

106TH CONGRESS
2D SESSION

H. R. 4966

To amend the Immigration and Nationality Act to restore fairness to immigration law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2000

Mr. CONYERS (for himself, Ms. JACKSON-LEE of Texas, Mrs. MORELLA, Ms. ROYBAL-ALLARD, Mr. GUTIERREZ, Mr. CLYBURN, Mr. UNDERWOOD, Mrs. MEEK of Florida, Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. NADLER, Ms. WATERS, Mr. DELAHUNT, Mr. WEINER, Mr. FILNER, Ms. LEE, Ms. SCHAKOWSKY, Mr. HASTINGS of Florida, Mr. KENNEDY of Rhode Island, Mr. McDERMOTT, Mr. SERRANO, Mr. FROST, Mr. CROWLEY, Ms. MILLENDER-McDONALD, Ms. BROWN of Florida, Mrs. MINK of Hawaii, and Mr. BISHOP) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to restore fairness to immigration law, and for other purposes.

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

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION**
 2 **AND NATIONALITY ACT; TABLE OF CON-**
 3 **TENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
 5 “Restoration of Fairness in Immigration Law Act of
 6 2000”.

7 (b) **AMENDMENTS TO IMMIGRATION AND NATION-**
 8 **ALITY ACT.**—Except as otherwise specifically provided in
 9 this Act, whenever in this Act an amendment or repeal
 10 is expressed as the amendment or repeal of a section or
 11 other provision, the reference shall be considered to be
 12 made to that section or provision in the Immigration and
 13 Nationality Act.

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

Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.

TITLE I—DUE PROCESS IN IMMIGRATION PROCEEDINGS

Subtitle A—Judicial Review in Immigration Proceedings

- Sec. 101. Judicial review of administrative remedies and habeas corpus.
- Sec. 102. Judicial review of asylum determinations.
- Sec. 103. Judicial review of decisions concerning apprehension and detention of aliens.
- Sec. 104. Judicial review of decisions concerning document fraud waivers.
- Sec. 105. Judicial review of orders issued in absentia.
- Sec. 106. Judicial review of denial of request for order of voluntary departure.
- Sec. 107. Transitional changes in judicial review.

Subtitle B—Fairness in Removal Proceedings

- Sec. 111. Equitable burden of proof for admissibility.
- Sec. 112. Presumption in favor of withdrawal of application for admission.
- Sec. 113. Absences outside the control of the alien.
- Sec. 114. Reinstatement of removal orders against aliens illegally reentering.

Subtitle C—Fairness in Detention

- Sec. 121. Restoring discretionary authority to the Attorney General in cases of individuals who pose no risk to safety or of fleeing.
- Sec. 122. Periodic review of detention determination.
- Sec. 123. Limitation on indefinite detention.
- Sec. 124. Pilot program to consider alternatives to detention.
- Sec. 125. Elimination of mandatory detention in expedited removal proceedings.
- Sec. 126. Right to counsel.
- Sec. 127. Clarification of intent of transitional provision on references to removal orders.

Subtitle D—Consular Review of Visa Applications

- Sec. 131. Establishment of a Board of Visa Appeals.
- Sec. 132. Nondiscrimination provisions.

TITLE II—FAIRNESS AND EQUITY IN CASES INVOLVING PREVIOUS AND MINOR MISCONDUCT

Subtitle A—Increased Fairness and Equity Concerning Removal Proceedings

- Sec. 201. Equitable definition of “crime involving moral turpitude”.
- Sec. 202. Equitable application and definition of “aggravated felony”.
- Sec. 203. Equitable definitions of “conviction” and “term of imprisonment”.
- Sec. 204. Equitable definition of “crimes of moral turpitude”.
- Sec. 205. Restoration of fairness in equitable relief for long-time legal permanent residents.
- Sec. 206. Restoration of fairness in equitable relief for other noncitizens.
- Sec. 207. Eliminating unfair retroactive changes in removal rules for persons subject to pending proceedings.
- Sec. 208. Eliminating unfair retroactive changes in removal rules for persons previously removed.

Subtitle B—Increased Fairness and Equity Concerning 5-Year Bars to Admission and Other Grounds for Exclusion

- Sec. 211. Limiting 5-year bar to admission to persons who willfully fail to attend removal proceedings.
- Sec. 212. Limiting 5-year bar to admission to persons who willfully violate student visa conditions.
- Sec. 213. Limiting ban on admissibility to persons who willfully make false claims for citizenship.
- Sec. 214. Equitable waiver of inadmissibility for minor criminal offenses.
- Sec. 215. Reducing length of duration of bars to inadmissibility.

TITLE III—ENCOURAGING FAMILY REUNIFICATION

Subtitle A—Reuniting Family Members

- Sec. 301. Visa for spouses and children of permanent residents temporarily waiting for visa numbers.
- Sec. 302. Refugee status for unmarried sons and daughters of refugees.
- Sec. 303. Asylee status for unmarried sons and daughters of asylees.
- Sec. 304. Protection against processing delays.

Subtitle B—Limited Waiver of Grounds of Admissibility

- Sec. 311. Discretionary waiver in cases involving family members.
- Sec. 312. Discretionary waiver in document cases involving family members.

Sec. 313. Discretionary waiver to admit persons in unusual circumstances.

Subtitle C—Eliminating Unfairness and Waste in Section 245(i) Waivers

Sec. 321. Permanent application of section 245(i).

Sec. 322. Eliminating unfairness created by temporary sunset of section 245(i).

Subtitle D—Equitable Procedures Concerning Voluntary Departure

Sec. 331. Discretionary determination of period of voluntary departure.

Sec. 332. Discretionary determination of voluntary departure bond based on individual circumstances.

Sec. 333. Elimination of automatic penalties for failing to depart in accordance with a voluntary departure grant.

Subtitle E—Fairness in Determination of Public Charge

Sec. 341. Equitable procedures concerning public charge and affidavit of support.

TITLE IV—FAIRNESS IN ASYLUM AND REFUGEE PROCEEDINGS

Subtitle A—Increased Fairness in Asylum Proceedings

Sec. 401. Elimination of arbitrary time limits on asylum applications.

Sec. 402. Gender-based persecution.

Sec. 403. Elimination of arbitrary cap on persons eligible to adjust status from asylees to legal permanent residents.

Sec. 404. Restoration of eligibility for withholding of removal for persons facing loss of life or freedom.

Subtitle B—Increased Fairness and Rationality in Refugee Consultations

Sec. 411. Timely consultation with respect to refugee admissions.

TITLE V—INCREASED FAIRNESS AND EQUITY IN
NATURALIZATION AND LEGALIZATION PROCEEDINGS

Subtitle A—Naturalization Proceedings

Sec. 501. Increased authorization of funds for naturalization proceedings.

Sec. 502. Exemption from English language requirement for certain aliens who served with special guerrilla units or irregular forces.

Sec. 503. Special consideration concerning civics requirement for certain aliens who served with special guerrilla units or irregular forces.

Sec. 504. Documentation of qualifying service.

Sec. 505. Determination of eligibility for exemption and special consideration.

Sec. 506. Deadline for application and payment of fees.

Subtitle B—Parity in Treatment for Refugees From Central America and
Haiti

Sec. 511. Adjustment of status for certain nationals from El Salvador, Guatemala, Honduras, and Haiti.

Sec. 512. Applications pending under section 203 of the Nicaraguan Adjustment and Central American Relief Act.

Sec. 513. Applications pending under the Haitian Refugee Immigration Fairness Act of 1998.

- Sec. 514. Technical amendments to the Nicaraguan Adjustment and Central American Relief Act.
- Sec. 515. Technical amendments to the Haitian Immigration Fairness Act of 1998.
- Sec. 516. Motions to reopen.

Subtitle C—Equality of Treatment for Women’s Citizenship

- Sec. 521. Declaration of citizenship for certain women who lost citizenship solely by reason of marriage to an alien prior to September 22, 1922.
- Sec. 522. Equity in transmission of citizenship.

Subtitle D—Fairness in the Treatment for Refugees From Liberia

- Sec. 531. Adjustment of status of certain Liberian nationals.

Subtitle E—Fairness in Review of Previously Granted Amnesty Rights

- Sec. 541. Elimination of limitation on legalization litigation.

Subtitle F—Legal Amnesty Restoration

- Sec. 551. Record of admission for permanent residence in the case of certain aliens.

Subtitle G—Equality of Treatment for Asian American Visa Petitions

- Sec. 561. Immigration of certain aliens born in the Philippines or Japan and fathered by U.S. citizens.

TITLE VI—FAIRNESS AND COMPASSION IN THE TREATMENT OF
BATTERED IMMIGRANTS

- Sec. 601. Findings and purposes.
- Sec. 602. Restoring immigration protections under the Violence Against Women Act of 1994 (VAWA).
- Sec. 603. Remedying problems with implementation of the immigration provisions of VAWA.
- Sec. 604. Waivers and exceptions to inadmissibility for otherwise qualified battered immigrants.
- Sec. 605. Calculation of physical presence in VAWA cancellation of removal and suspension of deportation.
- Sec. 606. Improved access to VAWA immigration protections for battered immigrant women.
- Sec. 607. Improved access to VAWA cancellation of removal.
- Sec. 608. Good moral character determinations.
- Sec. 609. Economic security for battered immigrant women.
- Sec. 610. Access to legal representation and services for battered immigrants.
- Sec. 611. Violence Against Women Act training for INS officers, immigration judges, and civil and criminal court justice system personnel.
- Sec. 612. Protection for certain crime victims including crimes against women.
- Sec. 613. Access to Cuban Adjustment for battered immigrant spouses and children.
- Sec. 614. Access to the Nicaraguan and Central American Relief Act for battered spouses and children.
- Sec. 615. Access to the Haitian Refugee Immigration Fairness Act of 1998 for battered spouses and children.

TITLE VII—UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS

Sec. 701. Recapture of unused employment-based immigrant visas.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. Technical and conforming change concerning Board of Immigration Appeals.

Sec. 802. Limiting forfeiture for certain assets used to violate INA where there was no commercial gain.

Sec. 803. Elimination of ban on State and local governments from preventing communications with the INS.

Sec. 804. Elimination of authority to permit State personnel to carry out immigration officer functions.

Sec. 805. Parole authority.

Sec. 806. Enhanced Border Patrol recruitment and retention.

Sec. 807. Elimination of denial of immigration benefits for erroneous asylum application.

Sec. 808. Authorization of appropriations for implementation of Act.

TITLE IX—EFFECTIVE DATES

Sec. 901. General effective date.

Sec. 902. Other effective dates.

1 **TITLE I—DUE PROCESS IN**
 2 **IMMIGRATION PROCEEDINGS**
 3 **Subtitle A—Judicial Review in**
 4 **Immigration Proceedings**

5 **SEC. 101. JUDICIAL REVIEW OF ADMINISTRATIVE REM-**
 6 **EDIES AND HABEAS CORPUS.**

7 Section 242 (8 U.S.C. 1252) is amended to read as
 8 follows:

9 “JUDICIAL REVIEW OF ORDERS OF REMOVAL

10 “SEC. 242. (a) The procedure prescribed by, and all
 11 the provisions of chapter 158 of title 28, United States
 12 Code, shall apply to, and shall be the sole and exclusive
 13 procedure for, the judicial review of all final orders of re-
 14 moval heretofore or hereafter made against aliens within
 15 the United States pursuant to administrative proceedings

1 under section 240 or pursuant to section 238 of this Act
2 or comparable provisions of any prior Act, except that—

3 “(1) a petition for review may be filed not later
4 than 90 days after the date of the issuance of the
5 final removal order, or, in the case of an alien con-
6 victed of an aggravated felony (including an alien
7 described in section 238) not later than 30 days
8 after the issuance of such order;

9 “(2) the venue of any petition for review under
10 this section shall be in the judicial circuit in which
11 the administrative proceedings before an immigra-
12 tion judge were conducted in whole or in part, or in
13 the judicial circuit wherein is the residence, as de-
14 fined in this Act, of the petitioner, but not in more
15 than one circuit;

16 “(3) the action shall be brought against the Im-
17 migration and Naturalization Service, as respondent.
18 Service of the petition to review shall be made upon
19 the Attorney General of the United States and upon
20 the official of the Immigration and Naturalization
21 Service in charge of the Service district in which the
22 office of the clerk of the court is located. The service
23 of the petition for review upon such official of the
24 Service shall stay the removal of the alien pending
25 determination of the petition by the court, unless the

1 court otherwise directs or unless the alien is con-
2 victed of an aggravated felony (including an alien
3 described in section 238), in which case the Service
4 shall not stay the removal of the alien pending deter-
5 mination of the petition of the court unless the court
6 otherwise directs;

7 “(4) except as provided in clause (B) of para-
8 graph (5) of this subsection, the petition shall be de-
9 termined solely upon the administrative record upon
10 which the removal order is based and the Attorney
11 General’s findings of fact, if supported by reason-
12 able, substantial, and probative evidence on the
13 record considered as a whole, shall be conclusive;

14 “(5) whenever any petitioner, who seeks review
15 of an order under this section, claims to be a na-
16 tional of the United States and makes a showing
17 that his claim is not frivolous, the court shall (A)
18 pass upon the issues presented when it appears from
19 the pleadings and affidavits filed by the parties that
20 no genuine issue of material fact is presented; or (B)
21 where a genuine issue of material fact as to the peti-
22 tioner’s nationality is presented, transfer the pro-
23 ceedings to a United States district court for the
24 district where the petitioner has his residence for
25 hearing de novo of the nationality claim and deter-

1 mination as if such proceedings were originally initi-
2 ated in the district court under the provisions of sec-
3 tion 2201 of title 28, United States Code. Any such
4 petitioner shall not be entitled to have such issue de-
5 termined under section 360(a) of this Act or other-
6 wise;

7 “(6) whenever a petitioner seeks review of an
8 order under this section, any review sought with re-
9 spect to a motion to reopen or reconsider such an
10 order shall be consolidated with the review of the
11 order;

12 “(7) if the validity of a removal order has not
13 been judicially determined, its validity may be chal-
14 lenged in a criminal proceeding against the alien for
15 violation of subsection (a) or (b) of section 243 of
16 this Act only by separate motion for judicial review
17 before trial. Such motion shall be determined by the
18 court without a jury and before the trial of the gen-
19 eral issue. Whenever a claim to United States na-
20 tionality is made in such motion, and in the opinion
21 of the court, a genuine issue of material fact as to
22 the alien’s nationality is presented, the court shall
23 accord him a hearing de novo on the nationality
24 claim and determine that issue as if proceedings had
25 been initiated under the provisions of section 2201

1 of title 28, United States Code. Any such alien shall
2 not be entitled to have such issue determined under
3 section 360(a) of this Act or otherwise. If no such
4 hearing de novo as to nationality is conducted, the
5 determination shall be made solely upon the admin-
6 istrative record upon which the removal order is
7 based and the Attorney General's findings of fact,
8 if supported by reasonable, substantial, and pro-
9 bative evidence on the record considered as a whole,
10 shall be conclusive. If the removal order is held in-
11 valid, the court shall dismiss the indictment and the
12 United States shall have the right to appeal to the
13 court of appeals within 30 days. The procedure on
14 such appeals shall be as provided in the Federal
15 rules of criminal procedure. No petition for review
16 under this section may be filed by any alien during
17 the pendency of a criminal proceeding against such
18 alien for violation of subsection (a) or (b) of section
19 243 of this Act;

20 “(8) nothing in this section shall be construed
21 to require the Attorney General to defer removal of
22 an alien after the issuance of a removal order be-
23 cause of the right of judicial review of the order
24 granted by this section, or to relieve any alien from
25 compliance with subsections (a) and (b) of section

1 243 of this Act. Nothing contained in this section
2 shall be construed to preclude the Attorney General
3 from detaining or continuing to detain an alien or
4 from taking the alien into custody pursuant to sec-
5 tion 241 of this Act at any time after the issuance
6 of a removal order;

7 “(9) it shall not be necessary to print the
8 record or any part thereof, or the briefs, and the
9 court shall review the proceedings on a typewritten
10 record and on typewritten briefs; and

11 “(10) any alien held in custody pursuant to an
12 order of removal may obtain judicial review thereof
13 by habeas corpus proceedings.

14 “(b) Notwithstanding the provisions of any other law,
15 any alien against whom a final order of removal has been
16 made heretofore or hereafter under the provisions of sec-
17 tion 235 of this Act or comparable provisions of any prior
18 Act may obtain judicial review of such order by habeas
19 corpus proceedings and not otherwise.

20 “(c) An order of removal shall not be reviewed by any
21 court if the alien has not exhausted the administrative
22 remedies available to the alien as of right under the immi-
23 gration laws and regulations or if the alien has departed
24 from the United States after the issuance of the order.
25 Every petition for review or for habeas corpus shall state

1 whether the validity of the order has been upheld in any
2 prior judicial proceeding, and, if so, the nature and date
3 thereof, and the court in which such proceeding took place.
4 No petition for review or for habeas corpus shall be enter-
5 tained if the validity of the order has been previously de-
6 termined in any civil or criminal proceeding, unless the
7 petition presents grounds which the court finds could not
8 have been presented in such prior proceeding, or the court
9 finds that the remedy provided by such prior proceeding
10 was inadequate or ineffective to test the validity of the
11 order.

12 “(d)(1) A petition for review or for habeas corpus on
13 behalf of an alien against whom a final order of removal
14 has been issued pursuant to section 238(b) may challenge
15 only—

16 “(A) whether the alien is in fact the alien de-
17 scribed in the order;

18 “(B) whether the alien is in fact an alien de-
19 scribed in section 238(b)(2)(A) who is not eligible
20 for relief from removal under this Act;

21 “(C) whether the alien has been convicted of an
22 aggravated felony and such conviction has become
23 final; and

24 “(D) whether the alien was afforded the proce-
25 dures required by section 238(b)(4).

1 “(2) No court shall have jurisdiction to review any
2 issue other than an issue described in paragraph (1).”.

3 **SEC. 102. JUDICIAL REVIEW OF ASYLUM DETERMINATIONS.**

4 (a) **AUTHORITY TO APPLY FOR ASYLUM.**—Section
5 208(a) (8 U.S.C. 1158(a)) is amended by striking para-
6 graph (3).

7 (b) **CONDITIONS FOR GRANTING ASYLUM.**—Section
8 208(b)(2) (8 U.S.C. 1158(b)(2)) is amended by striking
9 subparagraph (D).

10 **SEC. 103. JUDICIAL REVIEW OF DECISIONS CONCERNING**
11 **APPREHENSION AND DETENTION OF ALIENS.**

12 Section 236 (8 U.S.C. 1226) is amended by striking
13 subsection (e).

14 **SEC. 104. JUDICIAL REVIEW OF DECISIONS CONCERNING**
15 **DOCUMENT FRAUD WAIVERS.**

16 (a) **INADMISSIBLE ALIENS.**—Section 212(d)(12) (8
17 U.S.C. 1182(d)(12)) is amended by striking the final sen-
18 tence.

19 (b) **DEPORTABLE ALIENS.**—Section 237(a)(3)(C)(ii)
20 (8 U.S.C. 1227(a)(3)(C)(ii)) is amended by striking the
21 final sentence.

1 **SEC. 105. JUDICIAL REVIEW OF ORDERS ISSUED IN**
2 **ABSENTIA.**

3 Section 240(b)(5) (8 U.S.C. 1229a(b)(5)) is amended
4 by striking subparagraph (D) and redesignating subpara-
5 graph (E) as subparagraph (D).

6 **SEC. 106. JUDICIAL REVIEW OF DENIAL OF REQUEST FOR**
7 **ORDER OF VOLUNTARY DEPARTURE.**

8 Section 240B (8 U.S.C. 1229e) is amended by strik-
9 ing subsection (f).

10 **SEC. 107. TRANSITIONAL CHANGES IN JUDICIAL REVIEW.**

11 Section 309(c)(4) of the Illegal Immigration Reform
12 and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101
13 note) is repealed.

14 **Subtitle B—Fairness in Removal**
15 **Proceedings**

16 **SEC. 111. EQUITABLE BURDEN OF PROOF FOR ADMISSI-**
17 **BILITY.**

18 Section 240(c)(2) (8 U.S.C. 1229a(c)(2)) is
19 amended—

20 (1) in the matter preceding subparagraph (A),
21 by striking “establishing—” and inserting “estab-
22 lishing, by clear and convincing evidence—”;

23 (2) in subparagraph (A), by striking “clearly
24 and beyond doubt”; and

25 (3) in subparagraph (B), by striking “by clear
26 and convincing evidence,”.

1 **SEC. 112. PRESUMPTION IN FAVOR OF WITHDRAWAL OF AP-**
2 **PLICATION FOR ADMISSION.**

3 Section 235(a)(4) (8 U.S.C. 1225(a)(4)) is amended
4 to read as follows:

5 “(4) WITHDRAWAL OF APPLICATION FOR AD-
6 MISSION.—

7 “(A) PRESUMPTION IN FAVOR OF WITH-
8 DRAWAL.—The Attorney General shall permit
9 an alien applying for admission to withdraw the
10 application and depart immediately from the
11 United States at any time, unless an immigra-
12 tion judge has rendered a decision with respect
13 to the admissibility of the alien, except that the
14 Attorney General may deny permission for the
15 withdrawal when warranted by unusual cir-
16 cumstances.

17 “(B) PERMISSIVE WITHDRAWAL.—Except
18 as provided in subparagraph (A), an alien ap-
19 plying for admission may, in the discretion of
20 the Attorney General and at any time after a
21 decision described in such subparagraph has
22 been rendered, be permitted to withdraw the
23 application and depart immediately from the
24 United States.”.

1 **SEC. 113. ABSENCES OUTSIDE THE CONTROL OF THE**
2 **ALIEN.**

3 Section 101(a)(13)(C) (8 U.S.C. 1101(a)(13)(C)) is
4 amended by amending clause (ii) to read as follows:

5 “(ii) has been absent from the United
6 States for a continuous period in excess of
7 one year unless the alien’s return was im-
8 peded by emergency or extenuating cir-
9 cumstances outside the control of the
10 alien.”.

11 **SEC. 114. REINSTATEMENT OF REMOVAL ORDERS AGAINST**
12 **ALIENS ILLEGALLY REENTERING.**

13 Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is
14 amended—

15 (1) by inserting “, after a hearing by an immi-
16 gration judge,” after “If”;

17 (2) by inserting “, on or after September 30,
18 1996,” after “alien has”;

19 (3) by striking “is reinstated” and inserting
20 “may be deemed to be reinstated”;

21 (4) by striking “and is not subject” and all that
22 follows through “under this Act”; and

23 (5) by striking the period at the end and insert-
24 ing the following: “subject to reopening and review
25 of the previous order. Nothing in this section shall

1 preclude an alien from applying for any relief from
2 removal under this Act.”.

3 **Subtitle C—Fairness in Detention**

4 **SEC. 121. RESTORING DISCRETIONARY AUTHORITY TO THE** 5 **ATTORNEY GENERAL IN CASES OF INDIVID-** 6 **UALS WHO POSE NO RISK TO SAFETY OR OF** 7 **FLEEING.**

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

9 (1) in paragraph (1), by striking “Attorney
10 General shall” and inserting “Attorney General
11 may”; and

12 (2) by amending paragraph (2) to read as fol-
13 lows:

14 “(2) RELEASE.—The Attorney General shall re-
15 lease any alien described in paragraph (1) if the
16 alien satisfies the Attorney General that the alien
17 will not pose a danger to the safety of other persons
18 or of property and is likely to appear for any sched-
19 uled proceeding. All custody, bond, and parole deter-
20 minations shall be reviewable by an immigration
21 judge and subject to administrative appeal.”.

