

103^D CONGRESS
2^D SESSION

S. 1884

To amend the Immigration and Nationality Act to reform asylum procedures, to strengthen criminal penalties for the smuggling of aliens, and to reform other procedures to control illegal immigration to the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, FEBRUARY 22), 1994

Mr. SIMPSON (for himself, Mr. BYRD, Mr. THURMOND, Mr. DOLE, Mr. D'AMATO, and Mrs. KASSEBAUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to reform asylum procedures, to strengthen criminal penalties for the smuggling of aliens, and to reform other procedures to control illegal immigration to 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Immi-
5 gration and Asylum Reform Act of 1994”.

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

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ALIEN SMUGGLING CONTROL

PART A—CRIMINAL PENALTIES

- Sec. 101. Increased penalties for alien smuggling.
- Sec. 102. Death penalty procedures.
- Sec. 103. Smuggling aliens for commission of crimes.
- Sec. 104. Adding alien smuggling to RICO.
- Sec. 105. Expanded forfeiture for smuggling or harboring illegal aliens.
- Sec. 106. Wiretap authority for alien smuggling investigations.

PART B—DEPORTATION

- Sec. 111. Expansion in definition of “aggravated felony”.
- Sec. 112. Deportation procedures for certain criminal aliens who are not permanent residents.
- Sec. 113. Judicial deportation.
- Sec. 114. Restricting defenses to deportation for certain criminal aliens.
- Sec. 115. Enhancing penalties for failing to depart, or reentering, after final order of deportation.
- Sec. 116. Civil penalties for failure to depart.

PART C—MISCELLANEOUS

- Sec. 121. Miscellaneous and technical changes.

TITLE II—PORT OF ENTRY INSPECTIONS

- Sec. 201. Restrictions on admissions fraud.
- Sec. 202. Special port of entry exclusion for admissions fraud.
- Sec. 203. Judicial review.
- Sec. 204. Effective date.

TITLE III—PENALTIES FOR DOCUMENT FRAUD AND MISREPRESENTATION

- Sec. 301. Increased penalties for document fraud.
- Sec. 302. Penalties for failure to disclose role as preparer of fraudulent documents.
- Sec. 303. Civil penalties for fraud, misrepresentation, and failure to present documents.

TITLE IV—ASYLUM REFORM

- Sec. 401. Penalties for frivolous applications.
- Sec. 402. Asylum and work authorization.
- Sec. 403. Resources to address asylum backlog.
- Sec. 404. Reforms to deportation process.
- Sec. 405. Reduction of incentive to delay proceedings.

TITLE V—ILLEGAL IMMIGRATION AND BORDER SECURITY

- Sec. 501. Additional investigators.
- Sec. 502. Funding of deportation costs.
- Sec. 503. Interior repatriation pilot program.

TITLE VI—BORDER CROSSING USER FEE

Sec. 601. Imposition of fees.

TITLE VII—DETENTION OF ILLEGAL ALIENS

Sec. 701. Pilot program on use of closed military bases for the detention of illegal aliens.

TITLE VIII—PUBLIC BENEFITS ABUSE

Sec. 801. Ineligibility for certain Federal benefits.

Sec. 802. Attribution of sponsor’s income and resources to family preference aliens.

Sec. 803. Definition of public charge.

TITLE IX—WORK AUTHORIZATION VERIFICATION

Sec. 901. Work authorization verification.

TITLE X—NUMERICAL LIMITATIONS ON ADMISSION OF ALIENS INTO THE UNITED STATES

Sec. 1001. Five-year reduction in legal immigration.

Sec. 1002. Worldwide numerical limitations.

Sec. 1003. Numerical limitation on annual admission of refugees.

TITLE XI—MISCELLANEOUS PROVISIONS

Sec. 1101. Use of legalization information for criminal prosecution purposes.

Sec. 1102. Communications between federally funded Government agencies and the Immigration and Naturalization Service.

1 **TITLE I—ALIEN SMUGGLING**
2 **CONTROL**

3 **PART A—CRIMINAL PENALTIES**

4 **SEC. 101. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

5 Section 274(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1324(a)) is amended—

7 (1) in paragraph (1)—

8 (A) by striking “or” at the end of subpara-
9 graph (C);

10 (B) by striking the comma at the end of
11 subparagraph (D) and all that follows through
12 the period and inserting “; or”; and

1 (C) by adding at the end the following:

2 “(E) engages in any conspiracy to commit any
3 of the preceding acts, or aids or abets the commis-
4 sion of any of the preceding acts,

5 shall be fined under title 18, United States Code, and shall
6 be imprisoned not less than 3 years nor more than 10
7 years, for each alien with respect to whom any violation
8 of this paragraph occurs.”; and

9 (2) by adding at the end the following new
10 paragraphs:

11 “(3) Any person who, in the commission of an act
12 described in paragraph (1), willfully subjects any alien to
13 a substantial risk of death or serious bodily harm shall
14 be subject to a term of imprisonment of not less than 3
15 years nor more than 10 years in addition to any term of
16 imprisonment imposed under that paragraph.

17 “(4) Any person who in the perpetration of, or in the
18 attempt to perpetrate, any violation of paragraph (1),
19 causes the death of an alien shall be subject to the penalty
20 of death, or life imprisonment, subject to appropriate pro-
21 cedures under chapter 228 of title 18, United States
22 Code.”.

1 **SEC. 102. DEATH PENALTY PROCEDURES.**

2 (a) IN GENERAL.—Title 18, United States Code, is
3 amended by inserting after chapter 227 the following new
4 chapter:

5 **“CHAPTER 228—DEATH PENALTY PROCE-**
6 **DURES RELATING TO SMUGGLING OF**
7 **ALIENS**

“Sec.

“3591. Sentence of death relating to the smuggling of aliens.

8 **“§ 3591. Sentence of death relating to the smuggling**
9 **of aliens**

10 “A sentence of death for a violation of section
11 274(a)(4) of the Immigration and Nationality Act may be
12 imposed only if—

13 “(1) the defendant caused the death of a person
14 intentionally, knowingly, or through recklessness
15 manifesting extreme indifference to human life, or
16 caused the death of a person through the intentional
17 infliction of serious bodily injury; and

18 “(2) the sentence is imposed in accordance with
19 the procedures set forth in section 408 (g), (h), (i),
20 (j), (k), (l), (m), (n), (o), (p), (q), and (r) of the
21 Controlled Substances Act (21 U.S.C. 848 (g), (h),
22 (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r)), ex-
23 cept that for the purposes of a violation of that law,
24 the references to “this section” in section 408(g)

1 and (h)(1) and “subsection (e)” in section 408(i)(1),
2 (j), (k) (each place it appears), and (p) of the Con-
3 trolled Substances Act shall be deemed to be ref-
4 erences to section 274(a)(4) of that Act. No rule of
5 law, including a rule contained in a law under which
6 an offense is committed, may be applied in deter-
7 mining whether a penalty of death shall be imposed
8 in a particular case, other than those procedures.
9 Those procedures supersede all other provisions of
10 law that pertain to whether a penalty of death shall
11 be imposed in any particular case (not including the
12 authorization of the penalty itself).”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 this section shall take effect on the date of enactment of
15 this Act.

16 **SEC. 103. SMUGGLING ALIENS FOR COMMISSION OF**
17 **CRIMES.**

18 Section 274(a)(2) of the Immigration and Nationality
19 Act (8 U.S.C. 1324(a)(2)) is amended—

20 (1) in subparagraph (B)—

21 (A) by striking “or” at the end of clause

22 (ii);

23 (B) by redesignating clause (iii) as clause

24 (iv); and

1 (C) by inserting after clause (ii) the follow-
2 ing:

3 “(iii) an offense committed with the intent
4 or with reason to believe that the alien unlaw-
5 fully brought into the United States will commit
6 an offense against the United States or any
7 State punishable by imprisonment for more
8 than 1 year, including violations of or at-
9 tempted violations of or aiding and abetting vio-
10 lations of or conspiring to violate the Controlled
11 Substances Act (21 U.S.C. 801 et seq.) or laws
12 against prostitution, importation of aliens for
13 immoral purposes, trafficking in firearms,
14 money laundering, gang activities, kidnapping
15 or ransom demands, fraudulent documents, or
16 extortion, the smuggling of known or suspected
17 terrorists or persons involved in organized crime
18 if offenses against such laws are punishable by
19 imprisonment for more than 1 year,”; and

20 (2) at the end thereof, by striking “be fined”
21 and all that follows through the period and inserting
22 the following: “be fined under title 18, United States
23 Code, and shall be imprisoned not less than 3 years
24 nor more than 10 years.”.

1 **SEC. 104. ADDING ALIEN SMUGGLING TO RICO.**

2 Section 1961(1) of title 18, United States Code, is
3 amended—

4 (1) by striking “or” after “law of the United
5 States,”;

6 (2) by inserting “or” at the end of clause (E);
7 and

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

9 “(F) any act in violation of section 1028, 1542,
10 or 1546 of this title for personal financial gain and
11 section 274, 277, or 278 of the Immigration and
12 Nationality Act.”.

