

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 3320

To curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 1993

Mr. BILBRAY (for himself, Mr. GOODLATTE, Mr. HUNTER, Mr. LEHMAN, and Mr. TRAFICANT) introduced the following bill; which was referred to the Committee on the Judiciary

MAY 2, 1994

Additional sponsors: Mr. WILSON, Mr. McKEON, Mr. SENSENBRENNER, Mr. WELDON, Mr. ROYCE, Mr. SOLOMON, Mr. MOORHEAD, Mr. DUNCAN, Mr. PARKER, Mr. PACKARD, Mr. YOUNG of Alaska, Mr. MORAN, Mr. CALVERT, Mr. HAYES, and Mr. HOLDEN

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## A BILL

To curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Immigration Stabiliza-  
3 tion Act of 1993”.

4 **SEC. 2. TABLE OF TITLES.**

TITLE I—ADMISSION OF IMMIGRANTS

TITLE II—ADMISSION OF REFUGEES

TITLE III—ASYLUM REFORM

TITLE IV—CRIMINAL ALIENS

TITLE V—FINANCIAL RESPONSIBILITY

TITLE VI—EMPLOYER SANCTIONS

TITLE VII—BORDER SECURITY

TITLE VIII—ALIEN SMUGGLING

TITLE IX—LOCAL COOPERATION

TITLE X—CITIZENSHIP

5 **SEC. 3. EFFECTIVE DATE.**

6 Except where otherwise specifically provided, the pro-  
7 visions of this Act are effective for fiscal years after fiscal  
8 year 1993.

9 **TITLE I—ADMISSION OF IMMIGRANTS**

10 **SEC. 101. WORLDWIDE LEVELS OF IMMIGRATION.**

11 Section 201 of the Immigration and Nationality Act  
12 (8 U.S.C. 1151) is amended—

13 (a) by striking subsection (c) and inserting:

14 “(c) The worldwide level of family-sponsored immi-  
15 grants is—

16 “(i) 300,000, minus the number of aliens de-  
17 scribed in sections 201(b)(2) and 203(b) who were

1 issued immigrant visas or who otherwise acquired  
2 the status of aliens lawfully admitted to the United  
3 States for permanent residence in the previous fiscal  
4 year;”;

5 (b) by striking subsection (d) and inserting:

6 “(d) The worldwide level of employment-based immi-  
7 grants is 40,000”; and

8 (c) by striking “55,000” from subsection (e)  
9 and inserting “zero”.

10 **SEC. 102. ALLOTMENT OF VISAS.**

11 Section 203 of the Immigration and Nationality Act  
12 (8 U.S.C. 1153) is amended by—

13 (a) adding the following paragraph to sub-  
14 section (a):

15 “(5) If the worldwide level of family-sponsored  
16 immigrants for any fiscal year is less than 226,000,  
17 then the maximum number of visas that can be al-  
18 lotted to any class of family-sponsored immigrants  
19 under this subsection shall be proportionately re-  
20 duced for that fiscal year;”;

21 (b) striking subsection (b) and inserting:

22 “(b) ALLOCATION FOR EMPLOYMENT-BASED IMMI-  
23 GRANTS.—Visas shall be made available in a number not  
24 to exceed the worldwide level of employment-based immi-

1 grants to qualified immigrants who are aliens described  
2 in any of the following paragraphs (1) through (3).

3 “(1) ALIENS WITH EXTRAORDINARY ABILITY.—

4 An alien is described in this paragraph if—

5 “(A) the alien has extraordinary ability in  
6 the sciences, arts, education, business, or ath-  
7 letics which has been demonstrated by sus-  
8 tained national or international acclaim and  
9 whose achievements have been recognized in the  
10 field through extensive documentation,

11 “(B) the alien seeks to enter the United  
12 States to continue work in the area of extraor-  
13 dinary ability, and

14 “(C) the alien’s entry into the United  
15 States will substantially benefit prospectively  
16 the United States.

17 “(2) OUTSTANDING PROFESSORS AND RE-  
18 SEARCHERS.—An alien is described in this para-  
19 graph if—

20 “(A) the alien is recognized internationally  
21 as outstanding in a specific academic area,

22 “(B) the alien has at least 3 years of expe-  
23 rience in teaching or research in the academic  
24 area, and

1           “(C) the alien seeks to enter the United  
2 States—

3           “(i) for a tenured position (or tenure-  
4 track position) within a university or insti-  
5 tution of higher education to teach in the  
6 academic area,

7           “(ii) for a comparable position with a  
8 university or institution of higher edu-  
9 cation to conduct research in the area, or

10           “(iii) for a comparable position to  
11 conduct research in the area with a depart-  
12 ment, division, or institute of a private em-  
13 ployer, if the department, division, or insti-  
14 tute employs at least 3 persons full-time in  
15 research activities and has achieved docu-  
16 mented accomplishments in an academic  
17 field.

18           “(3) CERTAIN MULTINATIONAL EXECUTIVES  
19 AND MANAGERS.—An alien is described in this para-  
20 graph if the alien, in the 3 years preceding the time  
21 of the alien’s application for classification and ad-  
22 mission into the United States under this paragraph,  
23 has been employed for at least 1 year by a firm or  
24 corporation or other legal entity or an affiliate or  
25 subsidiary thereof and the alien seeks to enter the

1 United States in order to continue to render services  
2 to the same employer or to a subsidiary or affiliate  
3 thereof in a capacity that is managerial or execu-  
4 tive.”.

5 (c) striking subsection (c) and inserting:

6 “(c) Visas shall be made available to employment-re-  
7 lated immigrants in the order in which a petition on behalf  
8 of each such immigrant is filed with the Attorney General  
9 and waiting lists of applicants for visas shall be main-  
10 tained in accordance with regulations prescribed by the  
11 Secretary of State.”;

12 (d) striking “(a), (b), or (c)” from subsections  
13 (d), (f), and (g) and inserting “(a) or (b)”;

14 (e) striking subsection (e); and

15 (f) renumbering subsections (f) and (g) as (e)  
16 and (f), respectively.

17 **SEC. 103. APPROVAL OF PETITIONS.**

18 Section 204 of the Immigration and Nationality Act  
19 (8 U.S.C. 1154) is amended by—

20 (a) striking from subsection (a)(1)(A) “the clas-  
21 sification by reason of a relationship described in  
22 paragraph (1), (3), or (4) of section 203(a) or”;

23 (b) striking from subsection (a)(1) subpara-  
24 graphs (B), (C), (D), (E), (F), (G), and inserting:

1           “(B) Any alien desiring to be classified  
2           under section 203(b), or any person on behalf  
3           of such an alien, may file a petition with the  
4           Attorney General for such classification.”;

5           (c) striking from subsection (e) “as an immi-  
6           grant under subsection (a), (b), or (c) of section 203  
7           or”;

8           (d) striking from subsection (f)(i) “, 203(a)(1),  
9           or 203(a)(3), as appropriate”; and

10          (e) adding:

11          “(h) Notwithstanding any other provision of this sec-  
12          tion, the Attorney General shall not approve after Septem-  
13          ber 30, 1993, any petitions other than for immediate rel-  
14          ative status under section 201(b)(2) or classification by  
15          reason of a relationship described in section 203(b).”.

16          **SEC. 104. CONFORMING AMENDMENTS.**

17          The Immigration and Nationality Act is amended  
18          by—

19               (a) striking from section 203(a)(1) “UNMAR-  
20               RIED SONS OR DAUGHTERS OF CITIZENS.—Quali-  
21               fied immigrants who are the unmarried sons or  
22               daughters of citizens of the United States” and in-  
23               serting “PARENTS OF ADULT UNITED STATES CITI-  
24               ZENS.—Qualified immigrants who are the parents of

1 citizens of the United States who are at least 21  
2 years of age”; and

3 (b) striking “MARRIED” and “married” from  
4 section 203(a)(3) .

## 5 **TITLE II—ADMISSION OF REFUGEES**

### 6 **SEC. 201. NUMBER OF ADMISSIONS.**

7 Section 207 of the Immigration and Nationality Act  
8 (8 U.S.C. 1157) is amended by striking subsection (a) and  
9 inserting:

10 “(a) Except as provided in subsection (b), the number  
11 of refugees who may be admitted under this section in any  
12 fiscal year may not exceed 50,000. Admissions under this  
13 subsection shall be allocated by the President among refu-  
14 gees of special humanitarian concern to the United  
15 States.”.

### 16 **SEC. 202. NONDISCRIMINATION IN REFUGEE ADMISSIONS.**

17 (a) Public Law 89–732, as amended by Public Law  
18 94–571, is repealed.

19 (b) Section 207 of the Immigration and Nationality  
20 Act (8 U.S.C. 1157) is amended by adding after sub-  
21 section (e) thereof:

22 “(f) Determinations of the allocation of admissions  
23 under subsections (a) and (b), determinations of admis-  
24 sions under subsection (c), and procedures for the deter-  
25 mination of refugee status shall not discriminate in favor

1 of or against any alien on the basis of the alien's race,  
2 religion, nationality, membership in a particular social  
3 group, or political opinion.”.

4 **TITLE III—ASYLUM REFORM**

5 **SEC. 301. INSPECTION AND EXCLUSION BY IMMIGRATION**  
6 **OFFICERS.**

7 (a) INSPECTION OF ALIENS.—Section 235(b) of the  
8 Immigration and Nationality Act (8 U.S.C. 1225(b)) is  
9 amended to read as follows:

10 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION  
11 OFFICERS.—

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

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

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

19 “(ii) does not indicate either an intention  
20 to apply for asylum (under section 208) or a  
21 fear of persecution, the officer shall order the  
22 alien excluded from the United States without  
23 further hearing or review.

24 “(B) The examining immigration officer shall  
25 refer for immediate inspection at a port of entry by

1 an asylum officer under subparagraph (C) any alien  
2 who has indicated an intention to apply for asylum  
3 or a fear of persecution.

4 “(C)(i) If an asylum officer determines that an  
5 alien has a credible fear of persecution, the alien  
6 shall be entitled to apply for asylum under section  
7 208.

8 “(ii) If an asylum officer determines that an  
9 alien does not have a credible fear of persecution the  
10 officer shall order the alien excluded from the  
11 United States without further hearing or review.