22 **SEC. 122. PERIODIC REVIEW OF DETENTION DETERMINA-** 23 **TION.**

24 Section 241(a) (8 U.S.C. 1231(a)) is amended—

1 (1) by redesignating paragraph (6) as para-
2 graph (6)(A);

3 (2) in paragraph (6)(A) (as redesignated), by
4 inserting “for a reasonable period of time, not to ex-
5 ceed 9 months following the removal period, to allow
6 for ongoing negotiations to effect such removal”
7 after “removal period”; and

8 (3) by inserting before paragraph (7) the fol-
9 lowing:

10 “(B) Upon conclusion of the removal period
11 and every 90 days thereafter, the Attorney General
12 shall review whether the alien is required to be re-
13 leased under subsection (j).

14 “(C) Determinations under this subparagraph
15 shall be subject to de novo review by an immigration
16 judge and administrative appeal. In such review, it
17 shall be the Attorney General’s burden to prove that
18 continued detention is authorized under subsection
19 (a).”.

20 **SEC. 123. LIMITATION ON INDEFINITE DETENTION.**

21 Section 241 (8 U.S.C. 1231) is amended by adding
22 at the end the following:

23 “(j) Notwithstanding any other provision of this sec-
24 tion, including subsection (a)(2), the Attorney General

1 may not detain an alien who requests release and dem-
2 onstrates to the Attorney General that—

3 “(1) the alien is not a risk to the community
4 and is likely to comply with the order of removal;
5 and

6 “(2) removal of the alien cannot be effectuated
7 within the removal period specified in section
8 241(a)(2).

9 The determination by the Attorney General shall be sub-
10 ject to de novo review by an immigration judge and admin-
11 istrative appeal.”.

12 **SEC. 124. PILOT PROGRAM TO CONSIDER ALTERNATIVES**
13 **TO DETENTION.**

14 (a) **PILOT PROGRAM ON ALTERNATIVES TO DETEN-**
15 **TION IN PENAL SETTING.**—The Attorney General shall es-
16 tablish a pilot program in 3 district offices of the Immi-
17 gration and Naturalization Service to determine the viabil-
18 ity of supervision, through means other than confinement
19 in a penal setting, of aliens who have no criminal record,
20 or have a criminal record that includes only nonviolent
21 minor offenses, but who are subject to detention under the
22 Immigration and Nationality Act at the discretion of the
23 Attorney General.

24 (b) **STUDY AND REPORT ON ALTERNATIVES TO DE-**
25 **TENTION IN PENAL SETTING.**—In carrying out subsection

1 (a), the Attorney General shall conduct a study, and sub-
2 mit a report to the Congress not later than 6 months after
3 the date of the enactment of this Act, on alternatives to
4 detention of aliens who have no criminal record (or have
5 a criminal record that includes only nonviolent minor of-
6 fenses) and are not inadmissible or deportable by reason
7 of having committed a criminal offense in detention facili-
8 ties used for the incarceration of persons convicted of a
9 criminal offense.

10 **SEC. 125. ELIMINATION OF MANDATORY DETENTION IN EX-**
11 **PEDITED REMOVAL PROCEEDINGS.**

12 Section 235(b)(1)(B)(iii)(IV) (8 U.S.C.
13 1225(b)(1)(B)(iii)(IV)) is amended to read as follows:

14 “(IV) DETENTION.—Aliens sub-
15 ject to the procedures under this
16 clause shall be detained in accordance
17 with section 236.”.

18 **SEC. 126. RIGHT TO COUNSEL.**

19 Section 292 (8 U.S.C. 1362) is amended by striking
20 the matter after the section designation and inserting the
21 following: “In any bond, custody, detention, or removal
22 proceedings before the Attorney General and in any appeal
23 proceedings before the Attorney General from any such
24 proceedings, the person concerned shall have the privilege
25 of being represented (at no expense to the government)

1 by such counsel, authorized to practice in such pro-
2 ceedings, as he shall choose. With consent of their clients,
3 counsel may enter appearances limited to bond, custody,
4 or other specific proceedings.”.

5 **SEC. 127. CLARIFICATION OF INTENT OF TRANSITIONAL**
6 **PROVISION ON REFERENCES TO REMOVAL**
7 **ORDERS.**

8 Section 309(d)(2) of the Illegal Immigration Reform
9 and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101
10 note) is amended by striking “deportation.” and inserting
11 “deportation, except that nothing in this paragraph shall
12 be construed as making any change in the Immigration
13 and Nationality Act made by this Act effective retro-
14 actively.”.

15 **Subtitle D—Consular Review of**
16 **Visa Applications**

17 **SEC. 131. ESTABLISHMENT OF A BOARD OF VISA APPEALS.**

18 (a) IN GENERAL.—The Immigration and Nationality
19 Act is amended by inserting after section 224 the following
20 new section:

21 “BOARD OF VISA APPEALS

22 “SEC. 225. (a) ESTABLISHMENT.—The Secretary of
23 State shall establish within the Department of State a
24 Board of Visa Appeals. The Board shall be composed of
25 5 members who shall be appointed by the Secretary. Not

1 more than 2 members of the Board may be consular offi-
2 cers. The Secretary shall designate a member who shall
3 be chairperson of the Board.

4 “(b) AUTHORITY AND FUNCTIONS.—The Board shall
5 have authority to review any discretionary decision of a
6 consular officer with respect to an alien concerning the
7 denial, revocation, or cancellation of an immigrant visa or
8 of a nonimmigrant visa or petition, or the denial of an
9 application for waiver of one or more grounds of inadmis-
10 sibility under section 212. The review of the Board shall
11 be made upon the record for decision of the consular offi-
12 cer, including all documents, notes, and memoranda filed
13 with the consular officer, supplemented by affidavits and
14 other writings if offered by the consular officer or alien.
15 Upon a conclusive showing that the decision of the con-
16 sular official is contrary to the preponderance of the evi-
17 dence, the Board shall have authority to overrule, or re-
18 mand for further consideration, the decision of such con-
19 sular officer.

20 “(c) PROCEDURE.—Proceedings before the Board
21 shall be in accordance with such regulations, not incon-
22 sistent with this Act and sections 556 and 557 of title
23 5, United States Code, as the Secretary of State shall pre-
24 scribe. Such regulations shall include requirements that
25 provide that—

1 “(1) at the time of any decision of a consular
2 officer under subsection (b), an alien, attorney of
3 record, and any interested party defined in sub-
4 section (d) shall be given notice of the availability of
5 the review process and the necessary steps to re-
6 quest such review;

7 “(2) a written record of the proceedings and de-
8 cision of the consular officer (in accordance with sec-
9 tions 556 and 557 of title 5, United States Code)
10 shall be available to the Board, and on payment of
11 lawfully prescribed costs, shall be made available to
12 the alien;

13 “(3) upon receipt of request for review under
14 this section, the Board shall, within 30 days, notify
15 the consular officer with respect to whose decision
16 review is sought, and, upon receipt of such notice,
17 such officer shall promptly (but in no event more
18 than 30 days after such receipt) forward to the
19 Board the record of proceeding as described in sub-
20 section (b);

21 “(4) the appellant shall be given notice, reason-
22 able under all the circumstances of the time and
23 place at which the Board proceedings will be held;

24 “(5) the appellant may be represented (at no
25 expense to the Government) by such counsel, author-

1 ized to practice in such proceedings, as the appellant
2 shall choose; and

3 “(6) a request for review under this section
4 must be made in writing to the Board within 60
5 days after receipt of notice of the denial, revocation,
6 or cancellation.

7 “(d) INTERESTED PARTIES.—The Board shall review
8 each decision described in subsection (b) upon request of
9 the alien or any of the following interested parties:

10 “(1) The petitioner or beneficiary of an immi-
11 grant visa petition approved under section 203(a),
12 203(b)(1), 203(b)(4), 203(b)(5), or 203(c), or the
13 petitioner of an immigrant visa petition approved
14 under section 203(b)(2) or 203(b)(3).

15 “(2) The petitioner of a nonimmigrant visa pe-
16 tition.

17 “(3) The postsecondary educational institution
18 approved for the attendance of nonimmigrant stu-
19 dents under section 101(a)(15)(F)(i) or
20 101(a)(15)(M)(i) which has provided notice of the
21 acceptance of the alien in its program.

22 “(4) A recognized international agency or orga-
23 nization approved as a program sponsor under sec-
24 tion 101(a)(15)(J) which has provided notice of the
25 acceptance of the alien in its program.

1 “(5) A treaty investor or trader individual or
2 organization in the United States that, under section
3 101(a)(15)(E), has made an offer of employment to
4 an alien to perform executive or supervisory manage-
5 ment functions.

6 “(e) LIMITATION.—A review may not be requested
7 under this section more than once in any 24-month period.

8 “(f) CONSTRUCTION.—This section may not be con-
9 strued to restrict any right to further administrative or
10 judicial review established under any other provision of
11 law.

12 “(g) FEES.—The Secretary of State shall charge, and
13 collect, an appropriate fee associated with a request to the
14 Board for a review. Such fee shall be sufficient to cover
15 the cost of the administration of this section.”.

16 (b) TECHNICAL AMENDMENTS.—

17 (1) Section 222(f) (8 U.S.C. 1202(f)) is
18 amended—

19 (A) by striking “except that” and all that
20 follows up to the period; and

21 (B) by adding at the end: “An interested
22 party under section 225(d) or court shall be
23 permitted to inspect the record of proceeding as
24 described in subsections (c)(2) and (c)(3) of
25 section 225.”.

1 (2) Section 104(a)(1) (8 U.S.C. 1104(a)(1)) is
2 amended by striking the “except” and inserting “in-
3 cluding”.

4 (3) The table of contents is amended by insert-
5 ing after the item relating to section 224 the fol-
6 lowing new item:

“Sec. 225. Board of Visa Appeals.”.

7 **SEC. 132. NONDISCRIMINATION PROVISIONS.**

8 (a) NONDISCRIMINATION IN ISSUANCE OF IMMIG-
9 GRANT VISAS.—Section 202(a)(1) (8 U.S.C. 1152(a)(1))
10 is amended—

11 (1) in subparagraph (A), by inserting “sexual
12 orientation, disability,” after “sex,”; and

13 (2) in subparagraph (B), by striking “proc-
14 essed.” and inserting “processed, to the extent that
15 such procedures do not discriminate based on race,
16 sex, sexual orientation, disability, nationality, place
17 of birth, or place of residence in violation of sub-
18 paragraph (A).”.

19 (b) NONDISCRIMINATION IN ISSUANCE OF NON-
20 IMMIGRANT VISAS.—Section 214 (8 U.S.C. 1184) is
21 amended—

22 (1) by redesignating the subsection (l) added by
23 section 625(a) of the Illegal Immigration Reform
24 and Immigrant Responsibility Act of 1996 (Public

1 Law 104–208; 110 Stat. 3009–1820) as subsection
2 (m); and

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

4 “(n) Except as specifically provided by law, no person
5 shall receive any preference or priority or be discriminated
6 against in the issuance of a nonimmigrant visa because
7 of the person’s race, sex, sexual orientation, disability, na-
8 tionality, place of birth, or place of residence.”.

9 **TITLE II—FAIRNESS AND EQUITY**
10 **IN CASES INVOLVING PRE-**
11 **VIOUS AND MINOR MIS-**
12 **CONDUCT**

13 **Subtitle A—Increased Fairness and**
14 **Equity Concerning Removal**
15 **Proceedings**

16 **SEC. 201. EQUITABLE DEFINITION OF “CRIME INVOLVING**
17 **MORAL TURPITUDE”.**

18 (a) **CONVICTION OF CERTAIN CRIMES.**—Section
19 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended
20 by striking “of, or who admits having committed, or who
21 admits committing acts which constitute the essential ele-
22 ments of—” and inserting “of—”.

23 (b) **EXCEPTION.**—Section 212(a)(2)(A)(ii)(II) (8
24 U.S.C. 1182(a)(2)(A)(ii)(II)) is amended—

1 (1) by striking “the maximum” and all that fol-
2 lows through “such crime,”; and

3 (2) by striking “6 months” and inserting “1
4 year”.

5 **SEC. 202. EQUITABLE APPLICATION AND DEFINITION OF**
6 **“AGGRAVATED FELONY”.**

7 (a) **ILLICIT TRAFFICKING.**—Section 101(a)(43)(B)
8 (8 U.S.C. 1101(a)(43))(B)) is amended by striking
9 “Code);” and inserting “Code), except a single offense of
10 simple possession of a controlled substance that is an
11 alien’s first controlled substance offense;”.

12 (b) **CRIMES OF VIOLENCE AND THEFT OFFENSES.**—
13 Sections 101(a)(43)(F), (G), (J), (R), and (S) (8 U.S.C.
14 1101(c)(43)(F), (G), (J), (R), and (S)) are each amended
15 by striking “imprisonment” and all that follows through
16 the semicolon and inserting “imprisonment of more than
17 5 years;”.

18 (c) **ALIEN SMUGGLING.**—Section 101(a)(43)(N) (8
19 U.S.C. 101(a)(43)(N)) is amended—

20 (1) by inserting “committed for the purpose of
21 commercial advantage,” after “smuggling,”; and

22 (2) by adding at the end a semicolon.

23 (d) **DISCRETIONARY WAIVER IN CASES OF OTHER**
24 **MINOR FELONIES.**—Section 101 (8 U.S.C. 1101) is
25 amended by adding at the end the following:

1 serting “court of law. Any such reference shall
 2 not be deemed to include any suspension of the
 3 imposition or execution of that imprisonment or
 4 sentence in whole or in part.”.

5 **SEC. 204. EQUITABLE DEFINITION OF “CRIMES OF MORAL**
 6 **TURPITUDE”.**

7 Section 237(a)(2)(A)(i)(II) (8 U.S.C.
 8 1227(a)(2)(A)(i)(II)) is amended to read as follows:

9 “(II) for which the alien has been
 10 incarcerated for a period exceeding
 11 one year,”.

12 **SEC. 205. RESTORATION OF FAIRNESS IN EQUITABLE RE-**
 13 **LIEF FOR LONG-TIME LEGAL PERMANENT**
 14 **RESIDENTS.**

15 (a) CANCELLATION OF REMOVAL.—Section
 16 240A(a)(3) (8 U.S.C. 1229b(a)(3)) is amended to read as
 17 follows:

18 “(3) has not been convicted of an aggravated
 19 felony for which the sentence imposed is five years
 20 or more.”.

21 (b) REPEAL OF RULE FOR TERMINATION OF CON-
 22 TINUOUS PERIOD.—

23 (1) Section 240A(d)(1) (8 U.S.C. 1229b(d)(1))
 24 (8 U.S.C. 1229b(a)) is repealed.

1 (2) Section 240A(d) (8 U.S.C. 1229b) is
2 amended—

3 (A) by redesignating paragraphs (2) and
4 (3) as paragraphs (1) and (2), respectively; and

5 (B) by inserting before the period at the
6 end of paragraph (1) (as redesignated) the fol-
7 lowing: “, unless the alien’s departure from the
8 United States was due to a temporary trip
9 abroad required by emergency or extenuating
10 circumstances outside the control of the alien”.

11 **SEC. 206. RESTORATION OF FAIRNESS IN EQUITABLE RE-**
12 **LIEF FOR OTHER NONCITIZENS.**

13 (a) CANCELLATION OF REMOVAL AND ADJUSTMENT
14 FOR CERTAIN NONPERMANENT RESIDENTS.—Section
15 240A(b)(1) (8 U.S.C. 1229b(b)(1)) is amended to read as
16 follows:

17 “(1) IN GENERAL.—The Attorney General may
18 cancel removal in the case of an alien who is inad-
19 missible or deportable from the United States if the
20 alien—

21 “(A) has been physically present in the
22 United States for a continuous period of—

23 “(i) 7 years immediately preceding the
24 date of application in the case of an
25 alien—

1 “(I) who is deportable on any
2 ground other than a ground specified
3 in clause (ii)(I); and

4 “(II) whose deportation would, in
5 the opinion of the Attorney General,
6 result in extreme hardship to the alien
7 or the alien’s spouse, parent, son, or
8 daughter, who is a citizen of the
9 United States or an alien lawfully ad-
10 mitted for permanent residence; or

11 “(ii) 10 years immediately preceding
12 the date of application in the case of an
13 alien—

14 “(I) who is deportable for convic-
15 tion of an offense under section
16 212(a)(2), 237(a)(2), or 237(a)(3);
17 and

18 “(II) whose deportation would, in
19 the opinion of the Attorney General,
20 result in exceptional and extremely
21 unusual hardship to the alien or the
22 alien’s spouse, parent, son, or daugh-
23 ter, who is a citizen of the United
24 States or an alien lawfully admitted
25 for permanent residence”; and

1 “(B) has been a person of good moral
2 character during such period.”.

3 (b) **ELIMINATION OF ANNUAL LIMITATION.**—Section
4 240A (8 U.S.C. 1229b) is amended by striking subsection
5 (e).

6 **SEC. 207. ELIMINATING UNFAIR RETROACTIVE CHANGES IN**
7 **REMOVAL RULES FOR PERSONS SUBJECT TO**
8 **PENDING PROCEEDINGS.**

9 (a) **APPLICATION OF AGGRAVATED FELONY DEFINI-**
10 **TION.**—The last sentence of section 101(a)(43) (8 U.S.C.
11 1101(a)(43)) is amended to read as follows: “The term
12 shall not apply to any offense that was not covered by
13 the term on the date on which the offense occurred.”.

14 (b) **GROUND OF DEPORTABILITY.**—Section 237 (8
15 U.S.C. 1227) is amended by adding at the end the fol-
16 lowing new subsection:

17 “(d) Notwithstanding any other provision of this sec-
18 tion, an alien is not deportable by reason of committing
19 any offense that was not a ground of deportability on the
20 date the offense occurred.”.

21 (c) **GROUND OF INADMISSIBILITY.**—Section 212 (8
22 U.S.C. 1182) is amended by adding at the end the fol-
23 lowing new subsection:

24 “(p) Notwithstanding any other provision of this sec-
25 tion, an alien is not inadmissible by reason of committing

1 any offense that was not a ground of inadmissibility on
2 the date the offense occurred.”.

3 **SEC. 208. ELIMINATING UNFAIR RETROACTIVE CHANGES IN**
4 **REMOVAL RULES FOR PERSONS PREVIOUSLY**
5 **REMOVED.**

6 (a) IN GENERAL.—The Attorney General shall estab-
7 lish a process by which an alien described in subsection
8 (b) may apply for reopening a proceeding so as to seek
9 relief from exclusion, deportation, or removal under sec-
10 tion 212(c) of the Immigration and Nationality Act, as
11 such section was in effect prior to the enactment of the
12 Antiterrorism and Effective Death Penalty Act of 1996,
13 or section 240A of the Immigration and Nationality Act,
14 as amended by this Act.

15 (b) ALIEN DESCRIBED.—An alien referred to in sub-
16 section (a) is an alien who received a final order of exclu-
17 sion, deportation, or removal, or a decision on a petition
18 for review or petition for habeas corpus, on or after Sep-
19 tember 30, 1996, and who was—

20 (1) excluded, deported, or removed from the
21 United States by reason of having committed a
22 criminal offense that was not a basis for removal,
23 exclusion, or deportation on the date on which the
24 offense was committed;

1 (2) excluded, deported, or removed from the
2 United States by reason of having committed a
3 criminal offense that is not a basis for removal, ex-
4 clusion, or deportation on the date of enactment of
5 this Act; or

6 (3) excluded, deported, or removed from the
7 United States by reason of having committed a
8 criminal offense prior to April 24, 1996, for which
9 there was relief from exclusion, deportation, or re-
10 moval available prior to such date.

11 (c) PAROLE.—The Attorney General may in her dis-
12 cretion exercise the parole authority under section
13 212(d)(5)(A) of the Immigration and Nationality Act (8
14 U.S.C. 1182(d)(5)(A)) for the purpose of permitting
15 aliens excluded, deported, or removed from the United
16 States to participate in the process established under sub-
17 section (a), if the alien establishes prima facie eligibility
18 for the relief.

1 **Subtitle B—Increased Fairness and**
2 **Equity Concerning 5-Year Bars**
3 **to Admission and Other**
4 **Grounds for Exclusion**

5 **SEC. 211. LIMITING 5-YEAR BAR TO ADMISSION TO PER-**
6 **SONS WHO WILLFULLY FAIL TO ATTEND RE-**
7 **MOVAL PROCEEDINGS.**

8 Section 212(a)(6)(B) (8 U.S.C. 1182(a)(6)(B)) is
9 amended to read as follows:

10 “(B) FAILURE TO ATTEND REMOVAL PRO-
11 CEEDINGS.—

12 “(i) IN GENERAL.—Any alien who
13 willfully and without reasonable cause fails
14 or refuses to attend or remain in attend-
15 ance at a proceeding to determine the
16 alien’s inadmissibility or deportability and
17 who seeks admission to the United States
18 within 5 years of such alien’s subsequent
19 departure or removal is inadmissible.

20 “(ii) WAIVER AUTHORIZED.—For pro-
21 vision authorizing waiver of clause (i), see
22 subsection (d)(13).”.

1 **SEC. 212. LIMITING 5-YEAR BAR TO ADMISSION TO PER-**
2 **SONS WHO WILLFULLY VIOLATE STUDENT**
3 **VISA CONDITIONS.**

4 (a) **IN GENERAL.**—Section 212(a)(6)(G) (8 U.S.C.
5 1182(a)(6)(G)) is amended to read as follows:

6 “(G) **STUDENT VISA ABUSERS.**—

7 “(i) **IN GENERAL.**—An alien who ob-
8 tains the status of a nonimmigrant under
9 section 101(a)(15)(F)(i) and who willfully
10 violates a term or condition of such status
11 under section 214(m) is inadmissible until
12 the alien has been outside the United
13 States for a continuous period of 5 years
14 after the date of the violation.

15 “(ii) **WAIVER AUTHORIZED.**—For pro-
16 vision authorizing waiver of clause (i), see
17 subsection (d)(13).”.

18 (b) **TECHNICAL AMENDMENT.**—Section
19 101(a)(15)(F)(i) (8 U.S.C. 1101(a)(15)(F)(i)) is amended
20 by striking “214(l)” and inserting “214(m)”.

21 **SEC. 213. LIMITING BAN ON ADMISSIBILITY TO PERSONS**
22 **WHO WILLFULLY MAKE FALSE CLAIMS FOR**
23 **CITIZENSHIP.**

24 (a) **CLASSES OF DEPORTABLE ALIENS.**—Section
25 237(a)(3)(D) (8 U.S.C. 1227(a)(3)(D)) is amended by in-

1 serting “and willfully” after “falsely” each place such
2 term appears.

3 (b) CLASSES OF INADMISSIBLE ALIENS.—Section
4 212(a)(6)(C)(ii) (8 U.S.C. 1182(a)(6)(C)(ii)) is amended
5 by inserting “and willfully” after “falsely” each place such
6 term appears.

7 **SEC. 214. EQUITABLE WAIVER OF INADMISSIBILITY FOR**
8 **MINOR CRIMINAL OFFENSES.**

9 Section 212(h) (8 U.S.C. 1182(h)) is amended—

10 (1) in the matter preceding paragraph (1), by
11 striking “offense of simple possession of 30 grams or
12 less of marijuana” and inserting “controlled sub-
13 stance offense for which the alien was not incarcer-
14 ated for a period exceeding 1 year”; and

15 (2) by striking the final two sentences.

16 **SEC. 215. REDUCING LENGTH OF DURATION OF BARS TO**
17 **INADMISSIBILITY.**

18 Section 212(a)(9)(B)(i) (8 U.S.C. 1182(a)(9)(B)(i))
19 is amended—

20 (1) in subclause (I), by striking “3 years” and
21 inserting “1 year”; and

22 (2) in subclause (II), by striking “10 years”
23 and inserting “3 years”.