13 **SEC. 105. EXPANDED FORFEITURE FOR SMUGGLING OR**
14 **HARBORING ILLEGAL ALIENS.**

15 Section 274 of the Immigration and Nationality Act
16 (8 U.S.C. 1324(b)) is amended—

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

19 “(b) SEIZURE AND FORFEITURE.—(1) Any property,
20 real or personal, which facilitates or is intended to facili-
21 tate, or which has been used in or is intended to be used
22 in the commission of a violation of subsection (a) or of
23 section 274A(a)(1) or 274A(a)(2), or which constitutes or
24 is derived from or traceable to the proceeds obtained di-
25 rectly or indirectly from a commission of a violation of

1 subsection (a) or of section 274A(a)(1) or 274A(a)(2),
2 shall be subject to seizure and forfeiture, except that—

3 “(A) no property, used by any person as a com-
4 mon carrier in the transaction of business as a com-
5 mon carrier shall be forfeited under the provisions of
6 this section unless it shall appear that the owner or
7 other person in charge of such property was a con-
8 senting party or privy to the illegal act;

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

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

1 of section 274A(a)(1) or 274A(a)(2) which was com-
2 mitted by the owner or which was intended to fur-
3 ther the business interests of the owner, or to confer
4 any other benefit upon the owner.”;

5 (2) in paragraph (2)—

6 (A) by striking “conveyance” both places it
7 appears and inserting “property”; and

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

11 (3) in paragraph (3)—

12 (A) by inserting “(A)” immediately after
13 “(3)”, and

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

15 “(B) Before the seizure of any real property pursuant
16 to this section, the Attorney General shall provide notice
17 and an opportunity to be heard to the owner of the prop-
18 erty. The Attorney General shall prescribe such regula-
19 tions as may be necessary to carry out this subpara-
20 graph.”;

21 (4) in paragraphs (4) and (5) by striking “a
22 conveyance” and “conveyance” each place such
23 phrase or word appears and inserting “property”;
24 and

25 (5) in paragraph (4) by—

1 (A) striking “or” at the end of subpara-
2 graph (C),

3 (B) by striking the period at the end of
4 subparagraph (D) and inserting “; or”, and

5 (C) by inserting at the end the following
6 new subparagraph:

7 “(E) transfer custody and ownership of
8 forfeited property to any Federal, State, or
9 local agency pursuant to section 616(c) of the
10 Tariff Act of 1930 (19 U.S.C. 1616a(c)).”.

11 **SEC. 106. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
12 **VESTIGATIONS.**

13 Section 2516(1) of title 18, United States Code, is
14 amended—

15 (1) in paragraph (c), by inserting after
16 “trains)” the following: “, or a felony violation of
17 section 1028 (relating to production of false identi-
18 fication documentation), section 1542 (relating to
19 false statements in passport applications), section
20 1546 (relating to fraud and misuse of visas, permits,
21 and other documents)”;

22 (2) by striking “or” after paragraph (l);

23 (3) by redesignating paragraphs (m), (n), and
24 (o) as paragraphs (n), (o), and (p), respectively; and

1 (4) by inserting after paragraph (l) the follow-
2 ing new paragraph:

3 “(m) a violation of section 274, 277, or 278 of the
4 Immigration and Nationality Act (relating to the smug-
5 gling of aliens);”.

6 **PART B—DEPORTATION**

7 **SEC. 111. EXPANSION IN DEFINITION OF “AGGRAVATED**
8 **FELONY”.**

9 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)(43)) is amended to read as follows:

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

13 “(A) murder;

14 “(B) any illicit trafficking in any controlled
15 substance (as defined in section 102 of the Con-
16 trolled Substances Act), including any drug traffick-
17 ing crime as defined in section 924(c) of title 18,
18 United States Code;

19 “(C) any illicit trafficking in any firearms or
20 destructive devices as defined in section 921 of title
21 18, United States Code, or in explosive materials as
22 defined in section 841(c) of title 18, United States
23 Code;

24 “(D) any offense described in (i) section 1956
25 of title 18, United States Code (relating to launder-

1 ing of monetary instruments) or (ii) section 1957 of
2 such title (relating to engaging in monetary trans-
3 actions in property derived from specific unlawful
4 activity) if the value of the monetary instruments or
5 property exceeded \$100,000;

6 “(E) any offense described in—

7 “(i) subsections (h) or (i) of section 842,
8 title 18, United States Code, or subsection (d),
9 (e), (f), (g), (h), or (i) of section 844 of title 18,
10 United States Code (relating to explosive mate-
11 rials offenses);

12 “(ii) paragraph (1), (2), (3), (4), or (5) of
13 section 922(g), or section 922(j), section
14 922(n), section 922(o), section 922(p), section
15 922(r), section 924(b), or section 924(h) of title
16 18, United States Code (relating to firearms of-
17 fenses); or

18 “(iii) section 5861 of the Internal Revenue
19 Code of 1986 (relating to firearms offenses);

20 “(F) any crime of violence (as defined in sec-
21 tion 16 of title 18, United States Code, not includ-
22 ing a purely political offense) which is punishable by
23 imprisonment for 5 years or more;

24 “(G) any theft offense (including receipt of sto-
25 len property) or any burglary offense, in which the

1 value of the property in question exceeds \$10,000
2 and which is punishable by imprisonment for 5 years
3 or more;

4 “(H) any offense described in section 875, sec-
5 tion 876, section 877, or section 1202 of title 18,
6 United States Code (relating to the demand for or
7 receipt of ransom);

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

11 “(J) any offense described in—

12 “(i) section 1962 of title 18, United States
13 Code (relating to racketeer influenced corrupt
14 organizations); or

15 “(ii) section 1084 (if it is a second or sub-
16 sequent offense) or section 1955 of such title
17 (relating to gambling offenses),

18 which is punishable by imprisonment for 5 years or
19 more;

20 “(K) any offense relating to commercial brib-
21 ery, counterfeiting, forgery or trafficking in vehicles
22 whose identification numbers have been altered,
23 which is punishable by imprisonment for 5 years or
24 more;

25 “(L) any offense that—

1 “(i) relates to the owning, controlling,
2 managing or supervising of a prostitution busi-
3 ness;

4 “(ii) is described in section 2421, section
5 2422, or section 2423 of title 18, United States
6 Code (relating to transportation for the purpose
7 of prostitution) for commercial advantage; or

8 “(iii) is described in sections 1581, 1582,
9 1583, 1584, 1585, or section 1588, of title 18,
10 United States Code (relating to peonage, slav-
11 ery, and involuntary servitude);

12 “(M) any offense relating to perjury or sub-
13 ornation of perjury which is punishable by imprison-
14 ment for 5 years or more;

15 “(N) any offense described in—

16 “(i) section 793 (relating to gathering or
17 transmitting national defense information), sec-
18 tion 798 (relating to disclosure of classified in-
19 formation), section 2153 (relating to sabotage)
20 or section 2381 or section 2382 (relating to
21 treason) of title 18, United States Code; or

22 “(ii) section 601 of the National Security
23 Act of 1947 (50 U.S.C. 421) (relating to pro-
24 tecting the identity of undercover intelligence
25 agents);

1 “(O) any offense that—

2 “(i) involves fraud or deceit in which the
3 loss to the victim or victims exceeded \$200,000;
4 or

5 “(ii) is described in section 7201 of the In-
6 ternal Revenue Code of 1986 (relating to tax
7 evasion), in which the revenue loss to the Gov-
8 ernment exceeds \$200,000;

9 “(P) any offense described in section 274(a)(1)
10 of the Immigration and Nationality Act (relating to
11 alien smuggling) for the purpose of commercial ad-
12 vantage;

13 “(Q) any offense described in section 1546(a)
14 of title 18, United States Code (relating to docu-
15 ment fraud), for the purpose of commercial advan-
16 tage;

17 “(R) any offense relating to failing to appear
18 before a court pursuant to a court order to answer
19 to or dispose of a charge of a felony, which is pun-
20 ishable by imprisonment for 2 years or more; or

21 “(S) any attempt or conspiracy to commit an
22 offense described in this paragraph.

23 The term ‘aggravated felony’ applies to offenses described
24 in this paragraph whether in violation of Federal or State
25 law and applies to such offenses in violation of the laws

1 of a foreign country for which the term of imprisonment
2 was completed within the previous 15 years.”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 this section applies to convictions entered before, on, or
5 after the date of enactment of this Act.

6 **SEC. 112. DEPORTATION PROCEDURES FOR CERTAIN**
7 **CRIMINAL ALIENS WHO ARE NOT PERMA-**
8 **NENT RESIDENTS.**

9 (a) TECHNICAL AND CONFORMING CHANGES.—Sec-
10 tion 242A of the Immigration and Nationality Act (8
11 U.S.C. 1252a) is amended—

12 (1) in subsection (a)—

13 (A) by striking “(a) IN GENERAL.—” and
14 inserting the following:

15 “(b) DEPORTATION OF PERMANENT RESIDENT
16 ALIENS.—

17 “(1) IN GENERAL.—”; and

18 (B) by inserting in the first sentence “per-
19 manent resident” after “correctional facilities
20 for”;

21 (2) in subsection (b)—

22 (A) by striking “(b) IMPLEMENTATION.—”
23 and inserting “(2) IMPLEMENTATION.—”; and

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

1 (3) by striking subsection (c);

2 (4) in subsection (d)—

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

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

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

9 (5) in subsection (e)—

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

12 (B) by striking the second sentence; and

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

14 (6) by inserting after the section heading the
15 following new subsection:

16 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
17 convicted of an aggravated felony shall be conclusively pre-
18 sumed to be deportable from the United States.”; and

19 (7) by amending the section heading to read as
20 follows:

21 “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
22 AGGRAVATED FELONIES”.

23 (b) ELIMINATION OF ADMINISTRATIVE HEARING FOR
24 CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-
25 gration and Nationality Act (8 U.S.C. 1252a), as amended

1 by subsection (a), is further amended by adding at the
2 end the following:

3 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
4 MANENT RESIDENTS.—(1) Notwithstanding section 242,
5 and subject to paragraph (5), the Attorney General may
6 issue a final order of deportation against any alien de-
7 scribed in paragraph (2) whom the Attorney General de-
8 termines to be deportable under section 241(a)(2)(A)(iii)
9 (relating to conviction of an aggravated felony).

10 “(2) An alien is deportable under this subsection if
11 the alien—

12 “(A) was not lawfully admitted for permanent
13 residence at the time that proceedings under this
14 section commenced, or

15 “(B) had permanent resident status on a condi-
16 tional basis (as described in section 216) at the time
17 that proceedings under this section commenced.

18 “(3) No alien described in paragraph (2) shall be eli-
19 gible for any relief from deportation that the Attorney
20 General may grant in his discretion.

21 “(4) The Attorney General may not execute any order
22 described in paragraph (1) until 14 days have passed from
23 the date that such order was issued, unless waived by the
24 alien, in order that the alien has an opportunity to apply
25 for judicial review under section 106.”.