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

17 “(B) The provisions of subparagraph (A) shall  
18 not apply—

19 “(i) to an alien crewman,

20 “(ii) to an alien described in paragraph  
21 (2)(A) or 2(C)(ii)(I), or

22 “(iii) if the conditions described in section  
23 273(d) exist.

24 “(4) The decision of the examining immigration  
25 officer, if favorable to the admission of any alien,

1 shall be subject to challenge by any other immigra-  
2 tion officer and such challenge shall operate to take  
3 the alien, whose privilege to enter is so challenged,  
4 before a special inquiry officer for a hearing on ex-  
5 clusion of the alien.

6 “(5)(A) Subject to subparagraph (B), an alien  
7 has not entered the United States for purposes of  
8 this Act unless and until such alien has been in-  
9 spected and admitted by an immigration officer pur-  
10 suant to this subsection.

11 “(B) An alien who (i) is physically present in  
12 the United States, (ii) has been physically present in  
13 the United States for a continuous period of one  
14 year, and (iii) has not been inspected and admitted  
15 by an immigration officer shall be deemed to have  
16 entered the United States without inspection.

17 “(6) INTERIOR REPATRIATION.—The Secretary  
18 of State shall undertake to enter into, on behalf of  
19 the United States, arrangements with the govern-  
20 ments of countries contiguous to the United States  
21 that any excludable or deportable alien who is to de-  
22 part the United States to such country under an  
23 order of deportation, under a grant of voluntary de-  
24 parture with safeguards, or at a time when the alien  
25 is in federal custody shall be transported to a point

1 in the contiguous country that, to the extent prac-  
2 ticable, is not less than 500 kilometers from the bor-  
3 der of the United States.”.

4 (b) GROUNDS FOR EXCLUSION.—Section 221(a)(6)  
5 of the Immigration and Nationality Act is amended by  
6 adding the following paragraphs:

7 “(G)(i) Any alien who, in seeking entry to the  
8 United States or boarding a common carrier for the  
9 purpose of coming to the United States, presents  
10 any document which is forged, counterfeit, altered,  
11 falsely made, stolen, or inapplicable to the alien pre-  
12 senting the document, or otherwise contains a mis-  
13 representation of a material fact, shall be excluded.

14 “(ii) Subparagraph (ii) shall not apply to an  
15 alien if, in the determination of the asylum officer,  
16 the document or documents to which that subpara-  
17 graph refers were presented by the alien solely to en-  
18 able the alien to depart directly from—

19 “(A) a country in which the alien had a  
20 credible fear of persecution; or

21 “(B) a country in which there was a sig-  
22 nificant danger that the alien would be returned  
23 to a country in which the alien would have a  
24 credible fear of persecution.

1           “(iii) For the purposes of this subparagraph,  
2           the term ‘credible fear of persecution’ means (I) that  
3           it is more probable than not that the statements  
4           made by the alien in support of his or her claim are  
5           true, and (II) that there is a significant possibility,  
6           in light of such statements and of such other facts  
7           as are known to the officer that the alien could es-  
8           tablish eligibility for asylum under section 208.

9           “(H) Any alien who, in boarding a common car-  
10          rier for the purpose of coming to the United States,  
11          presents a document that relates or purports to re-  
12          late to the alien’s eligibility to enter the United  
13          States, and fails to present such document to an im-  
14          migration officer upon arrival at a port of entry into  
15          the United States, shall be excluded.”.

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

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

21                 (2) in the first sentence of paragraph (2) by  
22                 striking “If” and inserting “Subject to section  
23                 235(b)(2), if”.

1 **SEC. 302. ASYLUM.**

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

4 “SEC. 208. (a) ASYLUM.—

5 “(1) RIGHT TO APPLY.—An alien physically  
6 present in the United States or at a land border or  
7 port of entry may apply for asylum in accordance  
8 with this section.

9 “(2) CONDITIONS FOR GRANTING.—

10 “(A) GRANTS BY ATTORNEY GENERAL.—

11 The Attorney General may grant asylum to an  
12 alien if the alien applies for asylum in accord-  
13 ance with the requirements of this section and  
14 establishes that it is more probable than not  
15 that in the alien’s country of nationality (or, in  
16 the case of a person having no nationality, the  
17 country in which such alien last habitually re-  
18 sided) such alien would be arrested and incar-  
19 cerated or such alien’s life would be threatened  
20 on account of race, religion, nationality, mem-  
21 bership in a particular social group, or political  
22 opinion.

23 “(B) EXCEPTION.—Subparagraph (A)  
24 shall not apply to an alien if the Attorney Gen-  
25 eral determines that—

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

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

10          “(iii) there are serious reasons for be-  
11          lieving that the alien has committed a seri-  
12          ous nonpolitical crime outside the United  
13          States prior to the arrival of the alien in  
14          the United States;

15          “(iv) there are reasonable grounds for  
16          regarding the alien as a danger to the se-  
17          curity of the United States; or

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

1 account of race, religion, nationality, mem-  
2 bership of a particular social group, or po-  
3 litical opinion. For purposes of clause (ii),  
4 an alien who has been convicted of an ag-  
5 gravated felony shall be considered to have  
6 committed a particularly serious crime.  
7 The Attorney General shall promulgate  
8 regulations that specify additional crimes  
9 that will be considered to be a crime de-  
10 scribed in clause (ii) or clause (iii).

11 “(3) ASYLUM STATUS.—In the case of any alien  
12 granted asylum under paragraph (2), the Attorney  
13 General, in accordance with this section—

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

16 “(B) shall authorize the alien to engage in  
17 employment in the United States and provide  
18 the alien with an ‘employment authorized’ en-  
19 dorsement or other appropriate work permit;  
20 and

21 “(C) may allow the alien to travel abroad  
22 with the prior consent of the Attorney General,  
23 except that such travel may not be authorized  
24 to the country from which the alien claimed to  
25 be fleeing persecution.

1           “(4) TERMINATION.—Asylum granted under  
2 paragraph (2) shall be terminated if the Attorney  
3 General, pursuant to such regulations as the Attor-  
4 ney General may prescribe, determines that—

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

11           “(B) the alien meets a condition described  
12 in paragraph (2);

13           “(C) a country willing to accept the alien  
14 has been identified (other than the country de-  
15 scribed in paragraph (2)) to which the alien can  
16 be deported or returned and the alien cannot  
17 establish that it is more likely than not that the  
18 alien would be arrested or incarcerated in such  
19 country on account of race, religion, nationality,  
20 membership in a particular social group, or po-  
21 litical opinion; or

22           “(D) the alien returns to the country from  
23 which the alien claimed to be fleeing persecu-  
24 tion or makes application with the Attorney

1           General to return to the country from which the  
2           alien claimed to fleeing persecution.

3           “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In  
4           the case of an alien described in paragraph (2)(C)(v)  
5           or paragraph (4)(C), the alien’s deportation or re-  
6           turn shall be directed by the Attorney General in the  
7           sole discretion of the Attorney General, to any coun-  
8           try which is willing to accept the alien into its terri-  
9           tory (other than the country described in paragraph  
10          (2)).

11          “(b) ASYLUM PROCEDURE.—

12           “(1) APPLICATIONS.—

13           “(A) IN GENERAL.—

14           “(i) DEADLINE.—Subject to clause  
15           (ii), an alien’s application for asylum shall  
16           not be considered under this section un-  
17           less—

18           “(I) the alien has filed, not later  
19           than 30 days after entering or coming  
20           to the United States, notice of inten-  
21           tion to file such an application, and

22           “(II) such application is actually  
23           filed not later than 45 days after en-  
24           tering or coming to the United States.

1           “(ii) EXCEPTION.—An application for  
2           temporary asylum may be considered, not-  
3           withstanding that the requirements of  
4           clause (i) have not been met, only if the  
5           alien demonstrates by clear and convincing  
6           evidence changed circumstances in the  
7           alien’s country of nationality (or in the  
8           case of an alien with no nationality, in the  
9           country where the alien last habitually re-  
10          sided) affecting eligibility for asylum.

11          “(B) REQUIREMENTS.—An application for  
12          temporary asylum shall not be considered un-  
13          less the alien submits to the taking of finger-  
14          prints and a photograph in a manner deter-  
15          mined by the Attorney General.

16          “(C) FEES.—The Attorney General may  
17          provide for a reasonable fee for the consider-  
18          ation of an application for asylum or for any  
19          employment authorization under subsection  
20          (a)(3)(B).

21          “(D) NOTICE OF PRIVILEGE OF COUNSEL  
22          AND CONSEQUENCES OF FRIVOLOUS APPLICA-  
23          TION.—At the time of filing a notice of inten-  
24          tion to apply for asylum, the alien shall be ad-  
25          vised of the privilege of being represented (at

1 no expense to the government) by such counsel,  
2 authorized to practice in such proceedings, as  
3 the alien shall choose and of the consequences,  
4 under subsection (d), of filling a frivolous appli-  
5 cation for temporary asylum.

6 “(2) CONSIDERATION OF APPLICATIONS; HEAR-  
7 INGS.—

8 “(A) ASYLUM OFFICERS.—Applications for  
9 temporary asylum shall be considered by offi-  
10 cers of the Service (referred to in this Act as  
11 ‘asylum officers’) who are specially designated  
12 by the Service as having special training and  
13 knowledge of international conditions and  
14 human rights records of foreign countries.  
15 Pending the designation of such officers, indi-  
16 viduals who as of the date of the enactment of  
17 the Immigration Stabilization Act of 1993 are  
18 authorized to perform duties as asylum officers  
19 shall be deemed to be qualified to be asylum of-  
20 ficers for purposes of this Act.

21 “(B) SCHEDULING OF HEARINGS.—

22 “(i) IN GENERAL.—Upon the filing of  
23 an application for asylum, an asylum offi-  
24 cer, at the earliest practicable time and  
25 after consultation with the attorney for the

1 Government and the attorney (if any) for  
2 the applicant, shall set the application for  
3 hearing on a day certain or list it on a  
4 weekly or other short-term calendar, so as  
5 to assure a speedy hearing.

6 “(ii) DEADLINE.—Unless the appli-  
7 cant (or an attorney for the applicant) con-  
8 sents in writing to the contrary, the hear-  
9 ing on the asylum application shall com-  
10 mence not later than 45 days after the  
11 date the application was filed.

12 “(C) PUBLIC HEARINGS.—A hearing on a  
13 temporary asylum application shall be open to  
14 the public unless the applicant requests that it  
15 be closed to the public.