1 **TITLE III—ENCOURAGING**
2 **FAMILY REUNIFICATION**
3 **Subtitle A—Reuniting Family**
4 **Members**

5 **SEC. 301. VISA FOR SPOUSES AND CHILDREN OF PERMA-**
6 **NENT RESIDENTS TEMPORARILY WAITING**
7 **FOR VISA NUMBERS.**

8 (a) IN GENERAL.—Section 101(a)(15) (8 U.S.C.
9 101(a)(15)) is amended—

10 (1) in subparagraph (R), by striking “or” at
11 the end;

12 (2) in subparagraph (S), by striking the period
13 at the end and inserting “; or”; and

14 (3) by inserting after subparagraph (S) the fol-
15 lowing:

16 “(T) an alien (other than one coming for the
17 purpose of study or of performing skilled or un-
18 skilled labor or as a representative of foreign press,
19 radio, film, or other foreign information media com-
20 ing to engage in such vocation) who is the bene-
21 ficiary of a petition approved under—

22 “(i) section 204 (excluding the provisions
23 of such section referred to in clause (ii)) for
24 classification by reason of a relationship de-
25 scribed in section 203(a)(2)(A) with an alien

1 lawfully admitted for permanent residence, who
2 is awaiting the availability of an immigrant visa
3 based upon such approval, and who seeks to
4 enter the United States to achieve family unity
5 by joining the permanent resident alien in the
6 United States; or

7 “(ii) clause (iii), (iv), (v), or (vi) of section
8 204(a)(1)(A) or clause (ii), (iii), or (iv) of sec-
9 tion 204(a)(1)(B) and who is awaiting the
10 availability of an immigrant visa based upon
11 such approval.”.

12 (b) PERIOD OF AUTHORIZED STATUS.—Section
13 214(a)(2) (8 U.S.C. 1184(a)(2)) is amended by adding at
14 the end the following:

15 “(C) The period of authorized status as a non-
16 immigrant described in section 101(a)(15)(T) shall be for
17 one year. Such period may be extended for additional one-
18 year periods by the Attorney General.”.

19 **SEC. 302. REFUGEE STATUS FOR UNMARRIED SONS AND**
20 **DAUGHTERS OF REFUGEES.**

21 Section 207(c)(2) (8 U.S.C. 1157(c)(2)) is amended
22 by adding at the end the following:

23 “When warranted by unusual circumstances or to
24 preserve family unity, the Attorney General may, in
25 the Attorney General’s discretion, consider an un-

1 married son or daughter of a refugee to be a child
2 of the refugee for purposes of this paragraph.”.

3 **SEC. 303. ASYLEE STATUS FOR UNMARRIED SONS AND**
4 **DAUGHTERS OF ASYLEES.**

5 Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended
6 by adding at the end the following:

7 “When warranted by unusual circumstances or to
8 preserve family unity, the Attorney General may, in
9 the Attorney General’s discretion, consider an un-
10 married son or daughter of an alien who is granted
11 asylum under this subsection to be a child of the
12 alien for purposes of this paragraph.”.

13 **SEC. 304. PROTECTION AGAINST PROCESSING DELAYS.**

14 (a) IN GENERAL.—

15 (1) NEW SECTION.—Title I (8 U.S.C. 1101 et
16 seq.) is amended by adding at the end the following:

17 “PROTECTION AGAINST PROCESSING DELAYS FOR
18 CHILDREN

19 “SEC. 106. (a) IN GENERAL.—

20 “(1) DETERMINATION OF WHO IS A CHILD.—In
21 the case of an application initially to grant a benefit
22 under this Act (other than an application for natu-
23 ralization) that otherwise would be granted only
24 after a determination that the beneficiary of the ap-
25 plication is a child (such as classification as an im-

1 mediate relative under section 201(b)(2)(A)(i)), if
2 the application is neither approved nor denied (on
3 procedural or substantive grounds) during the 90-
4 day period beginning on the date of the filing of the
5 application—

6 “(A) the beneficiary shall be considered to
7 be a child for all purposes related to the receipt
8 of the benefit if the beneficiary was a child on
9 the last day of such 90-day period; and

10 “(B) the beneficiary shall not otherwise be
11 prejudiced with respect to such determination
12 by such delay, and shall be considered to be a
13 child under this Act for all purposes related to
14 such application.

15 “(2) TERMINATION OF BENEFIT.—Paragraph
16 (1) shall remain in effect until the termination of
17 the 1-year period beginning on the date on which the
18 application described in such paragraph is approved.

19 “(b) SPECIAL BENEFITS FOR SONS AND DAUGHTERS
20 OF NATURALIZED PARENTS.—

21 “(1) IN GENERAL.—In the case of an alien son
22 or daughter of a parent who is a naturalized citizen,
23 if the alien is the beneficiary of an application for
24 a benefit under this Act that otherwise would be

1 granted only after a determination that the alien is
2 a child—

3 “(A) the alien shall not be prejudiced with
4 respect to such determination by the failure of
5 the Attorney General to approve the parent’s
6 application for naturalization during the 90-day
7 period beginning on date of the filing of the ap-
8 plication; and

9 “(B) the alien son or daughter shall be
10 considered to be a child for all purposes related
11 to such application if the alien was a child on
12 the last day of such 90-day period.

13 “(2) TERMINATION OF BENEFIT.—Paragraph
14 (1) shall remain in effect until the termination of
15 the 1-year period beginning on the date on which the
16 application described in such paragraph is ap-
17 proved.”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents of such Act is amended by inserting after the
20 item relating to section 105 the following:

“Sec. 106. Protection against processing delays for children.”.

21 (b) PROTECTION AGAINST PREJUDICIAL EFFECTS
22 OF PROCESSING DELAYS RELATED TO CHANGE IN FAM-
23 ILY STATUS.—Section 203 (8 U.S.C. 1153) is amended
24 by adding at the end the following:

1 “(h) PROTECTION AGAINST PREJUDICIAL EFFECTS
2 OF PROCESSING DELAYS RELATED TO CHANGE IN FAM-
3 ILY STATUS.—

4 “(1) IN GENERAL.—In the case of an applica-
5 tion for receipt of an immigrant visa under sub-
6 section (a), an application for receipt of an immi-
7 grant visa under subsection (d) based on a familial
8 relationship to an alien entitled to immigrant status
9 under subsection (a), or an application for adjust-
10 ment of status under section 245 based on the avail-
11 ability of an immigrant visa under subsection (a), if
12 the application is neither approved nor denied (on
13 procedural or substantive grounds) during the 90-
14 day period beginning on the date of the filing of the
15 application, the eligibility of the alien beneficiary of
16 the application, for all purposes related to the re-
17 ceipt of the applicable benefit, shall be adjudicated
18 based on the alien’s familial status and relationships
19 on the last day of such 90-day period.

20 “(2) TERMINATION OF BENEFIT.—Paragraph
21 (1) shall remain in effect until the termination of
22 the 1-year period beginning on the date on which the
23 application described in such paragraph is approved.

1 “(3) CONSTRUCTION.—Paragraph (1) shall not
2 be construed to supersede any ground of inadmis-
3 sibility under section 212(a).”.

4 (c) PREVENTING IMMIGRANTS FROM WAITING
5 LONGER FOR IMMIGRANT VISAS AS A RESULT OF RE-
6 CLASSIFICATION FROM FAMILY SECOND PREFERENCE TO
7 FAMILY FIRST PREFERENCE.—Section 203 (8 U.S.C.
8 1153) is amended by adding at the end the following new
9 subsection:

10 “(h) ENSURING IMMIGRANTS DO NOT HAVE TO
11 WAIT LONGER FOR AN IMMIGRANT VISA AS A RESULT
12 OF RECLASSIFICATION FROM FAMILY SECOND PREF-
13 ERENCE TO FAMILY FIRST PREFERENCE.—Notwith-
14 standing any other provision of law, in the case of a peti-
15 tion that has been approved to accord preference status
16 under subsection (a)(2)(A), the petition may be deemed
17 to provide continued entitlement to status under that sub-
18 section in the case of any alien petitioner who is subse-
19 quently naturalized as a United States citizen, if a visa
20 is not immediately available to the beneficiary under sub-
21 section (a)(1).”.

1 **Subtitle B—Limited Waiver of**
2 **Grounds of Admissibility**

3 **SEC. 311. DISCRETIONARY WAIVER IN CASES INVOLVING**
4 **FAMILY MEMBERS.**

5 (a) IN GENERAL.—Section 212(i) (8 U.S.C. 1182(i))
6 is amended to read as follows:

7 “(i) The Attorney General may, in the discretion of
8 the Attorney General, waive the application of subpara-
9 graph (A)(i), or clause (i) or (ii) of subparagraph (C), of
10 subsection (a)(6) in the case of an immigrant who is the
11 parent, spouse, son, or daughter of a United States citizen
12 or of an alien lawfully admitted for permanent residence
13 if it is established to the satisfaction of the Attorney Gen-
14 eral that the refusal of admission to the United States
15 of such immigrant alien would result in hardship to the
16 alien or to the citizen or lawfully resident parent, spouse,
17 son, or daughter of such an alien.”.

18 (b) CONFORMING AMENDMENTS.—Section 212(a)(6)
19 (8 U.S.C. 1182(a)(6)) is amended—

20 (1) in subparagraph (A), by adding at the end
21 the following:

22 “(iii) WAIVER AUTHORIZED.—For
23 provision authorizing waiver of this sub-
24 paragraph, see subsection (i).”; and

1 flicted on an alien (or a child of an alien) by the alien’s
 2 United States citizen or lawful permanent resident spouse,
 3 parent, child, son, or daughter.”.

4 (b) WAIVER FOR ALIENS PREVIOUSLY REMOVED.—

5 (1) CERTAIN ALIENS PREVIOUSLY REMOVED.—

6 Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is
 7 amended by adding at the end the following:

8 “(iv) WAIVER AUTHORIZED.—For
 9 provision authorizing waiver of clause (i)
 10 or (ii), see subsection (d)(13).”.

11 (2) ALIENS UNLAWFULLY PRESENT.—Section

12 212(a)(9)(B)(v) (8 U.S.C. 1182(a)(9)(B)(v)) is
 13 amended to read as follows:

14 “(v) WAIVER AUTHORIZED.—For pro-
 15 vision authorizing waiver of clause (i), see
 16 subsection (d)(13).”.

17 **Subtitle C—Eliminating Unfairness**
 18 **and Waste in Section 245(i)**
 19 **Waivers**

20 **SEC. 321. PERMANENT APPLICATION OF SECTION 245(i).**

21 Section 245(i)(1) (8 U.S.C. 1255(i)(1)) is amended
 22 by striking “(i)(1)” and all that follows through “The At-
 23 torney General” and inserting the following:

1 “(i)(1) Notwithstanding the provisions of subsections
2 (a) and (c) of this section, an alien physically present in
3 the United States who—

4 “(A) entered the United States without inspec-
5 tion; or

6 “(B) is within one of the classes enumerated in
7 subsection (c) of this section;

8 may apply to the Attorney General for the adjustment of
9 his or her status to that of an alien lawfully admitted for
10 permanent residence. The Attorney General”.

11 **SEC. 322. ELIMINATING UNFAIRNESS CREATED BY TEM-**
12 **PORARY SUNSET OF SECTION 245(i).**

13 The Attorney General may waive section
14 212(a)(9)(B) of the Immigration and Nationality Act in
15 the case of an alien who—

16 (1) was ineligible for adjustment of status
17 under section 245(i) of the Immigration and Nation-
18 ality Act, as in effect on the day before the date of
19 the enactment of this Act;

20 (2) departed from the United States because of
21 such ineligibility after the date of the enactment of
22 the Departments of Commerce, Justice, and State,
23 the Judiciary, and Related Agencies Appropriations
24 Act, 1998, and before the date of the enactment of
25 this Act; and

1 **Subtitle E—Fairness in**
2 **Determination of Public Charge**

3 **SEC. 341. EQUITABLE PROCEDURES CONCERNING PUBLIC**
4 **CHARGE AND AFFIDAVIT OF SUPPORT.**

5 (a) GROUND FOR INELIGIBILITY FOR ADMISSION.—

6 Section 212(a)(4) (8 U.S.C. 1182(a)(4)) is amended—

7 (1) by amending subparagraph (B)(ii) to read
8 as follows:

9 “(ii) If an alien submits an affidavit of
10 support described in section 213A, in addition
11 to the factors under clause (i), the consular of-
12 ficer or the Attorney General shall also consider
13 such affidavit in determining whether the alien
14 is inadmissible under this paragraph.”; and

15 (2) by striking subparagraphs (C) and (D).

16 (b) REQUIREMENTS FOR SPONSOR’S AFFIDAVIT OF
17 SUPPORT.—Subsections (a)(1)(A), (f)(1)(E), and
18 (f)(4)(B)(i) of section 213A (8 U.S.C. 1183a(a)(1)(A),
19 (f)(1)(E), and (f)(4)(B)(i)) are amended by striking
20 “125” and inserting “100”.

1 **TITLE IV—FAIRNESS IN ASYLUM**
2 **AND REFUGEE PROCEEDINGS**
3 **Subtitle A—Increased Fairness in**
4 **Asylum Proceedings**

5 **SEC. 401. ELIMINATION OF ARBITRARY TIME LIMITS ON**
6 **ASYLUM APPLICATIONS.**

7 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is
8 amended—

9 (1) by striking subparagraph (B);

10 (2) in subparagraph (C), by striking “(D)” and
11 inserting “(C)”;

12 (3) in subparagraph (D), by striking “subpara-
13 graphs (B) and (C),” and inserting “subparagraph
14 (B),”; and

15 (4) by redesignating subparagraphs (C) and
16 (D) as subparagraphs (B) and (C), respectively.

17 **SEC. 402. GENDER-BASED PERSECUTION.**

18 (a) TREATMENT AS REFUGEE.—Section 101(a)(42)
19 (8 U.S.C. 1101(a)(42)) is amended by adding at the end
20 the following:

21 “For purposes of determinations under this Act, a person
22 who establishes that he or she suffered persecution in the
23 past, or has a well-founded fear of persecution, on account
24 of gender shall be considered to have suffered persecution,

1 or to have a well-founded fear of persecution, on account
2 of membership in a particular social group.”.

3 (b) RESTRICTION ON REMOVAL TO COUNTRY WHERE
4 ALIEN WOULD BE THREATENED.—Section 241(b)(3) (8
5 U.S.C. 1231(b)(3)) is amended by adding at the end the
6 following:

7 “(C) GENDER-BASED PERSECUTION.—For
8 purposes of determinations under this para-
9 graph, an alien who establishes that the alien’s
10 life or freedom would be threatened in a coun-
11 try on account of gender shall be considered to
12 have established that the alien’s life or freedom
13 would be threatened in that country on account
14 of membership in a particular social group.”.

15 **SEC. 403. ELIMINATION OF ARBITRARY CAP ON PERSONS**
16 **ELIGIBLE TO ADJUST STATUS FROM ASYLEES**
17 **TO LEGAL PERMANENT RESIDENTS.**

18 Section 209(b) (8 U.S.C. 1159(b)) is amended by
19 striking “Not more than 10,000 of the” and all that fol-
20 lows through “to adjust” and inserting “Subject to a nu-
21 merical limitation determined by the President before the
22 beginning of each fiscal year, the Attorney General may
23 adjust, in the Attorney General’s discretion and under
24 such regulations as the Attorney General may prescribe,”.

1 **SEC. 404. RESTORATION OF ELIGIBILITY FOR WITH-**
2 **HOLDING OF REMOVAL FOR PERSONS FAC-**
3 **ING LOSS OF LIFE OR FREEDOM.**

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

6 (1) by amending clause (ii) to read as follows:

7 “(ii) the alien—

8 “(I) has been convicted by final
9 judgment of a particularly serious
10 crime for which the sentence imposed
11 was an aggregate term of imprison-
12 ment of five years or more; and

13 “(II) is a danger to the commu-
14 nity of the United States.”;

15 (2) by striking the second and third sentences;

16 and

17 (3) by adding at the end “Notwithstanding this
18 subparagraph, an alien may be granted relief under
19 subparagraph (A) if the Attorney General deter-
20 mines the alien should not be removed for urgent
21 humanitarian reasons.”.

1 **Subtitle B—Increased Fairness and**
2 **Rationality in Refugee Con-**
3 **sultations**

4 **SEC. 411. TIMELY CONSULTATION WITH RESPECT TO REF-**
5 **UGEE ADMISSIONS.**

6 Section 207(d)(1) (8 U.S.C. 1157(d)(1)) is amended
7 by striking “the start of each fiscal year” and inserting
8 “the submission by the President to the Congress of the
9 President’s budget for the Federal Government with re-
10 spect to a fiscal year,”.

11 **TITLE V—INCREASED FAIRNESS**
12 **AND EQUITY IN NATURALIZA-**
13 **TION AND LEGALIZATION**
14 **PROCEEDINGS**

15 **Subtitle A—Naturalization**
16 **Proceedings**

17 **SEC. 501. INCREASED AUTHORIZATION OF FUNDS FOR NAT-**
18 **URALIZATION PROCEEDINGS.**

19 (a) IMMIGRATION EXAMINATIONS FEE ACCOUNT
20 MODIFICATION.—Section 286(m) (8 U.S.C. 1356(m)) is
21 amended to read as follows:

22 “(m)(1) Notwithstanding any other provision of law,
23 all adjudication fees as are designated by the Attorney
24 General in regulations shall be deposited as offsetting re-
25 cepts into a separate account entitled ‘Immigration Ex-

1 amination Fee Account' in the Treasury of the United
2 States (in this subsection referred to as the 'Account'),
3 whether collected directly by the Attorney General or
4 through clerks of courts.

5 “(2)(A) All fees received by the Attorney General
6 from applicants residing in the Virgin Islands of the
7 United States and in Guam under this subsection shall
8 be paid over to the treasury of the Virgin Islands and to
9 the treasury of Guam.

10 “(B) Fees for providing adjudication and naturaliza-
11 tion services may be set at a level that—

12 “(i) will ensure recovery of the full costs of pro-
13 viding all such services, including the costs of similar
14 services provided without charge to asylum appli-
15 cants or other immigrants; and

16 “(ii) will recover any additional costs associated
17 with the administration of the fees collected.

18 “(3) Each fee collected for the provision of an adju-
19 dication or naturalization service shall be used only to
20 fund adjudication or naturalization services or, subject to
21 the availability of funds provided pursuant to paragraph
22 (6), costs of similar services provided without charge to
23 asylum and refugee applicants.

1 “(4) No such fee may be used for immigration en-
2 forcement purposes by the Attorney General or any other
3 officer or employee of the Federal Government.

4 “(5) No such fee may be used to fund adjudication-
5 related or naturalization-related audits which are not reg-
6 ularly conducted in the normal course of operation.

7 “(6) There are authorized to be appropriated such
8 sums as may be necessary to carry out the provisions of
9 sections 207 through 209. All funds appropriated to carry
10 out this paragraph shall be deposited into the Account and
11 shall remain available until expended.”.

12 (b) AUTHORIZATION OF APPROPRIATIONS FOR EXPE-
13 DITIOUS PROCESSING OF APPLICATIONS.—Section 404 of
14 the Immigration and Nationality Act (8 U.S.C. 1101 note)
15 is amended by adding at the end the following:

16 “(c) There are authorized to be appropriated for fis-
17 cal years 2000 through 2006 such sums as may be
18 necessary—

19 “(1) to reduce the backlog of applications for
20 naturalization under section 334 so that the proc-
21 essing time for such an application is not more than
22 6 months; and

23 “(2) to provide more expeditious processing of
24 other applications for a benefit under this Act (such
25 as petitions for an immigrant or nonimmigrant visa,

1 applications for adjustment of status, and applica-
2 tions for employment authorization).”.

3 **SEC. 502. EXEMPTION FROM ENGLISH LANGUAGE RE-**
4 **QUIREMENT FOR CERTAIN ALIENS WHO**
5 **SERVED WITH SPECIAL GUERRILLA UNITS OR**
6 **IRREGULAR FORCES.**

7 The requirement of paragraph (1) of section 312(a)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1423(a)(1)) shall not apply to the naturalization of any
10 person—

11 (1) who—

12 (A) was admitted into the United States as
13 an immigrant from Cambodia or Vietnam pur-
14 suant to section 207 of the Immigration and
15 Nationality Act (8 U.S.C. 1157); and

16 (B) served with a special guerrilla unit, or
17 irregular forces, operating from Cambodia or
18 Vietnam in support of the United States mili-
19 tary at any time during the period beginning
20 February 28, 1961, and ending September 18,
21 1978; or

22 (2) who—

23 (A) satisfies the requirement of paragraph
24 (1)(A); and

1 (B) was the spouse of a person described
2 in paragraph (1) on the day on which such de-
3 scribed person applied for admission into the
4 United States as an immigrant.

5 **SEC. 503. SPECIAL CONSIDERATION CONCERNING CIVICS**
6 **REQUIREMENT FOR CERTAIN ALIENS WHO**
7 **SERVED WITH SPECIAL GUERRILLA UNITS OR**
8 **IRREGULAR FORCES.**

9 The Attorney General shall provide for special consid-
10 eration, as determined by the Attorney General, con-
11 cerning the requirement of paragraph (2) of section
12 312(a) of the Immigration and Nationality Act (8 U.S.C.
13 1423(a)(2)) with respect to the naturalization of any per-
14 son described in paragraph (1) or (2) of section 502 of
15 this Act.

16 **SEC. 504. DOCUMENTATION OF QUALIFYING SERVICE.**

17 A person seeking an exemption under section 502 or
18 special consideration under section 503 shall submit to the
19 Attorney General documentation of their, or their
20 spouse's, service with a special guerrilla unit, or irregular
21 forces, described in section 502(1)(B), in the form of—

22 (1) original documents;

23 (2) an affidavit of the serving person's superior
24 officer;

1 (3) 2 affidavits from other individuals who also
2 were serving with such a special guerrilla unit, or ir-
3 regular forces, and who personally knew of the per-
4 son's service; or

5 (4) other appropriate proof.

6 **SEC. 505. DETERMINATION OF ELIGIBILITY FOR EXEMP-**
7 **TION AND SPECIAL CONSIDERATION.**

8 In determining a person's eligibility for an exemption
9 under section 502 or special consideration under section
10 503, the Attorney General—

11 (1) shall review the refugee processing docu-
12 mentation for the person, or, in an appropriate case,
13 for the person and the person's spouse, to verify that
14 the requirements of section 502 relating to refugee
15 applications and admissions have been satisfied;

16 (2) shall consider the documentation submitted
17 by the person under section 504;

18 (3) shall request an advisory opinion from the
19 Secretary of Defense regarding the person's, or the
20 person's spouse's, service in a special guerrilla unit,
21 or irregular forces, described in section 502(1)(B)
22 and shall take into account that opinion; and

23 (4) may consider any certification prepared by
24 any community advocacy organization or voluntary
25 refugee settlement agency maintaining records with

1 respect to ethnic minority veterans of the Vietnam
2 War or their families from Cambodia or Vietnam.

3 **SEC. 506. DEADLINE FOR APPLICATION AND PAYMENT OF**
4 **FEES.**

5 This subtitle shall apply to a person only if the per-
6 son’s application for naturalization is filed, as provided in
7 section 334 of the Immigration and Nationality Act (8
8 U.S.C. 1445), with appropriate fees not later than 36
9 months after the date of the enactment of this Act.

10 **Subtitle B—Parity in Treatment for**
11 **Refugees From Central America**
12 **and Haiti**

13 **SEC. 511. ADJUSTMENT OF STATUS FOR CERTAIN NATION-**
14 **ALS FROM EL SALVADOR, GUATEMALA, HON-**
15 **DURAS, AND HAITI.**

16 Section 202 of the Nicaraguan Adjustment and Cen-
17 tral American Relief Act is amended—

18 (1) in the section heading, by striking “NICA-
19 RAGUANS AND CUBANS” and inserting “NICA-
20 RAGUANS, CUBANS, SALVADORANS, GUATEMALANS,
21 HONDURANS, AND HAITIANS”;

22 (2) in subsection (a)(1)(A), by striking “April
23 1, 2000” and inserting “before the expiration of the
24 3-year period beginning on the date of the enact-

1 ment of the Restoration of Fairness in Immigration
2 Law Act of 2000”.

3 (3) in subsection (b)(1), by striking “Nicaragua
4 or Cuba” and inserting “Nicaragua, Cuba, El Sal-
5 vador, Guatemala, Honduras, or Haiti”;

6 (4) in subsection (d)(1)(E), by striking “before
7 April 1, 2000” and inserting “before the expiration
8 of the 3-year period beginning on the date of the en-
9 actment of the Restoration of Fairness in Immigra-
10 tion Law Act of 2000”.