1 (c) LIMITED JUDICIAL REVIEW.—Section 106 of the
2 Immigration and Nationality Act (8 U.S.C. 1105a) is
3 amended—

4 (1) in the first sentence of subsection (a), by in-
5 serting “or pursuant to section 242A(c)” after
6 “under section 242(b)”;

7 (2) in subsection (a)(1) and subsection (a)(3),
8 by inserting “(including an alien described in section
9 242A(c))” after “aggravated felony”; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(d) Notwithstanding subsection (c), no court shall
13 have jurisdiction to hear a petition for review or for habeas
14 corpus on behalf of an alien described in section 242A(f)
15 except on the question of whether the alien is in fact an
16 alien described in such section.”.

17 (d) AMENDMENT TO TABLE OF CONTENTS.—The
18 table of contents of the Immigration and Nationality Act
19 is amended by amending the item relating to section 242A
20 to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of aggravated felonies.”.

21 (e) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to all aliens against whom deporta-
23 tion proceedings are initiated after the date of enactment
24 of this Act.

1 **SEC. 113. JUDICIAL DEPORTATION.**

2 (a) JUDICIAL DEPORTATION.—Section 242A of the
3 Immigration and Nationality Act (8 U.S.C. 1252a), as
4 amended by section 112 of this Act, is further amended
5 by adding at the end the following new subsection:

6 “(d) JUDICIAL DEPORTATION.—

7 “(1) AUTHORITY.—Notwithstanding any other
8 provision of this Act, a United States district court
9 shall have jurisdiction to enter a judicial order of de-
10 portation at the time of sentencing against an alien
11 whose criminal conviction causes such alien to be de-
12 portable under section 241(a)(2)(A)(iii) (relating to
13 conviction of an aggravated felony), but only if such
14 an order has been requested prior to sentencing by
15 the United States Attorney with the concurrence of
16 the Commissioner.

17 “(2) PROCEDURE.—(A) The United States At-
18 torney shall provide notice of intent to request judi-
19 cial deportation promptly after the entry in the
20 record of an adjudication of guilt or guilty plea.
21 Such notice shall be provided to the court, to the
22 alien, to the alien’s counsel of record, and to the
23 Commissioner.

24 “(B) Notwithstanding section 242B, the United
25 States Attorney, with the concurrence of the Com-
26 missioner, shall file at least 20 days prior to the

1 date set for sentencing a charge containing factual
2 allegations regarding the alienage of the defendant
3 and satisfaction by the defendant of the definition of
4 aggravated felony.

5 “(C) If the court determines that the defendant
6 has presented substantial evidence to establish prima
7 facie eligibility for relief from deportation under sec-
8 tion 212(c), the Attorney General shall provide the
9 court with a recommendation and report regarding
10 the alien’s eligibility for relief under such section.
11 The court shall either grant or deny the relief
12 sought.

13 “(D)(i) The alien shall have a reasonable oppor-
14 tunity to examine the evidence against him or her,
15 to present evidence on his or her own behalf, and to
16 cross-examine witnesses presented by the Govern-
17 ment.

18 “(ii) The court, for the purposes of determining
19 whether to enter an order described in paragraph
20 (1), shall only consider evidence that would be ad-
21 missible in proceedings conducted pursuant to sec-
22 tion 242(b).

23 “(iii) Nothing in this subsection shall limit the
24 information a court of the United States may receive

1 or consider for the purposes of imposing an appro-
2 priate sentence.

3 “(iv) The court may order the alien deported if
4 the Attorney General demonstrates by clear and con-
5 vincing evidence that the alien is deportable under
6 this Act.

7 “(3) NOTICE, APPEAL, AND EXECUTION OF JU-
8 DICIAL ORDER OF DEPORTATION.—(A)(i) A judicial
9 order of deportation or denial of such order may be
10 appealed by either party to the court of appeals for
11 the circuit in which the district court is located.

12 “(ii) Except as provided in clause (iii), such ap-
13 peal shall be considered consistent with the require-
14 ments described in section 106.

15 “(iii) Upon execution by the defendant of a
16 valid waiver of the right to appeal the conviction on
17 which the order of deportation is based, the expira-
18 tion of the period described in section 106(a)(1), or
19 the final dismissal of an appeal from such convic-
20 tion, the order of deportation shall become final and
21 shall be executed at the end of the prison term in
22 accordance with the term of the order.

23 “(B) As soon as is practicable after entry of a
24 judicial order of deportation, the Attorney General
25 shall provide the defendant with written notice of

1 the order or deportation, which shall designate the
2 defendant's country of choice for deportation and
3 any alternate country pursuant to section 243(a).

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

11 (b) TECHNICAL AMENDMENT.—The ninth sentence
12 of section 242(b) of the Immigration and Nationality Act
13 (8 U.S.C. 1252(b)) is amended by striking “The” and in-
14 serting “Except as provided in section 242A(c) and
15 242A(d), the”.

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

20 **SEC. 114. RESTRICTING DEFENSES TO DEPORTATION FOR**
21 **CERTAIN CRIMINAL ALIENS.**

22 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
23 NENT RESIDENCE.—The last sentence of section 212(c)
24 of the Immigration and Nationality Act (8 U.S.C.
25 1182(c)) is amended by striking “has served for such fel-

1 ony or felonies” and all that follows through the period
2 and inserting “has been sentenced for such felony or felo-
3 nies to a term or terms of imprisonment of at least 5
4 years, if the time for appealing such conviction or sentence
5 has expired and the sentence has become final.”.

6 (b) WITHHOLDING OF DEPORTATION DEFENSE.—
7 Section 243(h)(2) of the Immigration and Nationality Act
8 (8 U.S.C. 1253(h)(2)) is amended—

9 (1) by striking “or” at the end of subparagraph
10 (C);

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

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(E) the alien has been convicted of an ag-
16 gravated felony.”.

17 **SEC. 115. ENHANCING PENALTIES FOR FAILING TO DE-**
18 **PART, OR REENTERING, AFTER FINAL ORDER**
19 **OF DEPORTATION.**

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 “by reason of being a member
24 of any of the classes described in paragraph (2), (3),
25 or (4) of section 241(a)” the first time it appears

1 and inserting “by reason of being a member of any
2 of the classes described in section 212(a) or 241(a)”;
3 and

4 (2) by striking “shall be imprisoned not more
5 than ten years” and inserting “shall be imprisoned
6 not more than 4 years, except that if the alien is a
7 member of any of the classes described in paragraph
8 (1)(E), (2), (3), or (4) of section 241(a) then the
9 alien shall be imprisoned not more than 10 years”.

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

12 (1) in paragraph (1)—

13 (A) by inserting after “commission of” the
14 following: “three or more misdemeanors involv-
15 ing drugs, crimes against the person, or both,
16 or”; and

17 (B) striking “5” and inserting “10”; and

18 (2) in paragraph (2), by striking “15” and in-
19 serting “20”, and

20 (3) by adding at the end the following sentence:
21 “For the purposes of this subsection, the term ‘deporta-
22 tion’ includes any agreement in which an alien stipulates
23 to deportation during a criminal trial under either Federal
24 or State law.”.

1 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
2 TATION ORDER.—Section 276 of the Immigration and Na-
3 tionality Act (8 U.S.C. 1326) is amended by adding at
4 the end the following new subsection:

5 “(c) In any criminal proceeding under this section,
6 an alien may not challenge the validity of the deportation
7 order described in subsection (a)(1) or subsection (b) un-
8 less the alien demonstrates that—

9 “(1) the alien has exhausted any administrative
10 remedies that may have been available to seek relief
11 against such order;

12 “(2) the deportation proceedings at which the
13 order was issued improperly deprived the alien of the
14 opportunity for judicial review; and

15 “(3) the entry of the order was fundamentally
16 unfair.”.

17 **SEC. 116. CIVIL PENALTIES FOR FAILURE TO DEPART.**

18 (a) IN GENERAL.—Section 274C of the Immigration
19 and Nationality Act (8 U.S.C. 1324c) is amended—

20 (1) by amending the section heading to read as
21 follows:

22 “PENALTIES FOR DOCUMENT FRAUD, FAILURE TO
23 DEPART, AND FAILURE TO PRESENT DOCUMENTS”;

24 (2) in subsection (a)—

25 (A) by striking “or” at the end of para-
26 graph (3);

1 (B) by striking the period at the end of
2 paragraph (4) and inserting “; or”; and

3 (C) by adding at the end the following new
4 paragraph:

5 “(5) if such person is an alien—

6 “(A) to fail or refuse to depart from the
7 United States by the date that final,
8 unappealable orders of exclusion and deporta-
9 tion or deportation become effective against
10 such person; or

11 “(B) to fail or refuse to voluntarily depart
12 the United States by the date granted by the
13 Attorney General in lieu of a final,
14 unappealable order of deportation,”;

15 (3) in subsection (c), by inserting before the pe-
16 riod the following: “or in section 237 or section 242
17 of this Act”;

18 (4) in subsection (d)(3)—

19 (A) by striking “or” at the end of subpara-
20 graph (A);

21 (B) by striking the period at the end of
22 subparagraph (B) and inserting “, or”; and

23 (C) by adding at the end the following new
24 subparagraph:

1 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
2 REQUIREMENTS.—No amendment made by this title, and
3 nothing in section 242(i) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1252(i)), may be construed to create
5 any substantive or procedural right or benefit, that is le-
6 gally enforceable by any party against the United States
7 or its agencies or officers or against any other person.