16 “(D) RIGHTS IN HEARINGS.—The officer  
17 shall, to the extent practicable, conduct the  
18 hearing in a nonadversarial manner. During  
19 such hearing, the applicant shall have the privi-  
20 lege of the assistance and participation of coun-  
21 sel (as provided under paragraph (1)(D)) and  
22 both the government and the applicant shall be  
23 entitled to present evidence and witnesses, to  
24 examine and object to evidence, and to cross-ex-  
25 amine all witnesses.

1           “(E) COUNTRY CONDITIONS.—An officer  
2           may request opinions regarding country condi-  
3           tions from the Secretary of State, but shall not  
4           request or consider recommendations from the  
5           Secretary of State as to whether a particular  
6           named individual should or should not be grant-  
7           ed temporary asylum.

8           “(F) TRANSCRIPT OF HEARINGS.—A com-  
9           plete record of the proceedings and of all testi-  
10          mony and evidence produced at the hearing  
11          shall be kept. The hearing shall be recorded  
12          verbatim. The Attorney General and the Service  
13          shall provide that a transcript of a hearing held  
14          under this section is made available not later  
15          than 10 days after the date of completion of the  
16          hearing.

17          “(G) DEADLINE FOR DETERMINATIONS ON  
18          APPLICATIONS.—The officer shall render a de-  
19          termination on the application not later than 30  
20          days after the date of completion of the hear-  
21          ing. The determination of the officer shall be  
22          based only on the officer’s knowledge of inter-  
23          national conditions and human rights records of  
24          foreign countries, and evidence produced at the  
25          hearing.

1           “(H) RESOURCE ALLOCATION.—The At-  
2           torney General shall allocate sufficient re-  
3           sources so as to assure that applications for  
4           asylum are heard and determined on a timely  
5           basis. However, nothing in this paragraph relat-  
6           ing to scheduling or deadlines shall be con-  
7           strued as creating any right or benefit, sub-  
8           stantive or procedural, which is legally enforce-  
9           able by any party against the United States, its  
10          agencies, its officers, or any other person.

11          “(I) SANCTIONS FOR FAILURE TO AP-  
12          PEAR.—

13                 “(i) Subject to clause (ii), the applica-  
14                 tion for asylum of an alien who does not  
15                 appear for a hearing on such application  
16                 shall be summarily dismissed unless the  
17                 alien can show exceptional circumstances  
18                 (as defined in section 242B(f)(2)) as deter-  
19                 mined by the asylum officer.

20                 “(ii) Clause (i) shall not apply if writ-  
21                 ten and oral notice were not provided as  
22                 required by section 242B(e)(4)(B).

23                 “(iii) Except in exceptional cir-  
24                 cumstances (as defined in section  
25                 242B(f)(2)), an application summarily dis-

1 missed in accordance with Clause (i) shall  
2 not be reopened or reconsidered nor shall  
3 a new application for asylum be enter-  
4 tained by the Attorney General at any  
5 time.

6 “(J) FINALITY OF DETERMINATIONS.—

7 “(i) IN GENERAL.—The decision of  
8 the asylum officer shall be the final admin-  
9 istrative determination of a claim for asy-  
10 lum.

11 “(ii) TREATMENT OF CASES IN EX-  
12 CLUSION OR DEPORTATION.—If proceed-  
13 ings are instituted against an alien under  
14 section 235 or 242 of this Act and the  
15 alien files an application for asylum based  
16 on circumstances described in subsection  
17 (b)(1)(A)(ii), the asylum officer shall  
18 render, on an expedited basis, a decision  
19 on the application.

20 “(c) ASYLUM STATUS ADJUSTMENTS.—

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

1 “(A) applies for such adjustment;

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

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

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

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

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

20 “(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-  
21 OLOUS APPLICATIONS.—

22 “(1) IN GENERAL.—If the asylum officer deter-  
23 mines that an alien has made a frivolous application  
24 for asylum under this section and the alien has re-  
25 ceived the notice under subsection (b)(1)(D)(i), the

1 alien shall be permanently ineligible for any benefits  
2 under this Act, effective as of the date of a final de-  
3 termination on such application.

4 “(2) TREATMENT OF FRAUDULENT OR MATE-  
5 RIAL MISREPRESENTATIONS.—For purposes of this  
6 subsection, an application considered to be ‘frivolous’  
7 includes, but is not limited to, an application which  
8 is fraudulent or otherwise contains a willful mis-  
9 representation or concealment of a material fact.”.

10 **SEC. 303. FAILURE TO APPEAR FOR ASYLUM HEARING.**

11 Section 24B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended  
12 in subparagraph (A), by striking all after clause (iii) and  
13 inserting “shall not be eligible for any benefits under this  
14 Act.”.

15 **SEC. 304. JUDICIAL REVIEW.**

16 (a) Section 235 of the Immigration and Nationality  
17 Act (8 U.S.C. 1225) is amended by adding at the end  
18 thereof:

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

1 States pursuant to the provisions of this Act. Regardless  
2 of the nature of the suit or claim, no court shall have juris-  
3 diction except as provided in this paragraph to consider  
4 the validity of any adjudication or determination of exclu-  
5 sion, to certify a class in an action challenging the exclu-  
6 sion provisions of this Act or any portion or implementa-  
7 tion thereof, or to provide declaratory or injunctive relief  
8 with respect to the exclusion of any alien.

9 “(e) In any action brought for the assessment of pen-  
10 alties for improper entry or re-entry of an alien under sec-  
11 tions 275, 276, 277 or 278 of the Immigration and Na-  
12 tionality Act, no court shall have jurisdiction to hear  
13 claims collaterally attacking the validity of orders of exclu-  
14 sion, or deportation entered under sections 235, 236, or  
15 242 of that Act.”.

16 **SEC. 305. CONFORMING AMENDMENTS.**

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

19 (b) ADJUSTMENT OF STATUS.—Section 209(b) of the  
20 Immigration and Nationality Act (8 U.S.C. 1159(b)) is  
21 amended—

22 (1) in paragraph (2) by striking “one year” and  
23 inserting “5 years”; and

24 (2) by amending paragraph (3) to read as fol-  
25 lows:

1           “(3) continues to be eligible for asylum under  
2           section 208,”.

3           (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-  
4           TECTED STATUS.—Section 244A(c)(2)(B)(ii) of the Immi-  
5           gration and Nationality Act (8 U.S.C. 1254a(c)(2)(B)(ii))  
6           is amended by striking “section 243(h)(2)” and inserting  
7           “clauses (i), (ii), (iii), or (iv) of section 208(a)(2)(C)”.

8           (d) ELIGIBILITY FOR NATURALIZATION.—Section  
9           316(f)(1) of the Immigration and Nationality Act (8  
10          U.S.C. 1427(f)(1)) is amended by striking “subpara-  
11          graphs (A) through (D) of paragraph 243(h)(2)” and in-  
12          serting “clauses (i), (ii), (iii), or (iv) of section  
13          208(a)(2)(C)”.

14          (e) FAMILY UNITY.—Section 301(e) of the Immigra-  
15          tion Act of 1990 (Public Law 101–649) is amended by  
16          striking “section 243(h)(2)” and inserting “clauses (i),  
17          (ii), (iii), or (iv) of section 208(a)(2)(C)”.

18          **SEC. 306. EFFECTIVE DATES.**

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

22          (b) EXCEPTIONS.—

23                  (1) The amendments made by this title shall  
24                  not apply to applications for asylum or withholding  
25                  of deportation made before the first day of the first

1 month that begins more than 180 days after the  
2 date of the enactment of this Act and no application  
3 for asylum under section 208 of the Immigration  
4 and Nationality Act (as amended by section 201 of  
5 this Act) shall be considered before such first day.

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

12 (A) the deadline for the filing of a notice  
13 of intention to file an application for asylum is  
14 30 days after such first day, and

15 (B) the deadline for the filing of the appli-  
16 cation for asylum is 45 days after the date of  
17 filing such notice.

18 (3) The amendments made by section 305(b)  
19 (relating to adjustment of status) shall not apply to  
20 aliens granted asylum under section 208 of the Im-  
21 migration and Nationality Act, as in effect before  
22 the date of the enactment of this Act.

1                   **TITLE IV—CRIMINAL ALIENS**

2   **SEC. 401. EXPANSION IN DEFINITION OF “AGGRAVATED**  
3                   **FELONY”.**

4           (a) EXPANSION IN DEFINITION.—Section 101(a)(43)  
5 of the Immigration and Nationality Act (8 U.S.C.  
6 1101(a)(43) is amended to read as follows:

7           “(43) The term ‘aggravated felony’ means—

8                   “(A) murder;

9                   “(B) any illicit trafficking in any controlled  
10 substance (as defined in section 102 of the Con-  
11 trolled Substances Act), including any drug traffick-  
12 ing crime as defined in section 924(c) of title 18,  
13 United States Code;

14                   “(C) any illicit trafficking in any firearms or  
15 destructive devices as defined in section 921 of title  
16 18, United States Code, or in explosive materials as  
17 defined in section 841(c) of title 18, United States  
18 Code;

19                   “(D) any offense described in (i) section 1956  
20 of title 18, United States Code (relating to launder-  
21 ing of monetary instruments) or (ii) section 1957 of  
22 such title (relating to engaging in monetary trans-  
23 actions in property derived from specific unlawful  
24 activity) if the value of the funds exceeded  
25 \$100,000;

1 “(E) any offense described in—

2 “(i) subsection (h) or (i) of section 842,  
3 title 18, United States Code, or subsection (d),  
4 (e), (f), (g), (h), or (i) of section 844 of title 18,  
5 United States Code (relating to explosive mate-  
6 rials offenses),

7 “(ii) paragraph (1), (2), (3), (4), or (5) of  
8 section 922(g), or section 922(j), section  
9 922(n), section 922(o), section 922(p), section  
10 922(r), section 924(b), or section 924(h) of title  
11 18, United States Code (relating to firearms of-  
12 fenses), or

13 “(iii) section 5861 of title 26, United  
14 States Code (relating to firearms offenses);

15 “(F) any crime of violence (as defined in sec-  
16 tion 16 of title 18, United States Code, not includ-  
17 ing a purely political offense) for which the term of  
18 imprisonment imposed (regardless of any suspension  
19 of such imprisonment) is at least 5 years;

