107TH CONGRESS
2D SESSION

H. R. 5013

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, employment, and voting fraud, to reform the legal immigration system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 25, 2002

Mr. GEKAS (for himself, Mr. BARTLETT of Maryland, Mr. CULBERSON, Mr. DEAL of Georgia, Mr. GOODE, Mr. SAM JOHNSON of Texas, Mr. NORWOOD, Mr. SESSIONS, Mr. SMITH of Texas, Mr. STUMP, Mr. TANCREDO, and Mr. WELDON of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, employment, and voting fraud, to reform the legal immigration system, 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,*

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS; SEVERABILITY.

(a) SHORT TITLE.—This Act may be cited as the ''Securing America's Future through Enforcement Reform Act of 2002'' (SAFER Act).

(b) REFERENCES TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references; table of contents; severability.

TITLE I—SECURING THE BORDER

Subtitle A—Prevention and Punishment of Criminal Smuggling, Transporting, and Harboring of Aliens

Sec. 101. Increased personnel for investigating alien smuggling.
Sec. 102. Increased criminal sentences and fines for alien smuggling.
Sec. 103. Elimination of penalty on persons rendering emergency assistance.
Sec. 104. Change to sentencing guidelines.
Sec. 105. Enhanced penalties for persons committing offenses while armed.
Sec. 106. Discontinuing grant of visas to nationals of countries not cooperating in combatting alien smuggling.

Subtitle B—Border Personnel and Strategy

Sec. 111. Increase in full-time border patrol agents.
Sec. 112. Report on number of border patrol agents needed to secure northern border.
Sec. 113. Use of Army and Air Force to secure the border.
Sec. 114. Use of border property to secure the border.
Sec. 115. Report on border strategy.

TITLE II—SCREENING ALIENS SEEKING ADMISSION

Sec. 201. Increase in full-time inspectors.

Sec. 202. Visa waiver program.
Sec. 203. Consular officer interviews of all visa applicants.
Sec. 204. Recodification and reform of grounds of inadmissibility.
Sec. 205. Antifraud fee.

TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

Sec. 301. Entry-exit system.
Sec. 302. Collection of information regarding foreign students.
Sec. 303. Alien registration.
Sec. 304. Visa term compliance bonds.
Sec. 305. Release of aliens in removal proceedings.
Sec. 306. Detention of aliens delivered by bondsmen.

TITLE IV—REMOVING ALIEN TERRORISTS, CRIMINALS, AND HUMAN RIGHTS VIOLATORS

Subtitle A—Removing Alien Terrorists

Sec. 401. Deportability of alien terrorists.
Sec. 402. Administrative removal of alien terrorists.
Sec. 403. Asylum petitions by members of terrorist organizations.

Subtitle B—Removing Alien Criminals

Sec. 411. Definition of criminal conviction.
Sec. 412. Removing murderers, rapists, and sexual abusers of children.
Sec. 413. Detention and release of criminal aliens pending removal decision.

Subtitle C—Removing Alien Human Rights Violators

Sec. 421. Serious human rights violator defined.
Sec. 422. Deportability of serious human rights violators.
Sec. 423. Arrest and detention of serious human rights violators pending removal and criminal prosecution decisions.
Sec. 424. Exception to restriction on removal for serious human rights violators and terrorists.
Sec. 425. Initiation of removal proceedings against serious human rights violators by complaint.
Sec. 426. Bars to refugee status and asylum for serious human rights violators.
Sec. 427. Bar to adjustment of status for serious human rights violators.
Sec. 428. Bar to finding of good moral character for serious human rights violators.
Sec. 429. Bar to cancellation of removal for serious human rights violators.
Sec. 430. Bar to adjustment of status with respect to certain special immigrants.
Sec. 431. Criminal penalties for reentry of removed serious human rights violators.
Sec. 432. Aiding or assisting serious human rights violators to enter the United States.
Sec. 433. Revision of regulations with respect to the involuntary return of persons in danger of subjection to torture.
Sec. 434. Effective date.

TITLE V—ENHANCING ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY ACT IN THE INTERIOR

Subtitle A—Document Security

Sec. 501. Birth certificates.
Sec. 502. Drivers licenses.
Sec. 503. Social security cards.

Subtitle B—Employment Eligibility Verification

Sec. 511. Employment eligibility verification system.
Sec. 512. Employment eligibility verification process.
Sec. 513. Effective date.

Subtitle C—Miscellaneous

Sec. 521. Increased investigative personnel.
Sec. 522. Expedited exclusion.
Sec. 523. Adjustment of status for certain aliens.
Sec. 524. Termination of continuous presence for purposes of cancellation of removal upon commission of offense rendering alien inadmissible or deportable.
Sec. 525. Reentry of removed aliens.
Sec. 526. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence, and misrepresentation or concealment of facts.
Sec. 527. Communication between Government agencies and the Immigration and Naturalization Service.
Sec. 528. Exception to removal for certain aliens.
Sec. 529. Detention facilities.
Sec. 530. Voluntary departure.

TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY AND ABUSIVE TACTICS BY ALIENS IN REMOVAL PROCEEDINGS

Sec. 601. Frivolous applications.
Sec. 602. Continuances; change of venue.
Sec. 603. Burden of proof in asylum proceedings.
Sec. 604. Review of convention against torture grants and denials.
Sec. 605. Time limit for decisions in administrative appeals.
Sec. 606. Review of asylum claims.
Sec. 607. Judicial review.

TITLE VII—VERIFICATION OF CITIZENSHIP OF VOTERS IN FEDERAL ELECTIONS

Sec. 701. Establishment of program.
Sec. 702. Responses to inquiries.
Sec. 703. Requiring verification of citizenship of registered voters and applicants.
Sec. 704. Responsibilities of Federal officials.
Sec. 705. Limitation on use of the program and any related systems.
Sec. 706. Enforcement.
Sec. 707. Chief election official defined.
Sec. 708. Authorization of appropriations.

TITLE VIII—REFORMING LEGAL IMMIGRATION

Subtitle A—Promotion of Citizenship

Sec. 801. Office of Citizenship established; changes in naturalization requirements.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

Sec. 811. Treatment of nationals of state sponsors of terrorism.

Subtitle C—Legal Immigration Reform

Sec. 821. Extended family preference categories.
Sec. 822. Employment third preference category.
Sec. 823. Elimination of diversity immigrant program.
Sec. 824. Refugee admissions.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Temporary protected status.
Sec. 902. Good moral character.
Sec. 903. Removal for aliens who make misrepresentations to procure benefits.
Sec. 904. Designations of foreign terrorist organizations.
Sec. 905. Foreign students.
Sec. 906. Pay grade GS–15 available for INS trial attorneys.
Sec. 907. Proof of identity of aliens seeking relief.
Sec. 908. Following to join defined.
Sec. 909. Information on foreign crimes.

(d) SEVERABILITY.—If any provision of this Act, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions of this Act to any other person or circumstance, shall not be affected by such holding.

TITLE I—SECURING THE BORDER

Subtitle A—Prevention and Punishment of Criminal Smuggling, Transporting, and Harboring of Aliens

SEC. 101. INCREASED PERSONNEL FOR INVESTIGATING ALIEN SMUGGLING.

(a) IN GENERAL.—The Attorney General, in each of the fiscal years 2003 through 2010, shall increase the number of positions for full-time, active-duty investigators or other enforcement personnel within the Immigration and Naturalization Service who are assigned to combat alien smuggling by not less than 50 positions above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the Immigration and Naturalization Service of the Department of Justice such sums as may be necessary in each of the fiscal years 2003 through 2010 to carry out subsection (a), and to cover the operating expenses of the Service and the Department in conducting undercover investiga-

tions of alien smuggling activities and in prosecuting violations of section 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) (relating to alien smuggling), resulting from the increase in personnel under subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ALIEN SMUGGLING DEFINED.—In this section, the term ''alien smuggling'' means any act prohibited by paragraph (1) or (2) of section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)).

SEC. 102. INCREASED CRIMINAL SENTENCES AND FINES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Subject to subsection (b), pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall promulgate sentencing guidelines or amend existing sentencing guidelines for smuggling, transporting, harboring, or inducing aliens under sections 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) so as to—

(1) triple the minimum term of imprisonment under that section for offenses involving the smuggling, transporting, harboring, or inducing of—

(A) 1 to 5 aliens from 10 months to 30 months;

(B) 6 to 24 aliens from 18 months to 54 months;

(C) 25 to 100 aliens from 27 months to 81 months; and

(D) 101 aliens or more from 37 months to 111 months;

(2) increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to the greater of $25,000 per alien or 3 times the amount the defendant received or expected to receive as compensation for the illegal activity;

(3) increase by at least 2 offense levels above the applicable enhancement in effect on the date of the enactment of this Act the sentencing enhancements for intentionally or recklessly creating a substantial risk of serious bodily injury or causing bodily injury, serious injury, or permanent or life threatening injury;

(4) for actions causing death, increase the offense level to be equivalent to that for involuntary manslaughter under section 1112 of title 28, United States Code; and

(5) for corporations or other business entities that knowingly benefit from such offenses, increase the minimum level of fines for each of the offenses described in subparagraphs (A) through (D) of paragraph (1) to $50,000 per alien employed directly, or indirectly through contract, by the corporation or entity.

(b) EXCEPTION.—Subsection (a) shall not apply to an offense that involved the smuggling, transporting, or harboring only of the defendant's spouse or child (or both the defendant's spouse and child).

(c) DEADLINE.—The United States Sentencing Commission shall carry out subsection (a) not later than the date that is 6 months after the date of the enactment of this Act.

SEC. 103. ELIMINATION OF PENALTY ON PERSONS RENDERING EMERGENCY ASSISTANCE.

(a) IN GENERAL.—Section 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

''(C) In no case may any penalty for a violation of subparagraph (A) be imposed on any person solely based on actions taken by the person to render emergency assistance to an alien found physically present in the United States in life threatening circumstances.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to offenses committed after such date.

SEC. 104. CHANGE TO SENTENCING GUIDELINES.

In the exercise of its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide that plea bargaining and other prosecutorial policies, and differences in those policies among different districts, are not a ground for imposing a sentence outside the applicable guidelines range for a violation of immigration law.

SEC. 105. ENHANCED PENALTIES FOR PERSONS COMMITTING OFFENSES WHILE ARMED.

(a) IN GENERAL.—Section 924(c)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting after ''device)'' the following: ''or any violation of section 274(a)(1)(A) of the Immigration and Nationality Act''; and

(B) by striking ''or drug trafficking crime—'' and inserting '', drug trafficking

crime, or violation of section 274(a)(1)(A) of the Immigration and Nationality Act—''; and

(2) in subparagraph (D)(ii), by striking ''or drug trafficking crime'' and inserting '', drug trafficking crime, or violation of section 274(a)(1)(A) of the Immigration and Nationality Act''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to offenses committed after such date.

SEC. 106. DISCONTINUING GRANT OF VISAS TO NATIONALS OF COUNTRIES NOT COOPERATING IN COMBATTING ALIEN SMUGGLING.

On being notified by the Attorney General that the government of a foreign country has not cooperated fully with the United States, or has not taken adequate steps on its own, to combat the smuggling of aliens into the United States from territory controlled by the state, the Secretary of State shall order consular officers in the country to discontinue granting immigrant or nonimmigrant visas, or both, to citizens, subjects, nationals, and residents of the country until the Attorney General notifies the Secretary of State that the country has begun to cooperate fully, or has taken adequate steps, to combat such smuggling.

Subtitle B—Border Personnel and Strategy

SEC. 111. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Attorney General, in each of fiscal years 2003 through 2010, shall increase by not less than 1,000 the number of positions for full-time active-duty border patrol agents within the Immigration and Naturalization Service above the number of positions for which funds were allotted for the preceding fiscal year.

SEC. 112. REPORT ON NUMBER OF BORDER PATROL AGENTS NEEDED TO SECURE NORTHERN BORDER.

(a) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on the number of border patrol agents needed to secure the northern border of the United States.

(b) COOPERATION.—The Attorney General, the Secretary of State, the Secretary of Defense, and the Director of Homeland Security shall cooperate with the Comptroller General of the United States in carrying out this section.

SEC. 113. USE OF ARMY AND AIR FORCE TO SECURE THE BORDER.

Section 1385 of title 18, United States Code, is amended by inserting after ''execute the laws'' the following: ''other than at or near a border of the United States in order to prevent aliens, terrorists, and drug smugglers from entering the United States''.

SEC. 114. USE OF BORDER PROPERTY TO SECURE THE BORDER.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended by striking ''this section.'' and inserting ''this section and to secure the borders of the United States against aliens, terrorists, and drug smugglers.''.

SEC. 115. REPORT ON BORDER STRATEGY.

(a) EVALUATION OF STRATEGY.—The Comptroller General of the United States shall track, monitor, and evaluate the Attorney General's strategy to deter illegal entry in the United States to determine the efficacy of such strategy.

(b) COOPERATION.—The Attorney General, the Secretary of State, and the Secretary of Defense shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and every year thereafter

for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Attorney General's strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.

TITLE II—SCREENING ALIENS SEEKING ADMISSION

SEC. 201. INCREASE IN FULL-TIME INSPECTORS.

(a) IN GENERAL.—The Attorney General, in each of fiscal years 2003 through 2010, shall increase by not less than 250 the number of positions for full-time inspectors within the Immigration and Naturalization Service above the number of positions for which funds were allotted for the preceding fiscal year.

(b) REPEAL.—Section 101(a)(1) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is repealed.

SEC. 202. VISA WAIVER PROGRAM.

(a) PASSPORT REQUIREMENTS.—Section 217(a)(3) (8 U.S.C. 1187(a)(3)) is amended to read as follows:

"(3) MACHINE-READABLE, TAMPER-RESISTANT PASSPORT WITH BIOMETRIC IDENTIFIERS.—On and after October 26, 2005, the alien at the time of application for admission is in possession of a valid unexpired machine-readable passport that—

"(A) satisfies the internationally accepted standard for machine readability;

"(B) is tamper-resistant; and

"(C) incorporates biometric and document authentification identifiers that comply with applicable biometric and document identifying standards established by the International Civil Aviation Organization.".

(b) REPEAL.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 26, 2005.

SEC. 203. CONSULAR OFFICER INTERVIEWS OF ALL VISA APPLICANTS.

(a) IN GENERAL.—Section 221 (8 U.S.C. 1201) is amended by adding at the end the following:

"(j) Prior to the issuance of an immigrant or nonimmigrant visa to any alien, the consular officer shall require such alien to submit to an in-person interview in accordance with such regulations as may be prescribed.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the amendment made by subsection (a) such sums as may be necessary for fiscal years 2003 through 2010.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to visas issued after October 1, 2002.

SEC. 204. RECODIFICATION AND REFORM OF GROUNDS OF INADMISSIBILITY.

(a) TRANSFER AND REDESIGNATION.—Section 212 (8 U.S.C. 1182) is amended—

(1) by transferring subsection (e) to the end of section 222 (8 U.S.C. 1202) and redesignating it as subsection (h);

(2) by transferring subsections (j), (m), (n), and (q) to the end of section 214 (8 U.S.C. 1202) and redesignating them as subsections (s), (t), (u), and (v), respectively; and

(3) by amending the remainder of such section to read as follows:

"SEC. 212. GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY.

"(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION.—Except as otherwise provided in this Act, aliens who are inadmissible under the following paragraphs are ineligible to receive visas and ineligible to be admitted to the United States:

"(1) HEALTH-RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien—

"(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome;

"(ii) except as provided in subparagraph (C), who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, mea-

sles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices;

''(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

''(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others; or

''(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior; or

"(iv) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict,

is inadmissible.

"(B) WAIVER AUTHORIZED.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (e).

"(C) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR ADOPTED CHILDREN 10 YEARS OF AGE OR YOUNGER.—Clause (ii) of subparagraph (A) shall not apply to a child who—

"(i) is 10 years of age or younger;

"(ii) is described in section 101(b)(1)(F); and

"(iii) is seeking an immigrant visa as an immediate relative under section 201(b),

if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child's admis-

sion, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.

"(2) CRIMINAL AND RELATED GROUNDS.—

"(A) CONVICTION OF CERTAIN CRIMES.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

"(I) a crime involving moral turpitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime; or

"(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

is inadmissible.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only one crime if—

"(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or

"(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

"(B) MULTIPLE CRIMINAL CONVICTIONS.—Any alien convicted of 2 or more of-

fenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

"(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien who the consular officer or the Attorney General knows or has reason to believe—

"(i) is or has been an illicit trafficker in any controlled substance or in any listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), or is or has been a knowing aider, abettor, assistant, conspirator, or colluder with others in the illicit trafficking in any such controlled or listed substance or chemical, or endeavored to do so; or

"(ii) is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reason-

ably should have known that the financial or other benefit was the product of such illicit activity,

is inadmissible.

"(D) PROSTITUTION AND COMMERCIALIZED VICE.—Any alien who—

"(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, admission, or adjustment of status;

"(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution; or

"(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is inadmissible.

"(E) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—Any alien—

"(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h));

"(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense;

"(iii) who as a consequence of the offense and exercise of immunity has departed from the United States; and

"(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense,

is inadmissible.

"(F) WAIVER AUTHORIZED.—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (f).

"(G) SERIOUS HUMAN RIGHTS ABUSERS.—Any serious human rights violator is inadmissible.

"(H) SIGNIFICANT TRAFFICKERS IN PERSONS.—

"(i) IN GENERAL.—Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Attorney General knows or has reason to believe is or has been a knowing aider, abettor, assistant, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in section 103 of such Act, is inadmissible.

"(ii) BENEFICIARIES OF TRAFFICKING.—Except as provided in clause (iii), any alien who the consular officer or the Attorney General knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

"(iii) EXCEPTION FOR CERTAIN SONS AND DAUGHTERS.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

"(I) MONEY LAUNDERING.—Any alien—

"(i) who a consular officer or the Attorney General knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

"(ii) who a consular officer or the Attorney General knows is, or has been, a knowing aider, abettor, assistant, conspirator, or colluder with others in an offense which is described in such section,

is inadmissible.

"(J) AGGRAVATED FELONY.—

"(i) IN GENERAL.—Any alien convicted of an aggravated felony is inadmissible.

"(ii) WAIVER AUTHORIZED.—Clause (i) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any State.

"(K) CERTAIN FIREARM OFFENSES.—Any alien who is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

"(3) SECURITY AND RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

"(i) any activity—

"(I) to violate any law of the United States relating to espionage or sabotage; or

"(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;

"(ii) any other unlawful activity, including participation in a criminal enterprise, conspiracy, or scheme; or

"(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is inadmissible.