8 **TITLE II—PORT OF ENTRY** 9 **INSPECTIONS**

10 **SEC. 201. RESTRICTIONS ON ADMISSIONS FRAUD.**

11 (a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR
12 FAILURE TO PRESENT DOCUMENTS.—Section
13 212(a)(6)(C) of the Immigration and Nationality Act (8
14 U.S.C. 1182(a)(6)(C)) is amended—

15 (1) by striking “(C) MISREPRESENTATION” and
16 inserting the following:

17 “(C) FRAUD, MISREPRESENTATION, AND FAILURE
18 TO PRESENT DOCUMENTS”; and

19 (2) by adding at the end the following new
20 clause:

21 “(iii) FRAUD, MISREPRESENTATION, AND FAIL-
22 URE TO PRESENT DOCUMENTS.—

23 “(I) Any alien who, in seeking entry to the
24 United States or boarding a common carrier for
25 the purpose of coming to the United States pre-

1 sents any document which, in the determination
2 of the immigration officer, is forged, counter-
3 feit, altered, falsely made, stolen, or inapplica-
4 ble to the person presenting the document, or
5 otherwise contains a misrepresentation of a ma-
6 terial fact, is excludable.

7 “(II) Any alien who is required to present
8 a document relating to the alien’s eligibility to
9 enter the United States prior to boarding a
10 common carrier for the purpose of coming to
11 the United States and who fails to present such
12 document to an immigration officer upon arriv-
13 al at a port of entry into the United States is
14 excludable.”.

15 (b) PROVISION FOR ASYLUM AND OTHER DISCRE-
16 TIONARY RELIEF.—(1) Section 208 of the Immigration
17 and Nationality Act (8 U.S.C. 1158) is amended by add-
18 ing at the end the following new subsection:

19 “(e)(1) Notwithstanding subsection (a), any alien
20 who, in seeking entry to the United States or boarding
21 a common carrier for the purpose of coming to the United
22 States, presents any document which, in the determination
23 of the immigration officer, is fraudulent, forged, stolen,
24 or inapplicable to the person presenting the document, or
25 otherwise contains a misrepresentation of a material fact,

1 may not apply for or be granted asylum, unless presen-
2 tation of the document was pursuant to direct departure
3 from a country in which the alien has a credible fear of
4 persecution or of return to persecution.

5 “(2) Notwithstanding subsection (a), an alien who
6 boards a common carrier for the purpose of coming to the
7 United States through the presentation of any document
8 which relates or purports to relate to the alien’s eligibility
9 to enter the United States, and who fails to present such
10 document to an immigration officer upon arrival at a port
11 of entry into the United States, may not apply for or be
12 granted asylum, unless presentation of such document was
13 pursuant to direct departure from a country in which the
14 alien has a credible fear of persecution or of return to per-
15 secution.

16 “(3) Notwithstanding subsection (a), an alien de-
17 scribed in section 235(d)(3) may not apply for or be grant-
18 ed asylum, unless the person departed directly from a
19 country in which the alien has a credible fear of persecu-
20 tion or of return to persecution.

21 “(4) Notwithstanding paragraphs (1), (2), and (3),
22 the Attorney General may, in the Attorney General’s sole
23 discretion, permit an alien described in paragraphs (1),
24 (2), or (3) to apply for asylum.

1 “(5)(A) When an immigration officer has determined
2 that an alien has sought entry under either of the cir-
3 cumstances described in paragraph (1) or (2) or is an
4 alien described in section 235(d)(3) and the alien has indi-
5 cated a desire to apply for asylum, the immigration officer
6 shall refer the matter to an asylum officer who shall inter-
7 view the alien to determine whether presentation of the
8 document was pursuant to direct departure from a coun-
9 try in which the alien has a credible fear of persecution
10 or of return to persecution, or in the case of an alien de-
11 scribed in section 235(d)(3), whether the alien had directly
12 departed from such a country.

13 “(B) If the officer determines that the alien does not
14 have a credible fear of persecution or of return to persecu-
15 tion in the country in which the alien was last present
16 prior to attempting entry into the United States or arriv-
17 ing in the United States or a port of entry under the cir-
18 cumstances described in section 235(d)(3), the alien may
19 be specially excluded and deported in accordance with sec-
20 tion 235(e).

21 “(C) The Attorney General shall provide by regula-
22 tion for the prompt supervisory review of a determination
23 under subparagraph (B) that an alien does not have a
24 credible fear of persecution or of return to persecution in
25 the country in which the alien was last present.

1 “(D) The Attorney General shall provide information
2 concerning the credible fear determination process de-
3 scribed in this paragraph to persons who may be eligible
4 for that process under the provisions of this subsection.
5 An alien who is eligible for a credible fear determination
6 pursuant to subparagraph (A) may consult with a person
7 or persons of his or her choosing prior to the credible fear
8 determination process or any review thereof, according to
9 regulations prescribed by the Attorney General. Such con-
10 sultation shall be at no expense to the Government and
11 shall not delay the process.

12 “(6) As used in this section, the term ‘credible fear
13 of persecution or of return to persecution’ means—

14 “(A) it is more probable than not that the
15 statements made by the alien in support of his or
16 her claim are true; and

17 “(B) there is a significant danger that the alien
18 would be returned to a country in which the alien
19 would have a credible fear of persecution.

20 “(7) As used in this subsection, the term ‘asylum offi-
21 cer’ means a person who—

22 “(A) has had professional training in country
23 conditions, asylum law, and interview techniques;

1 “(B) has been employed for at least one year in
2 a position the primary responsibility of which is the
3 adjudication of asylum claims; and

4 “(C) is supervised by an officer who meets con-
5 ditions in subparagraphs (A) and (B).”.

6 (2) Section 235 of the Immigration and Nationality
7 Act (8 U.S.C. 1225) is amended by adding at the end the
8 following new subsection:

9 “(d)(1) Subject to paragraph (2), any alien who has
10 not been admitted to the United States, and who is exclud-
11 able under section 212(a)(6)(C)(iii), or who is an alien de-
12 scribed in paragraph (3), is ineligible for withholding of
13 deportation pursuant to section 243(h), and may not apply
14 therefor or for any other relief under this Act, except that
15 an alien found to have a credible fear of persecution or
16 of return to persecution in accordance with section 208(e)
17 shall be taken before a special inquiry officer for exclusion
18 proceedings in accordance with section 236 and may apply
19 for asylum, withholding of deportation, or both, in the
20 course of such proceedings.

21 “(2) An alien described in paragraph (1) who has
22 been found ineligible to apply for asylum under section
23 208(e) may be returned under the provisions of this sec-
24 tion only to a country in which he or she has no credible
25 fear of persecution or of return to persecution. If there

1 is no country to which the alien can be returned in accord-
2 ance with the provisions of this paragraph, the alien shall
3 be taken before a special inquiry officer for exclusion pro-
4 ceedings in accordance with section 236 and may apply
5 for asylum, withholding of deportation, or both, in the
6 course of such proceedings.

7 “(3) Any alien who is excludable under section
8 212(a), and who has been brought or escorted under the
9 authority of the United States—

10 “(A) into the United States, having been on
11 board a vessel encountered seaward of the territorial
12 sea by officers of the United States, or

13 “(B) to a port of entry, having been on board
14 a vessel encountered within the territorial sea or in-
15 ternal waters of the United States,

16 shall either be detained on board the vessel on which such
17 person arrived or in such facilities as are designated by
18 the Attorney General or paroled in the discretion of the
19 Attorney General pursuant to section 212(d)(5) pending
20 accomplishment of the purpose for which the person was
21 brought or escorted into the United States or to the port
22 of entry, except that no alien shall be detained on board
23 a public vessel of the United States without the concur-
24 rence of the head of the department under whose authority
25 the vessel is operating.”.

1 (3) Section 237(a) of the Immigration and National-
2 ity Act (8 U.S.C. 1227(a)) is amended—

3 (A) in the second sentence of paragraph (1) by
4 striking “Deportation” and inserting “Subject to
5 section 235(d)(2), deportation”; and

6 (B) in the first sentence of paragraph (2) by
7 striking “If” and inserting “Subject to section
8 235(d)(2), if”.

9 **SEC. 202. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMIS-**
10 **SIONS FRAUD.**

11 Section 235 of the Immigration and Nationality Act
12 (8 U.S.C. 1225), as amended by section 201(b)(2), is fur-
13 ther amended by adding at the end the following new sub-
14 section:

15 “(e)(1) Subject to paragraph (d)(2), any alien (in-
16 cluding an alien crewman) who—

17 “(A) may appear to the examining immigration
18 officer or to the special inquiry officer during the ex-
19 amination before either of such officers to be exclud-
20 able under section 212(a)(6)(C)(iii) of the Immigra-
21 tion and Nationality Act may be ordered specially
22 excluded and deported by the Attorney General, ei-
23 ther by a special inquiry officer or otherwise; or

24 “(B) was brought to the United States pursu-
25 ant to subsection (d)(3) and who may appear to an

1 examining immigration officer to be excludable may
2 be ordered specially excluded and deported by the
3 Attorney General without any further inquiry, either
4 by a special inquiry officer or otherwise.

5 “(2) Such special exclusion order is not subject to
6 administrative appeal, except that the Attorney General
7 shall provide by regulation for prompt review of such an
8 order against an applicant who claims to have been law-
9 fully admitted for permanent residence. A special exclu-
10 sion order entered in accordance with the provisions of
11 this subsection shall have the same effect as if the alien
12 had been ordered excluded and deported pursuant to sec-
13 tion 236, except that judicial review of such an order shall
14 be available only under section 106.

15 “(3) Nothing in this subsection shall be regarded as
16 requiring an inquiry before a special inquiry officer in the
17 case of an alien crewman.”.

18 **SEC. 203. JUDICIAL REVIEW.**

19 (a) PRECLUSION OF JUDICIAL REVIEW.—Section
20 106 of the Immigration and Nationality Act (8 U.S.C.
21 1105a) is amended—

22 (1) by amending the section heading to read as
23 follows: “JUDICIAL REVIEW OF ORDERS OF DEPOR-
24 TATION AND EXCLUSION, AND SPECIAL EXCLUSION”;
25 and

1 (2) by adding at the end the following new sub-
2 section:

3 “(d)(1) Notwithstanding any other provision of law,
4 and except as provided in this subsection, no court shall
5 have jurisdiction to review any individual determination,
6 or to entertain any other cause or claim, arising from or
7 relating to the implementation or operation of sections
8 208(e), 212(a)(6)(C)(iii), 235(d), and 235(e). Regardless
9 of the nature of the action or claim, or the party or parties
10 bringing the action, no court shall have jurisdiction or au-
11 thority to enter declaratory, injunctive, or other equitable
12 relief not specifically authorized in this subsection, nor to
13 certify a class under Rule 23 of the Federal Rules of Civil
14 Procedure.