11 **SEC. 512. APPLICATIONS PENDING UNDER SECTION 203 OF**
12 **THE NICARAGUAN ADJUSTMENT AND CEN-**
13 **TRAL AMERICAN RELIEF ACT.**

14 An application for relief properly filed by a national
15 of Guatemala or El Salvador under section 203 of the Nic-
16 araguan Adjustment and Central American Relief Act
17 which was filed on or before the date of enactment of this
18 Act, and on which a final administrative determination has
19 not been made, may be converted by the applicant, without
20 charge, to an application for adjustment of status under
21 the provisions of section 202 of the Nicaraguan Adjust-
22 ment and Central American Relief Act, as amended, and
23 in accordance with procedures that the Attorney General
24 shall prescribe by regulation. The Attorney General shall
25 not be required to refund any fees paid in connection with

1 an application filed by a national of Guatemala or El Sal-
2 vador under section 203 of the Nicaraguan Adjustment
3 and Central American Relief Act.

4 **SEC. 513. APPLICATIONS PENDING UNDER THE HAITIAN**
5 **REFUGEE IMMIGRATION FAIRNESS ACT OF**
6 **1998.**

7 An application for adjustment of status properly filed
8 by a national of Haiti under the Haitian Refugee Immi-
9 gration Fairness Act of 1998 which was filed on or before
10 the date of the enactment of this Act, and on which a
11 final administrative determination has not been made,
12 may be considered by the Attorney General, in the Attor-
13 ney General's unreviewable discretion, also to constitute
14 an application for adjustment of status under the provi-
15 sions of section 202 of the Nicaraguan Adjustment and
16 Central American Relief Act.

17 **SEC. 514. TECHNICAL AMENDMENTS TO THE NICARAGUAN**
18 **ADJUSTMENT AND CENTRAL AMERICAN RE-**
19 **LIEF ACT.**

20 Section 202 of the Nicaraguan Adjustment and Cen-
21 tral American Relief Act is amended—

22 (1) in subsection (a)(1)(B), by inserting “and
23 the Attorney General may, in her unreviewable dis-
24 cretion, waive the grounds of inadmissibility speci-
25 fied in section 212(a)(1)(A)(i) and section

1 212(a)(6)(C) for humanitarian purposes, to assure
2 family unity, or when it is otherwise in the public
3 interest” after “apply”;

4 (2) in subsection (a), by redesignating para-
5 graph (2) as paragraph (3) and by inserting after
6 paragraph (1) the following:

7 “(2) INAPPLICABILITY OF CERTAIN PROVI-
8 SIONS.—In determining the eligibility of an alien de-
9 scribed in subsection (b) or (d) for either adjustment
10 of status under this section or other relief necessary
11 to establish eligibility for such adjustment, the provi-
12 sions of section 241(a)(5) shall not apply. In addi-
13 tion, an alien who would otherwise be inadmissible
14 pursuant to section 212(a)(9) (A) or (C) may apply
15 for the Attorney General’s consent to reapply for ad-
16 mission without regard to the requirement that the
17 consent be granted prior to the date of the alien’s
18 reembarkation at a place outside the United States
19 or attempt to be admitted from foreign contiguous
20 territory, in order to qualify for the exception to
21 those grounds of inadmissibility set forth in sections
22 212(a)(9)(A)(iii) and 212(a)(9)(C)(ii).”;

23 (3) in subsection (a), by striking paragraph (3)
24 (as so redesignated) and inserting the following:

1 “(3) RELATIONSHIP OF APPLICATION TO CER-
2 TAIN ORDERS.—An alien present in the United
3 States who has been ordered excluded, deported, or
4 removed, or ordered to depart voluntarily from the
5 United States under any provision may, notwith-
6 standing such order, apply for adjustment of status
7 under paragraph (1). Such an alien may not be re-
8 quired, as a condition of submitting or granting such
9 application, to file a separate motion to reopen, re-
10 consider, or vacate such order. Such an alien may be
11 required to seek a stay of such an order in accord-
12 ance with subsection (c) to prevent the execution of
13 that order pending the adjudication of the applica-
14 tion for adjustment of status. If the Attorney Gen-
15 eral denies a stay of a final order of exclusion, de-
16 portation, or removal, or if the Attorney General
17 renders a final administrative determination to deny
18 the application for adjustment of status, the order
19 shall be effective and enforceable to the same extent
20 as if the application had not been made. If the At-
21 torney General grants the application for adjustment
22 of status, the Attorney General shall cancel the
23 order.”;

24 (4) in subsection (b)(1), by adding at the end
25 the following: “However, subsection (a) shall not

1 apply to an alien lawfully admitted for permanent
2 residence, unless he or she is applying for such relief
3 in deportation or removal proceedings.”;

4 (5) in subsection (c)(1), by adding at the end
5 the following: “Nothing in this Act shall require the
6 Attorney General to stay the removal of an alien
7 who is ineligible for adjustment of status under this
8 Act.”;

9 (6) in subsection (d)—

10 (A) by amending the subsection heading to
11 read “SPOUSES, CHILDREN, AND UNMARRIED
12 SONS AND DAUGHTERS.—”;

13 (B) in paragraph (1), by amending the
14 heading to read “ADJUSTMENT OF STATUS.—”;

15 (C) by striking paragraph (1)(A), and in-
16 serting the following:

17 “(A) the alien entered the United States
18 before the date of the enactment of the Res-
19 toration of Fairness in Immigration Law Act of
20 2000;”;

21 (D) in paragraph (1)(B), by inserting after
22 “except that” the following: “(i) in the case of
23 such a spouse, stepchild, or unmarried stepson
24 or stepdaughter, the qualifying marriage was
25 entered into before the date of the enactment of

1 the Restoration of Fairness in Immigration
2 Law Act of 2000; and (ii)”; and

3 (E) by adding a new paragraph (3) to read
4 as follows:

5 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
6 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

7 “(A) In accordance with regulations to be
8 promulgated by the attorney General and the
9 Secretary of State, upon approval of an applica-
10 tion for adjustment of status to that of an alien
11 lawfully admitted for permanent residence
12 under subsection (a), an alien who is the spouse
13 or child of the alien being granted such status
14 may be issued a visa for admission to the
15 United States as an immigrant following to join
16 the principal applicant, if the spouse or child—

17 “(i) meets the requirements in sub-
18 paragraphs (B) and (D) of paragraph (1);
19 and

20 “(ii) applies for such a visa not later
21 than 3 years after the date of the enact-
22 ment of the Restoration of Fairness in Im-
23 migration Law Act of 2000.

24 “(B) The Secretary of State may retain
25 fees to recover the cost of immigrant visa appli-

1 cation processing and issuance for certain
2 spouses and children of aliens whose applica-
3 tions for adjustment of status under subsection
4 (a) have been approved. Such fees—

5 “(i) shall be deposited as an offsetting
6 collection to any Department of State ap-
7 propriation to recover the cost of such
8 processing and issuance; and

9 “(ii) shall be available until expended
10 for the same purposes of such appropria-
11 tion to support consular activities.”;

12 (7) in subsection (g), by inserting after “for
13 permanent residence” the following: “or an immi-
14 grant classification”; and

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

16 “(i) ADMISSIONS.—Nothing in this section shall be
17 construed as authorizing an alien to apply for admission
18 to, be admitted to, be paroled into, or otherwise lawfully
19 return to the United States, to apply for or to pursue an
20 application for adjustment of status under this section
21 without the express authorization of the Attorney Gen-
22 eral.”.

1 **SEC. 515. TECHNICAL AMENDMENTS TO THE HAITIAN IMMI-**
2 **GRATION FAIRNESS ACT OF 1998.**

3 Section 902 of the Haitian Refugee Immigration
4 Fairness Act of 1998 is amended—

5 (1) in subsection (a)(1)(B), by inserting after
6 “apply” the following: “and the Attorney General
7 may, in the Attorney General’s unreviewable discre-
8 tion, waive the grounds of inadmissibility specified in
9 sections 212(a)(1)(A)(i) and 212(a)(6)(C) of the Im-
10 migration and Nationality Act for humanitarian pur-
11 poses, to assure family unity, or when it is otherwise
12 in the public interest”;

13 (2) in subsection (a), by redesignating para-
14 graph (2) as paragraph (3) and by inserting after
15 paragraph (1) the following:

16 “(2) INAPPLICABILITY OF CERTAIN PROVI-
17 SIONS.—In determining the eligibility of an alien de-
18 scribed in subsection (b) or (d) for either adjustment
19 of status under this section or other relief necessary
20 to establish eligibility for such adjustment, or for
21 permission to reapply for admission to the United
22 States for the purpose of adjustment of status under
23 this section, the provisions of section 241(a)(5) shall
24 not apply. In addition, an alien who would otherwise
25 be inadmissible pursuant to subparagraph (A) or (C)
26 of section 212(a)(9) of the Immigration and Nation-

1 ality Act may apply for the Attorney General’s con-
2 sent to reapply for admission without regard to the
3 requirement that the consent be granted prior to the
4 date of the alien’s reembarkation at a place outside
5 the United States or attempt to be admitted from
6 foreign contiguous territory, in order to qualify for
7 the exception to those grounds of inadmissibility set
8 forth in subparagraphs (A)(iii) and (C)(ii) of section
9 212(a)(9) of such Act.”;

10 (3) in subsection (a), by striking paragraph (3)
11 (as so redesignated) and by inserting the following:

12 “(3) RELATIONSHIP OF APPLICATION TO CER-
13 TAIN ORDERS.—An alien present in the United
14 States who has been ordered excluded, deported, or
15 removed, or ordered to depart voluntarily from the
16 United States under any provision may, notwith-
17 standing such order, apply for adjustment of status
18 under paragraph (1). Such an alien may not be re-
19 quired, as a condition of submitting or granting such
20 application, to file a separate motion to reopen, re-
21 consider, or vacate such order. Such an alien may be
22 required to seek a stay of such an order in accord-
23 ance with subsection (c) to prevent the execution of
24 that order pending the adjudication of the applica-
25 tion for adjustment of status. If the Attorney Gen-

1 eral denies a stay of a final order of exclusion, de-
2 portation, or removal, or if the Attorney General
3 renders a final administrative determination to deny
4 the application for adjustment of status, the order
5 shall be effective and enforceable to the same extent
6 as if the application had not been made. If the At-
7 torney General grants the application for adjustment
8 of status, the Attorney General shall cancel the
9 order.”;

10 (4) in subsection (b)(1), by adding at the end
11 the following: “However, subsection (a) shall not
12 apply to an alien lawfully admitted for permanent
13 residence, unless he or she is applying for such relief
14 in deportation or removal proceedings.”;

15 (5) in subsection (c)(1), by adding at the end
16 the following: “Nothing in this Act shall require the
17 Attorney General to stay the removal of an alien
18 who is ineligible for adjustment of status under this
19 Act.”;

20 (6) in subsection (d)—

21 (A) by amending the subsection heading to
22 read “SPOUSES, CHILDREN, AND UNMARRIED
23 SONS AND DAUGHTERS.—”;

24 (B) in paragraph (1), by amending the
25 heading to read “ADJUSTMENT OF STATUS.—”;

1 (C) by striking paragraph (1)(A), and in-
2 serting the following:

3 “(A) the alien entered the United States
4 on or before the date of the enactment of the
5 Restoration of Fairness in Immigration Law
6 Act of 2000;”;

7 (D) in paragraph (1)(B), by inserting after
8 “except that” the following: “(i) in the case of
9 such a spouse, stepchild, or unmarried stepson
10 or stepdaughter, the qualifying marriage was
11 entered into before the date of the enactment of
12 the Restoration of Fairness in Immigration
13 Law Act of 2000; and (ii)”;

14 (E) in paragraph (1), by adding at the end
15 the following:

16 “(E) the alien applies for such adjustment
17 before April 3, 2003.”; and

18 (F) by adding at the end the following:

19 “(3) ELIGIBILITY OF CERTAIN SPOUSES AND
20 CHILDREN FOR ISSUANCE OF IMMIGRANT VISAS.—

21 “(A) In accordance with regulations to be
22 promulgated by the Attorney General and the
23 Secretary of State, upon approval of an applica-
24 tion for adjustment of status to that of an alien
25 lawfully admitted for permanent residence

1 under subsection (a), an alien who is the spouse
2 or child of the alien being granted such status
3 may be issued a visa for admission to the
4 United States as an immigrant following to join
5 the principal applicant, if the spouse or child:

6 “(i) meets the requirements in sub-
7 paragraphs (B) and (D) of paragraph (1);
8 and

9 “(ii) applies for such a visa within a
10 time period to be established by regulation.

11 “(B) The Secretary of State may retain
12 fees to recover the cost of immigrant visa appli-
13 cation processing and issuance for certain
14 spouses and children of aliens whose applica-
15 tions for adjustment of status under subsection
16 (a) have been approved. Such fees—

17 “(i) shall be deposited as an offsetting
18 collection to any Department of State ap-
19 propriation to recover the cost of such
20 processing and issuance; and

21 “(ii) shall be available until expended
22 for the same purposes of such appropria-
23 tion to support consular activities.”;

1 (7) in subsection (g), by inserting after “for
2 permanent residence” the following: “or an immi-
3 grant classification”; and

4 (8) by redesignating subsections (i), (j), and (k)
5 as subsections (j), (k), and (l) respectively, and by
6 inserting after subsection (h) the following:

7 “(i) ADMISSIONS.—Nothing in this section shall be
8 construed as authorizing an alien to apply for admission
9 to, be admitted to, be paroled into, or otherwise lawfully
10 return to the United States, to apply for or to pursue an
11 application for adjustment of status under this section
12 without the express authorization of the Attorney Gen-
13 eral.”.

14 **SEC. 516. MOTIONS TO REOPEN.**

15 (a) HAITIAN NATIONALS.—Notwithstanding any
16 time and number limitations imposed by law on motions
17 to reopen, a national of Haiti who, on the date of the en-
18 actment of this Act, has a final administrative denial of
19 an application for adjustment of status under the Haitian
20 Refugee Immigration Fairness Act of 1998, and is made
21 eligible for adjustment of status under that Act by the
22 amendments made by this subtitle, may file one motion
23 to reopen exclusion, deportation, or removal proceedings
24 to have the application considered again. All such motions
25 shall be filed within 180 days of the date of the enactment

1 of this Act. The scope of any proceeding reopened on this
2 basis shall be limited to a determination of the alien's eli-
3 gibility for adjustment of status under the Haitian Ref-
4 ugee Immigration Fairness Act of 1998.

5 (b) CUBAN AND NICARAGUAN NATIONALS.—Not-
6 withstanding any time and number limitations imposed by
7 law on motions to reopen, a national of Cuba or Nicaragua
8 who, on the date of the enactment of this Act, has a final
9 administrative denial of an application for adjustment of
10 status under the Nicaraguan Adjustment and Central
11 American Relief Act, and who is made eligible for adjust-
12 ment of status under that Act by the amendments made
13 by this Act, may file one motion to reopen exclusion, de-
14 portation, or removal proceedings to have the application
15 considered again. All such motions shall be filed within
16 180 days of the date of the enactment of this Act. The
17 scope of any proceeding reopened on this basis shall be
18 limited to a determination of the alien's eligibility for ad-
19 justment of status under the Nicaraguan Adjustment and
20 Central American Relief Act.

1 **Subtitle C—Equality of Treatment**
2 **for Women’s Citizenship**

3 **SEC. 521. DECLARATION OF CITIZENSHIP FOR CERTAIN**
4 **WOMEN WHO LOST CITIZENSHIP SOLELY BY**
5 **REASON OF MARRIAGE TO AN ALIEN PRIOR**
6 **TO SEPTEMBER 22, 1922.**

7 (a) IN GENERAL.—Notwithstanding any provision of
8 title III of the Immigration and Nationality Act (8 U.S.C.
9 1401 et seq.), any woman who was a citizen of the United
10 States, lost such citizenship solely because the woman
11 married an alien prior to September 22, 1922, and died
12 before December 24, 1952, is hereby declared to be a citi-
13 zen of the United States as of the date of the enactment
14 of this Act.

15 (b) NO RETROACTIVE EFFECT.—This subtitle may
16 not be construed to affect—

17 (1) the citizenship of any person other than a
18 woman described in subsection (a); or

19 (2) the citizenship before the date of the enact-
20 ment of this Act of a woman described in subsection

21 (a).

22 **SEC. 522. EQUITY IN TRANSMISSION OF CITIZENSHIP.**

23 Subsection (d) of section 101 of the Immigration and
24 Nationality Technical Corrections Act of 1994 (Public

1 Law 103–416; 8 U.S.C. 1401 note) is amended to read
2 as follows:

3 “(d) WAIVER OF TRANSMISSION REQUIREMENTS.—
4 The parental physical presence requirement contained in
5 section 301(g) of the Immigration and Nationality Act
6 shall not apply to any person born before the date of en-
7 actment of this Act who claims United States citizenship
8 based on such person’s descent from an individual de-
9 scribed in section 301(h) of the Immigration and Nation-
10 ality Act.”.

11 **Subtitle D—Fairness in the Treat-**
12 **ment for Refugees From Liberia**

13 **SEC. 531. ADJUSTMENT OF STATUS OF CERTAIN LIBERIAN**
14 **NATIONALS.**

15 (a) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
16 TUS.—The Attorney General shall adjust the status of an
17 alien to that of an alien lawfully admitted for permanent
18 residence, if the alien—

19 (1) is a national of Liberia;

20 (2) is eligible to remain in the United States
21 under the provisions of the Deferred Enforcement
22 Departure (DED) Order executed by President Wil-
23 liam J. Clinton, dated September 27, 1999;

24 (3) applies for adjustment before September 29,
25 2002; and

1 (4) is otherwise eligible to receive an immigrant
2 visa and is otherwise admissible to the United States
3 for permanent residence, except that, in determining
4 such admissibility, the grounds for inadmissibility
5 specified in paragraphs (4), (5), (6)(A), and (7)(A)
6 of section 212(a) of the Immigration and Nationality
7 Act shall not apply.

8 (b) ADJUSTMENT OF STATUS FOR SPOUSES AND
9 CHILDREN.—The status of an alien shall be adjusted by
10 the Attorney General to that of an alien lawfully admitted
11 for permanent residence, if the alien is the spouse or child
12 of a Liberian national whose status is adjusted to that
13 of an alien lawfully admitted for permanent residence
14 under subsection (a) and is otherwise eligible to receive
15 an immigrant visa and is otherwise admissible to the
16 United States for permanent residence, except that, in de-
17 termining such admissibility, the grounds for inadmis-
18 sibility specified in paragraphs (4), (5), (6)(A), and (7)(A)
19 of section 212(a) of the Immigration and Nationality Act
20 shall not apply.

21 (c) INELIGIBLE ALIENS.—An alien shall not be eligi-
22 ble for adjustment of status under this section if the At-
23 torney General finds that the alien has been convicted and
24 sentenced to incarceration in a Federal or State correc-
25 tional facility or penitentiary.

1 (d) RELATIONSHIP OF APPLICATION TO CERTAIN
2 ORDERS.—A Liberian national present in the United
3 States, who is qualified to remain in the United States
4 under the Deferred Enforcement Departure Order of
5 President William J. Clinton, dated September 27, 1999,
6 who has been ordered excluded, deported, removed, or or-
7 dered to depart voluntarily from the United States under
8 any provision of the Immigration and Nationality Act
9 may, notwithstanding such order, apply for adjustment of
10 status under subsection (a), if otherwise qualified under
11 that subsection. Such a Liberian national may not be re-
12 quired, as a condition on submitting or granting such ap-
13 plication, to file a separate motion to reopen, reconsider,
14 or vacate such order. If the Attorney General grants the
15 application, the Attorney General shall cancel the order.
16 If the Attorney General makes a final decision to deny
17 the application, the order shall be effective and enforceable
18 to the same extent as if the application had not been
19 made.

20 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
21 The Attorney General shall provide to applicants for ad-
22 justment of status under this Act the same right to, and
23 procedures for, administrative review as are provided to—

1 (1) applicants for adjustment of status under
2 section 245 of the Immigration and Nationality Act;
3 or

4 (2) aliens subject to removal proceedings under
5 section 240 of such Act.

6 (f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
7 When an alien is granted the status of having been law-
8 fully admitted for permanent residence pursuant to this
9 section, the Secretary of State shall not be required to re-
10 duce the number of immigrant visas authorized to be
11 issued under any provision of the Immigration and Na-
12 tionality Act.

13 (g) STAY OF REMOVAL.—The Attorney General shall
14 provide by regulation for a Liberian national, qualified to
15 benefit under the provision of this Act, who is subject to
16 a final order of deportation or removal or exclusion to seek
17 a stay of such order based on the filing of an application
18 under this Act.

19 (h) DURING CERTAIN PROCEEDINGS.—Notwith-
20 standing any provision of the Immigration and Nationality
21 Act, the Attorney General shall not order a Liberian na-
22 tional to be removed from the United States if the Libe-
23 rian national is in exclusion, deportation, or removal pro-
24 ceedings under any provision of such Act and has applied
25 for adjustment of status under subsection (a), except

1 where the Attorney General has made a final determina-
2 tion to deny the application.

3 (i) WORK AUTHORIZATION.—The Attorney General
4 may authorize a Liberian national, who has applied for
5 adjustment of status under subsection (a), or who has ap-
6 plied for adjustment of status as a spouse or child under
7 this Act, to engage in employment in the United States
8 during the pendency of such application and may provide
9 the alien with an “employment authorized” endorsement
10 or other appropriate document signifying authorization of
11 employment, except that, if such application is pending for
12 a period exceeding 180 days and has not been denied, the
13 Attorney General shall authorize such employment.

14 (j) RECORD OF PERMANENT RESIDENCE.—Upon ap-
15 proval of the application of a Liberian national for adjust-
16 ment of status under subsection (a), the Attorney General
17 shall establish a record of the alien’s admission for perma-
18 nent residence as of the date of the alien’s arrival in the
19 United States.

1 **Subtitle E—Fairness in Review of**
2 **Previously Granted Amnesty**
3 **Rights**

4 **SEC. 541. ELIMINATION OF LIMITATION ON LEGALIZATION**
5 **LITIGATION.**

6 Section 245A(f)(4) (8 U.S.C. 1255a(f)(4)) is amend-
7 ed by striking subparagraph (C).

8 **Subtitle F—Legal Amnesty**
9 **Restoration**

10 **SEC. 551. RECORD OF ADMISSION FOR PERMANENT RESI-**
11 **DENCE IN THE CASE OF CERTAIN ALIENS.**

12 (a) **IN GENERAL.**—Section 249 (8 U.S.C. 1259) is
13 amended—

14 (1) in the section heading by striking “1972”
15 and inserting “1986”; and

16 (2) in paragraph (a), by striking “1972” and
17 inserting “1986”.

18 (b) **CLERICAL AMENDMENT.**—The table of sections
19 is amended in the item relating to section 249 by striking
20 “1972” and inserting “1986”.

1 **Subtitle G—Equality of Treatment**
2 **for Asian American Visa Petitions**

3 **SEC. 561. IMMIGRATION OF CERTAIN ALIENS BORN IN THE**
4 **PHILIPPINES OR JAPAN AND FATHERED BY**
5 **U.S. CITIZENS.**

6 Section 204(f)(2)(A) (8 U.S.C. 1154(f)(2)(A)) is
7 amended—

8 (1) by inserting “(I)” after “born”; and

9 (2) by inserting after “subsection,” the fol-
10 lowing: “(II) in the Philippines after 1950 and be-
11 fore November 24, 1992, or (III) in Japan after
12 1950 and before the date of the enactment of this
13 subclause,”.