20 “(G) any theft offense (including receipt of sto-  
21 len property) or any burglary offense, where a sen-  
22 tence of 5 years imprisonment or more may be im-  
23 posed;

24 “(H) any offense described in section 875, sec-  
25 tion 876, section 877, or section 1202 of title 18,

1 United States Code (relating to the demand for or  
2 receipt of ransom);

3 “(I) any offense described in section 2251, sec-  
4 tion 2251A or section 2252 of title 18, United  
5 States Code (relating to child pornography);

6 “(J) any offense described in—

7 “(i) section 1962 of title 18, United States  
8 Code (relating to racketeer influenced corrupt  
9 organizations), or

10 “(ii) section 1084 (if it is a second or sub-  
11 sequent offense) or section 1955 of such title  
12 (relating to gambling offenses), where a sen-  
13 tence of 5 years imprisonment or more may be  
14 imposed;

15 “(K) any offense relating to commercial brib-  
16 ery, counterfeiting, forgery or trafficking in vehicles  
17 whose identification numbers have been altered,  
18 where a sentence of 5 years imprisonment or more  
19 may be imposed;

20 “(L) any offense—

21 “(i) described in section 2421, section  
22 2422, or section 2423 of title 18, United States  
23 Code (relating to transportation for the purpose  
24 of prostitution) for commercial advantage, or

1           “(ii) described in section 1581 through  
2           1585, or section 1588, of title 18, United  
3           States Code (relating to peonage, slavery, and  
4           involuntary servitude);

5           “(M) any offense relating to perjury or sub-  
6           ornation of perjury where a sentence of 5 years im-  
7           prisonment or more may be imposed;

8           “(N) any offense described in—

9           “(i) section 793 (relating to gathering or  
10           transmitting national defense information), sec-  
11           tion 798 (relating to disclosure of classified in-  
12           formation), section 2153 (relating to sabotage)  
13           or section 2381 or section 2382 (relating to  
14           treason) of title 18, United States Code, or

15           “(ii) section 421 of title 50, United States  
16           Code (relating to protecting the identity of un-  
17           dercover intelligence agents);

18           “(O) any offense—

19           “(i) involving fraud or deceit where the  
20           loss to the victim or victims exceeded \$200,000;  
21           or

22           “(ii) described in section 7201 of title 26,  
23           United States Code (relating to tax evasion),  
24           where the tax loss to the Government exceeds  
25           \$200,000;

1           “(P) any offense described in section 274(a)(1)  
2 of title 18, United States Code (relating to alien  
3 smuggling) for the purpose of commercial advan-  
4 tage;

5           “(Q) any violation of section 1546(a) of title  
6 18, United States Code (relating to document  
7 fraud), for the purpose of commercial advantage;

8           “(R) any offense relating to failing to appear  
9 before a court pursuant to a court order to answer  
10 to or dispose of a charge of a felony, where a sen-  
11 tence of 2 years or more may be imposed; or any at-  
12 tempt or conspiracy to commit any such act. Such  
13 term applies to offenses described in this paragraph  
14 whether in violation of Federal or State law and ap-  
15 plies to such offenses in violation of the laws of a  
16 foreign country for which the term of imprisonment  
17 was completed within the previous 15 years; or

18           “(S) any felony committed by an alien on or  
19 after the date that alien had received a waiver of de-  
20 portation under sections 212 or 241 of this Act (8  
21 U.S.C. 1182 or 1251) after commission of a prior  
22 felony.”.

23           (b) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to all convictions entered before,  
25 on, or after the date of enactment of this Act.

1 **SEC. 402. DEPORTATION PROCEDURES.**

2 (a) ELIMINATION OF ADMINISTRATIVE HEARING FOR  
3 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-  
4 gration and Nationality Act (8 U.S.C. 1252a) is amended  
5 by adding at the end the following:

6 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-  
7 MANENT RESIDENTS.—

8 “(1) Notwithstanding section 242, and subject  
9 to paragraph (5), the Attorney General may issue a  
10 final order of deportation against any alien described  
11 in paragraph (2) whom the Attorney General deter-  
12 mines to be deportable under section  
13 241(a)(2)(A)(iii) (relating to conviction of an aggra-  
14 vated felony).

15 “(2) An alien is described in this paragraph if  
16 the alien—

17 “(A) was not lawfully admitted for perma-  
18 nent residence at the time that proceedings  
19 under this section commenced, or

20 “(B) had permanent resident status on a  
21 conditional basis (as described in section 216)  
22 at the time that proceedings under this section  
23 commenced.

24 “(3) The Attorney General may delegate the  
25 authority in this section to the Commissioner or to  
26 any District Director of the Service.

1           “(4) No alien described in this section shall be  
2 eligible for—

3           “(A) any relief from deportation that the  
4 Attorney General may grant in his discretion,  
5 or

6           “(B) relief under section 243(h).

7           “(5) The Attorney General may not execute any  
8 order described in paragraph (1) until 14 calendar  
9 days have passed from the date that such order was  
10 issued, in order that the alien has an opportunity to  
11 apply for judicial review under section 106.”.

12       (b) LIMITED JUDICIAL REVIEW.—Section 106 of the  
13 Immigration and Nationality Act (8 U.S.C. 1105a) is  
14 amended—

15           (1) in the first sentence of subsection (a), by in-  
16 serting “or pursuant to section 242A” after “under  
17 section 242(b)”;

18           (2) in subsection (a)(1) and subsection (a)(3),  
19 by inserting “(including an alien described in section  
20 242(A)” after “aggravated felony”; and

21           (3) by adding at the end the following new sub-  
22 section;

23       “(d) Notwithstanding subsection (c), a petition for  
24 review or for habeas corpus on behalf of an alien described  
25 in section 242A(c) may only challenge whether the alien

1 is in fact as alien described in such section, and no court  
2 shall have jurisdiction to review any other issue.”.

3 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-  
4 tion 242A of the Immigration and Nationality Act (8  
5 U.S.C. 1252a) is amended as follows:

6 (1) In subsection (a)—

7 (A) by striking “(a) IN GENERAL.—” and  
8 inserting “(b) DEPORTATION OF PERMANENT  
9 RESIDENT ALIENS.—(1) IN GENERAL.—”; and

10 (B) by inserting in the first sentence “per-  
11 manent resident” after “correctional facilities  
12 for”;

13 (2) In subsection (b)—

14 (A) by striking “(b) IMPLEMENTATION.—”  
15 and inserting “(2) IMPLEMENTATION.—”; and

16 (B) by striking “respect to an” and insert-  
17 ing “respect to a permanent resident”;

18 (3) By striking out subsection (c);

19 (4) In subsection (d)—

20 (A) by striking “(d) EXPEDITED PRO-  
21 CEEDINGS.—(1)” and inserting “(3) EXPE-  
22 DITED PROCEEDINGS.—(A)”;

23 (B) by inserting “permanent resident”  
24 after “in the case of any”; and

25 (C) by striking “(2)” and inserting “(B)”;

1 (5) In subsection (e)—

2 (A) by striking “(e) REVIEW.—(1)” and  
3 inserting “(4) REVIEW.—(A)”;

4 (B) by striking the second sentence; and

5 (C) by striking “(2)” and inserting “(B)”.

6 (6) By inserting after the section heading the  
7 following new subsection:

8 “(a) PRESUMPTION OF DEPORTABILITY.—An alien  
9 convicted of an aggravated felony shall be conclusively pre-  
10 sumed to be deportable from the United States.”.

11 (7) The heading of such section is amended to  
12 read as follows:

13 “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF  
14 COMMITTING AGGRAVATED FELONIES”.

15 (d) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to all aliens against whom deporta-  
17 tion proceedings are initiated after the date of enactment  
18 of this Act.

19 **SEC. 403. JUDICIAL DEPORTATION.**

20 (a) JUDICIAL DEPORTATION.—Section 242A of the  
21 Immigration and Nationality Act (8 U.S.C. 1252a) is  
22 amended by inserting at the end the following new sub-  
23 section:

24 “(d) JUDICIAL DEPORTATION.—

25 “(1) AUTHORITY.—In any criminal case subject  
26 to the jurisdiction of any court of the United States

1 or of any State, such court may enter a judicial  
2 order of deportation at the time of sentencing  
3 against an alien whose criminal conviction causes  
4 such alien to be deportable under section  
5 241(a)(2)(A)(iii) (relating to conviction of a felony).

6 “(2) DENIAL OF JUDICIAL ORDER.—Denial of a  
7 request for a judicial order of deportation shall not  
8 preclude the Attorney General from initiating depor-  
9 tation proceedings pursuant to section 242 upon the  
10 same ground of deportability or upon any other  
11 ground of deportability provided under section  
12 241(a).”.

13 (b) TECHNICAL AND CONFORMING CHANGES.—The  
14 ninth sentence of section 242(b) of the Immigration and  
15 Nationality Act (8 U.S.C. 1252(b)) is amended by striking  
16 out “The” and inserting in lieu thereof, “Except as pro-  
17 vided in section 242A(d), the”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to all aliens whose adjudication of  
20 guilt or guilty plea is entered in the record after the date  
21 of enactment of this Act.

22 **SEC. 404. DEFENSES TO DEPORTATION.**

23 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-  
24 NENT RESIDENCE.—The last sentence of section 212(c)  
25 of the Immigration and Nationality Act (8 U.S.C.

1 1182(c)) is amended by striking out “has served for such  
2 felony or felonies” and all that follows through the period  
3 and inserting in lieu thereof “has been sentenced for such  
4 felony or felonies to a term of imprisonment of at least  
5 5 years: *Provided*, That the time for appealing such con-  
6 viction or sentence has expired and the sentence has be-  
7 come final.”.

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

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

13 “(E) the alien has been convicted of a fel-  
14 ony.”; and

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

18 **SEC. 405. ENHANCED PENALTIES FOR REENTRY OR FAIL-**  
19 **URE TO DEPART.**

20 (a) FAILURE TO DEPART.—Section 242(e) of the Im-  
21 migration and Nationality Act (8 U.S.C. 1252(e)) is  
22 amended—

23 (1) by striking out “paragraph (2), (3), or 4  
24 of” the first time it appears, and

1           (2) by striking out “shall be imprisoned not  
2           more than ten years” and inserting in lieu thereof,  
3           “shall be imprisoned not more than two years, or  
4           shall be imprisoned not more than ten years if the  
5           alien is a member of any of the classes described in  
6           paragraph (2), (3), or (4) of section 241(a)”.

