
14 which the administrative proceedings were conducted
15 in whole or in part, or in the judicial circuit wherein
16 is the residence, as defined in this Act, of the peti-
17 tioner, but not in more than one circuit; and

18 “(3) notwithstanding any other provision of
19 law, a determination granting or denying provisional
20 asylum based on changed circumstances pursuant to
21 section 208(b)(1)(A)(ii) shall be in the sole discre-
22 tion of the officer conducting the administrative pro-
23 ceeding.”.

1 **SEC. 804. CONFORMING AMENDMENTS.**

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

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

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

8 (2) by amending paragraph (3) to read as
9 follows:

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

12 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-
13 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.
14 1254a(c)(2)(B)(ii)) is amended by striking “section
15 243(h)(2)” and inserting “section 208(a)(2)(C)”.

16 (d) ELIGIBILITY FOR NATURALIZATION.—Section
17 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking
18 “subparagraphs (A) through (D) of paragraph 243(h)(2)”
19 and inserting “section 208(a)(2)(C).”.

20 (e) FAMILY UNITY.—Section 301(e) of the Immigra-
21 tion Act of 1990 (Public Law 101–649) is amended by
22 striking “section 243(h)(2)” and inserting “section
23 208(a)(2)(C).”.

1 **SEC. 805. EFFECTIVE DATES.**

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

5 (b) EXCEPTIONS.—

6 (1) The amendments made by this title shall
7 not apply to applications for asylum or withholding
8 of deportation made before the first day of the first
9 month that begins more than 180 days after the
10 date of the enactment of this Act and no application
11 for provisional asylum under section 208 of the Im-
12 migration and Nationality Act (as amended by sec-
13 tion 801 of this title) shall be considered before such
14 first day.

15 (2) In applying section 208(b)(1)(A) of the Im-
16 migration and Nationality Act (as amended by this
17 title) in the case of an alien who has entered or
18 came to the United States before the first day de-
19 scribed in paragraph (1), notwithstanding the dead-
20 lines specified in such section—

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

24 (B) the deadline for the filing of the appli-
25 cation for provisional asylum is 30 days after
26 the date of filing such notice.

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

○

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