14 **TITLE VI—FAIRNESS AND COM-**
15 **PASSION IN THE TREATMENT**
16 **OF BATTERED IMMIGRANTS**

17 **SEC. 601. FINDINGS AND PURPOSES.**

18 (a) FINDINGS.—Congress finds that—

19 (1) the goal of the immigration protections for
20 battered immigrants included in the Violence
21 Against Women Act of 1994 was to remove immi-
22 gration laws as a barrier that kept battered immi-
23 grant women and children locked in abusive relation-
24 ships;

1 (2) providing battered immigrant women and
2 children who were experiencing domestic violence at
3 home with protection against deportation allows
4 them to obtain protection orders against their abus-
5 ers and frees them to cooperate with law enforce-
6 ment and prosecutors in criminal cases brought
7 against their abusers and the abusers of their chil-
8 dren; and

9 (3) there are several groups of battered immi-
10 grant women and children who do not have access
11 to the immigration protections of the Violence
12 Against Women Act of 1994 which means that their
13 abusers are virtually immune from prosecution be-
14 cause their victims can be deported and the Immi-
15 gration and Naturalization Service cannot offer
16 them protection no matter how compelling their case
17 under existing law.

18 (b) PURPOSES.—The purposes of this title are—

19 (1) to promote criminal prosecutions of all per-
20 sons who commit acts of battery or extreme cruelty
21 against immigrant women and children;

22 (2) to offer protection against domestic violence
23 occurring in family and intimate relationships that
24 are covered in State and tribal protection orders, do-
25 mestic violence, and family law statutes; and

1 (3) to correct erosions of the Violence Against
2 Women Act of 1994 immigration protections that
3 occurred as a result of the Illegal Immigration Re-
4 form and Immigrant Responsibility Act of 1996 and
5 the Balanced Budget Act of 1997.

6 **SEC. 602. RESTORING IMMIGRATION PROTECTIONS UNDER**
7 **THE VIOLENCE AGAINST WOMEN ACT OF 1994**
8 **(VAWA).**

9 (a) REMOVING BARRIERS TO ADJUSTMENT OF STA-
10 TUS FOR VICTIMS OF DOMESTIC VIOLENCE.—Section 245
11 (8 U.S.C. 1255) is amended—

12 (1) in subsection (a), by inserting “or the sta-
13 tus of any other alien having an approved petition
14 for classification under subparagraph (A)(iii),
15 (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or (B)(iv) of
16 section 204(a)(1) or” after “into the United States”;
17 and

18 (2) in subsection (c), by striking “Subsection
19 (a) shall not be applicable to” and inserting the fol-
20 lowing: “Other than an alien who has an approved
21 petition for classification under subparagraph
22 (A)(iii), (A)(iv), (A)(v), (A)(vi), (B)(ii), (B)(iii), or
23 (B)(iv) of section 204(a)(1), subsection (a) shall not
24 be applicable to”.

1 (b) REMOVING BARRIERS TO CANCELLATION OF RE-
2 MOVAL AND SUSPENSION OF DEPORTATION FOR VICTIMS
3 OF DOMESTIC VIOLENCE.—

4 (1) EXEMPTION FROM ANNUAL LIMITATION ON
5 CANCELLATION OF REMOVAL FOR BATTERED
6 SPOUSE OR CHILD.—Section 240A(e)(3) (8 U.S.C.
7 1229b(e)(3)) is amended by adding at the end the
8 following:

9 “(C) Aliens in removal proceedings who
10 applied for cancellation of removal under sub-
11 section (b)(2).”.

12 (2) MODIFICATION OF CERTAIN TRANSITION
13 RULES FOR BATTERED SPOUSE OR CHILD.—Sub-
14 paragraph (C) of section 309(c)(5) of the Illegal Im-
15 migration Reform and Immigrant Responsibility Act
16 of 1996 (8 U.S.C. 1101 note), as amended by sec-
17 tion 203(a) of Public Law 105–100, is amended—

18 (A) in the heading by inserting “AND FOR
19 BATTERED SPOUSES AND CHILDREN” after
20 “FROM DEPORTATION”; and

21 (B) in clause (i)—

22 (i) by striking, “or” at the end of sub-
23 clause (IV);

24 (ii) by striking the period at the end
25 of subclause (V) and inserting “; or”; and

1 (iii) by adding at the end the fol-
2 lowing new subclause:

3 “(VI) is an alien who was issued
4 an order to show cause or was in de-
5 portation proceedings before April 1,
6 1997, and who applied for suspension
7 of deportation under section 244(a)(3)
8 of the Immigration and Nationality
9 Act (as in effect before the date of the
10 enactment of this Act).”.

11 (c) ELIMINATING TIME LIMITATIONS ON MOTIONS
12 TO REOPEN REMOVAL AND DEPORTATION PROCEEDINGS
13 FOR VICTIMS OF DOMESTIC VIOLENCE.—

14 (1) REMOVAL PROCEEDINGS.—Section
15 240(c)(6)(C) (8 U.S.C. 1229a(c)(6)(C)) is amended
16 by adding at the end the following:

17 “(iv) SPECIAL RULE FOR BATTERED
18 SPOUSES AND CHILDREN.—There is no
19 time limit on the filing of a motion to re-
20 open, and the deadline specified in sub-
21 section (b)(5)(C) for filing such a motion
22 does not apply—

23 “(I) if the basis for the motion is
24 to apply for relief under clause (iii),
25 (iv), (v), or (vi) of section

1 204(a)(1)(A), clause (ii), (iii), or (iv)
2 of section 204(a)(1)(B), or section
3 240A(b)(2); and

4 “(II) if the motion is accom-
5 panied by a cancellation of removal
6 application to be filed with the Attor-
7 ney General or by a copy of the self-
8 petition that has been or will be filed
9 with the Immigration and Naturaliza-
10 tion Service upon the granting of the
11 motion to reopen.”.

12 (2) DEPORTATION PROCEEDINGS.—

13 (A) IN GENERAL.—Notwithstanding any
14 limitation imposed by law on motions to reopen
15 or rescind deportation proceedings under the
16 Immigration and Nationality Act (as in effect
17 before the title III–A effective date in section
18 309 of the Illegal Immigration Reform and Im-
19 migrant Responsibility Act of 1996 (8 U.S.C.
20 1101 note)), there is no time limit on the filing
21 of a motion to reopen such proceedings, and the
22 deadline specified in section 242B(e)(3) of the
23 Immigration and Nationality Act (as so in ef-
24 fect) (8 U.S.C. 1252b(e)(3)) does not apply—

1 (i) if the basis of the motion is to
2 apply for relief under clause (iii), (iv), (v),
3 or (vi) of section 204(a)(1)(A) of the Im-
4 migration and Nationality Act (8 U.S.C.
5 1154(a)(1)(A)), clause (ii), (iii), or (iv) of
6 section 204(a)(1)(B) of such Act (8 U.S.C.
7 1154(a)(1)(B)), or section 244(a)(3) of
8 such Act (as so in effect) (8 U.S.C.
9 1254(a)(3)); and

10 (ii) if the motion is accompanied by a
11 suspension of deportation application to be
12 filed with the Attorney General or by a
13 copy of the self-petition that will be filed
14 with the Immigration and Naturalization
15 Service upon the granting of the motion to
16 reopen.

17 (B) APPLICABILITY.—Subparagraph (A)
18 shall apply to motions filed by aliens who—

19 (i) are, or were, in deportation pro-
20 ceedings under the Immigration and Na-
21 tionality Act (as in effect before the title
22 III–A effective date in section 309 of the
23 Illegal Immigration Reform and Immigrant
24 Responsibility Act of 1996 (8 U.S.C. 1101
25 note)); and

1 (ii) have become eligible to apply for
2 relief under clause (iii), (iv), (v), or (vi) of
3 section 204(a)(1)(A) of the Immigration
4 and Nationality Act (8 U.S.C.
5 1154(a)(1)(A)), clause (ii), (iii), or (iv) of
6 section 204(a)(1)(B) of such Act (8 U.S.C.
7 1154(a)(1)(B)), or section 244(a)(3) of
8 such Act (as in effect before the title III–
9 A effective date in section 309 of the Ille-
10 gal Immigration Reform and Immigrant
11 Responsibility Act of 1996 (8 U.S.C. 1101
12 note)) as a result of the amendments made
13 by—

14 (I) subtitle G of title IV of the
15 Violent Crime Control and Law En-
16 forcement Act of 1994 (Public Law
17 103–322; 108 Stat. 1953 et seq.); or

18 (II) this title.

19 **SEC. 603. REMEDYING PROBLEMS WITH IMPLEMENTATION**
20 **OF THE IMMIGRATION PROVISIONS OF VAWA.**

21 (a) EFFECT OF CHANGES IN ABUSERS' CITIZENSHIP
22 STATUS ON SELF-PETITION.—

23 (1) RECLASSIFICATION.—Section 204(a)(1)(A)
24 (8 U.S.C. 1154(a)(1)(A)), as amended by para-
25 graphs (4), (5), and (6) of section 606(e), is amend-

1 ed by adding after clause (vii) the following new
2 clause:

3 “(viii) For the purposes of any petition filed under
4 clause (iii), (iv), (v), or (vi), denaturalization, loss or re-
5 nunciation of citizenship, death of the abuser, or changes
6 to the abuser’s citizenship status after filing of the petition
7 shall not adversely affect the approval of the petition and,
8 for approved petitions, shall not preclude the classification
9 of the eligible self-petitioning spouse, child, or son or
10 daughter as an immediate relative or affect the alien’s
11 ability to adjust status under subsections (a) and (c) of
12 section 245 or obtain status as a lawful permanent resi-
13 dent based on the approved self-petition under such
14 clauses.”.

15 (2) LOSS OF STATUS.—Section 204(a)(1)(B) (8
16 U.S.C. 1154(a)(1)(B)), as amended by paragraphs
17 (4) and (5) of section 606(d), is amended by adding
18 after clause (v) the following new clause:

19 “(vi)(I) For the purposes of petitions filed or ap-
20 proved under clause (ii), (iii), or (iv), loss of lawful perma-
21 nent resident status by a spouse or parent or death of
22 a spouse or parent who was a lawful permanent resident
23 after the filing of a petition under that clause shall not
24 adversely affect approval of the petition, and, for an ap-
25 proved petition, shall not affect the alien’s ability to adjust

1 status under sections 245(a) and 245(c) or obtain status
2 as a lawful permanent resident based on the approved self-
3 petition under such clause (ii), (iii), or (iv).

4 “(II) Upon the lawful permanent resident spouse or
5 parent becoming a United States citizen through natu-
6 ralization, acquisition of citizenship, or other means, any
7 petition filed with the Immigration and Naturalization
8 Service and pending or approved under clause (ii), (iii),
9 or (iv) on behalf of an alien who has been battered or sub-
10 jected to extreme cruelty shall be deemed reclassified as
11 a petition filed under subparagraph (A) even if the acqui-
12 sition of citizenship occurs after divorce or termination of
13 parental rights.”.

14 (3) DEFINITION OF IMMEDIATE RELATIVE.—

15 Section 201(b)(2)(A)(i) (8 U.S.C. 1154(b)(2)(A)(i))
16 is amended by adding at the end the following new
17 sentence: “For purposes of this clause, an alien who
18 has filed a petition under clause (iii), (iv), (v), or
19 (vi) of section 204(a)(1)(A) remains an immediate
20 relative in the event that the United States citizen
21 spouse, parent, son, or daughter loses United States
22 citizenship or dies after the filing of the petition.”.

23 (b) EXEMPTION FOR BATTERED IMMIGRANT WOMEN
24 WHO ENTERED THE UNITED STATES ON FIANCE VISAS
25 FROM CONDITIONAL RESIDENCY STATUS REQUIRE-

1 MENT.—Section 245(d) (8 U.S.C. 1255(d)) is amended by
2 adding at the end the following: “This subsection shall not
3 apply to aliens who seek adjustment of status on the basis
4 of an approved self-petition for classification under clause
5 (iii), (iv), (v), or (vi) of section 204(a)(1)(A) or classifica-
6 tion under clause (ii), (iii), or (iv) of section
7 204(a)(1)(B).”.

8 (c) REDUCING AN ABUSER’S CONTROL OVER A BAT-
9 TERED IMMIGRANT’S IMMIGRATION CASE.—Section 205
10 (8 U.S.C. 1155) is amended by adding at the end the fol-
11 lowing: “Whenever a beneficiary of a petition filed under
12 section 204 provides the Attorney General with credible
13 evidence of battery or extreme cruelty as described in sec-
14 tion 216(c)(4)(C), 204(a)(1)(A), or 204(a)(1)(B), the At-
15 torney General shall adjudicate the petition filed under
16 section 204 notwithstanding—

17 “(1) the withdrawal by the petitioner of the pe-
18 tition;

19 “(2) the failure of the petitioner to appear at
20 the interview;

21 “(3) the failure of the petitioner to file an affi-
22 davit of support; or

23 “(4) a prior revocation or denial based on with-
24 drawal of, or failure to prosecute, the petition or any
25 other determination based on the petitioner’s actions

1 that could result or have resulted in the denial or
2 revocation of the petition (but for this section).”.

3 (d) REQUIRING PROSECUTOR COOPERATION WITH
4 BATTERED IMMIGRANT VAWA APPLICANTS.—Section
5 2101(c) of the Omnibus Crime Control and Safe Streets
6 Act of 1968 (42 U.S.C. 3796hh(c)) is amended—

7 (1) by striking “and” at the end of paragraph
8 (4);

9 (2) by striking the period at the end of para-
10 graph (4) and inserting “; and”; and

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

12 “(5) certify that their laws, policies, and prac-
13 tices do not discourage or prohibit prosecutors and
14 law enforcement officers from granting access to in-
15 formation about the citizenship or lawful permanent
16 residency status of a domestic violence perpetrator
17 to the victim, the child, son, or daughter or their ad-
18 vocate so long as release of the information does not
19 jeopardize ongoing prosecution of the abuser.”.

20 (e) ALLOWING REMARRIAGE OF BATTERED IMMI-
21 GRANTS.—Section 204(h) (8 U.S.C. 1154(h)) is amended
22 by adding at the end the following new sentence: “Remar-
23 riage of an alien whose petition was approved under sub-
24 section (a)(1)(B)(ii) or (a)(1)(A)(iii) or marriage of an
25 alien described in subsection (a)(1)(A)(iv), (a)(1)(A)(vi),

1 (a)(1)(B)(iii), or (a)(1)(B)(iv) shall not be the basis for
2 revocation under section 205.”.

3 **SEC. 604. WAIVERS AND EXCEPTIONS TO INADMISSIBILITY**
4 **FOR OTHERWISE QUALIFIED BATTERED IM-**
5 **MIGRANTS.**

6 (a) DISCRETIONARY WAIVERS FOR CERTAIN INAD-
7 MISSIBILITY AND REMOVAL GROUNDS.—

8 (1) INADMISSIBILITY GROUNDS.—Section 212
9 (8 U.S.C. 1182) is amended by adding at the end
10 the following:

11 “(r) DISCRETIONARY WAIVER AUTHORITY.—The At-
12 torney General, in the Attorney General’s discretion, may
13 waive any provision of this section (other than paragraphs
14 (3), (10)(A), (10)(D), and (10)(E) of subsection (a)) for
15 humanitarian purposes, to assure family unity, or when
16 it is otherwise in the public interest if the alien dem-
17 onstrates a connection between the crime or disqualifying
18 act and battery or extreme cruelty for any alien who quali-
19 fies for—

20 “(1) classification under clause (iii), (iv), (v), or
21 (vi) of section 204(a)(1)(A) or classification under
22 clause (ii), (iii), or (iv) of section 204(a)(1)(B); or

23 “(2) relief under section 240A(b)(2) or under
24 section 244(a)(3) (as in effect before the enactment

1 of the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996).”.

3 (2) REMOVAL GROUNDS.—Section 237 (8
4 U.S.C. 1227) is amended by adding at the end the
5 following:

6 “(d) DISCRETIONARY WAIVER AUTHORITY.—The At-
7 torney General, in the discretion of the Attorney General,
8 may waive any provision of this section (other than sub-
9 sections (a)(2)(D)(i), (a)(4), or (a)(5)) for humanitarian
10 purposes, to assure family unity, or when it is otherwise
11 in the public interest in the case of an alien who dem-
12 onstrates a connection between the crime or disqualifying
13 act and battery or extreme cruelty for any alien who quali-
14 fies for—

15 “(1) classification under clause (iii), (iv), (v), or
16 (vi) of section 204(a)(1)(A) or classification under
17 clause (ii), (iii), or (iv) of section 204(a)(1)(B); or

18 “(2) relief under section 240A(b)(2) or under
19 section 244(a)(3) (as in effect before the enactment
20 of the Illegal Immigration Reform and Immigrant
21 Responsibility Act of 1996).”.

22 (b) OFFERING EQUAL ACCESS TO VAWA IMMIGRA-
23 TION PROTECTIONS FOR ALL QUALIFIED BATTERED IM-
24 MIGRANT SELF-PETITIONERS.—

1 (1) ELIMINATING CONNECTION BETWEEN BAT-
2 TERRY AND UNLAWFUL ENTRY.—Section
3 212(a)(6)(A)(ii) (8 U.S.C. 1182) is amended—

4 (A) by amending subclause (I) to read as
5 follows:

6 “(I) the alien qualifies for classi-
7 fication under subparagraph (A)(iii),
8 (A)(iv), (A)(v), (A)(vi), (B)(ii),
9 (B)(iii), or (B)(iv) of section
10 204(a)(1), and”;

11 (B) by striking “, and” in subclause (II)
12 and inserting a period; and

13 (C) by striking subclause (III).

14 (2) BATTERED IMMIGRANT EXCEPTION.—Sec-
15 tion 212(a)(9)(A)(iii) (8 U.S.C. 1182(a)(9)(A)(iii))
16 is amended by adding at the end the following:
17 “Clauses (i) and (ii) also shall not apply to aliens to
18 whom the Attorney General has granted classifica-
19 tion under clause (iii), (iv), (v), or (vi) of section
20 204(a)(1)(A) or classification under clause (ii), (iii),
21 or (iv) of section 204(a)(1)(B).”.

22 (3) ELIMINATING CONNECTION BETWEEN BAT-
23 TERRY AND VIOLATION OF THE TERMS OF AN IMMI-
24 GRANT VISA.—Section 212(a)(9)(B)(iii)(IV) (8
25 U.S.C. 1182(a)(9)(B)(iii)(IV)) is amended by strik-

1 ing “who would be described in paragraph
2 (6)(A)(ii)” and all that follows and inserting “who
3 is described in paragraph (6)(A)(ii).”.

4 (4) BATTERED IMMIGRANT EXCEPTION.—Sec-
5 tion 212(a)(9)(C)(ii) (8 U.S.C. 1182(a)(9)(C)(ii)) is
6 amended by adding at the end the following: “Clause
7 (i) shall also not apply to aliens to whom the Attor-
8 ney General has granted classification under clause
9 (iii), (iv), (v), or (vi) of section 204(a)(1)(A) or clas-
10 sification under clause (ii), (iii), or (iv) of section
11 204(a)(1)(B).”.

12 (5) WAIVER OF CERTAIN REMOVAL GROUNDS.—
13 Section 237 (8 U.S.C. 1227), as amended by sub-
14 section (a)(2), is further amended by adding at the
15 end the following:

16 “(e) WAIVER FOR VICTIMS OF DOMESTIC VIO-
17 LENCE.—The Attorney General is not limited by the
18 criminal court record and may waive the application of
19 subsections (a)(2)(E)(i), (a)(2)(E)(ii), (a)(2)(A)(i), and
20 (a)(2)(A)(iii) in the case of an alien who has been battered
21 or subjected to extreme cruelty and who is not and was
22 not the primary perpetrator of violence in the
23 relationship—

24 “(1) upon determination that—

25 “(A) the alien was acting in self-defense;

1 “(B) the alien was found to have violated
2 a protection order intended to protect the alien;
3 or

4 “(C) the alien committed, was arrested for,
5 was convicted of, or pled guilty to committing
6 a crime where there was a connection between
7 the crime and having been battered or subjected
8 to extreme cruelty; or

9 “(2) for humanitarian purposes, to assure fam-
10 ily unity, or when it is otherwise in the public inter-
11 est.”.

12 (6) MISREPRESENTATION WAIVERS FOR BAT-
13 TERED SPOUSES OF UNITED STATES CITIZENS AND
14 LAWFUL PERMANENT RESIDENTS.—

15 (A) WAIVER OF INADMISSIBILITY.—Sec-
16 tion 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended
17 by inserting before the period at the end the
18 following: “or, in the case of an alien granted
19 classification under clause (iii), (iv), (v), or (vi)
20 of section 204(a)(1)(A) or clause (ii), (iii), or
21 (iv) of section 204(a)(1)(B), or who qualifies
22 for relief under section 240A(b)(2) or under
23 section 244(a)(3) (as in effect before the date
24 of enactment of the Illegal Immigration Reform
25 and Immigrant Responsibility Act of 1996), the

1 alien demonstrates extreme hardship to the
2 alien or the alien's United States citizen, lawful
3 permanent resident or qualified alien parent,
4 child, son, or daughter”.

5 (B) WAIVER OF DEPORTABILITY.—Section
6 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H)) is
7 amended—

8 (i) in clause (i), by inserting “(I)”
9 after “(i)”;

10 (ii) by redesignating clause (ii) as
11 subclause (II); and

12 (iii) by inserting after clause (i) the
13 following new clause:

14 “(ii) is an alien who qualifies for clas-
15 sification under clause (iii), (iv), (v), or (vi)
16 of section 204(a)(1)(A) or clause (ii), (iii),
17 or (iv) of section 204(a)(1)(B), or who
18 qualifies for relief under section
19 240A(b)(2) or under section 244(a)(3) (as
20 in effect before the date of enactment of
21 the Illegal Immigration Reform and Immig-
22 rant Responsibility Act of 1996).”.

1 **SEC. 605. CALCULATION OF PHYSICAL PRESENCE IN VAWA**
2 **CANCELLATION OF REMOVAL AND SUSPEN-**
3 **SION OF DEPORTATION.**

4 (a) CANCELLATION OF REMOVAL PROCEEDINGS.—
5 Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)), as amended
6 by section 205, is further amended by adding at the end
7 the following: “In the case of an alien applying for can-
8 cellation of removal under subsection (b)(2), the Attorney
9 General may waive the provisions of this subsection for
10 humanitarian purposes, to assure family unity, or when
11 it is otherwise in the public interest, if the alien dem-
12 onstrates that the absences were connected to the battery
13 or extreme cruelty forming the basis of the application for
14 cancellation of removal under such subsection.”.

15 (b) SUSPENSION OF DEPORTATION PROCEEDINGS.—
16 With respect to applications filed under section 244(a)(3)
17 of the Immigration and Nationality Act (as in effect before
18 the title III-A effective date, as defined in section 309(a)
19 of the Illegal Immigration Reform and Immigrant Respon-
20 sibility Act of 1996 (division C of Public Law 104–208;
21 110 Stat. 3009–625)) (8 U.S.C. 1254(a)(3)), the Attorney
22 General may waive the physical presence requirement for
23 humanitarian purposes, to assure family unity, or when
24 it is otherwise in the public interest if the alien dem-
25 onstrates that the absences were connected to the battery

1 or extreme cruelty forming the basis of the application for
2 suspension of deportation.

3 **SEC. 606. IMPROVED ACCESS TO VAWA IMMIGRATION PRO-**
4 **TECTIONS FOR BATTERED IMMIGRANT**
5 **WOMEN.**

6 (a) INTENDED SPOUSE DEFINED.—Section 101(a)
7 (8 U.S.C. 1101(a)) is amended by adding at the end the
8 following new paragraph:

9 “(50) The term ‘intended spouse’ means any alien
10 who meets the criteria set forth in section 204(j)(1)(B)
11 or 204(k)(1)(B).”.