"(B) TERRORIST ACTIVITIES.—

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorist activity;

"(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in

any terrorist activity (as defined in clause (iv));

"(III) has, under circumstances indicating an intention to cause death or serious bodily harm, incited terrorist activity;

"(IV) is a representative (as defined in clause (v)) of—

"(aa) a terrorist organization; or

"(bb) a political, social, or other group that endorses or espouses terrorist activity;

"(V) is a member of a terrorist organization;

"(VI) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

"(VII) had information about an activity that the alien knew, or should have known, was a terrorist activity (before or after such activity occurred or while it was ongoing), knew, or should have known, that such infor-

mation was not public information, and failed to report such information to a governmental authority; or

"(VIII) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years,

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

"(ii) EXCEPTION.—Subclause (VII) of clause (i) does not apply to a spouse or child—

"(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this subparagraph; or

"(II) whom the consular officer or Attorney General has reasonable grounds to believe has renounced the

activity causing the alien to be found inadmissible under this subparagraph.

"(iii) TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been or were to be committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

"(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

"(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

"(III) A violent attack upon an internationally protected person (as

defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

"(IV) An assassination.

"(V) The use of any—

"(aa) biological agent, chemical agent, or nuclear weapon or device; or

"(bb) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing.

"(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term 'engage in terrorist activity' means, in an individual capacity or as a member of an organization—

"(I) to commit or to incite to commit, under circumstances indi-

cating an intention to cause death or serious bodily injury, a terrorist activity;

"(II) to prepare or plan a terrorist activity;

"(III) to gather information on potential targets for terrorist activity;

"(IV) to solicit funds or other things of value for—

"(aa) a terrorist activity;

"(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

"(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

"(V) to solicit any individual—

"(aa) to engage in conduct otherwise described in this clause;

"(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

"(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

"(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

"(aa) for the commission of a terrorist activity;

"(bb) to any individual who the actor knows, or reasonably should know, has committed or plans to commit a terrorist activity; or

"(cc) to a terrorist organization described in subclauses (I) through (III) of clause (vi).

"(v) REPRESENTATIVE DEFINED.—As used in this subparagraph, the term 'representative' includes an officer, official, or spokesman of an organization, and any person who directs, counsels, commands, or induces an organization or its members to engage in terrorist activity.

"(vi) TERRORIST ORGANIZATION DEFINED.—As used in this section, the term 'terrorist organization' means an organization—

"(I) designated under section 219;

"(II) otherwise designated, upon publication in the Federal Register, by the Secretary of State in consultation with or upon the request of the Attor-

ney General, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv), or that the organization provides material support to further terrorist activity; or

"(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).

"(C) FOREIGN POLICY.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is inadmissible.

"(D) IMMIGRANT MEMBERSHIP IN TOTALITARIAN PARTY.—

"(i) IN GENERAL.—Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate

thereof), domestic or foreign, is inadmissible.

"(ii) EXCEPTION FOR INVOLUNTARY MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and necessary for such purposes.

"(iii) EXCEPTION FOR PAST MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

"(I) the membership or affiliation terminated at least—

"(aa) 2 years before the date of such application; or

"(bb) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date; and

"(II) the alien is not a threat to the security of the United States.

"(E) PARTICIPANTS IN NAZI PERSECUTIONS.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(i) the Nazi government of Germany;

"(ii) any government in any area occupied by the military forces of the Nazi government of Germany;

"(iii) any government established with the assistance or cooperation of the Nazi government of Germany; or

"(iv) any government which was an ally of the Nazi government of Germany, ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion, is inadmissible.

"(F) ASSOCIATION WITH TERRORIST ORGANIZATIONS.—Any alien who the Secretary of State, after consultation with the Attorney General, or the Attorney General, after consultation with the Secretary of State, determines has been associated with a terrorist organization and intends while in the United States to engage solely, principally, or incidentally in activities that could endanger the welfare, safety, or security of the United States is inadmissible.

"(G) NATIONAL SECURITY CONSEQUENCES.—An alien whose entry or proposed activities in the United States the Attorney General has reasonable grounds to believe would have potentially serious adverse consequences for the national security of the United States is inadmissible.

"(4) PUBLIC CHARGE.—

"(A) IN GENERAL.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.

"(B) FACTORS TO BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—In determining whether an alien is inadmissible under this paragraph, the consular officer or the Attorney General shall at a minimum consider the alien's—

"(I) age;

"(II) health;

"(III) family status;

"(IV) assets, resources, and financial status; and

"(V) education and skills.

"(ii) AFFIDAVIT OF SUPPORT.—In addition to the factors under clause (i), the consular officer or the Attorney General may also consider any affidavit of support

under section 213A for purposes of exclusion under this paragraph.

"(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is inadmissible under this paragraph unless—

"(i) the alien has obtained—

"(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A); or

"(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

"(ii) the person petitioning for the alien's admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

"(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classifica-

tion petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.

"(5) LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS.—

"(A) LABOR CERTIFICATION.—

"(i) IN GENERAL.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is inadmissible, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

"(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor; and

"(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(ii) CERTAIN ALIENS SUBJECT TO SPECIAL RULE.—For purposes of clause (i)(I), an alien described in this clause is an alien who—

"(I) is a member of the teaching profession; or

"(II) has exceptional ability in the sciences or the arts.

"(iii) PROFESSIONAL ATHLETES.—

"(I) IN GENERAL.—A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

"(II) DEFINITION.—For purposes of subclause (I), the term 'pro-

fessional athlete' means an individual who is employed as an athlete by—

"(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

"(bb) any minor league team that is affiliated with such an association.

"(iv) LONG DELAYED ADJUSTMENT APPLICANTS.—A certification made under clause (i) with respect to an individual whose petition is covered by section 204(j) shall remain valid with respect to a new job accepted by the individual after the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the certification was issued.

"(v) COMPUTATION OF PREVAILING WAGE.—

"(I) EMPLOYEES OF CERTAIN RESEARCH ORGANIZATIONS.—In computing the prevailing wage level for an occupational classification in an area of employment for purposes of section 214(u)(1)(A)(i)(II) and this subparagraph in the case of an employee of—

"(aa) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

"(bb) a nonprofit research organization or a Governmental research organization,

the prevailing wage level shall only take into account employees at such institutions and organizations in the area of employment.

"(II) PROFESSIONAL ATHLETES.—With respect to a professional athlete (as defined in clause (iii)(II)) when the job opportunity is

covered by professional sports league rules or regulations, the wage set forth in those rules or regulations shall be considered as not adversely affecting the wages of United States workers similarly employed and be considered the prevailing wage.

"(B) UNQUALIFIED PHYSICIANS.—An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is inadmissible, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and

permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

"(C) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Subject to subsection (j), any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Attorney General, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Attorney General in consultation with the Secretary of Health and Human Services, verifying that—

"(i) the alien's education, training, license, and experience—

"(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

"(II) are comparable with that required for an American health-care worker of the same type; and

"(III) are authentic and, in the case of a license, unencumbered;

"(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant's ability to speak and write; and

"(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession's licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum

scores that are appropriate are within the sole discretion of the Secretary of Health and Human Services and are not subject to further administrative or judicial review.

"(D) APPLICATION OF GROUNDS.—The grounds for inadmissibility of aliens under subparagraphs (A) and (B) shall apply to immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).

"(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

"(A) ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

"(i) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.

"(ii) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who demonstrates that—

"(I) the alien qualifies for immigrant status under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1);

"(II)(aa) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien and the spouse or parent consented or acquiesced in such battery or cruelty, or (bb) the alien's child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse's or parent's family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty; and

"(III) there was a substantial connection between the battery or cru-

elty described in subclause (I) or (II) and the alien's unlawful entry into the United States.

"(B) FAILURE TO ATTEND REMOVAL PROCEEDING.—Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien's inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien's subsequent departure or removal is inadmissible.

"(C) MISREPRESENTATION.—

"(i) IN GENERAL.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act for himself, herself, or any other alien, is inadmissible.

"(ii) FALSELY CLAIMING CITIZENSHIP.—

"(I) IN GENERAL.—Any alien who falsely represents, or has falsely represented, himself or herself to be a

citizen of the United States for any purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

"(II) EXCEPTION.—In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

"(D) STOWAWAYS.—Any alien who is a stowaway is inadmissible.

"(E) SMUGGLERS.—

"(i) IN GENERAL.—Any alien who at any time knowingly has encouraged, in-

duced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is inadmissible.

"(ii) SPECIAL RULE IN THE CASE OF FAMILY REUNIFICATION.—Clause (i) shall not apply in the case of an alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

"(iii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (c)(6).

"(F) SUBJECT OF CIVIL PENALTY.—An alien who is the subject of a final order for violation of section 274C is inadmissible.

"(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under section 214(l) is inadmissible until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.

"(H) CHANGE OF ADDRESS.—An alien who has failed to comply with section 262 is inadmissible, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

"(7) DOCUMENTATION REQUIREMENTS.—

"(A) IMMIGRANTS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission—

"(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identi-

fication card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a); or

"(II) whose visa has been issued without compliance with the provisions of section 203,

is inadmissible.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (g).

"(B) NONIMMIGRANTS.—

"(i) IN GENERAL.—Any nonimmigrant who—

"(I) is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the

alien came or to proceed to and enter some other country during such period; or

"(II) is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission,

is inadmissible.

"(ii) GENERAL WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (c)(2).

"(8) INELIGIBLE FOR CITIZENSHIP.—

"(A) IN GENERAL.—Any immigrant who is permanently ineligible to citizenship is inadmissible.

"(B) DRAFT EVADERS.—Any person who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is inadmissible, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

"(9) ALIENS PREVIOUSLY REMOVED.—

"(A) CERTAIN ALIENS PREVIOUSLY REMOVED.—

"(i) ARRIVING ALIENS.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(ii) OTHER ALIENS.—Any alien not described in clause (i) who—

"(I) has been ordered removed under section 240 or any other provision of law; or

"(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in

the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

"(B) ALIENS UNLAWFULLY PRESENT.—

"(i) IN GENERAL.—Any alien (other than an alien lawfully admitted for permanent residence) who—

"(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e)) prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien's departure or removal; or

"(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States,

is inadmissible.

"(ii) CONSTRUCTION OF UNLAWFUL PRESENCE.—For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

"(iii) EXCEPTIONS.—

"(I) MINORS.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(II) ASYLEES.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

"(III) FAMILY UNITY.—No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

"(IV) BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if 'violation of the terms of the alien's nonimmigrant visa' were substituted for 'unlawful entry into the United States' in subclause (III) of that paragraph.

"(iv) TOLLING FOR GOOD CAUSE.—In the case of an alien who—

"(I) has been lawfully admitted or paroled into the United States;

"(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General; and

"(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

"(C) ALIENS UNLAWFULLY PRESENT AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

"(i) IN GENERAL.—Any alien who—

"(I) has been unlawfully present in the United States for an aggregate period of more than 1 year; or

"(II) has been ordered removed under section 235(b)(1), section 240, or any other provision of law,

and who enters or attempts to reenter the United States without being admitted is inadmissible.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien's last departure from the United States if, prior to the alien's reembar-

kation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission. The Attorney General in the Attorney General's discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Attorney General has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a direct connection between—

"(I) the alien's having been battered or subjected to extreme cruelty; and

"(II) the alien's—

"(aa) removal;

"(bb) departure from the United States;

"(cc) reentry or reentries into the United States; or

"(dd) attempted reentry into the United States.

"(10) MISCELLANEOUS.—

"(A) PRACTICING POLYGAMISTS.—Any immigrant who is coming to the United States to practice polygamy is inadmissible.

"(B) GUARDIAN REQUIRED TO ACCOMPANY HELPLESS ALIEN.—Any alien—

"(i) who is accompanying another alien who is inadmissible and who is certified to be helpless from sickness, mental or physical disability, or infancy pursuant to section 232(c); and

"(ii) whose protection or guardianship is determined to be required by the alien described in clause (i),

is inadmissible.

"(C) INTERNATIONAL CHILD ABDUCTION.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien who, after entry of an order by a court in the United States granting custody to a person of a United States citizen child who detains or retains the child, or withholds custody of the child, outside the United States from the person granted custody by that order,

is inadmissible until the child is surrendered to the person granted custody by that order.

"(ii) ALIENS SUPPORTING ABDUCTORS AND RELATIVES OF ABDUCTORS.—Any alien who—

"(I) is known by the Secretary of State to have intentionally assisted an alien in the conduct described in clause (i);

"(II) is known by the Secretary of State to be intentionally providing material support or safe haven to an alien described in clause (i); or

"(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion, is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the

order described in that clause, and such person and child are permitted to return to the United States or such person's place of residence.

"(iii) EXCEPTIONS.—Clauses (i) and (ii) shall not apply—

"(I) to a government official of the United States who is acting within the scope of his or her official duties;

"(II) to a government official of any foreign government if the official has been designated by the Secretary of State at the Secretary's sole and unreviewable discretion; or

"(III) so long as the child is located in a foreign state that is a party to the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980.

"(D) UNLAWFUL VOTERS.—

"(i) IN GENERAL.—Any alien who has voted in violation of any Federal, State, or local constitutional provision, statute, ordinance, or regulation is inadmissible.

"(ii) EXCEPTION.—In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

"(E) FORMER CITIZENS WHO RENOUNCED CITIZENSHIP.—Any alien who is a former citizen of the United States who officially renounced United States citizenship is inadmissible.

"(b) NOTICES OF DENIALS.—

"(1) IN GENERAL.— Subject to paragraphs (2) and (3), if an alien's application for a visa, for admission to the United States, or for adjustment of

status is denied by an immigration or consular officer because the officer determines the alien to be inadmissible under subsection (a), the officer shall provide the alien with a timely written notice that—

"(A) states the determination; and

"(B) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.

"(2) WAIVER.—The Secretary of State may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of inadmissible aliens.

"(3) INAPPLICABILITY.—Paragraph (1) does not apply to any alien inadmissible under paragraph (2) or (3) of subsection (a).

"(c) SPECIAL RULES.—

"(1) 'S' NONIMMIGRANTS.—The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Attorney General, in the Attorney General's discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney General considers it to be in the national interest to

do so. Nothing in this section shall be regarded as prohibiting the Immigration and Naturalization Service from instituting removal proceedings against an alien admitted as a nonimmigrant under section 101(a)(15)(S) for conduct committed after the alien's admission into the United States, or for conduct or a condition that was not disclosed to the Attorney General prior to the alien's admission as a nonimmigrant under section 101(a)(15)(S).

"(2) DOCUMENTARY REQUIREMENTS FOR NONIMMIGRANTS.—Either or both of the requirements of subsection (a)(7)(B)(i) may be waived by the Attorney General and the Secretary of State acting jointly—

"(A) on the basis of unforeseen emergency in individual cases; or

"(B) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

"(3) PAROLE.—

"(A) IN GENERAL.—The Attorney General may, except as provided in subparagraph (B) or in section 214(f), in the discretion of the Attorney General, parole into the United States a

Cuban national or, in the case of nationals of other countries, temporarily under such conditions as the Attorney General may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant law enforcement reasons any alien applying for admission to the United States, but such parole shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which the alien was paroled and thereafter the case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States. Parole on a temporary basis cannot exceed 120 days, unless for a significant law enforcement reason. The Attorney General may not parole into the United States an alien for urgent humanitarian reasons if the alien is inadmissible under paragraph (2), (3), or (9) of subsection (a).

"(B) REFUGEES.—The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General

determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

"(4) ALIENS ENTERING FROM GUAM, PUERTO RICO, OR THE VIRGIN ISLANDS.—The provisions of subsection (a) (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is denied admission to the United States, shall be immediately removed in the manner provided by section 241(c) of this Act.

"(5) FOREIGN GOVERNMENT OFFICIALS.—Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (3)(A), (3)(B), (3)(C), and (7)(B) of subsection (a) of this section.

"(6) SMUGGLERS.—The Attorney General may, in the discretion of the Attorney General for urgent humanitarian reasons, waive application of subsection (a)(6)(E)(i) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntarily and not under an order of removal, and who is otherwise admissible to the United States as a returning resident under section 211(b) if the alien has encouraged, induced, assisted, abetted, or aided only an individual who at the time of such action was the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

"(7) 'T' NONIMMIGRANTS.—

"(A) DETERMINATION.—The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(T).

"(B) WAIVER.—In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T), if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of—

"(i) paragraphs (1) and (4) of subsection (a); and

"(ii) any other provision of such subsection (excluding paragraphs (2), (3), (8), (9)(A), (10)(C), (10)(D), and (10)(E)) if the activities rendering the alien inadmissible under the provision were caused by the victimization described in section 101(a)(15)(T)(i)(I).

"(8) 'U' NONIMMIGRANTS.—

"(A) DETERMINATION.—The Attorney General shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(U).

"(B) WAIVER.—In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(U), if the Attorney General considers it to be in the national interest to do so, the Attorney General, in the Attorney General's discretion, may waive the application of—

"(i) paragraphs (1) and (4) of subsection (a); and

"(ii) any other provision of such subsection (excluding paragraphs (2), (3), (8),

(9)(A), (10)(C), (10)(D), and (10)(E)) if the activities rendering the alien inadmissible under the provision were caused by the criminal activity described in section 101(a)(15)(U)(iii).

"(d) SUSPENSION OF ENTRY.—Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, the President may by proclamation, and for such period as the President shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions the President may deem to be appropriate. Whenever the Attorney General finds that a commercial airline has failed to comply with regulations of the Attorney General relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Attorney General may suspend the entry of some or all aliens transported to the United States by such airline.

"(e) WAIVERS OF HEALTH-RELATED GROUNDS.—The Attorney General may waive the application of—

"(1) subsection (a)(1)(A)(i) in the case of any alien who—

"(A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa;

"(B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa; or

"(C) qualifies for classification under clause (iii) or (iv) of section 204(a)(1)(A) or classification under clause (ii) or (iii) of section 204(a)(1)(B);

in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe;

"(2) subsection (a)(1)(A)(ii) in the case of any alien—

"(A) who receives vaccination against the vaccine-preventable disease or diseases for

which the alien has failed to present documentation of previous vaccination;

"(B) for whom a civil surgeon, medical officer, or panel physician (as those terms are defined by section 34.2 of title 42, Code of Federal Regulations) certifies, according to such regulations as the Secretary of Health and Human Services may prescribe, that such vaccination would not be medically appropriate; or

"(C) under such circumstances as the Attorney General provides by regulation, with respect to whom the requirement of such a vaccination would be contrary to the alien's religious beliefs or moral convictions; or

"(3) subsection (a)(1)(A)(iii) in the case of any alien, in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in the discretion of the Attorney General after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

"(f) WAIVERS OF CRIMINAL AND RELATED GROUNDS.—The Attorney General may, in the discretion of the Attorney General, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2)

and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana if—

"(1)(A) in the case of any immigrant, it is established to the satisfaction of the Attorney General that—

"(i) the alien is inadmissible only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is inadmissible occurred more than 15 years before the date of the alien's application for a visa, admission, or adjustment of status;

"(ii) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States; and

"(iii) the alien has been rehabilitated; or

"(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the alien's denial of admission would result in exceptional and extremely unusual hardship to the United States cit-

izen or lawfully resident spouse, parent, son, or daughter of such alien; and

"(2) the Attorney General, in the discretion of the Attorney General, and pursuant to such terms, conditions, and procedures as the Attorney General may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has admitted committing acts that constitute) murder or criminal acts involving torture, or an attempt or conspiracy to commit murder or a criminal act involving torture. No waiver shall be granted under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if either since the date of such admission the alien has been convicted of an aggravated felony or the alien has not lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No waiver shall be granted under this subsection in the case of any alien who is present in the United States after the expiration of the period of stay authorized by the Attorney General

or is present in the United States without being admitted or paroled if either the alien has been convicted of an aggravated felony committed in the United States or the alien has not resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No court shall have jurisdiction to review a decision of the Attorney General to grant or deny a waiver under this subsection.