15 “(2) Judicial review of any cause, claim, or individual
16 determination covered under paragraph (d)(1) shall only
17 be available in habeas corpus proceedings, and shall be
18 limited to determinations of—

19 “(A) whether the petitioner is an alien, if the
20 petitioner makes a showing that his or her claim of
21 United States nationality is not frivolous;

22 “(B) whether the petitioner was ordered spe-
23 cially excluded; and

24 “(C) whether the petitioner can prove by a pre-
25 ponderance of the evidence that he or she is an alien

1 lawfully admitted for permanent residence and is en-
2 titled to such further inquiry as is prescribed by the
3 Attorney General pursuant to section 235(e)(2).

4 “(3) In any case where the court determines that an
5 alien was not ordered specially excluded, or was not prop-
6 erly subject to special exclusion under the regulations
7 adopted by the Attorney General, the court may order no
8 relief beyond requiring that the alien receive a hearing in
9 accordance with section 236, or a determination in accord-
10 ance with section 235(c) or 273(d). Any alien excludable
11 under section 212(a)(6)(C)(iii) who receives a hearing
12 under section 236, whether by order of court or otherwise,
13 may thereafter obtain judicial review of any resulting final
14 order of exclusion pursuant to subsection (b).

15 “(4) In determining whether an alien has been or-
16 dered specially excluded, the court’s inquiry shall be lim-
17 ited to whether such an order was in fact issued and
18 whether it relates to the petitioner. There shall be no re-
19 view of whether the alien is actually excludable under sec-
20 tion 212(a)(6)(C)(iii) or entitled to any relief from exclu-
21 sion.”.

22 (b) PRECLUSION OF COLLATERAL ATTACKS.—Sec-
23 tion 235 of the Immigration and Nationality Act (8 U.S.C.
24 1225), as amended by sections 201(b)(2) and 202, is fur-

1 ther amended by adding at the end the following new sub-
2 section:

3 “(f) In any action brought for the assessment of pen-
4 alties for improper entry or re-entry of an alien under sec-
5 tions 275 and 276 of the Immigration and Nationality
6 Act, no court shall have jurisdiction to hear claims collat-
7 erally attacking the validity of orders of exclusion, special
8 exclusion, or deportation entered under sections 235, 236,
9 and 242 of the Immigration and Nationality Act.”.

10 **SEC. 204. EFFECTIVE DATE.**

11 The amendments made by this title shall be effective
12 upon the date of enactment of this Act, and shall apply
13 to aliens who arrive in or seek admission to the United
14 States on or after such date. Notwithstanding any other
15 provision of law, the Attorney General may issue interim
16 final regulations to implement the provisions of such
17 amendments at any time on or after the date of enactment
18 of this Act, which regulations may become effective upon
19 publication without prior notice or opportunity for public
20 comment.

1 **TITLE III—PENALTIES FOR DOC-**
2 **UMENT FRAUD AND MIS-**
3 **REPRESENTATION**

4 **SEC. 301. INCREASED PENALTIES FOR DOCUMENT FRAUD.**

5 (a) FRAUD AND MISUSE OF IMMIGRATION DOCU-
6 MENTS.—Section 1546(a) of title 18, United States Code,
7 is amended by striking “five years” and inserting “ten
8 years”.

9 (b) FRAUD AND MISUSE OF GOVERNMENT-ISSUED
10 IDENTIFICATION DOCUMENTS.—Section 1028(b)(1) of
11 title 18, United States Code, is amended by striking “five
12 years” and inserting “ten years”.

13 (c) CHANGES TO THE SENTENCING LEVELS.—Pur-
14 suant to section 944 of title 28, United States Code, and
15 section 21 of the Sentencing Act of 1987, the United
16 States Sentencing Commission shall promulgate guide-
17 lines, or amend existing guidelines, relating to defendants
18 convicted of violating, or conspiring to violate, sections
19 1546(a) and 1028(a) of title 18, United States Code. The
20 basic offense level under section 2L2.1 of the United
21 States Sentencing Guidelines shall be increased to—

22 (1) not less than offense level 15 if the offense
23 involved 1,000 or more documents;

24 (2) not less than offense level 20 if the offense
25 involved 2,000 or more documents, or if the docu-

1 ments were used to facilitate any other criminal ac-
2 tivity described in section 212(a)(2)(A)(i)(II) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1182(a)(A)(i)(II)) or in section 101(a)(43) of such
5 Act, as amended by this Act;

6 (3) not less than offense level 25 if the offense
7 involved—

8 (A) the provision of documents to a person
9 known or suspected of engaging in a terrorist
10 activity (as such terms are defined in section
11 212(a)(3)(B) of the Immigration and National-
12 ity Act (8 U.S.C. 1182(a)(3)(B));

13 (B) the provision of documents to facilitate
14 a terrorist activity or to assist a person to en-
15 gage in terrorist activity (as such terms are de-
16 fined in section 212(a)(3)(B) of the Immigra-
17 tion and Nationality Act (8 U.S.C.
18 1182(a)(3)(B)); or

19 (C) the provision of documents to persons
20 involved in racketeering enterprises (as such
21 acts or activities are defined in section 1952 of
22 title 18, United States Code).

1 **SEC. 302. PENALTIES FOR FAILURE TO DISCLOSE ROLE AS**
2 **PREPARER OF FRAUDULENT DOCUMENTS.**

3 (a) **ACTIVITIES PROHIBITED.**—Section 274C(a) of
4 the Immigration and Nationality Act (8 U.S.C. 1324c(a))
5 is amended—

6 (1) by striking “or” at the end of paragraph
7 (3);

8 (2) by striking the period and inserting “, or”
9 at the end of paragraph (4); and

10 (3) by adding at the end the following new
11 paragraph:

12 “(5) in reckless disregard of the fact that the
13 information is false or does not relate to the appli-
14 cant, to prepare, to file, or to assist another in pre-
15 paring or filing, documents which are falsely made
16 (including but not limited to documents which con-
17 tain false information, contain material misrepresen-
18 tations, or information which does not relate to the
19 applicant) for the purpose of satisfying a require-
20 ment of this Act.”.

21 (b) **CONFORMING AMENDMENTS FOR CIVIL PEN-**
22 **ALTIES.**—Section 274C(d)(3) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1324c(d)(3)) is amended by strik-
24 ing “each document used, accepted, or created and each
25 instance of use, acceptance, or creation” each of the two

1 places it appears and inserting “each instance of a viola-
2 tion under subsection (a)”.

3 (c) CRIMINAL PENALTIES FOR FAILURE TO DIS-
4 CLOSE ROLE AS DOCUMENT PREPARER.—Section 274C
5 of the Immigration and Nationality Act (8 U.S.C. 1324c)
6 is amended by adding at the end the following new sub-
7 section:

8 “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-
9 CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in
10 any matter within the jurisdiction of the Service under
11 section 208 of this Act, knowingly and willfully fails to
12 disclose, conceals, or covers up the fact that they have,
13 on behalf of any person and for a fee or other remunera-
14 tion, prepared or assisted in preparing an application
15 which was falsely made (as defined in section 274C(a))
16 for immigration benefits pursuant to section 208 of this
17 Act, or the regulations promulgated thereunder, shall be
18 guilty of a felony and shall be fined in accordance with
19 title 18, United States Code, imprisoned for not less than
20 2 nor more than 5 years, or both, and prohibited from
21 preparing or assisting in preparing, regardless of whether
22 for a fee or other remuneration, any other such applica-
23 tion.

24 “(2) Whoever, having been convicted of a violation
25 of paragraph (1), knowingly and willfully prepares or as-

1 sists in preparing an application for immigration benefits
2 pursuant to this Act, or the regulations promulgated
3 thereunder, regardless of whether for a fee or other remuneration,
4 shall be guilty of a felony and shall be fined in
5 accordance with title 18, United States Code, imprisoned
6 for not less than 5 years nor more than 15 years, or both,
7 and prohibited from preparing or assisting in preparing
8 any other such application.”.

9 **SEC. 303. CIVIL PENALTIES FOR FRAUD, MISREPRESENTATION,
10 AND FAILURE TO PRESENT DOCUMENTS.**
11

12 Section 274C(a) (8 U.S.C. 1324c(a)), as amended by
13 section 302 of this Act, is further amended—

14 (1) by striking “or” at the end of paragraph
15 (4);

16 (2) by striking the period at the end of paragraph
17 (5) and inserting “; or”; and

18 (3) by adding at the end the following new
19 paragraph:

20 “(6) to present before boarding a common carrier
21 for the purpose of coming to the United States
22 a document which relates to the alien’s eligibility to
23 enter the United States and to fail to present such
24 document to an immigration officer upon arrival at
25 a United States port of entry.

1 The Attorney General may, in his or her discretion, waive
2 the penalties of this section with respect to an alien who
3 knowingly violates paragraph (6) if the alien is granted
4 asylum under section 208 or withholding of deportation
5 under section 243(h).”.

6 **TITLE IV—ASYLUM REFORM**

7 **SEC. 401. PENALTIES FOR FRIVOLOUS APPLICATIONS.**

8 (a) CIVIL PENALTIES.—

9 (1) PROHIBITED ACTIVITIES.—Section 274C of
10 the Immigration and Nationality Act (8 U.S.C.
11 1324c), as amended by sections 302 and 303 of this
12 Act, is further amended by inserting at the end of
13 subsection (a) the following new sentence: “For the
14 purposes of this subsection, the phrase ‘falsely make
15 any document’ includes the preparation or provision
16 of any application for benefits under this Act which
17 was made knowingly or in reckless disregard of the
18 fact that such application has no basis in law or fact
19 or which otherwise fails to contain information per-
20 taining to the applicant.”.