12 (b) ENSURING PROTECTION FOR ABUSED CHILDREN
13 AND CHILDREN OF BATTERED IMMIGRANTS.—Section
14 101(b) (8 U.S.C. 1101(b)) is amended—

15 (1) in paragraph (1), by striking “The term”
16 and inserting “Subject to paragraph (6), the term”,
17 and

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

20 “(6) For the purposes of clauses (iii) and (iv) of sec-
21 tion 204(a)(1)(A), clauses (ii) and (iii) of section
22 204(a)(1)(B), section 240A(b)(2), and section 244(a)(3)
23 (as in effect before the date of the enactment of the Illegal
24 Immigration Reform and Immigrant Responsibility Act of
25 1996) and for the purposes of attaining lawful permanent

1 residency under those sections either under section 245
2 or by obtaining an immigrant visa under section 203, an
3 individual who turns 21 years old remains a child under
4 paragraph (1) if, on the date a petition or application was
5 filed by the individual or their parent under any of these
6 sections the individual—

7 “(A) met the definition of child in one of sub-
8 paragraphs (A) through (F) of paragraph (1); and

9 “(B) was under the age of 21 on the date the
10 application or petition was filed.”.

11 (c) IMMEDIATE RELATIVE STATUS FOR SELF-PETI-
12 TIONERS MARRIED TO U.S. CITIZENS.—

13 (1) SELF-PETITIONING SPOUSES.—

14 (A) BATTERY OR CRUELTY TO ALIEN OR
15 ALIEN’S CHILD.—Section 204(a)(1)(A)(iii) (8
16 U.S.C. 1154(a)(1)(A)(iii)) is amended to read
17 as follows:

18 “(iii) An alien who is described in subsection (j) may
19 file a petition with the Attorney General under this clause
20 for classification of the alien (and any child of the alien
21 as defined in paragraph (1) or (6) of section 101(b) if
22 the alien demonstrates to the Attorney General that—

23 “(I) the marriage or the intent to marry the
24 United States citizen was entered into in good faith
25 by the alien; and

1 “(II) during the marriage or relationship in-
2 tended by the alien to be legally a marriage, the
3 alien or a child of the alien has been battered or has
4 been the subject of extreme cruelty perpetrated by
5 the alien’s spouse or intended spouse.”.

6 (B) DESCRIPTION OF PROTECTED SPOUSE
7 OR INTENDED SPOUSE.—Section 204 (8 U.S.C.
8 1154) is amended by adding at the end the fol-
9 lowing:

10 “(j) DESCRIPTION OF PROTECTED SPOUSE OR IN-
11 TENDED SPOUSE.—For purposes of subsection
12 (a)(1)(A)(iii), an alien described in this subsection is an
13 alien—

14 “(1)(A) who is the spouse of a citizen of the
15 United States; or

16 “(B)(i) who believed that he or she had married
17 a citizen of the United States and with whom a mar-
18 riage ceremony was actually performed; and

19 “(ii) who otherwise meets any applicable re-
20 quirements under this Act to establish the existence
21 of and bona fides of a marriage, but whose marriage
22 is not legitimate solely because of the bigamy of
23 such citizen of the United States; or

24 “(C) who was a bona fide spouse of a United
25 States citizen within the past two years and whose

1 spouse died within the past two years, or whose
2 spouse lost immigration status within the past two
3 years due to an incident of domestic violence, or who
4 demonstrates a connection between the legal termi-
5 nation of the marriage within the past two years and
6 battering or extreme cruelty by the United States
7 citizen spouse;

8 “(2) who is a person of good moral character;

9 “(3) who is eligible to be classified as an imme-
10 diate relative under section 201(b)(2)(A)(i) or who
11 would have been so classified but for the bigamy of
12 the citizen of the United States that the alien in-
13 tended to marry; and

14 “(4) who has resided with the alien’s spouse or
15 intended spouse.”.

16 (2) GUARANTEEING ACCESS TO VAWA RELIEF
17 FOR BATTERED IMMIGRANTS BROUGHT INTO THE
18 UNITED STATES ON FIANCE VISAS.—Section
19 204(a)(1)(C), as inserted by subsection (d)(6), is
20 amended by adding at the end the following new
21 clause:

22 “(iii) For aliens who entered the country on fiance
23 visas, failure to marry the sponsor or failure to marry the
24 sponsor within 90 days as required under section
25 101(a)(15)(K) shall not bar access to relief under clause

1 (iii), (iv), (v), or (vi) of subsection (a)(1)(A), under clause
2 (ii), (iii), or (iv) of subsection (a)(1)(B), under section
3 240A(b)(2), or under section 244(a)(3) (as in effect before
4 the enactment of the Illegal Immigration Reform and Im-
5 migrant Responsibility Act of 1996) to aliens who other-
6 wise qualify.”.

7 (3) SELF-PETITIONING CHILDREN.—Section
8 204(a)(1)(A)(iv) (8 U.S.C. 1154(a)(1)(A)(iv)) is
9 amended to read as follows:

10 “(iv) An alien who is the child of a citizen of the
11 United States (as defined in paragraph (1) or (6) of sec-
12 tion 101(b)) or who was a child of United States citizen
13 parent who died within the past two years or lost immigra-
14 tion status due to an incident of domestic violence within
15 the past two years, and who is a person of good moral
16 character, who is eligible to be classified as an immediate
17 relative under section 201(b)(2)(A)(i), and who resides or
18 has resided in the past with the citizen parent may file
19 a petition with the Attorney General under this subpara-
20 graph for classification of the alien (and any child of the
21 alien) under such section if the alien demonstrates to the
22 Attorney General that the alien has been battered by or
23 has been the subject of extreme cruelty perpetrated by the
24 alien’s citizen parent. For purposes of this clause, resi-
25 dence includes any period of visitation.”.

1 (4) SELF-PETITIONING PARENTS.—Section
2 204(a)(1)(A) (8 U.S.C. 1154(a)(1)(A)) is amended
3 by adding after clause (iv) the following new clause:

4 “(v) An alien who is the parent of a citizen of the
5 United States or who was a parent of United States cit-
6 izen who died within the past two years or lost immigra-
7 tion status due to an incident of domestic violence within
8 the past two years, and who is a person of good moral
9 character, who is eligible to be classified as an immediate
10 relative under section 201(b)(2)(A)(i), and who has re-
11 sided with the citizen daughter or son may file a petition
12 with the Attorney General under this subparagraph for
13 classification of the alien under such section if the alien
14 demonstrates to the Attorney General that the alien has
15 been battered by or has been the subject of extreme cru-
16 elty perpetrated by the alien’s citizen son or daughter.”.

17 (5) SELF-PETITIONING SON OR DAUGHTER.—
18 Section 204(a)(1)(A) (8 U.S.C. 1154(a)(1)(A)), as
19 amended by paragraph (4), is amended by adding
20 after clause (v) the following new clause:

21 “(vi) An alien who is the son or daughter of a citizen
22 of the United States or who was the son or daughter of
23 United States citizen parent who died within the past two
24 years or lost immigration status due to an incident of do-
25 mestic violence within the past two years, and who is a

1 person of good moral character, who is eligible for classi-
2 fication by reason of a relationship described in paragraph
3 (1) of section 203(a), and who resides or has resided in
4 the past with the citizen parent may file a petition with
5 the Attorney General under this clause for classification
6 of the alien (and any child of the alien) under such section
7 if the alien demonstrates to the Attorney General that the
8 alien has been battered by, or has been the subject of ex-
9 tremely cruelty perpetrated by, the alien's citizen parent and
10 1 or more incidents of battery or extreme cruelty occurred
11 before the son or daughter reached the age of 21. For
12 purposes of this clause, residence includes any period of
13 visitation.”.

14 (6) FILING OF PETITIONS.—Section
15 204(a)(1)(A) (8 U.S.C. 1154 (a)(1)(A)(iv)), as
16 amended by paragraphs (4) and (5), is amended by
17 adding after clause (vi) the following new clause:

18 “(vii) An alien who is the spouse, intended spouse,
19 child, parent, son, or daughter of a United States citizen
20 living abroad and who is eligible to file a petition under
21 clause (iii), (iv), (v), or (vi) shall file such petition with
22 the Attorney General under the procedures that apply to
23 self-petitioners under such clauses.”.

1 (d) SECOND PREFERENCE IMMIGRATION STATUS
2 FOR SELF-PETITIONERS MARRIED TO LAWFUL PERMA-
3 NENT RESIDENTS.—

4 (1) SELF-PETITIONING SPOUSES.—Section
5 204(a)(1)(B)(ii) (8 U.S.C. 1154(a)(1)(B)(ii)) is
6 amended to read as follows:

7 “(ii) An alien who is described in subsection (k) may
8 file a petition with the Attorney General under this clause
9 for classification of the alien (and any child of the alien
10 as defined in paragraph (1) or (6) of section 101(b)) if
11 such a child has not been classified under clause (iii) of
12 section 203(a)(2)(A) and if the alien demonstrates to the
13 Attorney General that—

14 “(I) the marriage or the intent to marry the
15 lawful permanent resident was entered into in good
16 faith by the alien; and

17 “(II) during the marriage or relationship in-
18 tended by the alien to be legally a marriage, the
19 alien or a child of the alien has been battered or has
20 been the subject of extreme cruelty perpetrated by
21 the alien’s spouse or intended spouse.”.

22 (2) DESCRIPTION OF PROTECTED SPOUSE OR
23 INTENDED SPOUSE.—Section 204 (8 U.S.C. 1154),
24 as amended by subsection (c)(1)(B), is further
25 amended by adding at the end the following:

1 “(k) DESCRIPTION OF PROTECTED SPOUSE OR IN-
2 TENDED SPOUSE.—For purposes of subsection
3 (a)(1)(B)(ii), an alien described in this subsection is an
4 alien—

5 “(1)(A) who is the spouse of a lawful perma-
6 nent resident of the United States; or

7 “(B)(i) who believed that he or she had married
8 a lawful permanent resident of the United States
9 and with whom a marriage ceremony was actually
10 performed; and

11 “(ii) who otherwise meets any applicable re-
12 quirements under this Act to establish the existence
13 of and bona fides of a marriage, but whose marriage
14 is not legitimate solely because of the bigamy of
15 such lawful permanent resident of the United States;
16 or

17 “(iii) who was a bona fide spouse of a lawful
18 permanent resident within the past two years and
19 whose spouse died within the past two years, or
20 whose spouse lost status within the past two years
21 due to an incident of domestic violence, or who dem-
22 onstrates a connection between the legal termination
23 of the marriage within the past two years and bat-
24 tering or extreme cruelty by the United States cit-
25 izen spouse;

1 “(2) who is a person of good moral character;

2 “(3) who is eligible to be classified as a spouse
3 of an alien lawfully admitted for permanent resi-
4 dence under section 203(a)(2)(A) or who would have
5 been so classified but for the bigamy of the lawful
6 permanent resident of the United States that the
7 alien intended to marry; and

8 “(4) who has resided in the United States with
9 the alien’s spouse or intended spouse.”.

10 (3) SELF-PETITIONING CHILDREN.—Section
11 204(a)(1)(B)(iii) (8 U.S.C. 1154(a)(1)(B)(iii)) is
12 amended to read as follows:

13 “(iii) An alien who is the child of an alien lawfully
14 admitted for permanent residence as defined in paragraph
15 (1) or (6) of section 101(b) or who was a child of a lawful
16 permanent resident parent who died within the past two
17 years or lost immigration status due to an incident of do-
18 mestic violence within the past two years, and who is a
19 person of good moral character, who is eligible for classi-
20 fication under section 203(a)(2)(A), and who resides or
21 has resided in the past with the alien’s permanent resident
22 alien parent may file a petition with the Attorney General
23 under this subparagraph for classification of the alien
24 (and any child of the alien) under such section if the alien
25 demonstrates to the Attorney General that the alien has

1 been battered by or has been the subject of extreme cru-
2 elty perpetrated by the alien’s permanent resident parent.
3 For purposes of this clause, residence includes any period
4 of visitation.”.

5 (4) SELF-PETITIONING SON OR DAUGHTER.—

6 Section 204(a)(1)(B) (8 U.S.C. 1154(a)(1)(B)) is
7 amended by inserting after clause (iii) the following:

8 “(iv) An alien who is the son or daughter of an alien
9 lawfully admitted for permanent residence or who was a
10 son or daughter of a lawful permanent resident parent
11 who died within the past two years or lost immigration
12 status due to an incident of domestic violence within the
13 past two years and who is a person of good moral char-
14 acter, who is eligible for classification by reason of a rela-
15 tionship described in paragraph (2) of section 203(a), and
16 who resides or has resided in the past with the alien’s legal
17 permanent resident parent may file a petition with the At-
18 torney General under this clause for classification of the
19 alien (and any child of the alien) under such section if
20 the alien demonstrates to the Attorney General that the
21 alien has been battered by, or has been the subject of ex-
22 treme cruelty perpetrated by, the alien’s legal permanent
23 resident parent and 1 or more incidents of battery or ex-
24 treme cruelty occurred before the son or daughter reached

1 the age of 21. For purposes of this clause, residence in-
2 cludes any period of visitation.”.

3 (5) FILING OF PETITIONS.—Section
4 204(a)(1)(B) (8 U.S.C. 1154(a)(1)(B)), as amended
5 by paragraph (4), is further amended by adding
6 after clause (iv) the following new clause:

7 “(v) An alien who is the spouse, intended spouse,
8 child, son, or daughter of a lawful permanent resident liv-
9 ing abroad is eligible to file a petition under clause (ii),
10 (iii), or (iv) shall file such petition with the Attorney Gen-
11 eral under the procedures that apply to self-petitioners
12 under such clauses.”.

13 (6) TREATMENT OF PETITIONS INCLUDING DE-
14 RIVATIVE CHILDREN TURNING 21 YEARS OF AGE.—
15 Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is
16 amended—

17 (A) by redesignating subparagraphs (C)
18 through (H) as subparagraphs (D) through (I),
19 respectively; and

20 (B) by inserting after subparagraph (B)
21 the following:

22 “(C)(i)(I) Any derivative child who attains 21 years
23 of age and who is included in a petition described in clause
24 (ii) that was filed or approved before the date on which
25 the child attained 21 years of age shall be considered (if

1 no visa has been issued to the child by such date) a peti-
2 tioner for preference status under paragraph (1), (2), or
3 (3) of section 203(a), whichever paragraph is applicable,
4 with the same priority date as that assigned to the petition
5 in any petition described in clause (ii).

6 “(II) Any individual described in subclause (I) and
7 any derivative child of a petition described in clause (ii)
8 is eligible for deferred action and work authorization.

9 “(ii) The petition referred to in clause (i) is a petition
10 filed by an alien under subparagraph (A)(iii), (A)(iv),
11 (A)(vi), (B)(ii), (B)(iii), or (B)(iv) in which the child is
12 included as a derivative.”

13 (e) ACCESS TO NATURALIZATION FOR DIVORCED
14 VICTIMS OF ABUSE.—Section 319(a) (8 U.S.C. 1430(a))
15 is amended—

16 (1) by inserting “, and any person who obtained
17 status as a lawful permanent resident by reason of
18 his or her status as a spouse or child of a United
19 States citizen who battered him or her or subjected
20 him or her to extreme cruelty,” after “United
21 States” the first place it appears; and

22 (2) by inserting “(except in the case of a person
23 who has been battered or subjected to extreme cru-
24 elty by a United States citizen spouse or parent)”

1 after “has been living in marital union with the cit-
2 izen spouse”.

3 **SEC. 607. IMPROVED ACCESS TO VAWA CANCELLATION OF**
4 **REMOVAL.**

5 (a) CANCELLATION OF REMOVAL AND ADJUSTMENT
6 OF STATUS FOR CERTAIN NONPERMANENT RESI-
7 DENTS.—Section 240A(b)(2) (8 U.S.C. 1229b(b)(2)) is
8 amended to read as follows:

9 “(2) SPECIAL RULE FOR BATTERED SPOUSE,
10 PARENT, CHILD, SON, OR DAUGHTER.—

11 “(A) IN GENERAL.—The Attorney General
12 may cancel removal of, and adjust to the status
13 of an alien lawfully admitted for permanent res-
14 idence, an alien who is inadmissible or deport-
15 able from the United States if the alien dem-
16 onstrates that—

17 “(i)(I) the alien has been battered or
18 subjected to extreme cruelty in the United
19 States by a spouse, parent, son, or daugh-
20 ter who is or was a United States citizen
21 (or is the parent of a child of a United
22 States citizen and the child has been bat-
23 tered or subjected to extreme cruelty in the
24 United States by such citizen parent);

1 “(II) the alien has been battered or
2 subjected to extreme cruelty by a spouse or
3 parent who is or was a lawful permanent
4 resident (or is the parent of a child of an
5 alien who is or was a lawful permanent
6 resident and the child has been battered or
7 subjected to extreme cruelty in the United
8 States by such permanent resident parent),
9 or

10 “(III) the alien has been battered or
11 subjected to extreme cruelty by a United
12 States citizen or lawful permanent resident
13 whom the alien intended to marry, but
14 whose marriage is not legitimate because
15 of that United States citizen’s or lawful
16 permanent resident’s bigamy;

17 “(ii) the alien has been physically
18 present in the United States for a contin-
19 uous period of not less than 3 years imme-
20 diately preceding the date of such applica-
21 tion (and the issuance of a charging docu-
22 ment for removal proceedings shall not toll
23 the 3-year period of continuous physical
24 presence in the United States);

1 “(iii) the alien has been a person of
2 good moral character during such period;

3 “(iv) the alien is not inadmissible
4 under paragraph (2) or (3) of section
5 212(a), is not deportable under paragraphs
6 (1)(G) or (2) through (4) of section
7 237(a), and has not been convicted of an
8 aggravated felony, unless the Attorney
9 General waives application of this clause
10 pursuant to section 237(d) or for humani-
11 tarian purposes, to assure family unity, or
12 when it is otherwise in the public interest;
13 and

14 “(v) the removal would result in ex-
15 treme hardship to the alien, the alien’s
16 child, or the alien’s parent.

17 In acting on applications under this paragraph,
18 the Attorney General shall consider any credible
19 evidence relevant to the application. The deter-
20 mination of what evidence is credible and the
21 weight to be given that evidence shall be within
22 the sole discretion of the Attorney General. For
23 aliens who entered the country on fiancé visas,
24 failure to marry the sponsor, or failure to
25 marry the sponsor within 90 days as required

1 under section 101(a)(15)(K), shall not bar ac-
2 cess to relief under this paragraph to aliens
3 who otherwise qualify.

4 “(B) INCLUSION OF OTHER ALIENS IN
5 CANCELLATION OF REMOVAL APPLICATIONS.—

6 An alien applying for relief under this para-
7 graph may include—

8 “(i) the alien’s children, sons, or
9 daughters in the alien’s application and, if
10 the alien is found eligible for cancellation,
11 the Attorney General may adjust the sta-
12 tus of the alien’s children, sons, daughters;
13 or

14 “(ii) the alien’s parent or child in the
15 alien child’s (as defined in paragraph (1)
16 or (6) of section 101(b)) application in the
17 case of an application filed by an alien who
18 was abused by a citizen or lawful perma-
19 nent resident parent and, if the alien child
20 is found eligible for cancellation, the Attor-
21 ney General may adjust the status of the
22 alien child applicant and the alien child’s
23 parent and child.

24 “(C) INCLUSION OF OTHER ALIENS IN
25 SUSPENSION OF DEPORTATION APPLICA-

1 TIONS.—An alien applying for relief under sec-
2 tion 244(a)(3) (as in effect before the date of
3 the enactment of Illegal Immigration Reform
4 and Immigrant Responsibility Act of 1996) may
5 include—

6 “(i) the alien’s children, sons, or
7 daughters in the alien’s application and, if
8 the alien is found eligible for suspension,
9 the Attorney General may adjust the sta-
10 tus of the alien’s children, sons, or daugh-
11 ters; or

12 “(ii) the alien’s parent or child in the
13 alien child’s (as defined in paragraph (1)
14 or (6) of section 101(b)) application in the
15 case of an application filed by an alien who
16 was abused by a citizen or lawful perma-
17 nent resident parent and, if the alien child
18 is found eligible for suspension, the Attor-
19 ney General may adjust the status of the
20 alien child applicant and the alien child’s
21 parent and child.”.

22 (b) TREATMENT OF FAMILY MEMBERS.—Section
23 203(d) (8 U.S.C. 1153(d)) is amended—

24 (A) by inserting “(1)” before “A spouse or
25 child”; and

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

2 “(2) A spouse, parent, or child as defined in para-
3 graph (1) or (6) of section 101(b) if not otherwise entitled
4 to an immigrant status and immediate issuance of a visa
5 shall be entitled to attain lawful permanent resident status
6 if their spouse, parent, or child was granted such status
7 pursuant to section 240A(b)(2) or section 244(a)(3) (as
8 in effect before the date of the enactment of Illegal Immi-
9 gration Reform and Immigrant Responsibility Act of
10 1996) by accompanying or following to join the spouse,
11 child, or parent.”.

12 **SEC. 608. GOOD MORAL CHARACTER DETERMINATIONS.**

13 (a) DETERMINATIONS OF GOOD MORAL CHARACTER
14 FOR SELF-PETITIONING IMMEDIATE RELATIVES.—Sec-
15 tion 204(a)(1)(A) (8 U.S.C. 1154(a)(1)(A)), as amended
16 by sections 606(c) and 603(a)(1), is further amended by
17 adding after clause (viii) at the end the following new
18 clause:

19 “(ix) For the purposes of making good moral char-
20 acter determinations under this subparagraph, the Attor-
21 ney General is not limited by the criminal court record
22 and may make a finding of good moral character notwith-
23 standing the existence of a disqualifying act or criminal
24 conviction in the case of an alien who otherwise qualifies
25 for relief under clause (iii), (iv), (v), or (vi), but who com-

1 mitted, was arrested for, has been convicted of, or who
2 pled guilty to—

3 “(I) violating a court order issued to protect the
4 alien;

5 “(II) prostitution if the alien was forced into
6 prostitution by an abuser;

7 “(III) a domestic violence-related crime, if the
8 Attorney General determines that the alien acted in
9 self-defense; or

10 “(IV) a crime where there was a connection be-
11 tween the commission of the crime and having been
12 battered or subjected to extreme cruelty.”.

13 (b) DETERMINATIONS OF GOOD MORAL CHARACTER
14 FOR SELF-PETITIONERS SEEKING SECOND PREFERENCE
15 IMMIGRATION STATUS.—Section 204(a)(1)(B) (8 U.S.C.
16 1154(a)(1)(B)), as amended by sections 606(d) and
17 603(a)(2), is further amended by adding after clause (vi)
18 the following new clause:

19 “(vii) For the purposes of making good moral char-
20 acter determinations under this subparagraph, the Attor-
21 ney General is not limited by the criminal court record
22 and may make a finding of good moral character notwith-
23 standing the existence of a disqualifying act or criminal
24 conviction in the case of an alien who otherwise qualifies
25 for relief under clause (ii), (iii), or (iv), but who com-

1 mitted, was arrested for, has been convicted of, or who
2 pled guilty to—

3 “(I) violating a court order issued to protect the
4 alien;

5 “(II) prostitution if the alien was forced into
6 prostitution by an abuser;

7 “(III) a domestic violence-related crime, if the
8 Attorney General determines that the alien acted in
9 self-defense; or

10 “(IV) a crime where there was a connection be-
11 tween the commission of the crime and having been
12 battered or subjected to extreme cruelty.”.

13 (c) DETERMINATIONS OF GOOD MORAL CHARACTER
14 IN VAWA CANCELLATION OF REMOVAL PROCEEDINGS.—
15 Section 240A(b)(2) (8 U.S.C. 1229b(b)(2)), as amended
16 by section 607(a), is further amended by adding at the
17 end the following new subparagraph:

18 “(D) GOOD MORAL CHARACTER DETER-
19 MINATIONS.—For the purposes of making good
20 moral character determinations under this sub-
21 section, the Attorney General is not limited by
22 the criminal court record and may make a find-
23 ing of good moral character notwithstanding
24 the existence of a disqualifying act or criminal
25 conviction in the case of an alien who has been

1 battered or subjected to extreme cruelty but
2 who committed, was arrested for, has been con-
3 victed of, or who pled guilty to—

4 “(i) violating a court order is sued to
5 protect the alien;

6 “(ii) prostitution if the alien was
7 forced into prostitution by an abuser;

8 “(iii) a domestic violence-related crime
9 if the Attorney General determines that
10 the alien acted in self-defense; or

11 “(iv) committing a crime where there
12 was a connection between the commission
13 of the crime and having been battered or
14 subjected to extreme cruelty.”.