"(g) ALIENS HAVING IMMIGRANT VISAS.—Any alien, inadmissible to the United States under paragraph (5)(A) or (7)(A)(i) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Attorney General if the Attorney General is satisfied that inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign contiguous territory, before the time of the immigrant's application for admission.

"(h) WAIVER OF DOCUMENTATION REQUIREMENTS FOR NONIMMIGRANTS.—

"(1) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State and the Secretary of the Interior, after consultation with the Governor of Guam, jointly determine that—

"(A) an adequate arrival and departure control system has been developed on Guam; and

"(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

"(2) LIMITATION.—An alien may not be provided a waiver under this subsection unless the alien has waived any right—

"(A) to review or appeal under this Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into Guam; or

"(B) to contest, other than on the basis of an application for asylum, any action for removal of the alien.

"(i) CONDITIONS ON RECEIPT OF IMMIGRANT VISAS FOLLOWING DEPARTURE.—An alien who has been physically present in the United States shall not be eligible to receive an immigrant visa within ninety days following departure therefrom unless—

"(1) the alien was maintaining a lawful nonimmigrant status at the time of such departure; or

"(2) the alien is the spouse or unmarried child of an individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986 at any date, who—

"(A) as of May 5, 1988, was the unmarried child or spouse of the individual who obtained temporary or permanent resident status under section 210 or 245A of the Immigration and Nationality Act or section 202 of the Immigration Reform and Control Act of 1986;

"(B) entered the United States before May 5, 1988, resided in the United States on May

5, 1988, and is not a lawful permanent resident; and

"(C) applied for benefits under section 301(a) of the Immigration Act of 1990.

"(j) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Subsection (a)(5)(C) shall not apply to an alien who seeks to enter the United States for the purpose of performing labor as a nurse who presents to the consular officer (or in the case of an adjustment of status, the Attorney General) a certified statement from the Commission on Graduates of Foreign Nursing Schools (or an equivalent independent credentialing organization approved for the certification of nurses under subsection (a)(5)(C) by the Attorney General in consultation with the Secretary of Health and Human Services) that—

"(1) the alien has a valid and unrestricted license as a nurse in a State where the alien intends to be employed and such State verifies that the foreign licenses of alien nurses are authentic and unencumbered;

"(2) the alien has passed the National Council Licensure Examination (NCLEX);

"(3) the alien is a graduate of a nursing program—

"(A) in which the language of instruction was English;

"(B) located in a country—

"(i) designated by such commission not later than 30 days after the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999, based on such commission's assessment that the quality of nursing education in that country, and the English language proficiency of those who complete such programs in that country, justify the country's designation; or

"(ii) designated on the basis of such an assessment by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection; and

"(C)(i) which was in operation on or before the date of the enactment of the Nursing Relief for Disadvantaged Areas Act of 1999; or

"(ii) has been approved by unanimous agreement of such commission and any equiva-

lent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection.

"(k) PUBLIC CHARGE GROUND FOR FAMILY-SPONSORED IMMIGRANTS.—In determining whether an alien described in subsection (a)(4)(C)(i) is inadmissible under subsection (a)(4) or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident by reason of subsection (a)(4), the consular officer or the Attorney General shall not consider any benefits the alien may have received that were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c)).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions of the Immigration and Nationality Act are amended by striking "212(e)" and inserting "222(h)":

(A) Paragraphs (1), (2)(A), and (3) of section 214(l).

(B) Paragraphs (2) and (3)(B) of section 240A(c).

(C) Section 245A(a)(2)(C).

(D) Section 248(3).

(2) Section 214 (8 U.S.C. 1202) is amended—

(A) by redesignating subsection (p) (as added by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted into law by Public Law 106–553) as subsection (r);

(B) by redesignating the second subsection (o) (as added by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted into law by Public Law 106–553) as subsection (q);

(C) by redesignating the first subsection (o) as subsection (p);

(D) by redesignating subsection (n) as subsection (o); and

(E) by redesignating the second subsection (m) as subsection (n).

(3) Section 101(a) is amended—

(A) in paragraph (13)(B), by striking ''212(d)(5)'' and inserting ''212(c)(3)''; and

(B) in paragraph (13)(C)(v), by striking ''212(h)'' and inserting ''212(f)''.

(C) in paragraph (15)(H)—

(i) by striking ''212(j)(2)'' and inserting ''214(s)(2)'';

(ii) by striking ''212(n)(1)'' and inserting ''214(u)(1)'';

(iii) by striking ''212(m)(1)'' and inserting ''214(t)(1)'';

(iv) by striking ''212(m)(2)'' and inserting ''214(t)(2)''; and

(v) by striking ''212(m)(6)'' and inserting ''214(t)(6)'';

(D) in paragraph (15)(J), by striking ''212(j)'' and inserting ''214(s)'';

(E) in paragraph (15)(K), by striking ''(p) of section 214'' and inserting ''(r) of section 214'';

(F) in paragraph (15)(T)(i), by striking ''214(n)'' and inserting ''214(o)'';

(G) in paragraph (15)(U)(i), by striking ''214(o)'' and inserting ''214(p)''; and

(H) in paragraph (15)(V), by striking ''214(o)'' and inserting ''214(q)''.

(4) Section 201(c)(4) is amended by striking ''212(d)(5)'' and inserting ''212(c)(3)''.

(5) Section 214(a)(1) is amended by striking ''212(l)'' and inserting ''212(h)''.

(6) Section 214(e)(5) is amended—

(A) by striking ''212(m)'' both places it appears and inserting ''214(t)''; and

(B) by striking ''212(n)'' and inserting ''214(u)''.

(7) Section 214(f)(2)(A) is amended by striking ''212(d)(5)'' and inserting ''212(c)(3)''.

(8) Section 216(f) is amended by striking ''subsection (h) or (i) of section 212'' and inserting ''section 212(f)''.

(9) Section 237(a)(1)(C)(ii) is amended by striking ''212(g)'' and inserting ''212(e)''.

(10) Section 240A(b)(4) is amended by striking ''212(d)(5)'' and inserting ''212(c)(3)''.

(11) Section 242(a)(2)(B)(i) is amended by striking ''212(h), 212(i),'' and inserting ''212(f),''.

(12) Section 245(c) is amended—

(A) by striking ''212(d)(4)(C)'' and inserting ''212(c)(2)(C)''; and

(B) by striking ''212(l)'' and inserting ''212(h)''.

(13) Section 248 is amended by striking ''(or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v))'' in the matter preceding paragraph (1).

(14) Section 248(4) is amended by striking "212(l)" and inserting "212(h)".

(15) Section 252(a) is amended by striking "212(d)(3), section 212(d)(5)," and inserting "212(c)(3),".

(16) Paragraphs (2) and (3) of section 254(a) are each amended by striking "212(d)(5)" and inserting "212(c)(3)".

(17) Section 286(s)(6) is amended—

(A) by striking "212(n)(1)" each place it appears and inserting "214(u)(1)"; and

(B) by striking "212(n)(2)" both places it appears and inserting "214(u)(2)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect of the date of the enactment of this Act and shall apply to acts undertaken, and conditions existing, before, on, or after such date.

SEC. 205. ANTIFRAUD FEE.

(a) IMPOSITION OF FEE.—

(1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C. 1351 et seq.) is amended by inserting after section 281 the following:

"ANTIFRAUD FEE

"SEC. 281A. (a) IN GENERAL.—In addition to any other fees authorized by law, the Attorney General shall impose an antifraud fee on a petitioner filing a petition for classification under section 204, or a petition for an alien's status as a nonimmigrant under section 101(a)(15) (excluding status under subparagraph (A), (B), (G), or (S) of such section).

"(b) AMOUNT.—The amount of the fee shall be $100 for each such petition.

"(c) DISPOSITION.—Fees collected under this section shall be deposited in the Treasury in accordance with section 286(v).".

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 281 the following:

"Sec. 281A. Antifraud fee.".

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

"(v) ANTIFRAUD ACCOUNT.—

"(1) IN GENERAL.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Antifraud Account'. Notwithstanding any other provision of law, there

shall be deposited as offsetting receipts into the account all fees collected under section 281A.

"(2) USE OF FEES TO COMBAT FRAUD.—

"(A) ATTORNEY GENERAL.—

"(i) PROGRAMS TO ELIMINATE FRAUD.—20 percent of amounts deposited into the Antifraud Account shall remain available to the Attorney General until expended for programs and activities to eliminate fraud by petitioners and beneficiaries with respect to immigrant visa petitions under section 204 or status under section 101(a)(15) (excluding status under subparagraph (A), (B), (G), or (S) of such section).

"(ii) REMOVAL OF ALIENS.—20 percent of amounts deposited into the Antifraud Account shall remain available to the Attorney General until expended for the removal of aliens who are deportable under section 237(a)(1)(A) by reason of having been found to be within the class of aliens inadmissible under section 212(a)(6)(C).

"(B) SECRETARY OF STATE.—40 percent of the amounts deposited into the Antifraud Ac-

count shall remain available to the Secretary of State until expended for programs and activities to eliminate fraud by petitioners and beneficiaries described in subparagraph (A).

"(C) JOINT PROGRAMS.—20 percent of amounts deposited into the Antifraud Account shall remain available to the Attorney General and the Secretary of State until expended for programs and activities conducted by them jointly to eliminate fraud by petitioners and beneficiaries described in subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act.

TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

SEC. 301. ENTRY-EXIT SYSTEM.

(a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—Section 110(b)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

"(1) provides access to, and integrates, arrival and departure data of all aliens who arrive and depart at ports of entry, in an electronic format and

in a database of the Department of Justice or the Department of State (including those created or used at ports of entry and at consular offices);''.

(b) CONSTRUCTION.—Section 110(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended to read as follows:

''(c) CONSTRUCTION.—Nothing in this section shall be construed to reduce or curtail any authority of the Attorney General or the Secretary of State under any other provision of law.''.

(c) DEADLINES.—Section 110(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended—

(1) in paragraph (1), by striking ''December 31'' and inserting ''October 26'';

(2) by amending paragraph (2) to read as follows:

''(2) LAND BORDER PORTS OF ENTRY.—Not later than October 26, 2004, the Attorney General shall implement the integrated entry and exit data system using the data described in paragraph (1) and available alien arrival and departure data described in subsection (b)(1) pertaining to aliens arriving in, or departing from, the United States at all land border ports of entry. Such implementation

shall include ensuring that such data, when collected or created by an immigration officer at a port of entry, are entered into the system and can be accessed by immigration officers at airports, seaports, and other land border ports of entry.''; and

(3) by striking paragraph (3).

(d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—Section 110(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended by adding at the end the following:

''The Attorney General shall ensure that any officer or employee of the Immigration and Naturalization Service or the Department of State having need to access the data contained in the integrated entry and exit data system for any lawful purpose under the Immigration and Nationality Act has such access, including access for purposes of representation of the Service in removal proceedings under section 240 of such Act and adjudication of applications for benefits under such Act.''.

(e) WAIVER AVAILABLE.—If the President determines in writing, with respect to a fiscal or calendar year, that a waiver of one or more of the amendments made by this section is desirable and would not threaten the national security of the United States, the President may

waive the effectiveness of such amendment or amendments with respect to such year.

SEC. 302. COLLECTION OF INFORMATION REGARDING FOREIGN STUDENTS.

(a) COURSE OF STUDY.—Section 641(c)(1)(C) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)(1)(C)) is amended by inserting after ''including'' the following: ''each course of study the student has taken and is taking at the institution and''.

(b) IMPLEMENTATION OF PROGRAM TO COLLECT INFORMATION RELATING TO NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM PARTICIPANTS.—Section 641(d)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(d)(2)) is amended to read as follows:

''(2) EFFECT OF FAILURES.—

''(A) FAILURE TO IMPLEMENT PROGRAM.—During any period on or after January 1, 2003, if the program described in subsection (a) is not fully implemented in accordance with subsection (g), all approvals described in subparagraph (A) of paragraph (1), and all grants of authority described in subparagraph (B) of such paragraph, shall be revoked.

"(B) FAILURE TO PROVIDE INFORMATION.—During any period on or after January 1, 2003, if an approved institution of higher education or a designated exchange visitor program fails to provide the information described in subsection (c) through the program described in subsection (a), all approvals described in subparagraph (A) of paragraph (1), and all grants of authority described in subparagraph (B) of such paragraph, with respect to such institution or exchange visitor program shall be revoked.

SEC. 303. ALIEN REGISTRATION.

(a) IN GENERAL.—Section 262 (8 U.S.C. 1302) is amended to read as follows:

"REGISTRATION OF ALIENS IN THE UNITED STATES

"SEC. 262. (a) INITIAL REGISTRATION.—

"(1) IN GENERAL.—It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

"(2) MINORS.—It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

"(b) SUBSEQUENT REGISTRATIONS.—

"(1) PERMANENT RESIDENTS.—In addition to any other registration otherwise required under this Act or any other Act, each alien lawfully admitted for permanent residence shall annually register with the Attorney General, regardless of whether there has been any change in the alien's address. This requirement shall commence on the first anniversary of the date on which the alien acquired the status of an alien lawfully admitted for permanent residence that occurs after the enactment of the Securing America's Future through Enforcement Reform Act of 2002.

"(2) OTHER ALIENS.—In addition to any other registration otherwise required under this Act or any other Act, every alien in the United States, other than an alien described in paragraph (1), shall register with the Attorney General at the expiration of each 3-month period during which the alien remains in the United States, regardless of whether there has been any change in the alien's address. This requirement shall commence on the 60th day after the alien enters the United States.

"(3) MINORS.—In the case of an alien who is less than fourteen years of age, a parent or legal guardian of the alien may carry out this subsection on behalf of the alien.

"(c) CHANGE OF ADDRESS.—

"(1) IN GENERAL.—Each alien required to be registered under this title who is within the United States shall notify the Attorney General in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Attorney General may require by regulation.

"(2) CERTAIN FOREIGN STATES.—

"(A) IN GENERAL.—The Attorney General may, in the discretion of the Attorney General,

upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Attorney General of their current addresses and furnish such additional information as the Attorney General may require.

"(B) NOTICE FOR MINORS.—In the case of an alien for whom a parent or legal guardian is required to apply for registration, the notice required by this section shall be given to such parent or legal guardian.

"(3) MINORS.—In the case of an alien who is less than fourteen years of age, a parent or legal guardian of the alien may carry out this subsection on behalf of the alien.

"(d) EXCEPTION.—Subsections (b) and (c) shall not apply to an alien lawfully admitted for permanent residence, and the alien's spouse and children, if the alien is a member of the armed forces of the United States serving on active duty (as defined in section 101(d) of title 10, United States Code).

"(e) FORMS.—The Attorney General shall prepare forms for registrations and change of address notifications

required under this section. Such forms shall contain inquiries to obtain the following information:

"(1) Full name and aliases.

"(2) Current address.

"(3) Date of birth.

"(4) Visa category.

"(5) Date of entry into the United States.

"(6) Termination date of authorization to remain in the United Sates, if any.

"(7) Signature.

"(8) Biometric feature of the alien.

"(9) Any additional information that the Attorney General determines to be necessary.

"(f) INFORMATION TECHNOLOGY SYSTEM.—The Attorney General shall establish and operate an information technology system for the electronic collection, compilation, and maintenance of the information submitted under this section. Such system shall permit any alien address in the United States that has been registered with the Attorney General, and the date of such registration, to be accessed by any officer or employee of the Immigration and Naturalization Service having need for such access for any lawful purpose under the Immigration and Nationality Act.".

(b) REPEAL.—Section 265 (8 U.S.C. 1305) is repealed and the table of contents is amended by striking the item relating to such section.

(c) CONFORMING AMENDMENTS.—

(1) REMOVAL FOR FAILURE TO COMPLY.—Section 237(a)(3)(A) (8 U.S.C. 1227(a)(3)(A)) is amended by striking ''265'' and inserting ''262''.

(2) REGISTRATION OF SPECIAL GROUPS.—Section 263(b) (8 U.S.C. 1303(b)) is amended by inserting ''(excluding subsection (c) of such section)'' after ''262''.

(3) FORMS AND PROCEDURE.—Section 264(a) (8 U.S.C. 1304(a)) is amended by striking ''of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title.'' and inserting a period.

(4) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended by striking ''265'' each place such term appears and inserting ''262''.

(d) ATTORNEY GENERAL REPORT.—Not later than 3 years after the date of the enactment of this Act, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on the implementation of section 262 of the Immi-

gration and Nationality Act, as amended by this section, and the results of such implementation.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 304. VISA TERM COMPLIANCE BONDS.

(a) DEFINITIONS.—For purposes of this section:

(1) VISA TERM COMPLIANCE BOND.—The term ''visa term compliance bond'' means a written suretyship undertaking entered into by an alien individual seeking admission to the United States of America on a nonimmigrant visa whose performance is guaranteed by a bail agent.

(2) SURETYSHIP UNDERTAKING.—The term ''suretyship undertaking'' means a written agreement, executed by a bail agent, which binds all parties to its certain terms and conditions and which provides obligations for the visa applicant while under the bond and penalties for forfeiture to ensure the obligations of the principal under the agreement.

(3) BAIL AGENT.—The term ''bail agent'' means any individual properly licensed, approved, and appointed by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and who receives a premium.

(4) SURETY.—The term ''surety'' means an entity, as defined by, and that is in compliance with, sections 9304 through 9308 of title 31, United States Code, that agrees—

(A) to guarantee the performance, where appropriate, of the principal under a visa term compliance bond;

(B) to perform as required in the event of a forfeiture; and

(C) to pay over the principal (penal) sum of the bond for failure to perform.

(b) ISSUANCE OF BOND.—A consular officer may require an applicant for a nonimmigrant visa, as a condition for granting such application, to obtain a visa term compliance bond.

(c) VALIDITY, EXPIRATION, RENEWAL, AND CANCELLATION OF BONDS.—

(1) VALIDITY.—A visa term compliance bond undertaking is valid if it—

(A) states the full, correct, and proper name of the alien principal;

(B) states the amount of the bond;

(C) is guaranteed by a surety and countersigned by an attorney-in-fact who is properly appointed;

(D) is an original signed document;

(E) is filed with the Commissioner along with the original application for a visa; and

(F) is not executed by electronic means.

(2) EXPIRATION.—A visa term compliance bond undertaking shall expire at the earliest of—

(A) 1 year from the date of issue;

(B) at the expiration, cancellation, or surrender of the visa; or

(C) immediately upon nonpayment of the premium.