21 (2) EFFECTIVE DATE.—The amendment made
22 by paragraph (1) applies to the preparation of appli-
23 cations before, on, or after the date of enactment of
24 this Act.

1 (b) CRIMINAL PENALTIES.—The fourth paragraph of
2 section 1546(a) of title 18, United States Code, is amend-
3 ed to read as follows:

4 “Whoever knowingly makes under oath, or as per-
5 mitted under penalty of perjury under section 1746 of title
6 28, United States Code, knowingly subscribes as true, any
7 false statement with respect to a material fact in any ap-
8 plication, affidavit, or other document required by the im-
9 migration laws or regulations prescribed thereunder, or
10 knowingly presents any such application, affidavit, or
11 other document which contains any such false statement
12 or which fails to contain any reasonable basis in law
13 or fact—”.

14 **SEC. 402. ASYLUM AND WORK AUTHORIZATION.**

15 Section 208 of the Immigration and Nationality Act
16 (8 U.S.C. 1158) is amended by inserting the following new
17 subsection:

18 “(f) An applicant for asylum may not engage in em-
19 ployment in the United States except pursuant to this sub-
20 section. The Attorney General may deny, suspend, or oth-
21 erwise place conditions on any application for or grant of
22 authorization to engage in employment in the United
23 States to any alien who makes an application under this
24 section. The Attorney General shall issue regulations to
25 prescribe the conditions for denial, suspension, or condi-

1 tioning of such authorization, and shall include in such
2 regulations a plan to address sudden, substantial increases
3 in asylum applications and repeated attempts by aliens to
4 gain such authorization without stating a credible fear of
5 persecution.”.

6 **SEC. 403. RESOURCES TO ADDRESS ASYLUM BACKLOG.**

7 (a) PURPOSE AND PERIOD OF AUTHORIZATION.—
8 For the purpose of reducing the number of applications
9 pending under sections 208 and 243(h) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1158 and 8 U.S.C.
11 1253) as of the date of enactment of this Act, the Attor-
12 ney General shall have the authority described in sub-
13 sections (b) and (c) for a period of 2 years, beginning 90
14 days after the date of enactment of this Act.

15 (b) PROCEDURES FOR PROPERTY ACQUISITION ON
16 LEASING.—Notwithstanding the Federal Property and
17 Administrative Services Act of 1949 (40 U.S.C. 471 et
18 seq.), the Attorney General is authorized to expend out
19 of funds made available to the Department of Justice for
20 the administration of the Immigration and Nationality Act
21 such amounts as may be necessary for the leasing or ac-
22 quisition of property to carry out the purpose described
23 in subsection (a).

24 (c) USE OF FEDERAL RETIREES.—(1) In order to
25 carry out the purpose described in subsection (a), the At-

1 torney General may employ temporarily not more than
2 300 persons who, by reason of retirement on or before
3 January 1, 1993, are receiving—

4 (A) annuities under the provisions of sub-
5 chapter III of chapter 83 of title 5, United States
6 Code, or chapter 84 of such title;

7 (B) annuities under any other retirement sys-
8 tem for employees of the Federal Government; or

9 (C) retired or retainer pay as retired officers of
10 regular components of the uniformed services.

11 (2) In the case of a person retired under the provi-
12 sions of subchapter III of chapter 83 of title 5, United
13 States Code—

14 (A) no amounts may be deducted from the per-
15 son's pay,

16 (B) the annuity of such person may not be ter-
17 minated,

18 (C) payment of annuity to such person may not
19 be discontinued, and

20 (D) the annuity of such person may not be re-
21 computed,

22 under section 8344 of such title by reason of temporary
23 employment authorized in paragraph (1).

24 (3) In the case of a person retired under the provi-
25 sions of chapter 84 of title 5, United States Code—

1 (A) no amounts may be deducted from the per-
2 son's pay,

3 (B) contributions to the Civil Service Retire-
4 ment and Disability Fund may not be made, and

5 (C) the annuity of such person may not be re-
6 computed,

7 under section 8468 of such title by reason of temporary
8 employment authorized in paragraph (1).

9 (4) The retired or retainer pay of a retired officer
10 of a regular component of a uniformed service may not
11 be reduced under section 5532 of title 5, United States
12 Code, by reason of temporary employment authorized in
13 paragraph (1).

14 (5) The President shall apply the provisions of para-
15 graphs (2) and (3) to persons referred to in paragraph
16 (1)(B) in the same manner and to the same extent as such
17 provisions apply to persons referred to in paragraph
18 (1)(A).

19 **SEC. 404. REFORMS TO DEPORTATION PROCESS.**

20 (a) LANGUAGE OF ORDER TO SHOW CAUSE.—Sec-
21 tion 242B of the Immigration and Nationality Act (8
22 U.S.C. 1252b) is amended in subsection (a)(3) by striking
23 “under this subsection” and all that follows through “(B)”
24 and inserting “under this subsection”.

1 (b) PRIVILEGE OF COUNSEL.—(1) Section
2 242B(b)(1) of such Act (8 U.S.C. 1252(b)(1)) is amended
3 by inserting before the period at the end the following:
4 “, except that a hearing may be scheduled as early as 3
5 days after the service of the order to show cause if the
6 alien has been continued in custody subject to section
7 242”.

8 (2) The parenthetical phrase in section 292 of such
9 Act (8 U.S.C. 1362) is amended to read as follows: “(at
10 no expense to the Government or unreasonable delay to
11 the proceedings)”.

12 (3) Section 242B(b) of such Act is further amended
13 by inserting at the end the following new paragraph:

14 “(3) RULE OF CONSTRUCTION.—Nothing in
15 this subsection may be construed to prevent the At-
16 torney General from proceeding against an alien
17 pursuant to section 242 if the time period described
18 in paragraph (1) has elapsed and the alien has failed
19 to secure counsel.”.

20 (c) JUDICIAL REVIEW.—Section 106(a) of such Act
21 (8 U.S.C. 1105a(a)) is amended by amending paragraph
22 (1) to read as follows:

23 “(1)(A) a petition for review may be filed not
24 later than 30 days after the date of the issuance of
25 the final deportation order, or, in the case of an

1 alien convicted of an aggravated felony, not later
2 than 15 days after the issuance of such order;

3 “(B) the alien shall serve and file a brief not
4 later than 40 days after the date on which the ad-
5 ministrative record is available, and may serve and
6 file a reply brief not later than 14 days after service
7 of the brief of the Attorney General, and the court
8 may not extend these deadlines except upon motion
9 for good cause shown; and

10 “(C) if an alien fails to file a brief within the
11 time provided in this paragraph, the Attorney Gen-
12 eral may move to dismiss the appeal, and the court
13 shall grant such motion unless a manifest injustice
14 would result;”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 subsection (c) shall apply to all final orders of deportation
17 entered on or after the date of enactment of this Act.

18 **SEC. 405. REDUCTION OF INCENTIVE TO DELAY PROCEED-**
19 **INGS.**

20 (a) RELIEF UNDER SECTION 212(c).—Section
21 212(c) of the Immigration and Nationality Act (8 U.S.C.
22 1182(c)) is amended—

23 (1) by redesignating subsection (c) as sub-
24 section (c)(1); and

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

1 “(2) For the purpose of satisfying the 7-year period
2 described in paragraph (1), no time shall count toward
3 such period after the alien has received an order to show
4 cause issued under section 242 or 242B.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall apply to all applications for relief
7 under section 212(c) or 244 filed on or after the date of
8 enactment of this Act.

9 **TITLE V—ILLEGAL IMMIGRA-**
10 **TION AND BORDER SECURITY**

11 **SEC. 501. ADDITIONAL INVESTIGATORS.**

12 (a) INVESTIGATORS.—The Attorney General may,
13 subject to the normal Congressional notification proce-
14 dures as stipulated in Public Law 103–121 section 107,
15 transfer the funds specified in subsection (b) to the Immi-
16 gration and Naturalization Service for use without fiscal
17 year limitation for the purpose of hiring 125 additional
18 investigators and support staff to investigate potential vio-
19 lations of sections 274 and 274A of the Immigration and
20 Nationality Act (8 U.S.C. 1324 and 1324a).

21 (b) FUNDS COVERED.—Funds for transfer under
22 subsection (a) are funds in the following amounts which
23 are available to the Department of Justice for fiscal year
24 1994 in the following accounts:

25 (1) Office of Justice Programs, \$2,000,000.

1 (2) Assets Forfeiture Account, \$6,000,000.

2 (c) LIMITATION ON OVERTIME.—None of the funds
3 made available to the Immigration and Naturalization
4 Service under this section shall be available for adminis-
5 trative expenses to pay any employee overtime pay in an
6 amount in excess of \$25,000 for any fiscal year.

7 **SEC. 502. FUNDING OF DEPORTATION COSTS.**

8 (a) AUTHORITY.—In addition to the amounts de-
9 scribed in section 501, the Attorney General may, subject
10 to the normal Congressional notification procedures as
11 stipulated in Pubic Law 103–121 section 107, transfer the
12 funds specified in subsection (b) to the Immigration and
13 Naturalization Service for use without fiscal year limita-
14 tion for the purpose of—

15 (1) executing final orders of deportation pursu-
16 ant to sections 242 and 242A of the Immigration
17 and Nationality Act (8 U.S.C. 1252); and

18 (2) detaining aliens prior to the execution of
19 final orders issued under such sections.

20 (b) FUNDS COVERED.—Funds for transfer under
21 subsection (a) are funds in the following amounts which
22 are available to the Department of Justice for fiscal year
23 1994 in the following accounts:

24 (1) Office of Justice Programs, \$2,000,000.

25 (2) Assets Forfeiture Account, \$8,000,000.

1 **SEC. 503. INTERIOR REPATRIATION PILOT PROGRAM.**

2 (a) ESTABLISHMENT.—Not later than 120 days after
3 the date of enactment of this Act, the Attorney General,
4 after consultation with the Secretary of State, shall estab-
5 lish a pilot program for up to 2 years which provides for
6 methods to deter multiple unauthorized entries by aliens
7 into the United States. The pilot program may include the
8 development and use of interior repatriation, third country
9 repatriation, and other disincentives for multiple illegal
10 entries into the United States.