15 (d) DETERMINATIONS UNDER SUSPENSION OF DE-
16 PORTATION.—For the purposes of making good moral
17 character determinations under section 244(a)(3) of the
18 Immigration and Nationality Act (as in effect before the
19 enactment of the Illegal Immigration Reform and Immi-
20 grant Responsibility Act of 1996) (8 U.S.C. 1254(a)(3)),
21 the Attorney General is not limited by the criminal court
22 record and may make a finding of good moral character
23 notwithstanding the existence of a disqualifying act or
24 criminal conviction in the case of an alien who has been
25 battered or subjected to extreme cruelty but who com-

1 mitted, was arrested for, has been convicted of, or who
2 pled guilty to—

3 (1) violating a court order issued to protect the
4 alien;

5 (2) prostitution if the alien was forced into
6 prostitution by an abuser;

7 (3) a domestic violence-related crime if the At-
8 torney General determines that the alien acted in
9 self-defense; or

10 (4) committing a crime where there was a con-
11 nection between the commission of the crime and
12 having been battered or subjected to extreme cru-
13 elty.

14 **SEC. 609. ECONOMIC SECURITY FOR BATTERED IMMI-**
15 **GRANT WOMEN.**

16 (a) NONAPPLICABILITY OF SPECIAL RULES RELAT-
17 ING TO THE TREATMENT OF NON-213A ALIENS.—Section
18 408(f)(6) of the Social Security Act (42 U.S.C. 608(f)(6))
19 is amended—

20 (1) in subparagraph (B), by striking “or” at
21 the end;

22 (2) in subparagraph (C), by striking the period
23 and inserting “; or”; and

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

1 “(D) described in section 421(f) of the
2 Personal Responsibility and Work Opportunity
3 Reconciliation Act of 1996 (8 U.S.C. 1631(f))
4 but for the fact that the individual is a non-
5 213A alien.”.

6 (b) PUBLIC CHARGE.—Section 212(a)(4) (8 U.S.C.
7 1182(a)(4)), as amended by section 341, is further amend-
8 ed by adding at the end the following new subparagraph:

9 “(C) EXCEPTION.—The following aliens
10 are not subject to public charge determinations
11 under this paragraph:

12 “(i) An alien who qualifies for classi-
13 fication as a spouse, parent, child, son, or
14 daughter of a United States citizen or law-
15 ful permanent resident under clause (iii),
16 (iv), (v), or (vi) of section 204(a)(1)(A) or
17 clause (ii), (iii), or (iv) of section
18 204(a)(1)(B).

19 “(ii) An alien who qualifies for classi-
20 fication under clause (i) or (ii) of section
21 204(a)(1)(A) or section 204(a)(1)(B)(i)
22 and who presents credible evidence of hav-
23 ing been battered or subjected to extreme
24 cruelty by their United States citizen or
25 lawful permanent resident spouse, parent,

1 son, or daughter. In the case of alien sons
2 or daughters, one or more incidents of bat-
3 tering or extreme cruelty must have oc-
4 curred before the alien turned 21 years of
5 age. This clause shall apply whether or not
6 an affidavit of support has been filed on
7 the alien's behalf.

8 “(iii) An alien who qualifies for status
9 as a spouse, parent, child, son, or daughter
10 of a United States citizen or lawful perma-
11 nent resident, or as a parent of a child of
12 a United States citizen or lawful perma-
13 nent resident, pursuant to section
14 240A(b)(2) or section 244(a)(3) (as in ef-
15 fect before the date of enactment of the Il-
16 legal Immigration Reform and Immigrant
17 Responsibility Act of 1996).

18 “(iv) Any child (as defined in para-
19 graph (1) or (6) of section 101(b)) in-
20 cluded in the application of an alien de-
21 scribed in clause (i), (ii), or (iii).”.

22 (c) WAIVER OF FILING FEES.—

23 (1) PETITIONS FOR CLASSIFICATION.—Section
24 204(a)(1) (8 U.S.C. 1154(a)(1)), as amended by

1 section 606(c), is further amended by adding at the
2 end the following new subparagraph:

3 “(I) No fee shall be charged for the filing or proc-
4 essing of any application under clause (iii), (iv), (v), or
5 (vi) of subparagraph (A) or clause (ii), (iii), or (iv) of sub-
6 paragraph (B), or the first application for work authoriza-
7 tion filed by an applicant under such a clause.”.

8 (2) CANCELLATIONS OF REMOVAL.—Section
9 240A(b)(2) (8 U.S.C. 1229b), as amended by sec-
10 tions 607(a) and 608(c), is further amended by add-
11 ing at the end the following new subparagraph:

12 “(E) PROHIBITION OF CHARGING FEES.—
13 No fee shall be charged for the filing or proc-
14 essing of any application under this paragraph
15 or the first application for work authorization
16 filed by applicants under this paragraph.”.

17 (3) SUSPENSION OF DEPORTATION.—No fee
18 shall be charged for the filing or processing of any
19 application under section 244(a)(3) of the Immigra-
20 tion and Nationality Act (as in effect before the date
21 of enactment of the Illegal Immigration Reform and
22 Immigrant Responsibility Act of 1996) (8 U.S.C.
23 1254(a)(3)), or the first application for work author-
24 ization filed by applicants under such section.

1 (d) ACCESS TO FOOD STAMPS AND SSI FOR QUALI-
2 FIED BATTERED ALIENS.—Section 402(a)(2) of the Per-
3 sonal Responsibility and Work Opportunity Reconciliation
4 Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding
5 at the end the following:

6 “(L) EXCEPTION FOR CERTAIN BATTERED
7 ALIENS.—With respect to eligibility for benefits
8 for the specified Federal program (as defined in
9 paragraph (3)), paragraph (1) shall not apply
10 to any individual described in section 431(c).”.

11 (e) EXEMPTION FROM 5-YEAR BAN.—Section 403(b)
12 of the Personal Responsibility and Work Opportunity Act
13 of 1996 (8 U.S.C. 1613(b)) is amended by adding at the
14 end the following:

15 “(3) BATTERED IMMIGRANTS.—An alien de-
16 scribed in section 431(c).”.

17 (f) ACCESS TO HOUSING FOR BATTERED WOMEN
18 AND QUALIFIED IMMIGRANTS.—(1) Section 214 of the
19 Housing and Community Development Act of 1980 (42
20 U.S.C. 1436a) is amended—

21 (A) in subsection (a), in the matter before para-
22 graph (1), by striking “a resident of the United
23 States and is”;

1 (B) in paragraphs (1) through (6) of subsection
2 (a), by inserting “a resident of the United States
3 and is” before “an alien” each place it appears;

4 (C) in subsection (a)(5), by striking “or” at the
5 end;

6 (D) in subsection (a)(6), by striking the period
7 and inserting “; or”;

8 (E) by adding at the end of subsection (a) the
9 following new paragraph:

10 “(7) a qualified alien as described in section
11 431 of the Personal Responsibility and Work Oppor-
12 tunity Reconciliation Act of 1996 (8 U.S.C. 1641).”;

13 (F) in subsection (b)(2), by adding at the end
14 the following: “Proration shall not apply in the case
15 of a qualified alien as described in section 431 of the
16 Personal Responsibility and Work Opportunity Rec-
17 onciliation Act of 1996 (8 U.S.C. 1641).”;

18 (G) in subsection (c)(1)(A), by adding at the
19 end the following: “Proration shall not apply in the
20 case of a qualified alien as described in section 431
21 of the Personal Responsibility and Work Oppor-
22 tunity Reconciliation Act of 1996 (8 U.S.C. 1641).”;

23 (H) in subsection (c)(1)(A), by striking “para-
24 graphs (1) through (6)” and inserting “paragraphs
25 (1) through (7)”;

1 (I) in subsection (c)(2)(A), by inserting “(other
2 than a qualified alien as described in section 431(c)
3 of the Personal Responsibility and Work Oppor-
4 tunity Reconciliation Act of 1996 (8 U.S.C.
5 1641(c))” after “any alien”; and

6 (J) in subsection (d)(1)(B), by inserting before
7 the period “, including a qualified alien as described
8 in section 431 of the Personal Responsibility and
9 Work Opportunity Reconciliation Act of 1996 (8
10 U.S.C. 1641)”.

11 (2) Section 401 of the Personal Responsibility and
12 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.
13 1611) is amended by adding at the end the following new
14 subsection:

15 “(d) ACCESS TO SHELTER AND SERVICES FOR BAT-
16 TERED IMMIGRANTS.—Notwithstanding any other provi-
17 sion of law, no private, government, or nonprofit organiza-
18 tion providing shelter or services to battered women,
19 abused children, or providing any other services listed in
20 subsection (b) that receives any Federal funds shall deny,
21 restrict, or condition assistance to any applicant based on
22 alienage.”.

23 (g) CLARIFYING WELFARE REPORTING REQUIRE-
24 MENTS FOR BENEFIT APPLICANTS.—The Social Security
25 Act (42 U.S.C. 301 et seq.) is amended—

1 (1) in section 411(a)(1) (42 U.S.C. 611(a)(1)),
2 by adding at the end the following new subpara-
3 graph:

4 “(C) INFORMATION ON IMMIGRATION STA-
5 TUS.—Collection of information about, and in-
6 quiries into, the immigration status of an indi-
7 vidual who is a parent applying on behalf of his
8 or her child who is a United States citizen or
9 a qualified alien (as defined in section 431 of
10 the Personal Responsibility and Work Oppor-
11 tunity Reconciliation Act of 1996) for assist-
12 ance under the State program funded under
13 this part, shall not be made if the individual is
14 not applying for benefits for themselves, wheth-
15 er or not the individual is determined, under
16 Federal or State law, to be part of a family unit
17 receiving assistance under that program.”; and

18 (2) in section 1631(e)(9) (42 U.S.C.
19 1383(e)(9)), by adding at the end the following:
20 “Collection of information about, and inquiries into,
21 the immigration status of an individual who is a par-
22 ent applying on behalf of his or her child who is a
23 United States citizen or a qualified alien (as defined
24 in section 431 of the Personal Responsibility and
25 Work Opportunity Reconciliation Act of 1996) for

1 benefits under this title (or for benefits supple-
2 mented by a State with an agreement under section
3 1616), shall not be made if the individual is not ap-
4 plying for benefits for themselves, whether or not the
5 individual is determined, under Federal or State law,
6 to be part of a family unit receiving such benefits.”.

7 (h) CONFORMING DEFINITION OF “FAMILY” USED
8 IN LAWS GRANTING WELFARE ACCESS FOR BATTERED
9 IMMIGRANTS TO STATE FAMILY LAW.—Section 431(c) of
10 the Personal Responsibility and Work Opportunity Rec-
11 onciliation Act of 1996 (8 U.S.C. 1641(c)) is amended—

12 (1) in paragraph (1)(A), by striking “by a
13 spouse or a parent, or by a member of the spouse
14 or parent’s family residing in the same household as
15 the alien and the spouse or parent consented to, or
16 acquiesced in, such battery or cruelty,” and insert-
17 ing “by a spouse or parent, or by any individual hav-
18 ing a relationship with the alien covered by the civil
19 or criminal domestic violence statutes of the State or
20 Indian country where the alien resides, or the State
21 or Indian country in which the alien, the alien’s
22 child, or the alien child’s parents received a protec-
23 tion order, or by any individual against whom the
24 alien could obtain a protection order,”; and

1 (2) in paragraph (2)(A), by striking “by a
2 spouse or parent of the alien (without the active par-
3 ticipation of the alien in the battery or cruelty), or
4 by a member of the spouse or parent’s family resid-
5 ing in the same household as the alien and the
6 spouse or parent consented or acquiesced to such
7 battery or cruelty,” and inserting “by a spouse or
8 parent of the alien (without the active participation
9 of the alien in the battery or cruelty) or by any per-
10 son having a relationship with the alien covered by
11 the civil or criminal domestic violence statutes of the
12 State or Indian country where the alien resides, or
13 the State or Indian country in which the alien, the
14 alien’s child or the alien child’s parent received a
15 protection order, or by any individual against whom
16 the alien could obtain a protection order.”.

17 (i) EXPANSION OF DEFINITION OF BATTERED IMMIGRANT
18 GRANTS.—

19 (1) IN GENERAL.—Section 431(c) of the Per-
20 sonal Responsibility and Work Opportunity Rec-
21 onciliation Act of 1996 (8 U.S.C. 1641(c)) is
22 amended—

23 (A) in paragraphs (1)(A), (2)(A), and
24 (3)(A) by inserting “or the benefits to be pro-
25 vided would alleviate the harm from such bat-

1 tery or cruelty or would enable the alien to
2 avoid such battery or cruelty in the future” be-
3 fore the semicolon; and

4 (B) in the matter following paragraph (3),
5 by inserting “and for determining whether the
6 benefits to be provided under a specific Federal,
7 State, or local program would alleviate the
8 harm from such battery or extreme cruelty or
9 would enable the alien to avoid such battery or
10 extreme cruelty in the future” before the pe-
11 riod.

12 (2) CONFORMING AMENDMENT REGARDING
13 SPONSOR DEEMING.—Section 421(f) of such Act (8
14 U.S.C. 1631(f)(1)) is amended—

15 (A) in subparagraph (A), by inserting “or
16 would alleviate the harm from such battery or
17 extreme cruelty, or would enable the alien to
18 avoid such battery or extreme cruelty in the fu-
19 ture” before the semicolon; and

20 (B) in subparagraph (B), by inserting “or
21 would alleviate the harm from such battery or
22 extreme cruelty, or would enable the alien to
23 avoid such battery or extreme cruelty in the fu-
24 ture” before the period.

1 (j) ENSURING THAT BATTERED IMMIGRANTS HAVE
2 ACCESS TO FOOD STAMPS AND SSI.—

3 (1) QUALIFYING QUARTERS.—Section 435(2) of
4 the Personal Responsibility and Work Opportunity
5 Reconciliation Act of 1996 (8 U.S.C. 1645(2)) is
6 amended by striking “and the alien remains married
7 to such spouse or such spouse is deceased” and in-
8 serting “if such spouse is deceased or if the alien re-
9 mains married to such spouse (except that qualified
10 aliens covered by section 431(c) may continue after
11 divorce to count the qualifying quarters worked by
12 their spouse during the marriage)”.

13 (2) FOOD STAMPS ACCESS FOR BATTERED IM-
14 MIGRANT QUALIFIED ALIENS AND THEIR CHIL-
15 DREN.—Section 7 of the Food Stamp Act of 1977
16 (7 U.S.C. 2016) is amended by adding at the end
17 the following:

18 “(k) BATTERED IMMIGRANT QUALIFIED ALIEN ELI-
19 GIBILITY FOR FOOD STAMPS.—Qualified alien battered
20 immigrants under section 431(c) of the Personal Respon-
21 sibility and Work Opportunity Reconciliation Act of 1996
22 and their children are eligible to receive food stamps.”.

23 (k) TECHNICAL CORRECTIONS TO QUALIFIED ALIEN
24 DEFINITION FOR BATTERED IMMIGRANTS.—Section
25 431(c)(1)(B) of the Personal Responsibility and Work Op-

1 portunity Reconciliation Act of 1996 (8 U.S.C.
2 1641(c)(1)(B)) is amended—

3 (1) in clause (i), by striking “clause (ii), (iii),
4 or (iv)” and inserting “clause (ii), (iii), (iv), (v), or
5 (vi)”;

6 (2) in clause (ii), by striking “clause (ii) or
7 (iii)” and inserting “clause (i), (ii), (iii), or (iv)”;
8 and

9 (3) by amending clause (iii) to read as follows:

10 “(iii) suspension of deportation under
11 section 244(a)(3) of the Immigration and
12 Nationality Act (as in effect before the
13 date of the enactment of the Illegal Immi-
14 gration Reform and Immigrant Responsi-
15 bility Act of 1996).”.

16 **SEC. 610. ACCESS TO LEGAL REPRESENTATION AND SERV-**
17 **ICES FOR BATTERED IMMIGRANTS.**

18 (a) CONSTRUCTION.—Section 502 of the Depart-
19 ments of Commerce, Justice, and State, the Judiciary and
20 Related Agencies Appropriations Act, 1998 (Public Law
21 105–119; 111 Stat. 2511) is amended by adding at the
22 end the following:

23 “(c) CONSTRUCTION.—This section shall not be con-
24 strued to prohibit a recipient from—

1 “(1) using funds derived from a source other
2 than the Legal Services Corporation to provide re-
3 lated legal assistance (as that term is defined in sub-
4 section (b)(2)) to any alien who has been battered
5 or subjected to extreme cruelty by a person with
6 whom the alien has a relationship covered by the do-
7 mestic violence laws of the State in which the alien
8 resides or in which an incidence of violence occurred;

9 “(2) using Legal Services Corporation funds to
10 provide related legal assistance to any alien who has
11 been battered or subjected to extreme cruelty who
12 qualifies for classification under clause (iii), (iv), (v),
13 or (vi) of section 204(a)(1)(A) of the Immigration
14 and Nationality Act (8 U.S.C. 1154(a)(1)(A)),
15 clause (ii), (iii), or (iv) of section 204(a)(1)(B) of
16 such Act (8 U.S.C. 1154(a)(1)(B)), or subsection
17 (b)(2) of section 240A of such Act (8 U.S.C. 1229b)
18 or section 244(a)(3) of the Immigration and Nation-
19 ality Act (as in effect before the title III–A effective
20 date in section 309 of the Illegal Immigration Re-
21 form and Immigrant Responsibility Act of 1996 (8
22 U.S.C. 1101 note).”.

23 (b) LAW ENFORCEMENT AND PROSECUTION
24 GRANTS.—

1 (1) Section 2001(b)(5) of the Omnibus Crime
2 Control and Safe Streets Act of 1968 (42 U.S.C.
3 3796bb(b)(5)) is amended—

4 (A) by striking “to racial, cultural, ethnic,
5 and language minorities” and inserting “to un-
6 derserved populations”; and

7 (B) by inserting “providing immigration
8 assistance to victims of domestic violence,”
9 after “protection orders are granted,”.

10 (2) Section 2002 of such Act (42 U.S.C.
11 3796gg) is amended—

12 (A) in subsection (h)(1), by inserting be-
13 fore the period the following: “, the demo-
14 graphics of underserved populations in the
15 State and details about the percentage of fund-
16 ing that went to serve which underserved popu-
17 lations, the programs that received such fund-
18 ing, and the involvement of programs serving
19 underserved populations in the development of
20 the State plan under subsection (c)(2)”;

21 (B) in subsection (d)(1)(D), by striking
22 “age, marital status, disability, race, ethnicity
23 and language background” and inserting “mar-
24 ital status and characteristics of any under-
25 served populations”;

1 (C) in subsection (d)—

2 (i) by striking “and” at the end of
3 paragraph (2),

4 (ii) by striking the period at the end
5 of paragraph (3) and inserting “; and”,
6 and

7 (iii) by adding at the end the fol-
8 lowing:

9 “(4) in the case of a State, Indian tribal gov-
10 ernment, or unit of local governments applying as
11 subgrantee for a grant under this section, a certifi-
12 cation that its laws or official policies comply with
13 each of the provisions of section 2101(c).

14 The requirements of paragraph (4) do not apply to a non-
15 profit, nongovernmental entity that is applying for grants
16 under this section.”; and

17 (D) by adding at the end the following new
18 subsection:

19 “(i) REPORT ON SERVICES FOR UNDERSERVED POP-
20 ULATIONS.—The Violence Against Women Grants Office
21 in the Department of Justice shall submit to Congress,
22 not later than 1 year after the date of the enactment of
23 this subsection, a report that contains the following infor-
24 mation:

1 “(1) The quantity and percentage of funding
2 awarded to serve underserved populations by each
3 State under each of the following:

4 “(A) Grants to combat violent crimes
5 against women under section 2001.

6 “(B) Grants to encourage arrest under sec-
7 tion 2101.

8 “(C) Rural domestic violence and child
9 abuse enforcement assistance grants under sec-
10 tion 40295(a)(2) of the Violent Crime Control
11 and Law Enforcement Act of 1994 (Public Law
12 103–322, 42 U.S.C. 13971(a)(2)).

13 “(D) Civil legal assistance grants under
14 title I of the Department of Justice Appropria-
15 tions Act, 1999.

16 “(E) Campus domestic violence grants
17 under section 826 of the Higher Education
18 Amendment Act of 1998 (Public Law 105–244;
19 20 U.S.C. 1152).

20 “(2) The percentage of each underserved popu-
21 lation in the demographic make up of each State
22 compared to the amount of funding aimed at ad-
23 dressing the needs of that underserved population.

24 “(3) The extent to which grants to provide
25 services to underserved populations are awarded to

1 programs with experience and history working with
2 underserved populations of battered women or sexual
3 assault victims, to programs that have bilingual or
4 bicultural staff, and to collaborations between do-
5 mestic violence or sexual assault programs and pro-
6 grams experienced in serving particular underserved
7 populations and to other grantees.

8 “(4) The extent to which nonprofit, nongovern-
9 mental victim service organizations with experience
10 serving various underserved populations of battered
11 women and sexual assault or stalking victims were
12 consulted in the development of the State plan under
13 section 2001(c)(2), the application under section
14 2102(a)(4), or the community cooperation referred
15 to in section 40295(a)(3) of the Violent Crime Con-
16 trol and Law Enforcement Act of 1994 (Public Law
17 103–322, 42 U.S.C. 13971(a)(3)).”.

18 (3) Section 2003(7) of such Act (42 U.S.C.
19 3796gg–2(7)) is amended to read as follows:

20 “(7) the term ‘underserved populations’ in-
21 cludes populations underserved because of race, eth-
22 nicity, age, disability, sexual orientation, religion,
23 alienage status, geographic location (including rural
24 isolation), language barriers, and any other popu-

1 lations determined to be underserved in the State
2 planning process; and”.

3 (4) Section 2004(b)(3) of such Act (42 U.S.C.
4 3796gg-3(b)(3)) is amended by striking all that fol-
5 lows “relationship of victim to the offender” and in-
6 sserting “and the membership of persons served in
7 any underserved populations; and”.

8 (c) GRANTS TO ENCOURAGE ARRESTS.—

9 (1) Section 2101 of the Omnibus Crime Control
10 and Safe Streets Act of 1968 (42 U.S.C. 3796hh)
11 is amended—

12 (A) in subsection (b)(5), by inserting be-
13 fore the period the following: “, including
14 strengthening legal advocacy for domestic vio-
15 lence victims in immigration cases”;

16 (B) in subsection (c)—

17 (i) by striking “and” at the end of
18 paragraph (3);

19 (ii) by striking the period at the end
20 of paragraph (4) and inserting a semi-
21 colon; and

22 (iii) by adding at the end the fol-
23 lowing new paragraphs:

24 “(5) certify that their laws, policies, and prac-
25 tices require issuance of protection orders that are

1 jurisdictionally sound and that all protection orders
2 are issued after a finding, after an admission by the
3 abuser, or based on the facts in the victim’s petition
4 that are uncontested by the abuser; and

5 “(6) certify that their laws, policies, and
6 practices—

7 “(A) keep locational information and serv-
8 ices provided to victims of domestic violence
9 confidential and comply with all State and Fed-
10 eral laws and rules of professional practice re-
11 garding confidentiality;

12 “(B) guarantee that information is not re-
13 leased to any person without the express per-
14 mission of the abuse victim, except when such
15 information is required for a legitimate law en-
16 forcement purpose unrelated to the victim’s
17 abuser; and

18 “(C) assure that locational information
19 about a victim or the services obtained by a vic-
20 tim are not considered a matter of public
21 record.”; and

22 (C) by adding at the end the following new
23 subsection:

24 “(d) ADDITIONAL PROVISIONS.—(1) The require-
25 ments of subsection (c) do not apply to nonprofit, non-

1 governmental entities applying for grants under this sec-
2 tion.