(3) RENEWAL.—The bond may be renewed—

(A) annually with payment of proper premium at the option of the bail agent or surety; and

(B) provided there has been no breech of conditions, default, claim, or forfeiture of the bond.

(4) CANCELLATION.—The bond shall be canceled and the surety and bail agent exonerated—

(A) for nonrenewal;

(B) if the surety or bail agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

(C) upon termination of the visa;

(D) upon death, incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

(E) if the principal is detained in any city, State, country, or political subdivision thereof;

(F) if the principal departs from the United States of America for any reason without permission of the Commissioner and the surety or bail agent; or

(G) if the principal is surrendered by the surety.

(5) EFFECT OF EXPIRATION OR CANCELLATION.—When a visa term compliance bond expires without being immediately renewed, or is canceled, the nonimmigrant status of the alien shall be revoked immediately.

(6) SURRENDER OF PRINCIPAL; FORFEITURE OF BOND PREMIUM.—

(A) SURRENDER.—At any time before a breach of any of the conditions of the bond, the surety or bail agent may surrender the principal, or the principal may surrender, to any Immigration and Naturalization Service office or facility.

(B) FORFEITURE OF BOND PREMIUM.—A principal may be surrendered without the return of any bond premium if the visa holder—

(i) changes address without notifying the surety or bail agent and the Attorney General in writing at least 60 days prior to such change;

(ii) changes schools, jobs, or occupations without written permission of the surety, bail agent, and the Attorney General;

(iii) conceals himself or herself;

(iv) fails to report to the Attorney General as required at least annually; or

(v) violates the contract with the bail agent or surety, commits any act that may lead to a breech of the bond, or otherwise violates any other obligation or condition of the visa established by the Attorney General.

(7) CERTIFIED COPY OF UNDERTAKING OR WARRANT TO ACCOMPANY SURRENDER.—

(A) IN GENERAL.—A person desiring to make a surrender of the visa holder—

(i) shall have the right to petition any Federal court for an arrest warrant for the arrest of the visa holder;

(ii) shall forthwith be provided a certified copy of the arrest warrant and the undertaking; and

(iii) shall have the right to pursue, apprehend, detain, and deliver the visa holder, together with the certified copy of the arrest warrant and the undertaking, to any official or facility of the Immigration and Naturalization Service or any detention facility authorized to hold Federal detainees.

(B) EFFECTS OF DELIVERY.—Upon delivery of a person under subparagraph (A)(iii)—

(i) the official to whom the delivery is made shall detain the visa holder in custody and issue a written certificate of surrender; and

(ii) the court issuing the warrant described in subparagraph (A)(i) and the Attorney General shall immediately exonerate the surety and bail agent from any further liability on the bond.

(8) FORM OF BOND.—A visa term compliance bond shall in all cases state the following and be secured by a surety:

"(A) BREECH OF BOND; PROCEDURE, FORFEITURE, NOTICE.—

"(i) If a visa holder violates any conditions of the visa or the visa bond the Attorney General shall—

"(I) order the visa canceled;

"(II) immediately obtain a warrant for the visa holder's arrest;

"(III) order the bail agent and surety to take the visa holder into custody and surrender the visa holder to the Attorney General; and

"(IV) mail notice to the bail agent and surety via certified mail return receipt at each of the addresses in the bond.

"(ii) A bail agent or surety shall have full and complete access to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police

agency thereof regarding the visa holder needed to comply with section 304 of the Securing America's Future through Enforcement Reform Act of 2002 that the court issuing the warrant believes is crucial in locating the visa holder.

"(iii) If the visa holder is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Attorney General shall—

"(I) order that the bail agent and surety are completely exonerated, and the bond canceled and terminated; and

"(II) if the Attorney General has issued an order under clause (i), the surety may request, by written, properly filed motion, reinstatement of the bond. This subclause may not be construed to prevent the Attorney General from revoking or resetting a higher bond.

"(iv) The bail agent or surety must—

"(I) produce the visa bond holder; or

"(II)(aa) prove within 180 days that producing the bond holder was prevented—

"(aaa) by the bond holder's illness or death;

"(bbb) because the bond holder is detained in custody in any city, State, country, or political subdivision thereof;

"(ccc) because the bond holder has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); or

"(ddd) because required notice was not given to the bail agent or surety; and

"(bb) prove within 180 days that the inability to produce the bond holder was not with the consent or connivance of the bail agent or sureties.

"(v) If the bail agent or surety does not comply with the terms of this bond within 60 days after the mailing of the notice required under subparagraph (A)(i)(IV), a portion of the face value of the bond shall be assessed as a penalty against the surety.

"(vi) If compliance occurs more than 60 days but no more than 90 days after the mailing of the notice, the amount assessed shall be one-third of the face value of the bond.

"(vii) If compliance occurs more than 90 days, but no more than 180 days, after the mailing of the notice, the amount assessed shall be two-thirds of the face value of the bond.

"(viii) If compliance does not occur within 180 days after the mailing of the notice, the amount assessed shall be 100 percent of the face value of the bond.

"(ix) All penalty fees shall be paid by the surety within 45 days after the end of such 180-day period.

"(B) The Attorney General may waive the penalty fees or extend the period for payment or both, if—

"(i) a written request is filed with the Attorney General; and

"(ii) the bail agent or surety provides evidence satisfactory to the Attorney General that diligent efforts were made to effect compliance of the visa holder.

"(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

"(i) COMPLIANCE.—The bail agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any visa holder, wherever he or she may be found, who violates any of the terms and conditions of the visa or bond.

"(ii) EXONERATION.—Upon satisfying any of the requirements of the bond, the surety shall be completely exonerated.

"(iii) LIMITATION OF LIABILITY.—The total liability on any undertaking shall not exceed the face amount of the bond.".

SEC. 305. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) IN GENERAL.—Section 236(a)(2) is amended to read as follows:

"(2) subject to section 241(a)(8), may release the alien on bond of at least $10,000, with security approved by, and containing conditions prescribed by, the Attorney General, but the Attorney General shall not release the alien on or to his own recognizance unless an order of an immigration judge expressly finds that the alien is not a flight risk and is not a threat to the United States; and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 306. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

(a) IN GENERAL.—Section 241(a) (8 U.S.C. 1231(a)) is amended by adding at the end the following:

"(8) EFFECT OF PRODUCTION OF ALIEN BY BONDSMAN.—Notwithstanding any other provision of law, the Attorney General shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond. The obligor on the bond shall be deemed to have substantially performed all

conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this act and shall apply to all immigration bonds posted before, on, or after the date of the enactment of this Act.

TITLE IV—REMOVING ALIEN TERRORISTS, CRIMINALS, AND HUMAN RIGHTS VIOLATORS

Subtitle A—Removing Alien Terrorists

SEC. 401. DEPORTABILITY OF ALIEN TERRORISTS.

(a) IN GENERAL.—Section 237(a)(4)(B) (8 U.S.C. 1227(a)(4)(B)) is amended to read as follows:

''(B) TERRORIST ACTIVITIES.—Any alien who would be considered inadmissible pursuant to section 212(a)(3)(B) is deportable.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to conduct occurring before, on, or after such date.

SEC. 402. ADMINISTRATIVE REMOVAL OF ALIEN TERRORISTS.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) in the section heading, by striking ''ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES'' and inserting ''CERTAIN ALIENS'';

(2) in the heading of subsection (a), by inserting ''INSTITUTIONAL'' before ''REMOVAL'';

(3) in subsection (a)(1), by striking ''241'' each place it appears and inserting ''237'';

(4) by amending the heading of subsection (b) to read as follows:

''(b) PROCEEDINGS FOR THE ADMINISTRATIVE REMOVAL OF ALIENS.—'';

(5) by amending subsection (b)(1) to read as follows:

''(1) The Attorney General may—

''(A) in the case of an alien described in paragraph (2), determine the deportability of such alien under section 237(a)(2)(A)(iii) (relating to conviction of an aggravated felony); or

''(B) in the case of an alien certified under paragraph (2)(C), determine the deportability of such alien under any provision of section 237,

and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.'';

(6) in subsection (b)(2)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) has been certified by the Attorney General, pursuant to paragraph (6), which certification is not reviewable except as provided in subsection (b)(7).'';

(7) by adding at the end of subsection (b) the following:

''(6) CERTIFICATION.—The Attorney General may certify an alien under this paragraph if the Attorney General has reasonable grounds to believe that the alien—

''(A) is described in section 212(a)(3)(A)(i), 212(a)(3)(A)(iii), 212(a)(3)(B), 237(a)(4)(A)(i), 237(a)(4)(A)(iii), or 237(a)(4)(B); or

''(B) is engaged in any other activity that endangers the national security of the United States.

"(7) NONDELEGATION.—The Attorney General may delegate the authority provided under paragraph (6) only to the Deputy Attorney General. The Deputy Attorney General may not delegate such authority.

"(8) JUDICIAL REVIEW.—Notwithstanding any other provision of law, judicial review of an order under paragraph (2)(C) shall be available only by a filing in the United States Court of Appeals for the District of Columbia.";

(8) by striking the first subsection (c) and inserting the following:

"(c) PRESUMPTION OF REMOVABILITY.—An alien convicted of an aggravated felony, or certified pursuant to section 238(b)(2)(C), shall be conclusively presumed to be removable from the United States."; and

(9) by redesignating the second subsection (c) (redesignated as such by section 671(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) as subsection (d).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens in removal proceedings on or after such date.

SEC. 403. ASYLUM PETITIONS BY MEMBERS OF TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (1) of section 208(b) (8 U.S.C. 1158(b)) is amended by adding at the end the following: ''In any case in which there may be more than one motive for persecution, the alien bears the burden of showing that such persecution was or would be inflicted solely on account of race, religion, nationality, membership in a particular social group, or political opinion.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to determinations pending on or after such date with respect to which a final administrative decision has not been rendered as of such date.

Subtitle B—Removing Alien Criminals

SEC. 411. DEFINITION OF CRIMINAL CONVICTION.

(a) IN GENERAL.—Subparagraph (B) of section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding at the end the following: ''Any conviction entered by a court shall remain valid for immigration purposes notwithstanding a vacation of that conviction, unless the conviction is vacated on direct appeal wherein the court determines that vacation is warranted on the merits, or on grounds relating to a violation of a fundamental statutory

or constitutional right in the underlying criminal proceedings.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to determinations pending on or after such date with respect to which a final administrative decision has not been rendered as of such date.

SEC. 412. REMOVING MURDERERS, RAPISTS, AND SEXUAL ABUSERS OF CHILDREN.

(a) REMOVING MURDERERS, RAPISTS, AND SEXUAL ABUSERS OF CHILDREN.—Subparagraph (A) of section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by inserting before the semicolon at the end the following: '', regardless of the term of imprisonment, and regardless of whether the offenses are deemed to be misdemeanors or felonies under State or Federal law,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered on or after such date.

SEC. 413. DETENTION AND RELEASE OF CRIMINAL ALIENS PENDING REMOVAL DECISION.

(a) ARREST AND DETENTION.—

(1) IN GENERAL.—Section 236(c)(1) (8 U.S.C. 1226(c)(1)) is amended—

(A) by striking the matter preceding subparagraph (A) and inserting the following:

''(1) ARREST AND DETENTION.—On a warrant issued by the Attorney General, an alien shall be arrested and detained pending a decision on whether the alien is to be removed from the United States if the Attorney General alleges that the alien—'';

(B) in subparagraph (D), by striking the comma at the end and inserting a period; and

(C) by striking the matter following subparagraph (D) and adding at the end the following:

''Nothing in this paragraph shall be construed as requiring the Attorney General to arrest or detain an alien who is sentenced to a term of imprisonment until the alien is released from imprisonment, but parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason for the Attorney General to defer arrest and detention under this paragraph.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after the date of the enactment of this Act

if those proceedings have not resulted in a final administrative order before such date.

(b) RELEASE.—

(1) IN GENERAL.—Section 236(c)(2) (8 U.S.C. 1226(c)(2)) is amended—

(A) by inserting after the first sentence the following:

''To satisfy this burden, the alien is required to present documentary evidence or witness testimony from a third party, where such evidence is reasonably available. No finder of fact may determine that such evidence is not reasonably available solely because the alien is detained.''; and

(B) by adding at the end the following:

''The Attorney General may release an alien under this paragraph only on bond of at least $5,000 with security approved by, and containing conditions prescribed by, the Attorney General.''.

(2) CONDITION ON RELEASE.—Section 236(a) (8 U.S.C. 1226(a)) is amended by adding at the end the following:

''In order to be released, the alien has the burden of proving that the alien is neither a danger to the community nor a flight risk. To satisfy this burden, the alien is required to present documentary evidence or witness testi-

mony from a third party, where such evidence is reasonably available. No finder of fact may determine that such evidence is not reasonably available solely because the alien is detained.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to releases occurring on or after the date of the enactment of this Act.

Subtitle C—Removing Alien Human Rights Violators

SEC. 421. SERIOUS HUMAN RIGHTS VIOLATOR DEFINED.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following:

''(51)(A) The term 'serious human rights violator' means any alien who—

''(i) ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

''(ii) while serving as a foreign government official, was responsible for, or directly carried out, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402));

''(iii) during an armed conflict, ordered, incited, assisted, or otherwise participated in a war crime (as

defined in section 2441(c) of title 18, United States Code);

''(iv) ordered, incited, assisted, otherwise participated in, attempted to commit, or conspired to commit conduct that would constitute genocide (as defined in section 1091(a) of title 18, United States Code), if the conduct were committed in the United States or by a United States national;

''(v) ordered, incited, assisted, or otherwise participated in any act of torture (as defined in the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, subject to any reservations, understandings, declarations, and provisos contained in the United States Senate resolution of ratification of the Convention); or

''(vi) committed, ordered, incited, assisted, otherwise participated in, or was responsible for any of the following acts, when undertaken in whole or in significant part for a political, religious, or discriminatory purpose:

''(I) Murder or other homicide.

''(II) Kidnapping.

''(III) Disappearance.

"(IV) Rape.

"(V) Torture or mutilation.

"(VI) Prolonged, arbitrary detention.

"(VII) Enslavement.

"(VIII) Forced prostitution, impregnation, sterilization, or abortion.

"(IX) Genocide.

"(X) Extermination.

"(XI) Recruitment of persons under the age of 15 for use in armed conflict.

"(B) Subparagraph (A) shall not apply to an alien who demonstrates by clear and convincing evidence that the conduct was committed under extreme duress. For purposes of the preceding sentence, 'extreme duress' means duress created by a threat of imminent death or rape of the alien, or a spouse, child, or parent of the alien.".

SEC. 422. DEPORTABILITY OF SERIOUS HUMAN RIGHTS VIOLATORS.

(a) IN GENERAL.—Section 237(a) (8 U.S.C. 1227(a)) is amended by adding at the end the following:

"(8) SERIOUS HUMAN RIGHTS VIOLATORS.—Any serious human rights violator is deportable.".

(b) CONFORMING AMENDMENT.—Section 237(a)(4)(D) (8 U.S.C. 1227(a)(4)(D)) is amended to read as follows:

"(D) ASSISTED IN NAZI PERSECUTION.—Any alien described in section 212(a)(3)(E) is deportable.".

SEC. 423. ARREST AND DETENTION OF SERIOUS HUMAN RIGHTS VIOLATORS PENDING REMOVAL AND CRIMINAL PROSECUTION DECISIONS.

(a) CUSTODY.—Section 236(c)(1)(D) (8 U.S.C. 1226(c)(1)(D)) is amended by striking "section 237(a)(4)(B)," and inserting "paragraph (4)(B) or (8) of section 237(a)".

(b) NOTICE TO CRIMINAL DIVISION.—Section 236(c) (8 U.S.C. 1226(c)) is amended by adding at the end the following:

"(3) NOTICE TO CRIMINAL DIVISION.—The Commissioner shall ensure that the Assistant Attorney General for the Criminal Division of the Department of Justice—

"(A) is notified when an alien is arrested and detained under paragraph (1) by reason of inadmissibility under section 212(a)(2)(G) or deportability under section 237(a)(8);

"(B) is provided the information that was the basis for the application of such paragraph; and

"(C) makes a determination whether the alien should be arrested and prosecuted in the United States for a criminal offense.

"(4) REPORTS.—Beginning 6 months after the date of the enactment of the Securing America's Future through Enforcement Reform Act of 2002, and every 12 months thereafter, the Attorney General shall submit to the Committees on the Judiciary of the United States House of Representatives and of the Senate a report containing the following:

"(A) The number of removal proceedings initiated against aliens under sections 212(a)(2)(G) and 237(a)(8) during the reporting period.

"(B) The number of removal proceedings under sections 212(a)(2)(G) and 237(a)(8) pending at the conclusion of the reporting period.

"(C) The number of aliens removed under sections 212(a)(2)(G) and 237(a)(8) during the reporting period.

"(D) The number of notifications under paragraph (3)(A) made during the reporting period.

"(E) The number of criminal prosecutions initiated during the reporting period based on information provided under paragraph (3).

"(F) The number of criminal prosecutions pending at the conclusion of the reporting period that were initiated based on information provided under paragraph (3).

"(G) The number of criminal prosecutions initiated based on information provided under paragraph (3) that resulted in a conviction during the reporting period.".

SEC. 424. EXCEPTION TO RESTRICTION ON REMOVAL FOR SERIOUS HUMAN RIGHTS VIOLATORS AND TERRORISTS.

Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in the matter preceding clause (i), by striking "section 237(a)(4)(D)" and inserting "subparagraph (B) or (D) of section 237(a)(4)"; and

(2) by amending clause (i) to read as follows:

"(i) the alien is a serious human rights violator;".

SEC. 425. INITIATION OF REMOVAL PROCEEDINGS AGAINST SERIOUS HUMAN RIGHTS VIOLATORS BY COMPLAINT.

Section 239 (8 U.S.C. 1229) is amended by adding at the end the following:

"(e) COMPLAINTS RESPECTING SERIOUS HUMAN RIGHTS VIOLATORS.—

"(1) ESTABLISHMENT OF PROCESS.—The Attorney General shall establish a process for the receipt, investigation, and disposition of complaints alleging that an alien present in the United States is a serious human rights violator and identifying that alien.

"(2) PERSONS ENTITLED TO FILE COMPLAINTS.—Any individual may file a complaint under paragraph (1).

"(3) FORM AND CONTENT OF COMPLAINT.—A complaint under paragraph (1) shall be in the form of a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, and shall contain such information as the Attorney General may require. Complaints shall be filed with an office designated for that purpose by the Attorney General.

"(4) NOTICE SERVED ON SUBJECT OF COMPLAINT.—The Attorney General shall serve notice,

by certified mail and within 14 days of the filing of a complaint under paragraph (1), on each alien identified in the complaint as a serious human rights violator. The alien shall answer the complaint within 10 days of receiving it.