11 (b) REPORT.—Not later than 35 months after the
12 date of enactment of this Act, the Attorney General, to-
13 gether with the Secretary of State, shall submit a report
14 to the Committees on the Judiciary of the House of Rep-
15 resentatives and of the Senate on the operation of the pilot
16 program under this section and whether the pilot program
17 or any part thereof should be extended or made perma-
18 nent.

19 **TITLE VI—BORDER CROSSING**
20 **USER FEE**

21 **SEC. 601. IMPOSITION OF FEES.**

22 (a) LAND BORDER USER FEE ACCOUNT.—Section
23 286(q) of the Immigration and Nationality Act (8 U.S.C.
24 1356(q)) is amended to read as follows:

25 “(q) LAND BORDER USER FEE ACCOUNT.—(1) The
26 Attorney General, after consultation with the Secretary of

1 State, shall impose fees at the time of a person's entry
2 into the United States at a land border port of entry for
3 the person's use of border facilities or services of the Im-
4 migration and Naturalization Service in an amount nec-
5 essary to make the total of such fees substantially equal
6 to the cost of maintaining and operating such facilities
7 and services.

8 “(2) All fees collected under paragraph (1) shall be
9 deposited as offsetting receipts in a separate account with-
10 in the general fund of the Treasury of the United States
11 and shall remain available until expended. Such account
12 shall be known as the ‘Land Border User Fee Account’.

13 “(3)(A) The Secretary of the Treasury shall refund
14 out of the Land Border User Fee Account, at least on
15 a quarterly basis, amounts to any appropriations for ex-
16 penses incurred in providing inspection services at land
17 border points of entry. Such expenses shall include—

18 “(i) the provision of inspection services;

19 “(ii) the operation and maintenance of inspec-
20 tion facilities at land border points of entry;

21 “(iii) the expansion, operation, and mainte-
22 nance of information systems for nonimmigrant con-
23 trol;

24 “(iv) the hire of additional permanent and tem-
25 porary inspectors;

1 “(v) the minor construction costs associated
2 with the addition of new traffic lanes (with the con-
3 currence of the General Services Administration), in-
4 cluding the establishment of commuter lanes to be
5 made available to qualified United States citizens
6 and aliens, as determined by the Attorney General;

7 “(vi) the detection of fraudulent documents
8 used by passengers traveling to the United States;
9 and

10 “(vii) providing for the administration of the
11 Land Border User Fee Account.

12 “(B) Beginning for the fiscal year which begins after
13 the effective date of this subsection, amounts required to
14 be refunded in any fiscal year shall be refunded in accord-
15 ance with estimates made in the budget request of the At-
16 torney General for that fiscal year. Any proposed change
17 in an amount specified in such budget request shall only
18 be made after notification to the Committees on Appro-
19 priations of the House of Representatives and the Senate
20 in accordance with section 606 of Public Law 101-162 and
21 only if the Committees on the Judiciary of the House of
22 Representatives and the Senate are notified at least 15
23 days in advance.

24 “(4) Beginning two years after the date of enactment
25 of this Act, and every two years thereafter, the Attorney

1 General shall prepare and submit to the Congress a report
2 containing—

3 “(A) a statement of the financial condition of
4 the Land Border Use Fee Account, including the be-
5 ginning account balance, revenues, withdrawals, and
6 ending account balance and projection for the next
7 two fiscal years; and

8 “(B) a recommendation, if necessary, regarding
9 any adjustment in the prescribed fee that may be re-
10 quired to ensure that the receipts collected from the
11 fee charged for the succeeding two-year period equal,
12 as closely as possible, the cost of providing the facili-
13 ties and services described in paragraph (1).”.

14 (b) EFFECTIVE DATE.—(1) The amendment made by
15 subsection (a) shall take effect 6 months after the date
16 of enactment of this Act.

17 (2) Not later than 90 days after the date of enact-
18 ment of this Act, the Attorney General shall submit in
19 writing to the Committees on the Judiciary and the Com-
20 mittees on Appropriations of the House of Representatives
21 and of the Senate a plan detailing the proposed implemen-
22 tation of section 286(q) of the Immigration and National-
23 ity Act (as amended by this Act).

24 (3) Effective 6 months after the date of enactment
25 of this Act the fourth proviso under the heading “Immi-

1 gration and Naturalization Service, Salaries and Ex-
2 penses” in Public Law 103–121 is repealed.

3 (c) USE OF UNUSED MONEYS FOR BORDER SECU-
4 RITY.—(1) Notwithstanding any other provision of law,
5 upon the date of enactment of this Act, the Secretary of
6 the Treasury shall refund to the Appropriation Account
7 of the Immigration and Naturalization Service the follow-
8 ing amounts of unobligated funds in the Land Border In-
9 spection Fee Account (to the extent available), for use as
10 follows:

11 (A) Not to exceed \$20,000,000 for the hiring
12 and equipping of 100 additional Border Patrol
13 agents and of support personnel for increases in the
14 number of Border Patrol agents for that fiscal year.

15 (B) Not to exceed \$10,000,000, to carry out
16 the project described in subsection (e), and for the
17 repair, maintenance, or construction on the United
18 States border, in areas experiencing high levels of
19 apprehensions of illegal aliens, of structures to deter
20 illegal entry into the United States for that fiscal
21 year.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated to the Department of
24 Justice such additional funds as may be necessary to en-
25 able the Border Patrol to increase the number of its

1 agents and support personnel by 100 for each fiscal year
2 beginning with the fiscal year 1995 and ending with the
3 fiscal year 2000.

4 (e) BORDER PILOT PROJECT.—The Attorney Gen-
5 eral shall conduct a pilot project of at least 6 months dura-
6 tion, beginning in fiscal year 1994, at the international
7 border at San Diego, California, which would attempt to
8 deter the entry without inspection of aliens into the United
9 States in substantially the same manner as the program
10 originally entitled “Operation Blockade” initiated in fiscal
11 year 1993 at the international border between El Paso,
12 Texas, and Juarez, Chihuahua.

13 **TITLE VII—DETENTION OF** 14 **ILLEGAL ALIENS**

15 **SEC. 701. PILOT PROGRAM ON USE OF CLOSED MILITARY** 16 **BASES FOR THE DETENTION OF ILLEGAL** 17 **ALIENS.**

18 (a) ESTABLISHMENT.—The Attorney General and
19 the Secretary of Defense shall establish a pilot program
20 for up to 2 years to determine the feasibility of the use
21 of military bases available through the defense base clo-
22 sure and realignment process as detention centers for the
23 Immigration and Naturalization Service.

24 (b) REPORT.—Not later than 35 months after the
25 date of enactment of this Act, the Attorney General, to-

1 gether with the Secretary of Defense, shall submit a report
2 to the Committees on the Judiciary of the House of Rep-
3 resentatives and of the Senate, and the Committees on
4 Armed Services of the House of Representatives and of
5 the Senate on the feasibility of using military bases closed
6 through the defense base closure and realignment process
7 as detention centers by the Immigration and Naturaliza-
8 tion Service.

9 **TITLE VIII—PUBLIC BENEFITS**
10 **ABUSE**

11 **SEC. 801. INELIGIBILITY FOR CERTAIN FEDERAL BENEFITS.**

12 (a) DIRECT FINANCIAL ASSISTANCE OR BENE-
13 FITS.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of law, an unlawful alien (as defined in
16 subsection (d)(2)) shall not be eligible to receive any
17 direct financial assistance or benefits under any
18 Federal program, except—

19 (A) emergency medical services under title
20 XIX of the Social Security Act,

21 (B) short-term emergency disaster relief,

22 (C) assistance or benefits under the Na-
23 tional School Lunch Act,

24 (D) assistance or benefits under the Child
25 Nutrition Act of 1966, and

1 (E) public health assistance for immuniza-
2 tions with respect to immunizable diseases and
3 for testing and treatment for communicable dis-
4 eases.

5 (2) NOTIFICATION OF ALIENS.—The Federal
6 agency administering a program referred to in para-
7 graph (1) shall, directly or through the States, no-
8 tify any unlawful alien who is receiving benefits
9 under the program on the date of the enactment of
10 this Act and whose eligibility for the program is ter-
11 minated by reason of this subsection.

12 (b) UNEMPLOYMENT BENEFITS.—

13 (1) IN GENERAL.—Notwithstanding any other
14 provision of law, an alien shall not be eligible to re-
15 ceive any portion of unemployment benefits payable
16 out of Federal funds.

17 (2) LIMITED EXCEPTION FOR LAWFUL
18 ALIENS.—Paragraph (1) shall not apply to any law-
19 ful alien (as defined in subsection (d)(1)) who has
20 been granted employment authorization pursuant to
21 Federal law if the unemployment benefits are attrib-
22 utable to the authorized employment.

23 (c) HOUSING ASSISTANCE PROGRAMS.—Not later
24 than 90 days after the date of the enactment of this Act,
25 the Secretary of Housing and Urban Development shall

1 submit a report to the Committee on the Judiciary of the
2 Senate, the Committee on the Judiciary of the House of
3 Representatives, the Committee on Banking, Housing,
4 and Urban Affairs of the Senate, and the Committee on
5 Banking, Finance and Urban Affairs of the House of Rep-
6 resentatives describing the manner in which the Secretary
7 is enforcing section 214 of the Housing and Community
8 Development Act of 1980 and containing statistics with
9 respect to the number of individuals denied financial as-
10 sistance under such section.

11 (d) DEFINITIONS.—For the purposes of this sec-
12 tion—

13 (1) LAWFUL ALIEN.—The term “lawful alien”
14 means an individual who is

15 (A) an alien lawfully admitted for perma-
16 nent residence,

17 (B) an asylee,

18 (C) a refugee,

19 (D) an alien whose deportation has been
20 withheld under section 243(h) of the Immigra-
21 tion and Nationality Act,

22 (E) a parolee who has been paroled for a
23 period of 1 year or more, or

24 (F) a Chinese national described in section
25 2(b) of the Chinese Student Protection Act of

1 1992 (Public Law 102–404) who, as of the date
2 of enactment of this Act, has applied for adjust-
3 ment of status in accordance with Public Law
4 102–404.