7           (b) REENTRY.—Section 276(b) of the Immigration  
8           and Nationality Act (8 U.S.C. 1326(b)) is amended—

9           (1) in paragraph (1), by (A) inserting after  
10          “commission of” the following: “two or more mis-  
11          demeanors or”, and (B) striking out “5” and insert-  
12          ing in lieu thereof “10”,

13          (2) in paragraph (2), by striking out “15” and  
14          inserting in lieu thereof “20”, and

15          (3) by adding at the end the following sentence:  
16          “For the purposes of this subsection, the term ‘de-  
17          portation’ shall include any agreement where an  
18          alien stipulates to deportation during a criminal trial  
19          under either Federal or State law.”.

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

1       “(c) In any criminal proceeding under this section,  
2 no alien may challenge the validity of the deportation  
3 order described in subsection (a)(1) or subsection (b).”.

4 **SEC. 406. DEPORTATION OF IMPRISONED ALIENS.**

5       Section 242(h) of the Immigration and Nationality  
6 Act (8 U.S.C. 1252(h)) is amended to read as follows:

7       “(h)(1) Except as provided in paragraph (2), an alien  
8 sentenced to imprisonment may not be deported until such  
9 imprisonment has been terminated by the release of the  
10 alien from confinement. Parole, supervised release, proba-  
11 tion, or possibility of rearrest or further confinement in  
12 respect of the same offense shall not be a ground for defer-  
13 ral of deportation.

14       “(2) The Attorney General may deport an alien prior  
15 to the completion of a sentence of imprisonment—

16               “(A) in the case of an alien in the custody of  
17 the Attorney General, if the Attorney General deter-  
18 mines that the alien has been adequately punished  
19 and that such deportation of the alien is appro-  
20 priate; or

21               “(B) in the case of an alien in the custody of  
22 a State, if the chief State official exercising author-  
23 ity with respect to the incarceration of the alien de-  
24 termines (i) that the alien has been adequately pun-  
25 ished and that such deportation is appropriate, and

1 (ii) submits a written request to the Attorney Gen-  
2 eral that such alien be so deported.”.

3 **SEC. 407. JUDICIAL ORDER OF DEPORTATION.**

4 (a) IN GENERAL.—Subchapter A of chapter 227 of  
5 title 18, United States Code, is amended by adding at the  
6 end the following:

7 **“§ 3560. Order of Deportation for certain aliens**

8 “The court, upon sentencing an individual who is an  
9 alien for an aggravated felony (as defined in section  
10 101(a)(43) of the Immigration and Nationality Act, shall  
11 include in a sentencing order a declaration that the indi-  
12 vidual is deportable. And presentence report required  
13 under the Rules of Criminal Procedure with respect to the  
14 sentencing of any individual for such a felony shall include  
15 whether or not such individual is an alien.”.

16 (b) CLERICAL AMENDMENT.—The table of sections  
17 at the beginning of subchapter A of chapter 227 of title  
18 18, United States Code, is amended by adding at the end  
19 the following new item:

“3560. Order of deportation for certain aliens.”.

20 (c) DEPORTATION PROCEDURES.—Section 242A of  
21 the Immigration and Nationality Act (18 U.S.C. 1252a)  
22 is amended by adding at the end the following:

23 “(f) DEPORTATION PURSUANT TO A JUDICIAL  
24 ORDER.—An alien subject to a judicial order of deporta-

1 tion under section 3560 of title 18, United States Code,  
2 shall be deported consistent with section 242(h).”.

3 **SEC. 408. FEDERAL INCARCERATION.**

4 (a) FEDERAL INCARCERATION.—Section 242 of the  
5 Immigration and Nationality Act (8 U.S.C. 1252) is  
6 amended by adding at the end the following:

7 “(j)(1) The Attorney General shall take into the cus-  
8 tody of the Federal Government, and shall incarcerate for  
9 a determinate sentence of imprisonment, a criminal alien  
10 described in paragraph (3) if—

11 “(A) the chief State official exercising authority  
12 with respect to the incarceration of the undocu-  
13 mented criminal alien submits a written request to  
14 the secretary;

15 “(B) the undocumented criminal is sentenced to  
16 a determinate term of imprisonment;

17 “(C) the State in which the official described in  
18 paragraph A exercises authority cooperates, and re-  
19 quires local governments or agencies in such State  
20 to cooperate, with Federal immigration authorities  
21 with respect to the identification, location, arrest,  
22 prosecution, detention, and deportation of aliens who  
23 are not lawfully present in the United States; and

24 “(D) adequate Federal facilities are available  
25 for the incarceration of the criminal alien.

1 “(2) Criminal aliens taken into the custody of the At-  
2 torney General under paragraph (1) may be deported  
3 under subsection (h)(2)(A).

4 “(3) An alien is described in this paragraph if the  
5 alien—

6 “(A) has been convicted of a felony and sen-  
7 tenced to a term of imprisonment, and

8 “(B)(i) had entered the United States without  
9 inspection or at any time or place other than as des-  
10 ignated by the Attorney General, or

11 “(ii) was the subject of exclusion or deportation  
12 proceedings at the time he or she was taken into  
13 custody by the State.”.

14 **SEC. 409. INCREASED PENALTY FOR VISA FRAUD.**

15 (a) FALSE STATEMENT.—Section 1542 of title 18,  
16 United States Code, is amended by striking “fined not  
17 more than \$2,000 or imprisoned not more than five years,  
18 or both” and inserting “fined under this title or impris-  
19 oned not more than 10 years, or both”.

20 (b) FORGERY.—Section 1543 of title 18, United  
21 States Code, is amended by striking “fined not more than  
22 \$2,000 or imprisoned not more than five years, or both”  
23 and inserting “fined under this title or imprisoned not  
24 more than 10 years, or both”.

1 (c) MISUSE OF PASSPORT.—Section 1544 of title 18,  
2 United States Code, is amended by striking “fined not  
3 more than \$2,000 or imprisoned not more than five years,  
4 or both” and inserting “fined under this title or impris-  
5 oned not more than 10 years, or both”.

6 (d) SAFE CONDUCT VIOLATION.—Section 1545 of  
7 title 18, United States Code, is amended by striking  
8 “fined not more than \$2,000 or imprisoned not more than  
9 three years, or both” and inserting “fined under this title  
10 or imprisoned not more than 10 years, or both”.

11 (e) FRAUD AND MISUSE OF VISAS.—Section 1546(a)  
12 of title 18, United States Code, is amended by striking  
13 “fined not more than \$2,000 or imprisoned not more than  
14 five years, or both” and inserting “fined under this title  
15 or imprisoned not more than 10 years, or both”.

16 **SEC. 410. NOTIFICATION OF ALIEN ARREST.**

17 Whenever a State or local law enforcement agency ar-  
18 rests an immigrant or nonimmigrant alien for the commis-  
19 sion of a felony, that State or local law enforcement agen-  
20 cy shall provide the District Director of the Immigration  
21 and Naturalization Service for the district in which the  
22 State or local law enforcement agency has jurisdiction the  
23 following information within 72 hours of the arrest: the  
24 name of the alien; the alien’s place of birth; the alien’s  
25 date of birth; the alien’s alien registration number, if any;

1 the nature of the offense for which the alien was arrested;  
2 and any available information on bond, future hearings  
3 and proceedings.

4 **SEC. 411. EXCLUDABILITY OF UNLAWFUL ENTRANTS.**

5 Section 204(c) of the Immigration and Nationality  
6 Act is amended by adding a comma after the word “laws”  
7 the first time it appears, striking the word “or” prior to  
8 “(2)” and inserting the following before the period: “or  
9 (3) the petition was submitted by or on behalf of any alien  
10 who entered or attempted to enter the United States un-  
11 lawfully, who entered or attempted to enter with fraudu-  
12 lent, forged or stolen documents, who failed to present the  
13 immigration officer any document produced when the alien  
14 boarded a common carrier for travel to the United States,  
15 or who entered the United States lawfully as a non-  
16 immigrant but violated the terms of his or her non-  
17 immigrant visa”.

18 **SEC. 412. EXCLUSION OF IMMIGRATION LAW VIOLATORS.**

19 (a) EXCLUSION OF CRIMINAL ALIEN.—Section  
20 212(a)(2)(A)(i) of the Immigration and Nationality Act  
21 (8 U.S.C. 1182(a)(2)(A)(i)) is amended by striking “or”  
22 at the end of subparagraph (I) and inserting the following  
23 new subparagraph prior to the phrase “is excludable”: “or  
24 (III) any violation of any immigration law or any violation

1 of any federal or State statute prohibiting fraud, including  
2 any statutes prohibiting income tax evasion”.

3 (b) EXCLUSION REFORM.—Section 212 of the Immi-  
4 gration and Nationality Act (8 U.S.C. 1182) is amended  
5 by striking paragraph (c) and inserting the following as  
6 new paragraph (c):

7 “(c) Aliens lawfully admitted for permanent residence  
8 who temporarily proceeded abroad voluntarily and not  
9 under an order of deportation shall not be admitted if that  
10 alien is excludable under paragraph (a).”.

11 **SEC. 413. MISCELLANEOUS AND TECHNICAL CHANGES.**

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

21 (b) CONSTRUCTION OF EXPEDITED DEPORTATION  
22 REQUIREMENTS.—No amendment made by this Act and  
23 nothing in section 242(i) of the Immigration and Nation-  
24 ality Act (8 U.S.C. 1252(i)), shall be construed to create  
25 any right or benefit, substantive or procedural, which is

1 legally enforceable by any party against the United States,  
2 its agencies, its officers, or any other person.

3 **TITLE V—FINANCIAL RESPONSIBILITY**

4 **SEC. 501. PUBLIC CHARGE DEFINED.**

5 Section 212(a) of the Immigration and Nationality  
6 Act (8 U.S.C. 1182(a)(4)) is amended by striking para-  
7 graph (4) and inserting:

8 “(4) PUBLIC CHARGE.—Any alien who cannot  
9 demonstrate to the consular officer at the time of  
10 application for a visa, or to the Attorney General at  
11 the time of application for admission or adjustment  
12 of status, that, taking into account the alien’s age  
13 and medical condition, he or she has assets, edu-  
14 cation, skills, or a combination thereof that make it  
15 very unlikely that he or she will become eligible for  
16 means-tested public assistance of any kind (includ-  
17 ing, but not limited to, medical care or food and  
18 housing assistance) or will otherwise become a public  
19 charge is excludable.”.