"(5) INVESTIGATION AND ACTION.—The Attorney General shall conduct an investigation of each complaint that satisfies the requirements of this subsection. Not later than 180 days after the date of filing of such a complaint, the Attorney General, with respect to each alien identified in the complaint as a serious human rights violator—

"(A) shall initiate removal proceedings against the alien; or

"(B) shall issue to the complainant a written determination that, in the opinion of the Attorney General, the alien is not a serious human rights violator.

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to limit the discretion of consular officers under section 291 to determine eligibility for a visa or document required for entry or to limit the discretion of any immigration officer otherwise to initiate removal proceedings under this Act.".

SEC. 426. BARS TO REFUGEE STATUS AND ASYLUM FOR SERIOUS HUMAN RIGHTS VIOLATORS.

(a) REFUGEE DEFINED.—Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by striking the second sentence and inserting ''The term 'refugee' does not include any person who is a serious human rights violator as defined in section 101(a)(51)(A).''.

(b) NO WAIVER OF GROUND OF INADMISSIBILITY FOR REFUGE SEEKERS.—Section 207(c)(3) (8 U.S.C. 1157(c)(3)) is amended by inserting ''or (2)(G)'' after ''(2)(C)''.

(c) EXCEPTIONS TO GRANTING ASYLUM.—Section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)) is amended to read as follows:

> ''(i) the alien is a serious human rights violator;''.

(d) EXTENSION TO SPOUSES AND CHILDREN OF EXCEPTIONS TO GRANTING ASYLUM.—Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended by striking ''such alien.'' and inserting ''such alien, unless the Attorney General determines that one of the exceptions in clauses (i) through (v) of paragraph (2)(A) applies to the spouse or child.''.

SEC. 427. BAR TO ADJUSTMENT OF STATUS FOR SERIOUS HUMAN RIGHTS VIOLATORS.

Section 209(c) (8 U.S.C. 1159(c)) is amended by inserting ''or (2)(G)'' after ''(2)(C)''.

SEC. 428. BAR TO FINDING OF GOOD MORAL CHARACTER FOR SERIOUS HUMAN RIGHTS VIOLATORS.

Section 101(f) (8 U.S.C. 1101(f)) is amended by inserting after paragraph (1) the following:

''(2) a serious human rights violator;''.

SEC. 429. BAR TO CANCELLATION OF REMOVAL FOR SERIOUS HUMAN RIGHTS VIOLATORS.

Section 240A(c)(4) (8 U.S.C. 2339b(c)(4)) is amended—

(1) by striking ''section 212(a)(3)'' and inserting ''paragraph (2)(G) or (3) of section 212(a)''; and

(2) by striking ''section 237(a)(4).'' and inserting ''paragraph (4) or (8) of section 237(a).''.

SEC. 430. BAR TO ADJUSTMENT OF STATUS WITH RESPECT TO CERTAIN SPECIAL IMMIGRANTS.

Section 245(h)(2)(B) (8 U.S.C. 1255(h)(2)(B)) is amended by inserting ''(2)(G),'' before ''(3)(A)''.

SEC. 431. CRIMINAL PENALTIES FOR REENTRY OF REMOVED SERIOUS HUMAN RIGHTS VIOLATORS.

Section 276(b) (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (3), by striking ''sentence. or'' and inserting ''sentence;'';

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (4) the following:

''(5) who was removed from the United States pursuant to section 212(a)(2)(G) or 237(a)(8), and who thereafter, without the permission of the Attorney General, enters, attempts to enter, or is at any time found in, the United States shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.''.

SEC. 432. AIDING OR ASSISTING SERIOUS HUMAN RIGHTS VIOLATORS TO ENTER THE UNITED STATES.

Section 277 (8 U.S.C. 1327) is amended by striking ''felony)'' and inserting ''felony or is a serious human rights violator)''.

SEC. 433. REVISION OF REGULATIONS WITH RESPECT TO THE INVOLUNTARY RETURN OF PERSONS IN DANGER OF SUBJECTION TO TORTURE.

(a) REGULATIONS.—

(1) REVISION DEADLINE.—Not later than 120 days after the date of the enactment of this Act, the Attorney General shall revise the regulations pre-

scribed by the Attorney General to implement the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) EXCLUSION OF CERTAIN ALIENS.—The revision shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) (as amended by section 424 of this Act), including rendering such aliens ineligible for withholding or deferral of removal under the Convention.

(3) BURDEN OF PROOF.—The revision shall also ensure that the burden of proof is on the applicant for withholding or deferral of removal under the Convention to establish by clear and convincing evidence that he or she would be tortured if removed to the proposed country of removal.

(b) JUDICIAL REVIEW.—Notwithstanding any other provision of law, no court shall have jurisdiction to review the regulations adopted to implement this section, and nothing in this section shall be construed as providing any court jurisdiction to consider or review claims raised under the Convention or this section, except as part of the review

of a final order of removal pursuant to section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

SEC. 434. EFFECTIVE DATE.

This subtitle, and the amendments made by this subtitle, shall take effect on the date of the enactment of this Act and shall apply to violations occurring before, on, or after such date.

TITLE V—ENHANCING ENFORCEMENT OF THE IMMIGRATION AND NATIONALITY ACT IN THE INTERIOR

Subtitle A—Document Security

SEC. 501. BIRTH CERTIFICATES.

Subsection (a) of section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is amended to read as follows:

"(a) BIRTH CERTIFICATES.—

"(1) LIMITATION ON ACCEPTANCE.—(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a birth certificate, as defined in paragraph (5), unless it is issued by a State or local authorized custodian of record and it

conforms to standards described in subparagraph (B).

"(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Federal agency designated by the President, after consultation with such other Federal agencies as the President shall designate and with State vital statistics offices, and shall—

"(i) include but not be limited to—

"(I) certification by the agency issuing the birth certificate; and

"(II) use of safety paper, the seal of the issuing agency, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, for fraudulent purposes;

"(ii) not require a single design to which the official birth certificate copies issued by each State must conform; and

"(iii) accommodate the differences between the States in the manner and form in which birth records are stored and in how birth certificate copies are produced from such records.

"(2) LIMITATION ON ISSUANCE.—(A) If one or more of the conditions described in subparagraph

(B) is present, no State or local government agency may issue an official copy of a birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

"(B) The conditions described in this subparagraph include—

"(i) the presence on the original birth certificate of a notation that the individual is deceased, or

"(ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

"(3) GRANTS TO STATES.—(A)(i) The Secretary of Health and Human Services, in consultation with other agencies designated by the President, shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the pre-

ceding sentence, States shall focus first on persons who were born after 1950.

"(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to develop such capability.

"(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

"(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraphs (A) and (B).

"(4) REPORT.—(A) Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social

security account number or a State or Federal document related to identification or immigration.

"(B) Not later than one year after the date of enactment of this Act, the agency designated by the President in paragraph (1)(B) shall submit a report setting forth, and explaining, the regulations described in such paragraph.

"(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary for the preparation of the report described in subparagraph (A).

"(5) CERTIFICATE OF BIRTH.—As used in this section, the term 'birth certificate' means a certificate of birth of—

"(A) a person born in the United States, or

"(B) a person born abroad who is a citizen or national of the United States at birth, whose birth is registered in the United States.

"(6) EFFECTIVE DATES.—

"(A) Except as otherwise provided in subparagraph (B) and in paragraph (4), this subsection shall take effect two years after the enactment of the Securing America's Future through Enforcement Reform Act of 2002.

"(B) Paragraph (1)(A) shall take effect two years after the submission of the report described in paragraph (4)(B).".

SEC. 502. DRIVERS LICENSES.

Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 is amended by inserting after subsection (a) the following:

"(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

"(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

"(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

"(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

"(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

"(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

"(iv) SPECIAL EXPIRATION DATE.—If a driver's license is issued to an alien who is in lawful status but who is not an alien lawfully admitted for permanent residence, the period of validity of the license must expire on the date on which the alien's authorization to remain in the United States expires.

"(B) EXCEPTION.—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

"(i) does not require the license or document to contain a social security account number; and

"(ii) requires—

"(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

"(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

"(C) DEADLINE.—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of the Securing America's Future through Enforcement Reform Act of 2002.

"(2) GRANTS TO STATES.—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

"(3) EFFECTIVE DATES.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of the Securing America's Future through Enforcement Reform Act of 2002.

"(B) PROHIBITION ON FEDERAL AGENCIES.—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2006, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.".

SEC. 503. SOCIAL SECURITY CARDS.

(a) IMPROVEMENTS TO CARD.—

(1) In general.—For purposes of carrying out section 274A of the Immigration and Nationality Act, the Commissioner of Social Security (in this

section referred to as the ''Commissioner'') shall make such improvements to the physical design, technical specifications, and materials of the social security account number card as are necessary to ensure that it is a genuine official document and that it offers the best possible security against counterfeiting, forgery, alteration, and misuse.

(2) PERFORMANCE STANDARDS.—In making the improvements required in paragraph (1), the Commissioner shall—

(A) make the card as secure against counterfeiting as the 100 dollar Federal Reserve note, with a rate of counterfeit detection comparable to the 100 dollar Federal Reserve note; and

(B) make the card as secure against fraudulent use as a United States passport.

(3) DEFINITION.—In this section, the term ''secured social security account number card'' means a social security account number card issued in accordance with the requirements of this paragraph.

(4) EFFECTIVE DATE.—All social security account number cards issued after January 1, 2005, whether new or replacement, shall be secured social security account number cards.

(b) USE FOR EMPLOYMENT VERIFICATION.—Beginning on January 1, 2009, a document described in section 274A(b)(1)(C) of the Immigration and Nationality Act is a secured social security account number card (other than such a card which specifies on the face that the issuance of the card does not authorize employment in the United States).

(c) NOT A NATIONAL IDENTIFICATION CARD.—Cards issued pursuant to this section shall not be required to be carried upon one's person, and nothing in this section shall be construed as authorizing the establishment of a national identification card.

(d) EDUCATION CAMPAIGN.—The Commissioner of Immigration and Naturalization, in consultation with the Commissioner of Social Security, shall conduct a comprehensive campaign to educate employers about the security features of the secured social security card and how to detect counterfeit or fraudulently used social security account number cards.

(e) ANNUAL REPORTS.—The Commissioner of Social Security shall submit to Congress by July 1 of each year a report on—

(1) the progress and status of developing a secured social security account number card under this section;

(2) the incidence of counterfeit production and fraudulent use of social security account number cards; and

(3) the steps being taken to detect and prevent such counterfeiting and fraud.

(f) GAO ANNUAL AUDITS.—The Comptroller General shall perform an annual audit, the results of which are to be presented to the Congress by January 1 of each of the 5 years following the date of the enactment of the Securing America's Future through Enforcement Reform Act of 2002, on the performance of the Social Security Administration in meeting the requirements in paragraph (1).

(g) EXPENSES.—No costs incurred in developing and issuing cards under this section that are above the costs that would have been incurred for cards issued in the absence of this section shall be paid for out of any trust fund established under the Social Security Act. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Employment Eligibility Verification

SEC. 511. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

Section 274A(b) (8 U.S.C. 1324a(b)) is amended by adding at the end the following:

"(7) EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—

"(A) IN GENERAL.—The Attorney General shall establish a verification system through which the Attorney General (or a designee of the Attorney General, which may be a non-governmental entity)—

"(i) responds to inquiries made by persons at any time through a toll-free telephone line or other toll-free electronic media concerning an individual's identity and whether the individual is authorized to be employed; and

"(ii) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

To the extent practicable, the Attorney General shall seek to establish such a system using one or more nongovernmental entities.

"(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual's identity and employment eligibility within 3 working days of the initial inquiry. If providing verification or tentative nonverification, the verification system shall provide an appropriate code indicating such verification or such nonverification.

"(C) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONVERIFICATION.—In cases of tentative nonverification, the Attorney General shall specify, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, an available secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 10 working days after the date of the tentative nonverification. When final verification or nonverification is provided, the verification system shall provide an appropriate

code indicating such verification or nonverification.

"(D) DESIGN AND OPERATION OF SYSTEM.—The verification system shall be designed and operated—

(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

(ii) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;

(iii) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(iv) to have reasonable safeguards against the system's resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

(I) the selective or unauthorized use of the system to verify eligibility;

(II) the use of the system prior to an offer of employment; or

(III) the exclusion of certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants.

"(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the verification system, the Commissioner of Social Security, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and social security account number provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided regarding an individual whose identity and employment eligibility must be confirmed, the correspondence of the name and number, and whether the individual has presented a social security account number that is not valid for employment. The

Commissioner shall not disclose or release social security information (other than such verification or nonverification).

"(F) RESPONSIBILITIES OF THE COMMISSIONER OF IMMIGRATION AND NATURALIZATION.—As part of the verification system, the Commissioner of Immigration and Naturalization, in consultation with the entity responsible for administration of the system, shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification or authorization number which are provided in an inquiry against such information maintained by the Commissioner in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

"(G) UPDATING INFORMATION.—The Commissioners of Social Security and Immigration and Naturalization shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information,

including instances in which it is brought to their attention in the secondary verification process described in subparagraph (C).

"(H) LIMITATION ON USE OF THE VERIFICATION SYSTEM AND ANY RELATED SYSTEMS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, nothing in this paragraph shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under this paragraph for any other purpose other than as provided for.

(ii) NO NATIONAL IDENTIFICATION CARD.—Nothing in this paragraph shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

(I) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual

may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this subparagraph.

(J) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility verification mechanism established under this paragraph.''.

SEC. 512. EMPLOYMENT ELIGIBILITY VERIFICATION PROCESS.

Section 274A (8 U.S.C. 1324a) is amended—

(1) in subsection (a)(3), by inserting ''(A)'' after ''DEFENSE.—'', and by adding at the end the following:

''(B) FAILURE TO SEEK AND OBTAIN VERIFICATION.—In the case of a hiring of an individual for employment in the United States by a person or entity, the following requirements apply:

''(i) FAILURE TO SEEK VERIFICATION.—

''(I) IN GENERAL.—If the person or entity has not made an inquiry, under the

mechanism established under subsection (b)(7), seeking verification of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

"(II) SPECIAL RULE FOR FAILURE OF VERIFICATION MECHANISM.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification mechanism registers no nonresponses and qualify for such defense.

"(ii) FAILURE TO OBTAIN VERIFICATION.—If the person or entity has made the inquiry described in clause (i)(I) but has not received an appropriate verification of such identity, number, and work eligibility under such mechanism within the time period specified under subsection (b)(7)(B) after the time the verification inquiry was received, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after the end of such time period.";

(2) by amending subsection (b)(1)(A) to read as follows:

"(A) IN GENERAL.—The person or entity must attest, under penalty of 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—

"(i) obtaining from the individual the individual's social security account number and recording the number on the form (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under paragraph (2), obtaining such iden-

tification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General may specify, and recording such number on the form; and

"(ii)(I) examining a document described in subparagraph (B); or (II) examining a document described in subparagraph (C) and a document described in subparagraph (D).

A person or entity has complied with the requirement of this paragraph with respect to examination of a document if the document reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and, if the document bears an expiration date, that expiration date has not elapsed. If an individual provides a document (or combination of documents) that reasonably appears on its face to be genuine, reasonably appears to pertain to the individual whose identity and work eligibility is being verified, and is sufficient to meet the first sentence of this paragraph, nothing in this paragraph shall be con-

strued as requiring the person or entity to solicit the production of any other document or as requiring the individual to produce another document.'';

(3) in subsection (b)(1)(D)—

(A) in clause (i), by striking ''or such other personal identification information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this section''; and

(B) in clause (ii), by inserting before the period ''and that contains a photograph of the individual'';

(4) in subsection (b)(2), by adding at the end the following: ''The individual must also provide that individual's social security account number (if the individual claims to have been issued such a number), and, if the individual does not attest to United States citizenship under this paragraph, such identification or authorization number established by the Immigration and Naturalization Service for the alien as the Attorney General may specify.'';

(5) by amending subsection (b)(3) to read as follows:

"(3) RETENTION OF VERIFICATION FORM AND VERIFICATION.—

"(A) IN GENERAL.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

"(i) retain the form and make it available for inspection by officers of the Service, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

"(I) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral; and

"(II) in the case of the hiring of an individual, the later of—

"(aa) three years after the date of such hiring; or

"(bb) one year after the date the individual's employment is terminated; and

"(B) make an inquiry, as provided in paragraph (7), using the verification system to seek verification of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Attorney General) after the date of the hiring (or recruitment or referral, as the case may be).

"(B) VERIFICATION.—

"(i) VERIFICATION RECEIVED.—If the person or other entity receives an appropriate verification of an individual's identity and work eligibility under the verification system within the time period specified, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a final verification of such identity and work eligibility of the individual.

"(ii) TENTATIVE NONVERIFICATION RECEIVED.—If the person or other entity receives a tentative nonverification of an individual's identity or work eligibility under the verification system within the time period specified, the person or entity

shall so inform the individual for whom the verification is sought. If the individual does not contest the nonverification within the time period specified, the nonverification shall be considered final. The person or entity shall then record on the form an appropriate code which has been provided under the system to indicate a tentative nonverification. If the individual does contest the nonverification, the individual shall utilize the process for secondary verification provided under paragraph (7). The nonverification will remain tentative until a final verification or nonverification is provided by the verification system within the time period specified. In no case shall an employer terminate employment of an individual because of a failure of the individual to have identity and work eligibility confirmed under this section until a nonverification becomes final. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

"(iii) FINAL VERIFICATION OR NONVERIFICATION RECEIVED.—If a final verification or nonverification is provided by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a verification or nonverification of identity and work eligibility of the individual.

"(iv) EXTENSION OF TIME.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry,

and does not have to provide any additional proof concerning such inquiry.

"(v) CONSEQUENCES OF NONVERIFICATION.—

"(I) TERMINATION OR NOTIFICATION OF CONTINUED EMPLOYMENT.—If the person or other entity has received a final nonverification regarding an individual, the person or entity may terminate employment (or recruitment or referral) of the individual. If the person or entity does not terminate employment (or recruitment or referral) of the individual, the person or entity shall notify the Attorney General of such fact through the verification system or in such other manner as the Attorney General may specify.

"(II) FAILURE TO NOTIFY.—If the person or entity fails to provide notice with respect to an individual as required under subclause (I), the failure is deemed to constitute a violation of subsection (a)(1)(B) with respect to

that individual and the applicable civil monetary penalty under subsection (e)(5) shall be (notwithstanding the amounts specified in such section) not less than $1,000 and not more than $20,000 for each individual with respect to whom such violation occurred.

''(vi) CONTINUED EMPLOYMENT AFTER FINAL NONVERIFICATION.—If the person or other entity continues to employ (or to recruit or refer) an individual after receiving final nonverification, a rebuttable presumption is created that the person or entity has violated subsection (a)(1)(A). The previous sentence shall not apply in any prosecution under subsection (f)(1).''.

SEC. 513. EFFECTIVE DATE.

This subtitle shall take effect 2 years after the date of the enactment of this Act.

Subtitle C—Miscellaneous

SEC. 521. INCREASED INVESTIGATIVE PERSONNEL.