5 (2) UNLAWFUL ALIEN.—The term “unlawful
6 alien” means an individual who is not—

7 (A) a United States citizen; or

8 (B) a lawful alien.

9 (e) EFFECTIVE DATE.—The provisions of this section
10 shall apply to benefits received on or after the date of the
11 enactment of this Act.

12 **SEC. 802. ATTRIBUTION OF SPONSOR’S INCOME AND RE-**
13 **SOURCES TO FAMILY PREFERENCE ALIENS.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, in determining eligibility for, and the amount
16 of benefits of, a lawful alien (as defined in section
17 801(d)(1)) under any Federal program, the income and
18 resources of the alien shall include—

19 (1) the income and resources of any person
20 who, as a sponsor of such alien’s entry into the
21 United States, executed an affidavit of support or
22 similar agreement with respect to such alien, and

23 (2) the income and resources of such sponsor’s
24 spouse.

1 The preceding sentence shall apply until such time as the
2 alien achieves United States citizenship through natu-
3 ralization pursuant to chapter 2 of title III of the Immi-
4 gration and Nationality Act.

5 (b) EFFECTIVE DATE.—The provisions of this sec-
6 tion shall apply to applications for benefits or benefits re-
7 ceived on or after the date of the enactment of this Act.

8 **SEC. 803. DEFINITION OF PUBLIC CHARGE.**

9 (a) IN GENERAL.—Section 241(a)(5) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1251(a)(5)) is
11 amended to read as follows:

12 “(5) PUBLIC CHARGE.—

13 “(A) IN GENERAL.—Any alien who, within
14 5 years after the date of entry, has become a
15 public charge from causes not affirmatively
16 shown to have arisen since entry is deportable.

17 “(B) DEFINITION.—For purposes of sub-
18 paragraph (A), the term ‘public charge’ shall
19 include any alien who receives benefits under 1
20 or more of the programs described in subpara-
21 graph (C) for more than 12 consecutive
22 months.

23 “(C) PROGRAMS DESCRIBED.—The pro-
24 grams described in this subparagraph are the
25 following:

1 “(i) The aid to families with depend-
2 ent children program under title IV of the
3 Social Security Act.

4 “(ii) The medicaid program under
5 title XIX of the Social Security Act.

6 “(iii) The food stamp program under
7 the Food Stamp Act of 1977.

8 “(iv) The supplemental security in-
9 come program under title XVI of the So-
10 cial Security Act.

11 “(v) Any State general assistance pro-
12 gram.”.

13 (b) CONSTRUCTION.—Nothing in section
14 241(a)(5)(B) of the Immigration and Nationality Act may
15 be construed to invalidate other factual bases for consider-
16 ation of an alien as a public charge which were in effect
17 on the day before the date of the enactment of this Act.

18 (c) REVIEW OF STATUS.—Before approving any ap-
19 plication by an alien for benefits under section 216, sec-
20 tion 245, or chapter 2 of title III of the Immigration and
21 Nationality Act, the Attorney General shall determine
22 whether or not the applicant is described in section
23 241(a)(5)(B) of the Immigration and Nationality Act.

1 **TITLE IX—WORK**
2 **AUTHORIZATION VERIFICATION**

3 **SEC. 901. WORK AUTHORIZATION VERIFICATION.**

4 The Attorney General, together with the Secretary of
5 Health and Human Services, shall develop and implement
6 a counterfeit-resistant system to verify work eligibility and
7 federally-funded public assistance benefits eligibility for all
8 persons within the United States. If the system developed
9 includes a document (designed specifically for use for this
10 purpose), that document shall not be used as a national
11 identification card, and the document shall not be required
12 to be carried or presented by any person except at the
13 time of application for federally funded public assistance
14 benefits or to comply with employment eligibility verifica-
15 tion requirements.

16 **TITLE X—NUMERICAL LIMITA-**
17 **TIONS ON ADMISSION OF**
18 **ALIENS INTO THE UNITED**
19 **STATES**

20 **SEC. 1001. REDUCTION IN WORLDWIDE IMMIGRATION DUR-**
21 **ING FISCAL YEARS 1995 THROUGH 1999.**

22 Section 201 of the Immigration and Nationality Act
23 (8 U.S.C. 1151) is amended by adding at the end the fol-
24 lowing new subsection:

1 “(f) REDUCTION IN WORLDWIDE LEVEL OF IMMI-
 2 GRATION DURING FISCAL YEARS 1995 THROUGH 1999.—
 3 Notwithstanding the previous provisions of this section, or
 4 sections 202 and 203, for each of the fiscal years 1995
 5 through 1999, the new numerical level, limitation, or per-
 6 centage specified in column (d) of the following table shall
 7 be substituted for the numerical level, limitation, or per-
 8 centage specified in column (c) and appearing in the sec-
 9 tion specified in column (b):

“(a) Description of numerical level, limitation, or percentages	(b) Section in which appearing	(c) Current numerical level, limitation, or percentage	(d) New numerical level, limitation, or percentage
Worldwide level of family-sponsored immigrants	Sec. 201(c)(1)(A)(i)	480,000	405,000
Worldwide level of employment-based immigrants	Sec. 201(d)(1)(A)	140,000	95,000
Worldwide level of diversity immigrants	Sec. 201(e)	55,000	0
Percentage floor for 2A family preference immigrants under per country numerical limitations	Sec. 202(a)(4)(A)(ii)	77 percent	80.5 percent
Percentage allocation for 2B family preference immigrants under per country numerical limitations	Sec. 202(a)(4)(C)(i)	23 percent	19.5 percent
Numerical allocations for family 2d preference immigrants (spouses and unmarried sons and unmarried daughters of permanent resident aliens)	Sec. 203(a)(2)	114,200	109,200
Percentage floor for 2A family preference immigrants (spouses and children of permanent resident aliens)	Sec. 203(a)(2)	77 percent	80.5 percent
Numerical allocation for family 3d preference immigrants (married sons and married daughters of citizens).	Sec. 203(a)(3)	23,400	18,400

“(a) Description of numerical level, limitation, or percentages	(b) Section in which appearing	(c) Current numerical level, limitation, or percentage	(d) New numerical level, limitation, or percentage
Numerical allocation for family 4th preference immigrants (brothers and sisters of citizens)	Sec. 203(a)(4)	65,000	0
Numerical limitation on unskilled labor permitted to enter under employment 3d preference (skilled workers, professionals, and other workers)	Sec. 203(b)(3)(B)	10,000	0”.

1 **SEC. 1002. WORLDWIDE NUMERICAL LIMITATION.**

2 Section 201(c)(1)(B) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1151(c)(1)(B)) is amended—

4 (1) by striking “(i)” immediately after “(B)”;

5 and

6 (2) by striking paragraph (1)(B)(ii).

7 **SEC. 1003. NUMERICAL LIMITATION ON ANNUAL ADMIS-**
8 **SION OF REFUGEES.**

9 Section 207(a)(2) of the Immigration and Nationality
10 Act (8 U.S.C. 1157(a)(2)) is amended—

11 (1) by inserting “(A)” immediately after “(2)”;

12 and

13 (2) by inserting “in subparagraph (B) and”
14 after “provided”; and

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

16 “(B) The number of refugees admitted in any fiscal
17 year may not exceed 80,000 unless Congress enacts a bill

1 or joint resolution specifically authorizing a greater num-
2 ber.”.

3 **TITLE XI—MISCELLANEOUS**
4 **PROVISIONS**

5 **SEC. 1101. USE OF LEGALIZATION INFORMATION FOR**
6 **CRIMINAL PROSECUTION PURPOSES.**

7 (a) CONFIDENTIALITY OF INFORMATION.—Section
8 245A(c)(5)(C) (8 U.S.C. 1255a(c)(5)(C)) is amended by
9 amending the text after subparagraph (C) to read as fol-
10 lows:

11 “except that the Attorney General shall provide informa-
12 tion furnished under this section when such information
13 is requested in writing by a duly recognized law enforce-
14 ment entity in connection with a criminal investigation or
15 prosecution, or to an official coroner for purposes of af-
16 firmatively identifying a deceased individual, whether or
17 not such individual is deceased as a result of a crime, or
18 the Attorney General may provide, in the Attorney Gen-
19 eral’s discretion, for the furnishing of information fur-
20 nished under this section in the same manner and cir-
21 cumstances as census information may be disclosed by the
22 Secretary of Commerce under section 8 of title 13, United
23 States Code. Anyone who uses, publishes, or permits infor-
24 mation to be examined in violation of this paragraph shall

1 be fined in accordance with title 18, United States Code,
2 or imprisoned not more than five years, or both.”.

3 (b) SPECIAL AGRICULTURAL WORKERS.—Section
4 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

5 (1) by striking the period at the end of sub-
6 paragraph (C) and inserting a comma; and

7 (2) by adding in full measure margin after sub-
8 paragraph (C) the following: “except that the Attor-
9 ney General shall provide information furnished
10 under this section when such information is re-
11 quested in writing by a duly recognized law enforce-
12 ment entity in connection with a criminal investiga-
13 tion or prosecution, or to an official coroner for pur-
14 poses of affirmatively identifying a deceased individ-
15 ual, whether or not such individual is deceased as a
16 result of a crime.”.

17 **SEC. 1102. COMMUNICATIONS BETWEEN FEDERALLY FUND-**
18 **ED GOVERNMENT AGENCIES AND THE IMMI-**
19 **GRATION AND NATURALIZATION SERVICE.**

20 Notwithstanding any other provision of law, no Fed-
21 eral, State, or local government entity receiving Federal
22 funds shall be prohibited or in any way restricted from
23 communicating with the Immigration and Naturalization
24 Service regarding the immigration status, legal or illegal,
25 of an alien in the United States.



S 1884 IS—2

S 1884 IS—3

S 1884 IS—4

S 1884 IS—5