20 **SEC. 502. GUARANTEE OF FINANCIAL RESPONSIBILITY.**

21 The Immigration and Nationality Act is amended by  
22 striking section 213 (8 U.S.C. 1183) and inserting:

23 **“SEC. 213. FINANCIAL RESPONSIBILITY OF SPONSORS.**

24 “(a) An alien excludable under paragraph 4 of Sec-  
25 tion 212(a) may, if otherwise admissible, be admitted in

1 the discretion of the Attorney General upon the giving of  
2 a suitable and proper bond and a guarantee of financial  
3 responsibility by an individual (hereinafter in this section  
4 referred to as the alien's 'sponsor') who is not less than  
5 21 nor more than 60 years of age, is of good moral char-  
6 acter, has never been convicted of a felony, has never filed  
7 for bankruptcy or been adjudicated a bankrupt, and is a  
8 citizen of the United States or an alien lawfully admitted  
9 for permanent residence.

10       “(b) The guarantee of financial responsibility in sub-  
11 section (a) must provide (1) that the sponsor, and the  
12 sponsor's spouse if the sponsor is married, agree in the  
13 case of an alien under 21 years of age, to assume legal  
14 custody for the alien after the alien's departure to the  
15 United States and until the alien becomes 21 years of age,  
16 in accordance with the law of the State where the sponsor  
17 resides, and (2) that the sponsor agrees to furnish, during  
18 the 5-year period beginning on the date of the alien's ac-  
19 quiring the status of an alien lawfully admitted for perma-  
20 nent residence, or during the period beginning on the date  
21 of the alien's acquiring the status of an alien lawfully ad-  
22 mitted for permanent residence and ending on the date  
23 on which the alien becomes 21 years of age, whichever pe-  
24 riod is longer, such financial support as is necessary to  
25 prevent the alien's becoming a public charge.

1       “(c) A guarantee of financial responsibility given  
2 under subsection (a) may be enforced with respect to an  
3 alien by a civil suit against his sponsor by the Attorney  
4 General or by any Federal or State agency that has pro-  
5 vided the alien means-tested public assistance of any kind,  
6 including but not limited to medical, food, and housing  
7 assistance.

8       “(d) Civil suits under subsection (c) shall be brought  
9 in the United States district court for the district in which  
10 the defendant resides and may be brought at any time on  
11 or before the date that is 5 years after the date on which  
12 the sponsor’s period of financial responsibility under sub-  
13 section (a) expired.

14       “(e) The bond required of an alien’s sponsor by sub-  
15 section (a) shall be in favor of the United States and all  
16 States, territories, countries, towns, municipalities, and  
17 districts within the United States and shall hold them  
18 harmless against the alien’s becoming a public charge. The  
19 bond shall be in such amount and shall contain such condi-  
20 tions as the Attorney General may prescribe. The bond  
21 shall terminate upon (1) the alien’s permanent departure  
22 from the United States, (2) the death of an alien, or (3)  
23 the expiration of the period of financial responsibility de-  
24 scribed in subsection (b), whichever occurs first, and any  
25 sums or other security held to secure performance thereof,

1 except to the extent forfeited for violation of the terms  
2 thereof, shall be returned to the person by whom fur-  
3 nished, or to his legal representative.”.

4 **SEC. 503. LIMITED BENEFITS FOR ILLEGAL ALIENS.**

5 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Not-  
6 withstanding any other provision of law, no direct Federal  
7 financial benefit or social insurance benefit may be paid,  
8 conferred, or otherwise given, on or after the date of en-  
9 actment of this Act, to any alien not lawfully admitted  
10 to the United States as a permanent resident or a refugee  
11 except pursuant to a provision of the Immigration and Na-  
12 tionality Act: *Provided, however,* That Federal reimburse-  
13 ment of emergency medical care provided to such an alien  
14 may be provided under such regulations as the Secretary  
15 of Health and Human Services may in his or her discre-  
16 tion prescribe.

17 (b) UNEMPLOYMENT BENEFITS.—No alien who has  
18 not been granted employment authorization pursuant to  
19 Federal law shall be eligible for unemployment compensa-  
20 tion under an unemployment compensation law of a State  
21 or the United States.

22 **TITLE VI—EMPLOYER SANCTIONS**

23 **SEC. 601. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

24 (a) WORK ELIGIBILITY DOCUMENTS.—Effective  
25 January 1, 1995, Section 274A of the Immigration and

1 Nationality Act (8 U.S.C. 1324a) is amended by striking  
2 subparagraphs (A) through (D) of subsection (b)(1) and  
3 inserting:

4           “(A) IN GENERAL.—The person or entity  
5           must attest, under penalty of perjury and on a  
6           form designated or established by the Attorney  
7           General by regulation, that it has verified that  
8           the individual is not an unauthorized alien by—

9                   “(i) examining the document de-  
10                  scribed in (B) in the case of an individual  
11                  claiming to be a United States citizen,  
12                  United States national,

13                  “(ii) examining the document de-  
14                  scribed in paragraph (C) in the case of an  
15                  individual not claiming to be a United  
16                  States citizen, a United States national, or  
17                  a permanent resident alien, and

18                  “(iii) reporting the individual’s Social  
19                  Security account number to the Social Se-  
20                  curity Administration through the tele-  
21                  phone verification system established pur-  
22                  suant to section 602 of the Immigration  
23                  Stabilization Act of 1993.

24           “(B) DOCUMENTS OF CITIZENS AND NA-  
25           TIONALS.—The document described in this

1 paragraph is an individual's Social Security ac-  
2 count number card issued pursuant to section  
3 601(c) of the Immigration Stabilization Act of  
4 1993.

5 “(C) DOCUMENTS OF ALIENS.—The docu-  
6 ment described in this paragraph is an alien's  
7 identification card issued by the Immigration  
8 and Naturalization Service pursuant to section  
9 601(b) of the Immigration Stabilization Act of  
10 1993.”.

11 (b) IMPROVEMENT OF ALIEN IDENTITY CARDS.—

12 (1) PERMANENT RESIDENT ALIENS.—The At-  
13 torney General shall cause to be issued to every alien  
14 acquiring lawful permanent residence in the United  
15 States after June 30, 1994, and, upon application,  
16 to any alien who acquired lawful permanent resi-  
17 dence before July 1, 1994, an alien identification  
18 card that shall—

19 (A) be uniform in appearance,

20 (B) be as tamper-proof and counterfeit-re-  
21 sistant as practicable,

22 (C) contain a photograph and fingerprint,

23 (D) display the name, sex, date of birth,  
24 and such other identifying information as the  
25 Attorney General shall determine, and

1 (E) incorporate a machine-readable encod-  
2 ing of the information displayed on the card.

3 (2) OTHER ALIENS.—The Attorney General  
4 shall cause to be issued to every alien who becomes  
5 authorized to work in the United States after June  
6 30, 1994, other than by reason of lawful admission  
7 for permanent residence, and shall cause to be is-  
8 sued, upon application, to any other alien who is au-  
9 thorized to work in the United States other than by  
10 reason of lawful admission for permanent residence  
11 an alien identification card that shall—

12 (A) be uniform in appearance,

13 (B) be as tamper-proof and counterfeit-re-  
14 sistant as practicable,

15 (C) contain a photograph and fingerprint,

16 (D) display the alien's name, sex, date of  
17 birth, place of birth, and such other identifying  
18 information as the Attorney General shall de-  
19 termine,

20 (E) show an expiration date that shall be  
21 determined in accordance with regulations is-  
22 sued by the Attorney General, but shall not in  
23 any case be later than three calendar years  
24 after the date of issuance, and

1 (F) incorporate a machine-readable encod-  
2 ing of the information displayed on the card.

3 (c) IMPROVEMENT OF SOCIAL SECURITY CARDS.—

4 (1) IMPROVED CARD FOR CITIZENS.—The Sec-  
5 retary shall cause to be issued improved Social Secu-  
6 rity account number cards to United States citizens  
7 and United States nationals upon application, proof  
8 of identity, proof of citizenship or nationality, and  
9 payment of a reasonable fee.

10 (2) IMPROVED CARD FOR ALIENS.—The Sec-  
11 retary shall cause to be issued improved Social Secu-  
12 rity account number cards to aliens lawfully admit-  
13 ted for permanent residence upon application, proof  
14 of identity, verification of status by the Immigration  
15 and Naturalization Service, and payment of a rea-  
16 sonable fee.

17 (3) REQUIREMENTS.—The cards described in  
18 paragraphs (1) and (2) shall—

19 (A) be uniform in appearance,

20 (B) be as tamper-proof and counterfeit-re-  
21 sistant as practicable,

22 (C) contain a photograph and fingerprint,

23 (D) display the name, sex, date of birth,  
24 place of birth, and Social Security account  
25 number of the issuee, and such other identify-

1           ing information as the Secretary shall deter-  
2           mine, and

3                   (E) incorporate a machine-readable encod-  
4           ing of the information displayed on the card.

5           (4) SECRETARY DEFINED.—For purposes of  
6           this subsection, Secretary means the Secretary of  
7           Health and Human Services.

8           (d) REASONABLE FEE.—The amount of the fee that  
9           is to be charged under subsections (b) and (c) shall be  
10          the amount (rounded to the nearest whole dollar), not ex-  
11          ceeding \$50, required to cover the costs of issuing the  
12          card.

13          (e) NO OTHER CARDS.—No Social Security account  
14          number card or alien identification card shall be issued  
15          after June 30, 1994, whether as an original card or as  
16          a replacement, that does not satisfy the requirements of  
17          this section.

18          (f) DEFINITIONS.—For purposes of this section—

19                  (1) “State” means one of the United States,  
20                  the District of Columbia, or Puerto Rico, and

21                  (2) “place of birth” means, for an individual—

22                          (A) born in a State, the two-letter symbol  
23                          used by the United States Post Office to iden-  
24                          tify that State, or

1 (B) not born in a State, such two-letter  
2 symbol as the Secretary shall determine by reg-  
3 ulations.