(a) BRINGING IN AND HARBORING CERTAIN ALIENS; UNLAWFUL EMPLOYMENT OF ALIENS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds

as may be necessary to enable the Commissioner of Immigration and Naturalization to increase, above the number specified in section 101(a)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173), the number of investigators and support personnel to investigate potential violations of sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324 and 1324a), other than alien smuggling, by a number equivalent to—

(A) 250 full-time active-duty investigators in each of fiscal years 2003 through 2006; and

(B) 100 full-time active-duty investigators in each of fiscal years 2007 through 2010.

(2) ALLOCATION.—At least one-half of the investigators hired with funds made available under paragraph (1) shall be assigned to investigate potential violations of section 274A of the Immigration and Nationality Act.

(b) VISA OVERSTAYS.—There are authorized to be appropriated such funds as may be necessary to enable the Commissioner of Immigration and Naturalization to increase, above the number specified in section 101(a)(2) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173), the number of investi-

gator and support personnel to investigate aliens who remain in the United States beyond the period of stay authorized under their visa by a number equivalent to—

(1) 250 full-time active-duty investigators in each of fiscal years 2003 through 2006; and

(2) 100 full-time active-duty investigators in each of fiscal years 2007 through 2010.

SEC. 522. EXPEDITED EXCLUSION.

Section 235(b)(1)(A) (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

"(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United

States without further hearing or review, unless—

"(I) the alien has been charged with a crime; or

"(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the officer determines that the alien has been physically present in the United States for less than 1 year.

"(ii) CLAIMS FOR ASYLUM.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien

for an interview by an asylum officer under subparagraph (B) if the officer determines that the alien has been physically present in the United States for less than 1 year.''.

SEC. 523. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.

(a) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—Section 245(c) (8 U.S.C. 1255(c)) is amended by striking ''(other than an immediate relative as defined in section 201(b) or a special immigrant described in section 101(a)(27)(H), (I), (J), or (K))''.

(b) INAPPLICABILITY OF CERTAIN PROVISIONS FOR CERTAIN IMMIGRANTS.—Section 245(k) (8 U.S.C. 1255(k)) is amended to read as follows:

''(k) INAPPLICABILITY OF CERTAIN PROVISIONS FOR CERTAIN IMMIGRANTS.—An alien who is eligible to receive an immigrant visa under paragraph (1), (2), or (3) of section 203(b), as an immediate relative as defined in section 201(b), or, in the case of an alien who is an immigrant described in subparagraph (C), (H), (I), (J), or (K) of section 101(a)(27), under section 203(b)(4), may adjust status pursuant to subsection (a) and notwithstanding paragraphs (2), (7), and (8) of subsection (c), if—

''(1) the alien, on the date of filing an application for adjustment of status, is present in the United States pursuant to a lawful admission; and

"(2) the alien, subsequent to such lawful admission has not, for an aggregate period exceeding 180 days—

"(A) failed to maintain continuously a lawful status;

"(B) engaged in unauthorized employment; or

"(C) otherwise violated the terms and conditions of the alien's admission.".

SEC. 524. TERMINATION OF CONTINUOUS PRESENCE FOR PURPOSES OF CANCELLATION OF REMOVAL UPON COMMISSION OF OFFENSE RENDERING ALIEN INADMISSIBLE OR DEPORTABLE.

(a) IN GENERAL.—Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amended by striking "referred to in section 212(a)(2)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after the date of the enactment of this Act if those proceedings have not resulted in a final administrative order before such date.

SEC. 525. REENTRY OF REMOVED ALIENS.

(a) IN GENERAL.—Section 276(a) (8 U.S.C. 1326(a)) is amended to read as follows:

"SEC. 276. (a) Subject to subsection (b), any alien shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both, who—

"(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and

"(2) thereafter enters, attempts to enter, or is at any time found in, the United States,

unless, in the case of an alien previously denied admission and removed, the alien establishes that the alien was not required to obtain from the Attorney General advance consent to reapply for admission under this Act or any prior Act.".

(b) CRIMINAL PENALTIES FOR REENTRY OF CERTAIN REMOVED ALIENS.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

(1) in paragraph (3), by striking "sentence." and inserting "sentence;"; and

(2) in paragraph (4), by striking "(unless the Attorney General has expressly consented to such alien's reentry)".

(c) REENTRY OF ALIENS REMOVED PRIOR TO COMPLETION OF IMPRISONMENT.—Section 276(c) (8 U.S.C. 1326(c)) is amended—

(1) by inserting ''(as in effect prior to the effective date of the amendments made by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), or removed under section 241(a)(4),'' after ''242(h)(2)'';

(2) by striking ''(unless the Attorney General has expressly consented to such alien's reentry)'';

(3) by inserting ''or removal'' after ''time of deportation''; and

(4) by inserting ''or removed'' after ''reentry of deported''.

(d) CHALLENGE TO VALIDITY OF ORDER.—Section 276(d) (8 U.S.C. 1326(d)) is amended—

(1) in the matter preceding paragraph (1), by striking ''deportation order'' and inserting ''deportation or removal order''; and

(2) in paragraph (2), by inserting ''or removal'' after ''deportation''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to criminal proceedings involving aliens who enter, attempt to enter, or are found in the United States, after such date.

SEC. 526. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS AT IMPROPER TIME OR PLACE, AVOIDANCE OF EXAMINATION OR INSPECTION, UNLAWFUL PRESENCE, AND MISREPRESENTATION OR CONCEALMENT OF FACTS.

Section 275 (8 U.S.C. 1325) is amended to read as follows:

"CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS AT IMPROPER TIME OR PLACE, AVOIDANCE OF EXAMINATION OR INSPECTION, UNLAWFUL PRESENCE, AND MISREPRESENTATION OR CONCEALMENT OF FACTS

"SEC. 275. (a) ENTRY AT IMPROPER TIME OR PLACE; AVOIDANCE OF EXAMINATION OR INSPECTION; UNLAWFUL PRESENCE; MISREPRESENTATION OR CONCEALMENT OF FACTS.—Any alien who—

"(1) enters or attempts to enter the United States at any time or place other than as designated by immigration officers;

"(2) eludes examination or inspection by immigration officers;

"(3) is knowingly unlawfully present in the United States for an aggregate period of more than 180 days; or

"(4) attempts to enter or obtains entry to the United States by a willfully false or misleading rep-

resentation or the willful concealment of a material fact,

shall, for the first commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

"(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

"(1) at least $100 and not more than $10,000 for each such entry (or attempted entry); or

"(2) three times the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.

"(c) MARRIAGE FRAUD.—An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be fined not

more than $1,000,000, imprisoned not more than 15 years, or both.

"(d) IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—Any individual who knowingly established a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under title 18, United States Code, or imprisoned not more than 15 years, or both.".

SEC. 527. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.

Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended by adding at the end the following:

"(d) ENFORCEMENT.—

"(1) INELIGIBILITY FOR FEDERAL LAW ENFORCEMENT AID.—Upon a determination that any person, or any Federal, State, or local government agency or entity, is in violation of subsection (a) or (b), the Attorney General shall not provide to that person, agency, or entity any grant amount pursuant to any law enforcement grant program carried out by any element of the Department of Justice, including the program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 241(i)), and

shall ensure that no such grant amounts are provided, directly or indirectly, to such person, agency, or entity. In the case of grant amounts that otherwise would be provided to such person, agency, or entity pursuant to a formula, such amounts shall be reallocated among eligible recipients.

"(2) VIOLATIONS BY GOVERNMENT OFFICIALS.—In any case in which a Federal, State, or local government official is in violation of subsection (a) or (b), the government agency or entity that employs (or, at the time of the violation, employed) the official shall be subject to the sanction under paragraph (1).

"(3) DURATION.—The sanction under paragraph (1) shall remain in effect until the Attorney General determines that the person, agency, or entity has ceased violating subsections (a) and (b).".

SEC. 528. EXCEPTION TO REMOVAL FOR CERTAIN ALIENS.

(a)(1) Section 214(o) (8 U.S.C. 1184(o)) (as redesignated by section 204 of this Act) is amended by adding at the end the following new paragraph:

"(4) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is a substantial reason to believe that the alien voluntarily came to the United States, except that if the alien is or

has been a victim of a severe form of trafficking in the form of sex trafficking, the alien shall be eligible for admission under such section unless the alien knew or reasonably should have known when coming to the United States that the alien would be expected to perform commercial sex acts.''.

(2) Section 245(l) (8 U.S.C. 1255(l)), as added by section 107(f) of Public Law 106–386, is amended—

(A) in paragraph (1)(C)(i), by striking ''or'' at the end and inserting ''and'';

(B) by redesignating—

(i) paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) the second paragraph (2) as paragraph (3);

(C) in paragraph (2)(B), by striking ''(3), (10)(C), and (10(E)), if the activities rendering the alien inadmissible under the provision were caused by, or were incident to,'' and inserting ''(2), (3), (8), (9)(A), (10)(C), (10)(D), and (10)(E)), if the activities rendering the alien inadmissible under the provision were caused by''; and

(D) by amending paragraph (5) (as so redesignated) to read as follows:

"(5) Upon the approval of adjustment of status under paragraph (1), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current, unless the number of remaining visas authorized to be issued under section 203(b)(4) for such year is zero, in which case such reductions shall not be made.".

(b)(1) Section 101(a)(15)(U)(iii) (8 U.S.C. 1101(a)(15)(U)(iii)) is amended to read as follows:

"(iii) the criminal activity referred to in this clause is that involving 1 or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; incest; domestic violence, sexual assault; abusive sexual contact; sexual exploitation; female genital mutilation; or attempt or conspiracy to commit any of the above mentioned crimes; or".

(2) Section 204(a)(1)(C) (8 U.S.C. 1154(a)(1)(C)) is amended by inserting "directly" before "connected".

(3) Section 214(p)(1) (8 U.S.C. 1184(p)(1)) (as redesignated by section 204 of this Act) is amended by striking "This certification may also be provided by an official of the Service whose ability to provide such certification

is not limited to information concerning immigration violations.''.

(4) Section 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H)) is amended—

(A) by striking clause (ii);

(B) in clause (i), by striking ''(I)''; and

(C) by redesignating subclause (II) as clause (ii).

(5) Section 240A (8 U.S.C. 1229b) is amended—

(A) in subsection (b)(2)(A)(ii), by striking '', and the issuance of a charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States'';

(B) by amending subsection (b)(2)(A)(iv) to read as follows:

''(iv) the alien is not inadmissible under paragraph (2), (3), (8), (9)(A), (10)(C), (10)(D), or (10)(E) of section 212(a), is not deportable under paragraph (1)(E), (1)(G), or (2) through (4) of section 237(a) (except in a case described in section 237(a)(7) where the Attorney General exercises discretion to grant a waiver), and has not been convicted of an aggravated felony; and''; and

(C) in subsection (b)(2)(B)—

(i) by inserting ''direct'' before ''connection between the absence'';

(ii) by inserting ''directly'' before ''connected to the battering or extreme''; and

(iii) in the third sentence, by inserting ''battery or cruelty-related'' before ''absences or portions of the absences'';

(iv) in subsection (b)(2)(C), by inserting ''directly'' before ''connected'';

(v) in subsection (b)(4)(A), by striking ''shall'' and inserting ''may''; and

(vi) in subsection (d)(1), by striking ''except in the case of an alien who applies for cancellation of removal under subsection (b)(2),''.

(6) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (l) that was added by section 1513(f) of Public Law 106–386 as subsection (m) and in such redesignated subsection—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''section 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence'' and inserting ''(2), (3), (8), (9)(A), (10)(C), (10)(D), or (10)(E) of section

212(a), unless the Attorney General determines''; (ii) by striking ''and'' at the end of subparagraph (A); (iii) by striking subparagraph (B) and inserting the following:

''(B) the alien has, throughout such period, been a person of good moral character; and

''(C) in the opinion of the Attorney General, the alien or the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence, would suffer extreme hardship.'';

(B) in paragraph (2), by striking ''or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified''; and

(C) by amending paragraph (4) to read as follows:

''(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Attorney General shall record the alien's lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal

year then current, unless the number of remaining visas authorized to be issued under section 203(b)(4) for such year is zero, in which case such reductions shall not be made.''.

SEC. 529. DETENTION FACILITIES.

(a) INCREASING NUMBER OF DETENTION BEDS.—Subject to the availability of appropriations, the Attorney General shall provide for a doubling in the detention beds of the Immigration and Naturalization Service over the number existing on the date of the enactment of this Act by the end of fiscal year 2004.

(b) PLACES OF DETENTION FOR ALIENS ARRESTED PENDING EXAMINATION AND DECISION ON REMOVAL.—Section 241(g) (8 U.S.C. 1231(g)) is amended by adding at the end the following:

''(3) POLICY ON DETENTION IN STATE AND LOCAL DETENTION FACILITIES.—In carrying out paragraph (1), the Attorney General shall ensure that an alien arrested under section 287(a) may be detained, pending the alien's being taken for the examination described in such section, in a State or local prison, jail, detention center, or other comparable facility, if—

"(A) such facility is the most suitably located Federal, State, or local facility available for such purpose under the circumstances;

"(B) an appropriate arrangement for such use of the facility can be made; and

"(C) such facility satisfies the standards for the housing, care, and security of persons held in custody of a United States marshal.".

SEC. 530. VOLUNTARY DEPARTURE.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended to read as follows:

"VOLUNTARY DEPARTURE

"SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of being subject to proceedings under section 240 and in lieu of applying for another form of relief from removal, if the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a). Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 90 days and cannot be extended. The Attorney General shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon

proof that the alien has departed the United States within the time specified.

"(b) PRIOR TO SCHEDULING MERITS HEARING.—The Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection prior to the scheduling of the first merits hearing, in lieu of applying for another form of relief from removal, if the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a). Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days and cannot be extended. The Attorney General shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

"(c) ONCE FIRST MERITS HEARING SCHEDULED.—

"(1) IN GENERAL.—Once the first merits hearing has been scheduled under section 240, the Attorney General may permit an alien voluntarily to depart the United States at the alien's own expense under this subsection, in lieu of pursuing another form of relief from removal, if the immigration judge

enters an order granting voluntary departure in lieu of removal and finds that—

"(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

"(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien's application for voluntary departure;

"(C) the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a); and

"(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

"(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 30 days and cannot be extended.

"(3) BOND.—The Attorney General shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien

has departed the United States within the time specified.

"(d) ALIENS NOT ELIGIBLE.—The Attorney General shall not permit an alien to depart voluntarily under this section if the alien was previously permitted to depart voluntarily under section 244(e) or this section, or to voluntarily return, at any time.

"(e) THREE-YEAR PILOT PROGRAM WAIVER.—

"(1) IN GENERAL.—During the period October 1, 2000, through September 30, 2003, and subject to paragraphs (2) and (3)(B), the Attorney General may, in the discretion of the Attorney General for humanitarian purposes, waive the time limitations applicable under subsection (a), (b), or (c) in the case of an alien—

"(A) who was admitted to the United States as a nonimmigrant visitor (described in section 101(a)(15)(B)) under the provisions of the visa waiver program established pursuant to section 217, seeks the waiver for the purpose of continuing to receive medical treatment in the United States from a physician associated with a health care facility, and submits to the Attorney General—

"(i) a detailed diagnosis statement from the physician, which includes the treatment being sought and the expected time period the alien will be required to remain in the United States;

"(ii) a statement from the health care facility containing an assurance that the alien's treatment is not being paid through any Federal or State public health assistance, that the alien's account has no outstanding balance, and that such facility will notify the Service when the alien is released or treatment is terminated; and

"(iii) evidence of financial ability to support the alien's day-to-day expenses while in the United States (including the expenses of any family member described in subparagraph (B)) and evidence that any such alien or family member is not receiving any form of public assistance; or

"(B) who—

"(i) is a spouse, parent, brother, sister, son, daughter, or other family member of a principal alien described in subparagraph (A); and

"(ii) entered the United States accompanying, and with the same status as, such principal alien.

"(2) WAIVER LIMITATIONS.—

"(A) REQUEST.—Waivers under this subsection may be granted only upon a request submitted by a Service district office to Service headquarters.

"(B) NUMBER.—Not more than 300 waivers may be granted for any fiscal year for a principal alien under paragraph (1)(A).

"(C) ACCOMPANYING PERSONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), in the case of each principal alien described in paragraph (1)(A) not more than one adult may be granted a waiver under paragraph (1)(B).

"(ii) EXCEPTION.—Not more than two adults may be granted a waiver under paragraph (1)(B) in a case in which—

"(I) the principal alien described in paragraph (1)(A) is a dependent under the age of 18; or

"(II) one such adult is age 55 or older or is physically handicapped.

"(3) REPORT TO CONGRESS; SUSPENSION OF WAIVER AUTHORITY.—

"(A) ANNUAL REPORT.—Not later than March 30 of each year, the Commissioner shall submit to the Congress an annual report regarding all waivers granted under this subsection during the preceding fiscal year.

"(B) SUSPENSION.—Notwithstanding any other provision of law, the authority of the Attorney General under this subsection shall be suspended during any period in which an annual report under subparagraph (A) is past due and has not been submitted.

"(4) APPLICABILITY.—This subsection shall not apply to any alien who enters the United States after the date that is 180 days after the date of the enactment of the Securing America's Future through Enforcement Reform Act of 2002.

"(f) CIVIL PENALTY FOR FAILURE TO DEPART.—If an alien is permitted to depart voluntarily under this section and fails voluntarily to depart the United States within the time period specified, the alien shall be subject to a civil penalty of not less than $1,000 and not more than $5,000, and be ineligible for a period of 10 years for any further relief under this section and sections 240A, 245,

248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(g) ADDITIONAL CONDITIONS.—The Attorney General may by regulation limit eligibility for voluntary departure under this section for any class or classes of aliens. No court may review any regulation issued under this subsection.

''(h) TREATMENT OF ALIENS ARRIVING IN THE UNITED STATES.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien's arrival, subsections (a) through (c) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

''(i) REVIEW.—There shall be no administrative or judicial review of a denial of a request for an order of voluntary departure. No court or agency shall order a stay of an alien's removal pending consideration of any claim with respect to voluntary departure. The order permitting the alien to depart voluntarily shall inform the alien that the alien has no right to appeal any issue relating to the removal proceeding.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after such date if those proceedings have not resulted in a final administrative order before such date.

TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY AND ABUSIVE TACTICS BY ALIENS IN REMOVAL PROCEEDINGS

SEC. 601. FRIVOLOUS APPLICATIONS.

(a) IN GENERAL.—Paragraph (6) of section 208(d) (8 U.S.C. 1158(d)) is amended by adding at the end the following new sentence: ''As used in this section, the term 'frivolous application' means an application that lacks a reasonably arguable basis either in law or in fact. If an alien withdraws an application for asylum and pursues another benefit or form of relief under this Act, the alien shall bear the burden of proving by clear and convincing evidence, in the adjudication respecting such other benefit or form of relief, that such asylum application was not a frivolous application. If the alien fails to carry such burden, the alien shall be permanently ineligible for any benefit under this Act.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for asylum pending on or after such date if the application has not resulted in a final administrative order before such date.

SEC. 602. CONTINUANCES; CHANGE OF VENUE.

(a) IN GENERAL.—Section 240(b)(1) (8 U.S.C. 1229a(b)(1)) is amended by adding at the end the following:

> ''The immigration judge may not grant a continuance to permit an alien to become eligible for relief under any provision of law. In proceedings under this section or under section 236, the immigration judge may not grant a change of venue for an alien who has not been inspected and admitted or paroled into the United States. For all other aliens, the immigration judge may grant a change of venue only if the alien demonstrates that the alien cannot obtain a fair proceeding in the current venue.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to continuances and changes of venue sought after such date.

SEC. 603. BURDEN OF PROOF IN ASYLUM PROCEEDINGS.

(a) IN GENERAL.—Section 208(b)(1) (8 U.S.C. 1158(b)(1)) is amended—

(1) by striking ''(1) IN GENERAL.—The Attorney General'' and inserting the following:

''(1) IF ALIEN IS A REFUGEE.—

''(A) IN GENERAL.—The Attorney General''; and

(2) by adding at the end the following:

''(B) BURDEN OF PROOF.—The burden of proof is on the applicant for asylum to establish that he or she is a refugee within the meaning of section 101(a)(42). The testimony of the applicant, if credible, may be sufficient to sustain such burden without corroboration. Where it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of an alien's claim for asylum, such evidence must be provided unless a reasonable explanation is given as to why such information is not presented.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for asylum pending on or after such date if the application has not resulted in a final administrative order before such date.

SEC. 604. REVIEW OF CONVENTION AGAINST TORTURE GRANTS AND DENIALS.

(a) IN GENERAL.—Section 241(b) (8 U.S.C. 1231(b)) is amended by adding at the end the following new paragraph:

"(4) ELIMINATION OF REVIEW.—A determination as to whether the removal of an alien to any country should be withheld or deferred under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment shall be made by the Service District Director in the district in which the alien resides or is being detained. Authority to make this determination shall not be delegated below the level of Assistant District Director. There shall be no administrative or judicial review of a determination of the District Director under this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications pending on or after such date if the application has not resulted in a final administrative order before such date.

SEC. 605. TIME LIMIT FOR DECISIONS IN ADMINISTRATIVE APPEALS.

(a) IN GENERAL.—Chapter 9 of title II of the Act is amended by inserting after section 294 the following new section:

''RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

''SEC. 295. (a) DEADLINE.—A decision in any administrative appeal from a decision of an immigration judge shall be issued not later than 180 days after the appeal is filed. If the appeal is not decided before such deadline, the decision of the immigration judge shall be final, unless the Attorney General certifies the decision for review.

(b) STANDARD OF REVIEW.—In any administrative appeal from a decision of an immigration judge, such judge's determinations of factual issues, including findings as to the credibility of testimony, shall be accepted unless they are clearly erroneous.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 294 the following:

''Sec. 295. Rules for decisions in administrative appeals.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to decisions appealed on or after such date.

SEC. 606. REVIEW OF ASYLUM CLAIMS.

(a) JUDICIAL REVIEW.—

(1) IN GENERAL.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review any decision of the Attorney General under this section.''.

(2) CONFORMING AMENDMENTS.—Section 242 (8 U.S.C 1252) is amended—

(A) in subsection (a)(2)(B)(i), by inserting ''208,'' before ''212(h),'';

(B) in subsection (a)(2)(B)(ii), by striking ''General,'' and all that follows through the period at the end and inserting ''General.''; and

(C) in subsection (b)(4)—

(i) in subparagraph (B), by adding ''and'' at the end;

(ii) in subparagraph (C), by striking '', and'' at the end and inserting a period; and

(iii) by striking subparagraph (D).

(b) LIMITATION ON ASYLUM OFFICE.—Section 208(d) (8 U.S.C. 1158(d)) is amended by adding at the end the following:

''(8) OTHER PROCEDURAL MATTERS.—

"(A) DETERMINATION OF LAWFUL STATUS.—

"(i) IN GENERAL.—In the case of an alien who is physically present in the United States and who has applied to the Service for asylum, the Service shall determine whether the alien is inadmissible or deportable before the Service prepares to schedule the applicant for an asylum interview. If the Service determines that the alien is not inadmissible or deportable, the Service shall adjudicate the asylum application and render a decision granting or denying asylum. If the Service determines that the alien is inadmissible or deportable before the Service prepares to schedule an interview, the Service shall place the alien in removal proceedings without adjudicating the asylum application. The alien may then pursue such application in such proceedings.

"(ii) REVIEW OF SERVICE DETERMINATIONS.—If an alien's asylum application has been denied by the Service, in any administrative or judicial appeal from such

denial, the Service's determinations of factual issues, including findings as to the credibility of testimony, shall be accepted into evidence.

"(B) RECORDING OF INTERVIEWS.—The Service shall record asylum interviews and include any such recording in the applicant's file and record of proceedings.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to decisions rendered on or after such date.

SEC. 607. JUDICIAL REVIEW.

(a) ORDERS AGAINST CRIMINAL ALIENS.—Subparagraph (C) of section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) by striking "no court shall have jurisdiction" and inserting "including section 2241 of title 28, United States Code, no court shall have jurisdiction, except as provided in this section,"; and

(2) by adding at the end the following: "Such review shall be limited to constitutional challenges or statutory claims involving pure issues of law,".

(b) VENUE FOR REVIEW OF ORDERS OF REMOVAL.—Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended by

striking "with the court of appeals for the judicial circuit in which the immigration judge completed the proceedings." and inserting "with the United States Court of Appeals for the District of Columbia Circuit.".

(c) FEDERAL CIRCUIT COURT APPEALS.—

(1) IN GENERAL.—Title I of the Act is amended by inserting after section 105 the following:

"RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

"SEC. 106. Notwithstanding any other provision of law, the final order of a district court of the United States in any proceeding under this Act, or under any other immigration law of the United States, shall be subject to review, on appeal, by the United States Court of Appeals for the District of Columbia Circuit. There shall be no right of appeal in such proceedings to any other circuit court of appeals. The law applied by the Supreme Court, and the United States Court of Appeals for the District of Columbia Circuit, shall be regarded as the rule of decision in any proceeding under this Act.".

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 105 the following:

"Sec. 106. Federal circuit court appeals.".

TITLE VII—VERIFICATION OF CITIZENSHIP OF VOTERS IN FEDERAL ELECTIONS

SEC. 701. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Attorney General, in consultation with the Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service, shall establish a Citizenship Verification Program (hereafter in this title referred to as the ''Program'') under which they shall respond to citizenship verification inquiries made by the chief election official of any State to verify the United States citizenship of an individual applying to register to vote, or registered to vote, in elections for Federal office in the State.

(b) INFORMATION REQUIRED TO BE PROVIDED BY ELECTION OFFICIALS.—

(1) IN GENERAL.—In order to make an inquiry through the Program with respect to an individual, an election official shall provide the name, date of birth, and social security account number of the individual.

(2) AUTHORITY TO USE SOCIAL SECURITY ACCOUNT NUMBERS.—The chief election official of a State shall, for the purpose of making inquiries under the Program, use the social security account

numbers issued by the Commissioner of Social Security, and shall, for such purpose, require any individual who is or appears to be affected by a voter registration law of such State (or political subdivision thereof) to furnish to such official the social security account number (or numbers, if the individual has more than one such number) issued to the individual by the Commissioner.

(c) FEATURES OF PROGRAM.—

(1) IN GENERAL.—The Program shall be designed and operated—

(A) to respond to an inquiry concerning citizenship only in a case where determining whether an individual is a citizen of the United States is necessary for determining whether the individual is eligible to vote in an election for Federal office;

(B) in a manner that is uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.);

(C) to maximize its reliability and ease of use, consistent with insulating and protecting the privacy and security of the underlying information;

(D) to permit inquiries to be made to the program through a toll-free telephone line or other toll-free electronic media;

(E) to respond to all inquiries made by authorized persons;

(F) with appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information, including violations of the requirements of section 205(c)(2)(C)(viii) of the Social Security Act; and

(G) to have reasonable safeguards against the Program's resulting in unlawful discriminatory practices based on national origin, including the selective or unauthorized use of the program.

(2) USE OF EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.—To the extent practicable, in establishing the verification system used under the Program, the Attorney General, in consultation with the Commissioner of Social Security, shall use the employment eligibility verification system established under section 274A(b)(7) of the Immigration and Nationality Act, as added by section 511 of this Act.

SEC. 702. RESPONSES TO INQUIRIES.

(a) IN GENERAL.—The Program shall provide for a verification or a nonverification of an individual's United States citizenship by the Commissioner of Social Security or the Commissioner of the Immigration and Naturalization Service as soon as practicable after an initial inquiry to the Attorney General.

(b) NOTICE TO INDIVIDUAL OF NONVERIFICATION.—If the chief election official of a State receives a notice under subsection (a) of nonverification of an individual's United States citizenship, the official shall provide the individual with a written notice of such nonverification, and shall include in the notice a description of the individual's right to use the process provided under section 704(c) for the prompt correction of erroneous information in the Program.

(c) REJECTION OF APPLICATION.—If the chief election official of a State receives a notice under subsection (a) of nonverification of the United States citizenship of an individual who is an applicant for voter registration in the State, the official shall reject the application (subject to the right to reapply), but only if each of the following conditions has been satisfied:

(1) The 30-day period beginning on the date notice of nonverification was mailed or otherwise

provided to the individual pursuant to subsection (b) has elapsed.

(2) During such 30-day period, the official did not receive adequate verification of the individual's United States citizenship from the Program, pursuant to a new inquiry to the Program made by the official upon receipt of information (from the individual or through any other reliable source) that erroneous or incomplete material information previously in the Program has been updated, supplemented, or corrected.

(d) REMOVAL OF INELIGIBLE REGISTRANTS.—

(1) IN GENERAL.—If the chief election official of a State receives a notice under subsection (a) of nonverification of the United States citizenship of an individual who is registered to vote in elections for Federal office in the State, the official shall remove the name of the individual from the official list of eligible voters for elections for Federal office in the State (subject to the right to submit another voter registration application), but only if each of the following conditions has been satisfied:

(A) The 30-day period beginning on the date notice of nonverification was mailed or

otherwise provided to the individual pursuant to subsection (b) has elapsed.

(B) During such 30-day period, the official did not receive adequate verification of the citizenship of the individual under subsection (c)(2).

(2) CONFORMING AMENDMENT.—Section 8(a)(3) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–6(a)(3)) is amended—

(A) by striking ''; or'' at the end of subparagraph (B) and inserting a comma;

(B) by striking the semicolon at the end of subparagraph (C) and inserting '', or''; and

(C) by adding at the end the following new subparagraph:

''(D) in accordance with the citizenship verification program established and operated under title VII of the Securing America's Future through Enforcement Reform Act of 2002;''.

SEC. 703. REQUIRING VERIFICATION OF CITIZENSHIP OF REGISTERED VOTERS AND APPLICANTS.

(a) REQUIRING INQUIRIES TO BE MADE UNDER PROGRAM FOR REGISTRANTS.—

(1) IN GENERAL.—Not later than June 1, 2003, the chief election official of each State shall submit a citizenship verification inquiry through the Program with respect to each individual who is registered to vote in elections for Federal office in the State as of such date.

(2) REMOVAL OF REGISTRANTS WITHOUT VERIFIED CITIZENSHIP.—In accordance with the procedures described in section 702(d), the chief election official of each State shall remove from the list of individuals eligible to vote in elections for Federal office in the State any individual who is the subject of an inquiry under paragraph (1) whose United States citizenship is not verified under the Program.

(b) REQUIRING INQUIRIES TO BE MADE UNDER PROGRAM FOR NEW APPLICANTS FOR VOTER REGISTRATION.—

(1) IN GENERAL.—The chief election official of each State shall submit a citizenship verification inquiry through the Program with respect to each individual who, on or after the date on which the official submits inquiries under subsection (a), applies to register to vote in elections for Federal office in the State.

(2) PROHIBITING REGISTRATION OF INDIVIDUALS WITHOUT VERIFIED CITIZENSHIP.—The chief election official of a State may not accept a voter registration application submitted by an individual whose United States citizenship is not verified under the Program.

(3) SPECIAL RULE FOR STATES PERMITTING INDIVIDUALS TO REGISTER ON OR NEAR DATE OF ELECTION.—In the case of a State which, under law in effect continuously on and after January 1, 2003, permits an individual to register to vote in an election for Federal office fewer than 60 days before the date of the election (including at the polling place at the time of voting in the election), the following rules shall apply with respect to such individual's application for registration:

(A) Notwithstanding paragraph (2), the individual shall be permitted to register to vote and vote in the election (if the individual is otherwise eligible to register to vote and vote under applicable State law).

(B) On the day after the date of the election, the chief State election official shall submit a citizenship verification inquiry with respect to the individual through the Program.

The official may not submit the inquiry with respect to the individual prior to such date.

(C) An election official at the polling place shall transfer the ballot cast by the individual to an appropriate State or local election official to be set aside until the individual's citizenship can be verified under the Program.

(D) As soon as practicable after receiving the inquiry, the program shall provide the chief election official of the State with verification or nonverification of the individual's United States citizenship.

(E) Upon verification of the individual's United States citizenship through the program (including verification resulting from the individual's correction of erroneous information pursuant to section 704(c)), the State shall accept the individual's voter registration application and the individual's vote shall be tabulated.

(c) REQUIRING NEW APPLICANTS REGISTERING TO VOTE TO PROVIDE INFORMATION.—

(1) REGISTRATION WITH APPLICATION FOR DRIVER'S LICENSE.—

(A) IN GENERAL.—Section 5(c)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–3(c)(2)) is amended—

(i) by striking ''and'' at the end of subparagraph (D);

(ii) by striking the period at the end of subparagraph (E) and inserting ''; and''; and

(iii) by adding at the end the following new subparagraph:

''(F) shall require the applicant to provide the applicant's Social Security number.''.

(B) CONFORMING AMENDMENT.—Section 5(c)(2)(A) of such Act (42 U.S.C. 1973gg–3(c)(2)(A)) is amended by inserting after ''subparagraph (C)'' the following: '', or the information described in subparagraph (F)''.

(2) MAIL REGISTRATION.—Section 9(b)(1) of such Act (42 U.S.C. 1973gg–7(b)(1)) is amended by striking ''may require only such identifying information'' and inserting the following: ''shall require the applicant to provide the applicant's Social Security number, and may require only such additional identifying information''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to applicants registering to vote in elections for Federal office after the expiration of the 90-day period which begins on the date of the enactment of this Act.

SEC. 704. RESPONSIBILITIES OF FEDERAL OFFICIALS.

(a) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—As part of the Program, the Commissioner of Social Security shall establish a reliable, secure method which compares the name, date of birth, and social security account number provided in an inquiry against such information maintained by the Commissioner, in order to verify (or not verify) the correspondence of the name, date of birth, and number provided and whether the individual is shown as a citizen of the United States on the records maintained by the Commissioner (including whether such records show that the individual was born in the United States). The Commissioner shall not disclose or release social security information (other than such verification or nonverification).

(b) RESPONSIBILITIES OF THE COMMISSIONER OF THE IMMIGRATION AND NATURALIZATION SERVICE.—As part of the Program, the Commissioner of the Immigration and Naturalization Service shall establish a reliable, secure method which compares the name and date of birth

which are provided in an inquiry against information maintained by the Commissioner in order to verify (or not verify) the validity of the information provided, the correspondence of the name and date of birth, and whether the individual is a citizen of the United States.

(c) UPDATING INFORMATION.—The Commissioner of Social Security and the Commissioner of the Immigration and Naturalization Service shall each update the information maintained under the Program in a manner that promotes the maximum accuracy of the Program and shall each provide a process for the prompt correction of erroneous information, including instances in which the Commission is made aware of erroneous information under the Program as a result of any action taken by an individual upon receipt of a written notice of nonverification under section 702(b).

SEC. 705. LIMITATION ON USE OF THE PROGRAM AND ANY RELATED SYSTEMS.

(a) IN GENERAL.—Notwithstanding any other provision of law, nothing in this subtitle shall be construed to permit or allow any department, bureau, or other agency of the United States Government to utilize any information, data base, or other records assembled under the Program for any other purpose other than as provided for under this subtitle.

(b) NO NATIONAL IDENTIFICATION CARD.—Nothing in this subtitle shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards or the establishment of a national identification card.

SEC. 706. ENFORCEMENT.

(a) CIVIL ACTION BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this title.

(b) PRIVATE RIGHT OF ACTION.—(1) A person who is aggrieved by a violation of this title may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official

of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) ATTORNEY'S FEES.—In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney's fees, including litigation expenses, and costs.

(d) CRIMINAL PENALTIES.—A person, including an election official, who knowingly and willfully deprives, defrauds, or attempts to deprive or defraud any individual who is a citizen of the United States of the right to register to vote through the operation of the Program or through any other action taken pursuant to this title shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

(e) RELATION TO OTHER LAWS.—(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this title shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this title authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC. 707. CHIEF ELECTION OFFICIAL DEFINED.

In this title, the term ''chief election official'' means, with respect to a State, the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg–8) to be responsible for coordination of the State's responsibilities under such Act.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of Justice, the Immigration and Naturalization Service, and the Social Security Administration for fiscal year and each succeeding fiscal year such sums as may be necessary to carry out the provisions of this title.

TITLE VIII—REFORMING LEGAL IMMIGRATION

Subtitle A—Promotion of Citizenship

SEC. 801. OFFICE OF CITIZENSHIP ESTABLISHED; CHANGES IN NATURALIZATION REQUIREMENTS.

(a) OFFICE OF CITIZENSHIP.—There is established in the Immigration and Naturalization Service an office to be known as the ''Office of Citizenship''. The head of such office shall be the Chief of the Office of Citizenship. The Chief shall be responsible for—

(1) promoting instruction and training on citizenship responsibilities for aliens interested in be-

coming naturalized citizens of the United States, including the development of educational materials;

(2) furthering efforts by such aliens to acquire, in order to be eligible for naturalization—

(A) an understanding of the English language;

(B) a knowledge and understanding of the fundamentals of the history, and the principles and form of government, of the United States;

(C) an understanding of, and attachment to, the principles of the Constitution of the United States; and

(D) an understanding of the oath of allegiance required under section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a));

(3) communicating and coordinating with the heads of other Federal agencies and programs involved with civic education and the promotion of civic interests, such as the English as a Second Language civics program at the Department of Education; and

(4) promoting, through conferences, training materials, and other materials, the familiarity of aliens seeking to naturalize with the political and

civic privileges and responsibilities of United States citizens.

(b) STUDY OF NATURALIZATION EXAMINATION.—

(1) IN GENERAL.—The Chief of the Office of Citizenship shall conduct a study of the scope and nature of the examination of applicants for naturalization. The study shall analyze the value of the questions on the exam, and recommend questions that ought to be eliminated and new questions that ought to be included. The study shall recommend new questions to be included that gauge an applicant's understanding of the principles in the oath of allegiance required under section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a)).