4 **SEC. 602. VERIFICATION BY TELEPHONE.**

5 (a) SOCIAL SECURITY DATABASE.—By September  
6 30, 1994, the Secretary of Health and Human Services  
7 shall make such modifications to the Social Security ac-  
8 count number data base (NUMIDENT) as are practicable  
9 and enable confirmation through the telephone verification  
10 system described in subsection (d) that a Social Security  
11 account number has been issued to an individual identified  
12 by last name, sex, year of birth, and place of birth and  
13 that such individual is not known to the Secretary of  
14 Health and Human Services to be an alien not authorized  
15 to work in the United States. At a minimum the data base  
16 shall be modified to enable confirmation that a Social Se-  
17 curity account number is not assigned to an individual au-  
18 thorized to work in the United States because the num-  
19 ber—

20 (1) has not been issued,

21 (2) was issued to an individual known by the  
22 Secretary of Health and Human Services as not au-  
23 thorized to work,

24 (3) was issued to a person that is deceased and  
25 has not been reissued, or

1           (4) was issued to an alien that any data base  
2           of the Immigration and Naturalization Service shows  
3           is not authorized to work in the United States.

4 The Attorney General shall provide such assistance as the  
5 Secretary of Health and Human Services may require to  
6 merge or otherwise make use of any data base of the Im-  
7 migration and Naturalization Service for the purposes of  
8 this section.

9           (b) EXCHANGE OF INFORMATION.—The Attorney  
10 General shall notify the Secretary of Health and Human  
11 Services of the expiration of an alien's authorization to  
12 work in the United States not later than 14 calendar days  
13 after the date of expiration. The Secretary of Health and  
14 Human Services shall furnish the Attorney General with  
15 a list of any aliens for whom confirmation of work eligi-  
16 bility has been requested not later than 5 calendar days  
17 after such request. Such list shall include the telephone  
18 number from which the request was made and the em-  
19 ployer identification number of the requester.

20           (c) ADULT APPLICANTS.—The Secretary of Health  
21 and Human Services shall furnish to the Attorney General  
22 a copy of any application (including supporting docu-  
23 mentation) for a Social Security account number by an  
24 alien or by an individual over 16 years of age who claims

1 to be a United States citizen or national and shall not  
2 issue a number before the earlier of the following dates:

3 (1) The date on which the Attorney General  
4 confirms in writing that his records do not show  
5 that the applicant is an alien unauthorized to work  
6 in the United States.

7 (2) 60 days after a copy of the application and  
8 supporting documentation has been delivered to the  
9 Attorney General.

10 (d) TELEPHONE VERIFICATION SYSTEM.—Before  
11 January 1, 1995, the Secretary of Health and Human  
12 Services shall test and place in operation a system whereby  
13 an employer can report by touch-tone telephone his em-  
14 ployer identification number and the Social Security ac-  
15 count number, last name, sex, year of birth, and place of  
16 birth of any individual who is to be employed and can re-  
17 ceive immediate confirmation that the number was issued  
18 to the individual having that identity and that such person  
19 is not identified within the Social Security account number  
20 data base as an individual who is not a United States citi-  
21 zen, a United States national, or an alien authorized to  
22 work in the United States. The charge for each call will  
23 be sufficient to cover the costs of operating the system,  
24 except that it shall not exceed \$2 plus any line charges  
25 payable to the telephone carrier. The system shall provide

1 for access to a live operator if an entry is not accepted  
2 or confirmed, shall provide a verification code to the caller,  
3 shall create and maintain a record of each inquiry (includ-  
4 ing the telephone number of the requester) and its ver-  
5 ification code for not less than two years, and shall accom-  
6 modate devices that read the magnetic strip incorporated  
7 by a card issued under section 601.

8 (e) ABUSE OF SYSTEM.—The use of the telephone  
9 verification system established by subsection (d) by a per-  
10 son other than—

11 (1) an employer acting pursuant to Section  
12 274A(b)(1) of the Immigration and Nationality Act,  
13 or

14 (2) an officer or employee of an agency of the  
15 United States or of any State acting in the perform-  
16 ance of official duties,

17 shall be punishable by a fine of not more than \$1,000 per  
18 occurrence.

19 **SEC. 603. UNIFORM VITAL STATISTICS.**

20 The Secretary of Health and Human Services shall  
21 consult with the State agency responsible for registration  
22 and certification of births and deaths and, within 2 years  
23 of the date of enactment of this Act, shall establish a na-  
24 tional electronic network linking the vital statistics records  
25 of such States. The network shall provide, where practical,

1 for the matching of deaths with births and shall enable  
2 the confirmation of births and deaths of citizens of the  
3 United States, or of aliens within the United States, by  
4 any Federal or State agency or official in the performance  
5 of official duties. The Secretary shall institute measures  
6 to achieve uniform and accurate reporting of vital statis-  
7 tics into the national network, to protect the integrity of  
8 the registration and certification process, and to prevent  
9 fraud against the Government and other persons through  
10 the use of false birth or death certificates.

## 11 **TITLE VII—BORDER SECURITY**

### 12 **SEC. 701. BORDER PATROL PERSONNEL.**

13 The number of full-time officer positions in the bor-  
14 der patrol of the Immigration and Naturalization Service  
15 shall be increased to 5,900 in fiscal year 1994, 6,900 in  
16 fiscal year 1995, 7,900 in fiscal year 1996, 8,900 in fiscal  
17 year 1997, and 9,900 in fiscal year 1998.

### 18 **SEC. 702. BORDER CROSSING FEE.**

19 The Commissioner shall collect a user fee for each  
20 entry into the United States by land or by sea after De-  
21 cember 31, 1993. The fee shall be \$3 for each person en-  
22 tering other than by private automobile, van, or truck and  
23 \$5 for each private automobile, van, or truck. The Com-  
24 missioner by regulation may establish a reduced fee or a  
25 multiple-crossing fee for frequent border crossers.

1 **SEC. 703. BORDER CONTROL TRUST FUND.**

2       There is established a Border Control Trust Fund  
3 (“Fund”) under the control of the Commissioner. The fees  
4 collected under section 702 shall be deposited into the  
5 Fund. Amounts deposited into the Fund and the earnings  
6 thereon shall be expended by the Commissioner exclusively  
7 on (1) measures, personnel, structures, and devices to  
8 deter and prevent illegal entry of persons and contraband  
9 into the United States by land or by sea, (2) construction  
10 and operation of facilities to expedite lawful border traffic  
11 and reduce, where practical, extensive delays in the time  
12 required for lawful entry of goods and persons, and (3)  
13 financial and other assistance to State and local law en-  
14 forcement agencies that have entered into cooperative ar-  
15 rangements with the Immigration and Naturalization  
16 Service. Not less than 80 percent of the sum of (a)  
17 amounts deposited into the Fund during a fiscal year and  
18 (b) the earnings of the Fund during that fiscal year shall  
19 be expended during that or the subsequent fiscal year.

20 **SEC. 704. RESPONSIBILITY OF INTERNATIONAL CARRIERS.**

21       (A) IN GENERAL.—Section 273 of the Immigration  
22 and Nationality Act (8 U.S.C. 1323) is amended—

23               (1) in subsection (a), by striking “(other than  
24               from foreign contiguous territory)”;

25               (2) by redesignating subsections (c) and (d) as  
26               subsections (e) and (f), respectively;

1           (3) by inserting after subsection (b) the follow-  
2           ing:

3           “(c) RECORDS.—The Attorney General shall main-  
4           tain a record of each undocumented alien arriving on or  
5           after the date of enactment of this subsection at a United  
6           States port of entry and of the carrier which brought such  
7           alien to that port of entry.”;

8           (4) by inserting after subsection (c) (as added  
9           by paragraph (4)), the following:

10          “(d) REPEAT OFFENSES.—(1) If the Attorney Gen-  
11          eral determines that, during the preceding calendar year,  
12          any carrier has delivered an average of more than 0.5 un-  
13          documented aliens per arrival at United States ports of  
14          entry then, for the next calendar year, in lieu of the pen-  
15          alty of \$3,000 specified in subsection (b), such carrier  
16          shall pay to the Attorney General a penalty of \$10,000  
17          for each alien brought in violation of subsection (a) or,  
18          alternatively, such carrier may choose to participate in a  
19          1-year pilot program intended to reduce the number of  
20          undocumented aliens arriving at United States ports of  
21          entry via international carriers. If such international car-  
22          rier chooses to participate in the 1-year pilot program,  
23          that carrier will be subject to the penalty levels prescribed  
24          in subsection (b), rather than the increased penalty levels  
25          specified in this subsection, for each alien brought in viola-

1 tion of subsection (a). The 1-year pilot program, which  
2 can be extended for multiple years at the discretion of the  
3 Attorney General, shall consist of a program whereby the  
4 international carrier collects the travel documents nec-  
5 essary for entry into the United States from all passengers  
6 upon their entry to the carrier and physically returns them  
7 to the passengers on an individual basis only at the actual  
8 point of inspection at the United States port of entry by  
9 United States immigration officials.

10 “(2) If the Attorney General determines that, during  
11 the preceding calendar year, any carrier has delivered an  
12 average of more than 1.5 undocumented aliens per arrival  
13 at United States ports of entry, then, for the next calendar  
14 year, in lieu of the penalties specified in subsection (b)  
15 and in paragraph (1) of this subsection, such carrier shall  
16 pay to the Attorney General a penalty of \$20,000 for each  
17 alien brought in violation of subsection (a).

18 “(3) If the Attorney General determines that, in the  
19 preceding calendar year, any carrier has delivered an aver-  
20 age of more than 2 undocumented aliens per arrival at  
21 United States ports of entry, then such carrier shall forfeit  
22 all landing rights in the United States for the next cal-  
23 endar year.”; and

24 (5) subsection (e) (as redesignated) is amend-  
25 ed—

1 (A) by inserting after “refunded.” the fol-  
2 lowing: “Unless the alien transported is granted  
3 political asylum status in the United States or”;  
4 and

5 (B) by inserting before the period at the  
6 end thereof “or that the visa or other immigra-  
7 tion documentation presented to the carrier was  
8 forged, counterfeit, altered, falsely made, stolen,  
9 or inapplicable to the alien presenting the docu-  
10 ment”.

11 (b) EFFECTIVE DATE.—The amendment made by  
12 subsection (a)(4) shall take effect on January 1 of the sec-  
13 ond calendar year following the date of enactment of this  
14 Act.