(2) CIVICS COURSE.—The study shall also analyze and make recommendations as to whether applicants for naturalization ought to be required to complete a course in civic education.

(3) REPORT.—Not later than 6 months after his or her appointment, the Chief of the Office of Citizenship shall submit a report to the Congress containing the results of the study conducted under this subsection. The report shall also contain a proposed revised examination to be administered to applicants for naturalization that reflects the rec-

ommendations developed through the study. In developing the proposed examination, the Chief of the Office of Citizenship shall consult with interested groups specializing in immigration issues, civics organizations, patriotic associations, and veterans' groups.

(c) REQUIRING APPLICANTS FOR NATURALIZATION TO UNDERSTAND OATH.—

(1) REQUIREMENTS FOR NATURALIZATION.—Section 312(a) (8 U.S.C. 1423(a)) is amended—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) an understanding of the oath of allegiance required under section 337(a).''.

(2) EXAMINATION.—Section 332(a) (8 U.S.C. 1443(a)) is amended by inserting before ''ability'' the following: ''understanding of the oath of allegiance required under section 337(a),''.

(c) CONTENTS OF CERTIFICATE OF NATURALIZATION.—Section 338 (8 U.S.C. 1449) is amended by inserting before ''and the seal'' the following: ''the oath of allegiance required under section 337(a); a statement that the

applicant recognizes the privileges and responsibilities of citizenship;''.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

SEC. 811. TREATMENT OF NATIONALS OF STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—

(1) AMENDMENT.—Chapter 9 of title II, as amended by section 265 of this Act, is further amended by inserting after section 295 the following new section:

''TREATMENT OF NATIONALS OF STATE SPONSORS OF TERRORISM

''SEC. 296. (a) IN GENERAL.—No nonimmigrant or immigrant visa may be issued, or nonimmigrant or immigrant status otherwise provided, other than a visa or status described in section 101(a)(15)(A), to any alien who is a national of, or residing in, a country that is determined to be a state sponsor of terrorism, or that was subject to such a determination on September 11, 2001.

''(b) STATE SPONSOR OF TERRORISM DEFINED.—

''(1) IN GENERAL.—In this section, the term 'state sponsor of terrorism' means any country, other than Cuba, the government of which has been determined by the Secretary of State under any of

the laws specified in paragraph (2) to have repeatedly provided support for acts of terrorism.

"(2) LAWS UNDER WHICH DETERMINATIONS WERE MADE.—The laws specified in this paragraph are the following:

"(A) Section 6(j)(1)(A) of the Export Administration Act of 1979 (or successor statute).

"(B) Section 40(d) of the Arms Export Control Act.

"(C) Section 620A(a) of the Foreign Assistance Act of 1961.".

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 295 the following:

"Sec. 296. Treatment of nationals of state sponsors of terrorism.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall apply to visas issued, or status provided, on and after such date.

(b) APPLICATION TO ADMITTED NONIMMIGRANTS.—

(1) IN GENERAL.—In the case of a nonimmigrant alien lawfully admitted into the United States who would have been ineligible to be granted such nonimmigrant status if the amendments made by subsection (a) had been in effect on the date on

which such status was granted, notwithstanding any other provision of law, the period of authorized admission as such a nonimmigrant shall terminate 60 days after the date of the enactment of this Act, unless the nonimmigrant is the beneficiary (including a spouse or child of a principal alien, if eligible to receive a visa under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d)) of—

(A) a petition for classification under section 204 of such Act (8 U.S.C. 1154) that was filed with the Attorney General on or before the date of the enactment of this Act; or

(B) an application for a labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed pursuant to the regulations of the Secretary of Labor on or before such date.

(2) DEPARTURE OF PETITION BENEFICIARIES.—In the case of a nonimmigrant who is the beneficiary of a petition or application described in subparagraph (A) or (B) of paragraph (1), the period of authorized admission as such a nonimmigrant shall terminate on, and the alien shall be required to depart the United States before, the earlier of—

(A) the date that is 60 days after the date on which—

(i) such petition or application is finally denied; or

(ii) the nonimmigrant's application for adjustment of status is finally denied; or

(B) the date on which such nonimmigrant status terminates, unless such termination is pursuant to an adjustment to the status of an alien lawfully admitted for permanent residence.

(c) REPEAL.—Section 306 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is repealed.

Subtitle C—Legal Immigration Reform

SEC. 821. EXTENDED FAMILY PREFERENCE CATEGORIES.

(a) IN GENERAL.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence shall be subject to the worldwide level specified in section 201(c) for family-sponsored immigrants, and shall be allocated visas in a number not to exceed such level.".

(b) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

(1) by striking ''480,000'' and inserting ''87,934''; and

(2) by striking ''226,000'' and inserting ''87,934''.

(c) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 (8 U.S.C. 1152) is amended—

(1) in subsection (a)(4), by striking subparagraph (A) and inserting the following:

''(A) 75 PERCENT NOT SUBJECT TO PER COUNTRY LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal year, 75 percent shall be issued without regard to the numerical limitation under paragraph (2).''; and

(2) in subsection (e)—

(A) in paragraph (1), by adding ''and'' at the end;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(d) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (a)(1)(A)(i), by striking ''paragraph (1), (3), or (4) of''; and

(2) in subsection (a)(1)(B), by striking ''203(a)(2)'' and ''203(a)(2)(A)'' each place such terms appear and inserting ''203(a)'';

(3) in subsection (a)(1)(D)(i)—

(A) in subclause (I), by striking ''a petitioner for preference status under paragraph (1), (2), or (3)'' and all that follows through the period at the end and inserting ''to be an individual under 21 years of age for purposes of adjudicating such petition, and for purposes of admission as an immediate relative under section 201(b)(2)(A)(i), notwithstanding the actual age of the individual.''; and

(B) in subclause (III), by striking ''paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable,'' and inserting ''section 203(a), and under 21 years of age (notwithstanding the actual age of the individual),''.

(4) in subsection (f), by striking ''201(b), 203(a)(1), or 203(a)(3), as appropriate.'' and inserting ''201(b).''.

(e) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) (8 U.S.C. 1227(a)(1)(E)(ii)) is amended by striking "203(a)(2)" and inserting "203(a)".

(f) CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGHTERS.—Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C)) is amended by striking "203(a)(2)" and inserting "203(a)".

(g) EFFECTIVE DATE.—The amendments made this section shall take effect on October 1, 2002.

SEC. 822. EMPLOYMENT THIRD PREFERENCE CATEGORY.

(a) IN GENERAL.—Paragraph (3) of section 203(b) (8 U.S.C. 1153(b)) is amended to read as follows:

"(3) SKILLED WORKERS AND PROFESSIONALS.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 28.6 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2), to the following classes of aliens who are not described in paragraph (2):

"(i) SKILLED WORKERS.—Qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (re-

quiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(ii) PROFESSIONALS.—Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

"(B) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of labor pursuant to the provisions of section 212(a)(5)(A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2002.

SEC. 823. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting "and" at the end of paragraph (1);

(B) by striking "; and" at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—Section 203 (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking ''(a), (b), or (c),'' and inserting ''(a) or (b),'';

(3) in subsection (e), by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''; and

(5) in subsection (g), by striking ''(a), (b), and (c)'' and inserting ''(a) and (b)''.

(c) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking ''(a), (b), or (c)'' and inserting ''(a) or (b)''.

(c) EFFECTIVE DATE.—The amendments made this section shall take effect on October 1, 2002.

SEC. 824. REFUGEE ADMISSIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

''(a)(1) Except as provided in paragraph (2) and subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be such number

as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

"(2)(A) Except as provided in subparagraphs (B) and (C), the number determined under paragraph (1) for a fiscal year may not exceed the number of United Nations High Commissioner for Refugees-referred refugees who were resettled in a country other than the United States (excluding any internally resettled person) in the second preceding calendar year.

"(B) The number determined under paragraph (1) for a fiscal year may exceed the limit specified in subparagraph (A) by the number of refugees admitted pursuant to section 599D(b)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (8 U.S.C. 1157 note).

"(C) The number determined under paragraph (1) for a fiscal year may exceed the limit specified in subparagraph (A) if the Congress enacts a law providing for a higher number.".

(b) EMERGENCY REFUGEE SITUATIONS.—Section 207(b) (8 U.S.C. 1157(b)) is amended by striking "the President may fix" and inserting "the President may, if the Congress enacts a law providing such authority, fix".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2002.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. TEMPORARY PROTECTED STATUS.

(a) IN GENERAL.—Section 244 (8 U.S.C. 1254a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3)(D);

(B) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) by moving the text of subparagraph (A) up and to the right so that it follows immediately after the paragraph heading; and

(iii) by striking ''(A)'';

(C) in paragraph (5), by striking ''to deny temporary protected status to an alien based on the alien's immigration status or'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by adding ''or'' at the end

(ii) in subparagraph (B)—

(I) in clause (i), by striking ''disruption of living conditions'' and inserting ''physical destruction of homes and businesses'';

(II) by amending clause (ii) to read as follows:

''(ii) the foreign state is unable, temporarily, to house and employ the aliens who are nationals of the state residing in the United States, but has a specific plan to repatriate such nationals in a short and specified period of time; and''; and

(III) in clause (iii), by striking ''; or'' and inserting a period;

(iii) by striking subparagraph (C); and

(iv) by adding at the end the following:

''An initial designation, or extension of a designation, of a foreign state (or part of such foreign state) under this paragraph shall not become effective if the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.''

(B) in the last sentence of paragraph (2), by striking ''18 months'' and inserting ''12 months'';

(C) in paragraph (3)—

(i) in subparagraph (A), by inserting ''all'' after ''and shall determine whether'';

(ii) in subparagraph (B), by inserting ''all'' after ''no longer continues to meet''; and

(iii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or part of such foreign state) continues to meet all the conditions for designation under paragraph (1) and that the foreign state warrants an extension, the period of designation of the foreign State is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 months).''; and

(D) in paragraph (5)—

(i) by striking subparagraph (B);

(ii) by moving the text of subparagraph (A) up and to the right so that it

follows immediately after the paragraph heading; and

(iii) by striking ''(A) DESIGNATIONS.—'';

(3) in subsection (c)—

(A) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''of paragraph (1)—'' and all that follows through the end and inserting the following: '', the provisions of section 212(a)(1) may be waived in the Attorney General's discretion if a denial of temporary protected status would separate the alien from a spouse or child in the United States.'';

(ii) in subparagraph (B)—

(I) by amending clause (i) to read as follows:

''(i) the alien is inadmissible under section 212(a) by reason of having been convicted of a crime committed in the United States, or the alien is deportable

under section 237(a) (other than under section 237(a)(1)(B));'';

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien was unlawfully present in the United States on the effective date of the designation of the applicable foreign state (or part of a state), or the effective date of any extension of such designation, unless a law to the contrary is enacted before such date, except that if the Congress is adjourned sine die on such date, the alien may be granted temporary protected status for a period of not more than 4 months.'';

(C) in paragraph (3)—

(i) by striking '', or'' at the end of subparagraph (B) and inserting a semicolon;

(ii) in subparagraph (C)—

(I) by inserting ''and record the alien's current address'' after ''register''; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(D) the alien commits a crime after being granted temporary protected status; or

''(E) the alien travels, no matter how briefly, to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status.'';

(D) in paragraph (4), in each of subparagraphs (A) and (B), by inserting before the period at the end the following: '', unless the alien travels, no matter how briefly, to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status''; and

(E) by striking paragraph (6);

(4) in subsection (d), by striking paragraph (4);

(5) in subsection (e), by striking '', unless the Attorney General determines that extreme hardship exists'' in the first sentence;

(6) in subsection (f)—

(A) by inserting ''and'' at the end of paragraph (2);

(B) in paragraph (3), by striking ''General; and'' and inserting ''General, except to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status.''; and

(C) by striking paragraph (4); and

(7) in subsection (h)—

(A) in paragraph (1), by inserting ''or the House of Representatives'' after ''Senate'';

(B) in paragraph (2), by striking ''three-fifths'' and inserting ''two-thirds''; and

(C) by inserting ''and the House of Representatives'' after ''Senate'' each place such term appears in paragraphs (2) and (3).

(b) INELIGIBILITY OF CERTAIN ALIENS.—

(1) IN GENERAL.—In the case of a foreign state (or part of a foreign state) initially designated under section 244 (8 U.S.C. 1254a), or having such a designation extended, before the date of the enactment of this Act, an alien who is a national of such state (or in the case of an alien having no nationality, is a person who last habitually resided in such

state), and was unlawfully present in the United States on the date of such designation or extension, shall be subject to paragraph (2).

(2) ALIENS INELIGIBLE.—An alien described in paragraph (1) shall not be considered eligible for temporary protected status under section 244 pursuant to any initial or succeeding extension of a designation described in such paragraph that takes effect after the date of the enactment of this Act, unless a law to the contrary is enacted before such effective date, except that if the Congress is adjourned sine die on such effective date, the alien may be granted temporary protected status for a period of not more than 4 months.

SEC. 902. GOOD MORAL CHARACTER.

(a) IN GENERAL.—Section 101(f)(6) (8 U.S.C. 1101(f)(6)) is amended to read as follows:

''(6) one who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act, for himself, herself, or any other alien;''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enact-

ment of this Act and shall apply to misrepresentations made on or after such date.

SEC. 903. REMOVAL FOR ALIENS WHO MAKE MISREPRESENTATIONS TO PROCURE BENEFITS.

(a) IN GENERAL.—Section 237(a)(3) (8 U.S.C. 1127(a)(3)) is amended by adding at the end the following:

"(F) MISREPRESENTATION.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act, for himself, herself, or any other alien, is deportable.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to misrepresentations made on or after such date.

SEC. 904. DESIGNATIONS OF FOREIGN TERRORIST ORGANIZATIONS.

Section 219 (8 U.S.C. 1189) is amended—

(1) by striking "Secretary" each place such term appears, excluding subparagraphs (A) and (C)

of subsection (a)(2), and inserting ''official specified under subsection (d)'';

(2) in subsection (c)—

(A) in paragraph (2), by adding ''and'' at the end;

(B) in paragraph (3), by striking ''; and'' at the end and inserting a period; and

(C) by striking paragraph (4); and

(3) by adding at the end the following:

''(d) IMPLEMENTATION OF DUTIES AND AUTHORITIES.—

''(1) BY SECRETARY OR ATTORNEY GENERAL.—Except as otherwise provided in this subsection, the duties under this section shall, and authorities under this section may, be exercised by—

''(A) the Secretary of State—

''(i) after consultation with the Secretary of the Treasury and with the concurrence of the Attorney General; or

''(ii) upon instruction by the Director of Homeland Security pursuant to paragraph (2); or

''(B) the Attorney General—

"(i) after consultation with the Secretary of the Treasury and with the concurrence of the Secretary of State; or

"(ii) upon instruction by the Director of Homeland Security pursuant to paragraph (2).

"(2) CONCURRENCE.—The Secretary of State and the Attorney General shall each seek the other's concurrence in accordance with paragraph (1). In any case in which such concurrence is denied or withheld, the official seeking the concurrence shall so notify the Director of Homeland Security and shall request the Director of Homeland Security to make a determination as to how the issue shall be resolved. Such notification and request of the Director of Homeland Security may not be made before the earlier of—

"(A) the date on which a denial of concurrence is received; or

"(B) the end of the 60-day period beginning on the date the concurrence was sought.

"(3) EXCEPTION.—It shall be the duty of the Secretary of State to carry out the procedural requirements of paragraphs (2)(A) and (6)(B) of subsection (a) in all cases, including cases in which a

designation or revocation is initiated by the Attorney General.''.

SEC. 905. FOREIGN STUDENTS.

(a) LENGTH OF VISA TERM.—Section 221(c) (8 U.S.C. 1201(c)) is amended—

(1) by striking ''A nonimmigrant visa'' and inserting ''Except as otherwise provided by law, a nonimmigrant visa''; and

(2) by adding at the end the following:

''In the case of a nonimmigrant visa issued under subparagraph (F), (J), or (M) of section 101(a)(15) for study in the United States, the visa shall not be valid for any period in excess of the stated period that the institution or place of study to which the visa relates determines is necessary and proper for the purpose of achieving the objective of such study. Such determinations shall be timely submitted, in accordance with such regulations as the Attorney General may prescribe, as a condition of the granting of authority to issue documents demonstrating aliens' eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15).''.

(b) ELIGIBLE INSTITUTION.—Section 214 (8 U.S.C. 1202), as amended by section 204 of this Act, is further amended by adding at the end the following:

"(w) A nonimmigrant visa may not be issued under subparagraph (F), (J), or (M) of section 101(a)(15) for postsecondary study at an educational institution unless that institution is an eligible institution for the purpose of a program authorized under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 6 months after the date of the enactment of this Act. The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 906. PAY GRADE GS–15 AVAILABLE FOR INS TRIAL ATTORNEYS.

There are authorized to be appropriated such sums as may be to establish a range for the annual rate of basic pay for positions as a trial attorney in the Immigration and Naturalization Service (or a successor agency) between the minimum annual rate of basic pay payable for grade GS–11 of the General Schedule and the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule.

SEC. 907. PROOF OF IDENTITY OF ALIENS SEEKING RELIEF.

(a) ASYLUM.—Section 208(b)(2) (8 U.S.C. 1158(b)(2)) is amended by adding at the end the following:

"(E) PROOF OF IDENTITY.—No alien may be granted asylum until the alien proves the alien's true identity by clear and convincing evidence.".

(b) ADJUSTMENT OF STATUS OF REFUGEES.—Section 209 (8 U.S.C. 1159) is amended by adding at the end the following:

"(d) No alien may have the alien's status adjusted under this section until the alien proves the alien's true identity by clear and convincing evidence.".

(c) CANCELLATION OF REMOVAL.—Section 240A (8 U.S.C. 1229b) is amended by adding at the end the following:

"(f) PROOF OF IDENTITY.—No alien may receive relief under this section until the alien proves the alien's true identity by clear and convincing evidence.".

(d) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—Section 245 (8 U.S.C. 1255) is amended—

(1) by redesignating the subsection (l) added by section 1513(f) of Public Law 106–386 (114 Stat. 1536) as subsection (m); and

(2) by adding at the end the following:

"(n) PROOF OF IDENTITY.—No alien may have the alien's status adjusted under this section until the alien

proves the alien's true identity by clear and convincing evidence.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to relief provided on and after such date.

SEC. 908. FOLLOWING TO JOIN DEFINED.

Section 101(a) (8 U.S.C. 1101) is amended by adding at the end the following:

''(51) The term 'following to join' when used with respect to a spouse or child of an alien, means that the spouse or child departs for the United States, in order to reside with the alien, during the 1-year period beginning on the date on which the alien is admitted into the United States.''.

SEC. 909. INFORMATION ON FOREIGN CRIMES.

Section 245(a) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following: ''(3) the Attorney General has thoroughly examined the alien's countries of prior residence to de-

1 termine that the alien has not committed a crime in
2 those countries making the alien inadmissible, and''.

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