## 15 **TITLE VIII—ALIEN SMUGGLING**

### 16 **SEC. 801. COOPERATIVE ARRANGEMENTS.**

17 The Secretary of State shall undertake to enter into,  
18 on behalf of the United States, cooperative arrangements  
19 with appropriate foreign governments for the purpose of  
20 preventing the unlawful entry of aliens by land, air, or  
21 sea.

### 22 **SEC. 802. COAST GUARD INSTRUCTIONS.**

23 The Secretary of Defense, in consultation, when ap-  
24 propriate, with the Attorney General and the Secretary of  
25 State, shall instruct the Coast Guard to deter and prevent

1 the unlawful entry of aliens into the United States by sea.  
2 Such instructions shall include directives providing for  
3 stopping and boarding vessels, making inquiries of persons  
4 and inspecting documents and property on board such ves-  
5 sels, and returning a vessel to the country from which it  
6 came or to another country. In the case of vessels outside  
7 the territorial sea of the United States, such instructions  
8 shall be limited to vessels of the United States, vessels  
9 without nationality, vessels assimilated to vessels without  
10 nationality, and vessels of foreign nations with which the  
11 United States has arrangements authorizing the United  
12 States to stop and board such vessels. Except as otherwise  
13 provided in the preceding sentence, actions pursuant to  
14 this section are authorized to be undertaken both within  
15 and beyond the territorial sea of the United States.

16 **SEC. 803. APPLICATION OF RICO.**

17 Section 1961(1) of title 18, United States Code, is  
18 amended by striking “or” immediately prior to “(E)”, and  
19 by adding: “or (F) any act which is indictable under any  
20 of the following provisions of title 8, United States Code,  
21 section 1324(a)(i) (relating to prohibitions on bringing in  
22 or harboring certain aliens), section 1325 (relating to ille-  
23 gal entry, marriage fraud, or establishing a commercial  
24 enterprise for the purpose of evading the immigration  
25 laws), section 1327 (relating to aiding or assisting certain

1 aliens to enter the United States), or section 1328 (relat-  
2 ing to the importation of aliens for immoral purpose).”

3 **SEC. 804. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

4 Pursuant to section 994 of title 28, United States  
5 Code, the United States Sentencing Commission shall pro-  
6 mulgate guidelines, or amend existing guidelines, to pro-  
7 vide that a defendant convicted of violating, or conspiring  
8 to violate section 1324(a) of title 8, United States Code,  
9 shall be assigned not less than offense level 25 under sec-  
10 tion 2L1.1 of the United States Sentencing Guidelines if  
11 any of the following factors exist—

12 (1) if the offense involved five or more aliens in  
13 a single scheme or otherwise;

14 (2) if the offense involved other criminal activ-  
15 ity including, but not limited to, violations of the  
16 Controlled Substances Act, prostitution, importation  
17 of aliens for immoral purposes, trafficking in fire-  
18 arms, money laundering, illegal gang activities, kid-  
19 napping or ransom demands, fraudulent documents,  
20 or extortion;

21 (3) if the offense involves smuggling of persons  
22 under the age of 18 years for the purposes of illegal  
23 adoption or of sexual or commercial exploitation;

1 (4) if the offense involves the smuggling of  
2 known or suspected terrorists or persons involved in  
3 organized crime;

4 (5) if the offense involves dangerous or inhu-  
5 mane treatment of the persons smuggled; or

6 (6) if death or serious bodily harm occurs to  
7 persons smuggled.

8 Otherwise, the base offense level shall be 13, except for  
9 an offense described in section 1324(a)(2)(A) of title 8,  
10 United States Code.

11 **SEC. 805. EXPANDED FORFEITURE FOR SMUGGLING OR**  
12 **HARBORING.**

13 Subsection 274(b) of the Immigration and National-  
14 ity Act (8 U.S.C. 1324(b)) is amended—

15 (1) by amending paragraph (1) to read as fol-  
16 lows:

17 “(1) Any property, real or personal, which fa-  
18 cilitates or is intended to facilitate, or which has  
19 been used in or is intended to be used in the com-  
20 mission of a violation of subsection (a) or of sections  
21 274A(a)(1) or 274A(a)(2), or which constitutes or is  
22 derived from or traceable to the proceeds obtained  
23 directly or indirectly from a commission of a viola-  
24 tion of subsection (a), shall be subject to seizure and  
25 forfeiture, except that—

1           “(A) no property, used by any person as a  
2 common carrier in the transaction of business  
3 as a common carrier shall be forfeited under  
4 the provisions of this section unless it shall ap-  
5 pear that the owner or other person in charge  
6 of such property was a consenting party or  
7 privy to the illegal act;

8           “(B) no property shall be forfeited under  
9 the provisions of this section by reason of any  
10 act or omission established by the owner thereof  
11 to have been committed or omitted by any per-  
12 son other than such owner while such property  
13 was unlawfully in the possession of a person  
14 other than the owner in violation of the crimi-  
15 nal laws of the United States or of any State;  
16 and

17           “(C) no property shall be forfeited under  
18 this paragraph to the extent of an interest of  
19 any owner, by reason of any act or omission es-  
20 tablished by that owner to have been committed  
21 or omitted without the knowledge or consent of  
22 the owner, unless such action or omission was  
23 committed by an employee or agent of the  
24 owner, and facilitated or was intended to facili-  
25 tate, or was used in or intended to be used in,

1 the commission of a violation of subsection (a)  
2 or of section 274A(a)(1) or 274A(a)(2) which  
3 was committed by the owner or which intended  
4 to further the business interests of the owner,  
5 or to confer any other benefit upon the owner.”.

6 (2) by striking from paragraph (2)—

7 (A) “conveyance” both places it appears  
8 and inserting in lieu thereof “property”; and

9 (B) “is being used in” and inserting in lieu  
10 thereof “is being used in, is facilitating, has fa-  
11 cilitated, or was intended to facilitate”;

12 (3) by striking from paragraphs (4) and (5) “a  
13 conveyance” and “conveyance” each place such  
14 phrase or word appears and inserting in lieu thereof  
15 “property”;

16 (4) by striking from paragraph (4)—

17 (A) “or” at the end of subparagraph (C),  
18 and

19 (B) the period at the end of subparagraph  
20 (D) and inseting “; or”; and

21 (5) by adding after paragraph (4)(E):

22 “(E) transfer custody and ownership of  
23 forfeited property to any Federal, State, or  
24 local agency pursuant to the Tariff Act of  
25 1930, as amended (19 U.S.C. 1616a(c)).”.

1 **SEC. 806. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**  
2 **VESTIGATIONS.**

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

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

10 (2) by striking “or” after paragraph (l) and re-  
11 designating paragraphs (m), (n), and (o) as para-  
12 graphs (n), (o), and (p), respectively;

13 (3) by inserting after paragraph (l) the follow-  
14 ing new paragraph:

15 “(m) a violation of section 274 of the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1324) (relating  
17 to alien smuggling), of section 277 of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1327) (relating  
19 to the smuggling of aliens convicted of aggravated  
20 felonies or of aliens subject to exclusion on grounds  
21 of national security), or of section 278 of the Immi-  
22 gration and Nationality Act (8 U.S.C. 1328) (relat-  
23 ing to smuggling of aliens for the purpose of pros-  
24 titution or other immoral purpose); ”; and

25 (4) by striking “or any Deputy Assistant Attor-  
26 ney General in the Criminal Division specially des-

1       ignated by the Attorney General” and inserting “or  
2       any Deputy Assistant Attorney General or acting  
3       Deputy Assistant Attorney General in, or one other  
4       officer or employee of, the Criminal Division spe-  
5       cially designated by the Attorney General”.

6       (b) Section 2518(5) of title 18, United States Code,  
7       is amended by inserting “(including personnel of a foreign  
8       government or of a State or subdivision of a State)” after  
9       “Government personnel”.

10       (c) Section 2510(7) of title 18, United States Code,  
11       is amended by inserting before the semicolon “and addi-  
12       tionally, for purposes of section 2517(1)–(2), any person  
13       authorized to perform investigative, law enforcement, or  
14       prosecutorial functions by a foreign government”.

## 15               **TITLE IX—LOCAL COOPERATION**

### 16       **SEC. 901. SAVE SYSTEM MANDATED.**

17       Notwithstanding any other provision of law, no Fed-  
18       eral financial assistance shall be paid to a State or local  
19       government or agency for the aid to families with depend-  
20       ent children program under subchapter IV of title 42  
21       United States Code, the medicaid program under sub-  
22       chapter XIX of title 42 United States Code, the unemploy-  
23       ment compensation program under section 3304 of title  
24       26 of United States Code, the Food Stamp Program under  
25       the Food Stamp Act of 1977, or the financial assistance

1 programs under the United States Housing Act of 1937,  
2 Section 235 or 236 of the National Housing Act, or sec-  
3 tion 101 of the Housing and Urban Development Act of  
4 1965 if such government or agency does not verify the  
5 immigration status of aliens applying for benefits under  
6 these programs through use of the automated SAVE sys-  
7 tem established under section 12 of the Immigration Re-  
8 form and Control Act of 1986 (Public Law 99–603).

## 9 **TITLE X—CITIZENSHIP**

### 10 **SEC. 1001. VOTING LIMITED TO CITIZENS.**

11 In the exercise of its powers under section 5 of the  
12 Fourteenth Article of Amendment to the Constitution of  
13 the United States to enforce the prohibition of section 1  
14 of such Article against the making or enforcing of any law  
15 that shall abridge the privileges or immunities of citizens  
16 of the United States, the Congress determines that the  
17 right of citizens to vote is a privilege of citizens of the  
18 United States and that voting in elections of the United  
19 States or of any State by persons who are not citizens  
20 of the United States is an abridgement of that privilege.  
21 It shall be unlawful, and a felony punishable by a fine  
22 of not more than \$10,000 and/or imprisonment of not  
23 more than 1 year for each unlawful vote, for any person  
24 who is not a citizen of the United States to vote in any  
25 election to which the provisions of the Fifteenth, Nine-

1 tenth, Twenty-Fourth, or Twenty-Sixth Article of  
2 Amendment to the Constitution applies or in any other  
3 election, referendum, ballot, or other procedure of the  
4 United States or of any State in which votes are taken.  
5 Any vote that is cast in violation of this section shall be  
6 null, void, and of no effect and shall not be counted.

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