3 “(2) All grantees and subgrantees of grants in effect
4 on the date of the enactment of this subsection or submit-
5 ting new applications for funding after such date that are
6 States, Indian tribal governments, or units of local govern-
7 ment shall submit a certification by the chief executive of-
8 ficer of the State, tribal government, or local government
9 entity that the conditions of subsections (c)(5) and (c)(6)
10 are met (or will be met) not later than the date on which
11 the next session of the State or Indian tribal legislature
12 ends, but in no case later than 2 years after such date
13 of enactment.

14 “(3) Failure by a grantee to comply with the certifi-
15 cations contained in paragraphs (1) thorough (6) of sub-
16 section (c) may result in suspension or revocation of fund-
17 ing. Once a grantee or subgrantee has been notified that
18 its funding will be revoked, they shall be granted 6 months
19 to bring their laws, policies, or practices into compliance
20 before the revocation takes effect. Any funds that are not
21 distributed to grantees or are removed from grantees
22 under this paragraph shall be distributed to other eligible
23 entities within the State. For grants under section 2002,
24 the funds are to be redistributed first to entities within
25 the same formula category and then, if there are no eligi-

1 ble entities within the same formula category, to other eli-
2 gible entities without regard to the formula.”.

3 (2) Section 2103 of such Act (42 U.S.C.
4 3796hh-2) is amended by adding at the end the fol-
5 lowing: “Each report shall include information about
6 the demographics of underserved populations in the
7 State and details about the percentage of funding
8 that went to serve which underserved populations,
9 the programs that received such funding, and the in-
10 volvement of programs serving underserved popu-
11 lations in the community participation described in
12 section 2102(a)(4).”.

13 (d) RURAL DOMESTIC VIOLENCE AND CHILD ABUSE
14 ENFORCEMENT GRANTS.—Section 40295 of the Violent
15 Crime Control and Law Enforcement Act of 1994 (Public
16 Law 103-322, 108 Stat. 1953, 42 U.S.C. 13971(aa)(2))
17 is amended—

18 (1) by amending subsection (a)(2) to read as
19 follows:

20 “(2) to provide treatment, counseling, and legal
21 assistance to victims of domestic violence and child
22 abuse, including assistance to victims in immigration
23 matters; and”;

24 (2) by adding at the end the following new sub-
25 sections:

1 “(d) APPLICATION REQUIREMENTS.—States, Indian
2 tribal governments, and units of local government apply-
3 ing for grants under this section must certify that their
4 laws, policies, and practices comply with each of the provi-
5 sions of section 2101(e) of the Omnibus Crime Control
6 and Safe Streets Act of 1968 (42 U.S.C. 3796hh(e)).

7 “(e) GRANTEE REPORTING.—Upon completion of the
8 grant period under this part, a State or Indian tribal
9 grantee shall file a performance report with the Attorney
10 General. The report shall explain the activities carried out
11 and shall evaluate the effectiveness of projects developed
12 with the funds provided under the grant. The report shall
13 include information about the demographics of under-
14 served populations in the State and details about the per-
15 centage of funding that went to serve which underserved
16 populations, the programs that received such funding, and
17 the involvement of programs serving underserved popu-
18 lations in the community cooperation in subsection
19 (a)(3).”

20 (e) FAMILY VIOLENCE PREVENTION AND SERVICES
21 ACT.—

22 (1) Section 303(a)(2)(C) of the Family Violence
23 Prevention and Services Act (42 U.S.C.
24 10402(e)(2)(C)) is amended by striking “populations
25 underserved because of ethnic, racial, cultural, lan-

1 guage diversity or geographic isolation” and insert-
2 ing “populations underserved because of race, eth-
3 nicity, age, disability, sexual orientation, religion,
4 alienage status, geographic location (including rural
5 isolation), language barriers, and any other popu-
6 lations determined to be underserved”.

7 (2) Section 311(a)(4) of such Act (42 U.S.C.
8 10410(a)(4)) is amended by striking “underserved
9 racial, ethnic or language-minority populations” and
10 inserting “underserved populations as the term is
11 used in section 303(a)(2)(C)”.

12 (3) Section 303(a)(4) of such Act (42 U.S.C.
13 10402(a)(4)) is amended by inserting after the first
14 sentence the following: “This performance report
15 shall include information about the demographics of
16 underserved populations in the State and details
17 about the percentage of funding that went to serve
18 which underserved populations, the programs that
19 received such funding, and the involvement of pro-
20 grams serving underserved populations in the proce-
21 dures described in subsection (a)(2)(C).”.

22 (4) Section 303 of such Act (42 U.S.C. 10402)
23 is further amended by adding at the end the fol-
24 lowing new subsection:

1 “(g) The Secretary shall submit to Congress, not
2 later than 1 year after the date of the enactment of this
3 subsection, a report that contains the following informa-
4 tion:

5 “(1) The quantity and percentage of funding
6 awarded to serve underserved populations by each
7 State under programs funded under this Act.

8 “(2) The percentage of each underserved popu-
9 lation in the demographic make up of each State
10 compared to the amount of funding aimed at ad-
11 dressing the needs of that underserved population.

12 “(3) The extent to which grants to provide
13 services to underserved populations are awarded to
14 programs with experience and history working with
15 underserved populations of battered women or sexual
16 assault victims, to programs that have bilingual or
17 bicultural staff, and to collaborations between do-
18 mestic violence or sexual assault programs and pro-
19 grams experienced in serving particular underserved
20 populations and to other grantees.

21 “(4) The extent to which nonprofit, nongovern-
22 mental victim service organizations with experience
23 serving various underserved populations of battered
24 women and sexual assault or stalking victims were

1 involved in the procedures described in subsection
2 (a)(2)(C).”.

3 (f) CIVIL LEGAL ASSISTANCE.—Title I of the De-
4 partment of Justice Appropriations Act, 1999 (contained
5 within the Omnibus Consolidated and Emergency Supple-
6 mental Appropriations Act of 1999 (Public Law 105–
7 277)) is amended, under the heading of “Office of Justice
8 Programs, State and Local Law Enforcement Assistance”,
9 by striking the period at the end and inserting the fol-
10 lowing: “, of which \$206,750,000 shall be available for
11 Grants to Combat Violence Against Women, to States,
12 units of local government, and Indian tribal governments,
13 as authorized by section 1001(a)(18) of said Act, includ-
14 ing \$23,000,000 which shall be used exclusively for the
15 purpose of strengthening civil legal assistance programs
16 for victims of domestic violence. Civil legal assistance
17 under this heading includes (but is not limited to) legal
18 assistance to victims of domestic violence, stalking or sex-
19 ual assault in divorce, custody, child support, protection
20 orders, immigration, public benefits, housing, consumer
21 law and any other legal matter that will further the health,
22 safety, and economic well-being of victims of domestic vio-
23 lence, stalking, or sexual assault.”.

1 (g) CAMPUS DOMESTIC VIOLENCE GRANTS.—Section
2 826 of the Higher Education Amendments of 1998 (Pub-
3 lic Law 105–244; 20 U.S.C. 1152) is amended—

4 (1) in subsection (b)(5), by inserting before the
5 period at the end the following: “, including legal as-
6 sistance to victims in civil, criminal, administrative,
7 immigration, or disciplinary matters”; and

8 (2) in subsection (c)(2)(C), by striking “and
9 number of students” and inserting “number of stu-
10 dents, and services being offered to various under-
11 served populations (as such term is defined in sec-
12 tion 2003(7) of the Omnibus Crime Control and
13 Safe Streets Act of 1968);”.

14 (h) STATE JUSTICE INSTITUTE GRANTS.—Section
15 206(c) of the State Justice Institute Act of 1984 (42
16 U.S.C. 10705(c)) is amended—

17 (1) by redesignating paragraph (15) as para-
18 graph (16); and

19 (2) by inserting after paragraph (14) the fol-
20 lowing new paragraph:

21 “(15) to support studies and investigate and
22 carry out research on issues of battering and ex-
23 treme cruelty against non-citizens, including the
24 ramifications of the immigration provisions of the
25 Violence Against Women Act of 1994 and subse-

1 quent immigration law reforms on the ability of vic-
2 tims to access civil, family, and criminal courts and
3 the immigration consequences of civil, family, and
4 criminal court actions; and”.

5 **SEC. 611. VIOLENCE AGAINST WOMEN ACT TRAINING FOR**
6 **INS OFFICERS, IMMIGRATION JUDGES, AND**
7 **CIVIL AND CRIMINAL COURT JUSTICE SYS-**
8 **TEM PERSONNEL.**

9 (a) VIOLENCE AGAINST WOMEN.—

10 (1) MILITARY TRAINING CONCERNING DOMES-
11 TIC VIOLENCE.—The Omnibus Crime Control and
12 Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.)
13 is amended by inserting after section 2006 (42
14 U.S.C. 3796gg–5) the following new section:

15 **“SEC. 2007. MILITARY TRAINING CONCERNING DOMESTIC**
16 **VIOLENCE.**

17 “Each branch of the United States military is re-
18 quired to train its supervisory military officers on domestic
19 violence, the dynamics of domestic violence in military
20 families, the types of protection available for battered im-
21 migrant women and children abused by their United
22 States citizen or lawful permanent resident spouse or par-
23 ent under the Violence Against Women Act of 1994, and
24 the problems of domestic violence in families in which a
25 United States citizen or lawful permanent resident mem-

1 ber of the military is married to a non-United States cit-
2 izen.”.

3 (2) INS TRAINING.—Section 2001 of the Omni-
4 bus Crime Control and Safe Streets Act of 1968 (42
5 U.S.C. 3795gg) is amended—

6 (A) in subsection (a), by inserting “the Im-
7 migration and Naturalization Service and the
8 Executive Office of Immigration Review,” after
9 “Indian tribal governments,”;

10 (B) in subsection (b)(1), by inserting “,
11 immigration and asylum officers, immigration
12 judges,” after “law enforcement officers”; and

13 (C) in subsection (b)—

14 (i) by striking “and” at the end of
15 paragraph (6),

16 (ii) by striking the period at the end
17 of paragraph (7) and inserting “; and”,
18 and

19 (iii) by adding at the end the fol-
20 lowing new paragraph:

21 “(8) training justice system personnel on the
22 immigration provisions of the Violence Against
23 Women Act of 1994 and their ramifications for vic-
24 tims of domestic violence appearing in civil and
25 criminal court proceedings and potential immigra-

1 tion consequences for the perpetrators of domestic
2 violence.”.

3 (b) EFFECT ON OTHER GOALS.—Section 287(g) (8
4 U.S.C. 1357(g)) is amended by adding at the end the fol-
5 lowing:

6 “(11) Congress finds that public policy favors encour-
7 aging the prosecution of criminals; and therefore, nothing
8 in this section may be construed to discourage crime vic-
9 tims, including domestic violence victims, from cooper-
10 ating with law enforcement officials and prosecutors, in-
11 cluding reporting of crimes committed against them to po-
12 lice, from cooperating in criminal prosecutions, or from
13 seeking from courts protection orders or other legal relief
14 available under State or Federal laws needed to protect
15 crime victims from ongoing violence.”.

16 (c) REPORT.—Not later than 6 months after the date
17 of the enactment of this Act, the Attorney General shall
18 submit a report to the Committees on the Judiciary of
19 the Senate and House of Representatives on—

20 (1) the number of and processing times for pe-
21 titions under clauses (iii) and (iv) of section
22 204(a)(1)(A) of the Immigration and Nationality
23 Act (8 U.S.C. 1154(a)(1)(A)) and under clauses (ii)
24 and (iii) of section 204(a)(1)(B) of such Act (8
25 U.S.C. 1154(a)(1)(B)) at district offices of the Im-

1 migration and Naturalization Service and at the re-
2 gional office of the Service in St. Albans, Vermont;

3 (2) the policy and procedures of the Immigra-
4 tion and Naturalization Service by which an alien
5 who has been battered or subjected to extreme cru-
6 elty who is eligible for suspension of deportation or
7 cancellation of removal can place such alien in de-
8 portation or removal proceedings so that such alien
9 may apply for suspension of deportation or cancella-
10 tion of removal, the number of requests filed at each
11 district office under this policy, and the number of
12 these requests granted, reported separately for each
13 district; and

14 (3) the average length of time at each Immigra-
15 tion and Naturalization office between the date that
16 an alien who has been subject to battering or ex-
17 treme cruelty eligible for suspension of deportation
18 or cancellation of removal requests to be placed in
19 deportation or removal proceedings and the date
20 that immigrant appears before an immigration judge
21 to file an application for suspension of deportation
22 or cancellation of removal.

23 **SEC. 612. PROTECTION FOR CERTAIN CRIME VICTIMS IN-**
24 **CLUDING CRIMES AGAINST WOMEN.**

25 (a) FINDINGS AND PURPOSE.—

1 (1) FINDINGS.—

2 (A) Trafficking of humans, particularly
3 women and children, is denounced by the inter-
4 national community as an egregious human
5 rights violation perpetuated increasingly by or-
6 ganized and sophisticated criminal enterprises.

7 (B) Trafficking to place persons in forced
8 labor, servitude, or in slavery-like conditions
9 has been identified as a multinational crime
10 problem of growing severity with increasing ties
11 to internal organized crime. Traffickers recruit
12 and transport persons, especially women and
13 children, to the United States in order to ex-
14 ploit them under horrific conditions through the
15 use of force, violence, debt bondage, or other co-
16 ercive tactics.

17 (C) Similarly, immigrant women and chil-
18 dren are often targeted to be victims of crimes
19 committed against them in the United States,
20 including rape, torture, incest, battery or ex-
21 treme cruelty, sexual assault, female genital
22 mutilation, forced prostitution, being held hos-
23 tage or other violent crimes. All women and
24 children who are victims of trafficking, domestic
25 violence, sexual assault, being held hostage, and

1 other human rights violations committed
2 against them in the United States must be able
3 to report these crimes to law enforcement and
4 fully participate in the criminal prosecution of
5 their abusers.

6 (2) PURPOSE.—

7 (A) The purpose of this section is to create
8 a new nonimmigrant visa classification that will
9 strengthen the ability of law enforcement agen-
10 cies to detect, investigate, and prosecute cases
11 of trafficking of aliens, while offering protection
12 to victims of such offenses in keeping with the
13 humanitarian interests of the United States.

14 (B) Creating a new nonimmigrant visa
15 classification will facilitate the reporting of vio-
16 lations to law enforcement officials by exploited
17 aliens who are not in a lawful immigration sta-
18 tus. It also gives law enforcement officials a
19 means to regularize the status of cooperating
20 individuals during investigations, prosecutions,
21 and civil law enforcement proceedings. By pro-
22 viding temporary legal status to aliens who have
23 been severely victimized by trafficking or simi-
24 lar egregious offenses, it also reflects the hu-
25 manitarian interests of the United States.

1 (C) Finally, this section gives the Attorney
2 General discretion to convert such non-
3 immigrants to permanent resident status when
4 it is justified on humanitarian grounds, to as-
5 sure family unity, or when it is otherwise in the
6 public interest.

7 (b) ESTABLISHMENT OF HUMANITARIAN/MATERIAL
8 WITNESS NONIMMIGRANT CLASSIFICATION.—Section
9 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section
10 301(a), is further amended—

11 (1) by striking “or” at the end of subparagraph
12 (S);

13 (2) by striking the period at the end of sub-
14 paragraph (T) and inserting “; or”; and

15 (3) by adding at the end the following new sub-
16 paragraph:

17 “(U) subject to section 214(o), an alien (and
18 the spouse, children, and parents of the alien if ac-
19 companying or following to join the alien) who files
20 an application for status under this subparagraph, if
21 the Attorney General determines that—

22 “(i) the alien possesses material informa-
23 tion concerning criminal or other unlawful ac-
24 tivity;

1 “(ii) the alien is willing to supply or has
2 supplied such information to Federal or State
3 law enforcement officials or a Federal or State
4 administrative agency investigating or bringing
5 an enforcement action;

6 “(iii) the alien would be helpful, were the
7 alien to remain in the United States, to a Fed-
8 eral or State investigation or prosecution of
9 criminal or other unlawful activity; and

10 “(iv) the alien (or a child of the alien) has
11 suffered substantial physical or mental abuse as
12 a result of the criminal or other unlawful activ-
13 ity.”.

14 (c) CONDITIONS FOR ADMISSION.—

15 (1) NUMERICAL LIMITATIONS, PERIOD OF AD-
16 MISSION, ETC.—Section 214 (8 U.S.C. 1184), as
17 amended by section 132, is further amended by add-
18 ing at the end the following new subsection:

19 “(o)(1) The number of aliens who may be provided
20 a visa as nonimmigrants under section 101(a)(15)(U) in
21 any fiscal year may not exceed 2,000.

22 “(2) The period of admission of an alien as such a
23 nonimmigrant may not exceed 3 years and such period
24 may not be extended.

1 “(3) As a condition for the admission (or the provi-
2 sion of status), and continued stay in lawful status, of an
3 alien as such a nonimmigrant, the alien—

4 “(A) may not be convicted of any criminal of-
5 fense punishable by a term of imprisonment of 1
6 year or more after the date of such admission (or
7 obtaining such status); and

8 “(B) shall abide by any other condition, limita-
9 tion, or restriction imposed by the Attorney General.

10 “(4) The provisions of section 204(a)(1)(H) shall
11 apply to applications to obtain nonimmigrant status under
12 section 101(a)(15)(U). Credible evidence to meet the con-
13 ditions described in clauses (i), (ii), or (iii) of section
14 101(a)(15)(U) may include certification from a Federal
15 or State law enforcement officer or prosecutor or a Fed-
16 eral or State official responsible for bringing enforcement
17 actions that the alien is willing to cooperate or has cooper-
18 ated in a criminal or civil court action or investigation or
19 Federal or State administrative agency enforcement action
20 or investigation.”.

21 (2) PROHIBITION OF CHANGE OF NON-
22 IMMIGRANT CLASSIFICATION.—Section 248(1) (8
23 U.S.C. 1258(1)) is amended by striking “or (S)”
24 and inserting “(S), or (U)”.

1 (d) ADJUSTMENT TO PERMANENT RESIDENT STA-
2 TUS.—

3 (1) IN GENERAL.—Section 245 (8 U.S.C. 1255)
4 is amended by adding at the end the following new
5 subsection:

6 “(1)(1) The Attorney General may adjust the status
7 of an alien admitted into the United States (or otherwise
8 provided nonimmigrant status) under section
9 101(a)(15)(U) (and a spouse, child, or parents admitted
10 under such section) to that of an alien lawfully admitted
11 for permanent residence if—

12 “(A) in the opinion of the Attorney General, the
13 alien’s continued presence in the United States is
14 justified on humanitarian grounds, to assure family
15 unity, or is otherwise in the public interest; and

16 “(B) the alien is not described in subparagraph
17 (A)(i)(I), (A)(ii), (A)(iii), (C), or (E) of section
18 212(a)(3).

19 “(2) When an alien is granted the status of having
20 been lawfully admitted for permanent residence pursuant
21 to this section, the Secretary of State shall not be required
22 to reduce the number of immigrant visas authorized to be
23 issued under any provision of this Act.”.

24 (2) EXCLUSIVE MEANS OF ADJUSTMENT.—Sec-
25 tion 245(c)(5) (8 U.S.C. 1255(c)(5)) is amended by

1 striking “sections 101(a)(15)(S),” and inserting
2 “subparagraph (S) or (U) of section 101(a)(15)”.

3 **SEC. 613. ACCESS TO CUBAN ADJUSTMENT FOR BATTERED**
4 **IMMIGRANT SPOUSES AND CHILDREN.**

5 The last sentence of the first section of Public Law
6 89–732 (November 2, 1966; 8 U.S.C. 1255 note) is
7 amended by striking the period at the end the following:
8 “, except that such spouse or child who has been battered
9 or subjected to extreme cruelty may adjust to permanent
10 resident status under this Act without demonstrating that
11 he or she is residing with the Cuban spouse or parent in
12 the United States. In acting on applications under this
13 section with respect to spouses or children who have been
14 battered or subjected to extreme cruelty, the Attorney
15 General shall apply the provisions of section 204(a)(1)(H)
16 of the Immigration and Nationality Act.”.

17 **SEC. 614. ACCESS TO THE NICARAGUAN AND CENTRAL**
18 **AMERICAN RELIEF ACT FOR BATTERED**
19 **SPOUSES AND CHILDREN.**

20 Section 309(c)(5)(C)(i) of the Illegal Immigration
21 Reform and Immigrant Responsibility Act of 1996, as
22 amended by section 203(a)(1) of the Nicaraguan Adjust-
23 ment and Central American Relief Act (title II of Public
24 Law 105–100, 111 Stat. 2196), is amended—

1 (1) by striking “or” at the end of subclause
2 (IV);

3 (2) by striking the period at the end of sub-
4 clause (V) and inserting a semicolon; and

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

6 “(VI) is, at the time of filing of
7 an application under subclause (I),
8 (II), (V), or (VI) of this clause, the
9 spouse or child (as defined in para-
10 graph (1) or (6) of section 101(b) of
11 the Immigration and Nationality Act,
12 8 U.S.C. 1101(b)) of an individual de-
13 scribed in subclause (I), (II) or (V) of
14 this clause and the spouse, child, or
15 child of the spouse has been battered
16 or subjected to extreme cruelty by the
17 individual described in subclause (I),
18 (II), or (V); or

19 “(VII) is, at the time of filing of
20 an application under subclause (I),
21 (II), (V), or (VII) of this clause. the
22 unmarried son or daughter of an indi-
23 vidual described in subclause (I), (II)
24 or (V) of this clause who has been
25 battered or subjected to extreme cru-

1 elty by the parent described in sub-
2 clause (I), (II), or (V) and, in the case
3 of a son or daughter who is 21 years
4 of age or older at the time the deci-
5 sion is rendered to suspend the depor-
6 tation or cancel the removal of the son
7 or daughter, the son or daughter must
8 have entered the United States on or
9 before October 1, 1990.

10 In acting on a petition filed under sub-
11 clause (VI) or (VII), the provisions set
12 forth in section 204(a)(1)(H) of the Immi-
13 gration and Nationality Act (8 U.S.C.
14 1154(a)(1)(H)) shall apply.”.

15 **SEC. 615. ACCESS TO THE HAITIAN REFUGEE IMMIGRATION**
16 **FAIRNESS ACT OF 1998 FOR BATTERED**
17 **SPOUSES AND CHILDREN.**

18 Section 902(d)(1) of the Haitian Refugee Immigra-
19 tion Fairness Act of 1998 (title IX of the Treasury and
20 General Government Appropriations Act, 1999, contained
21 in Public Law 105–277) is amended—

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

24 “(B)(i)(I) the alien is the spouse, child, or
25 unmarried son or daughter, of an alien whose

1 status is adjusted to that of an alien lawfully
2 admitted for permanent residence under sub-
3 section (a), or (II) at the time of filing of the
4 application for adjustment of status under sub-
5 section (a) or this subsection the alien is the
6 spouse, child, or unmarried son or daughter of
7 an alien whose status is adjusted to that of an
8 alien lawfully admitted for permanent residence
9 under subsection (a) and the spouse, child, son,
10 daughter or child of the spouse has been bat-
11 tered or subjected to extreme cruelty by the in-
12 dividual described in subsection (a); and

13 “(ii) in the case of such an unmarried son
14 or daughter, the son or daughter shall be re-
15 quired to establish that he or she has been
16 physically present in the United States for a
17 continuous period beginning not later than De-
18 cember 31, 1995, and ending not earlier than
19 the date the application for such adjustment is
20 filed;” and

21 (2) by adding after and below subparagraph
22 (D) the following:

23 “In acting on an application filed under this section
24 for an individual described in subparagraph
25 (B)(i)(II), the provisions set forth in section

1 204(a)(1)(H) of the Immigration and Nationality
2 Act (8 U.S.C. 1154(a)(1)(H)) shall apply.”.

3 **TITLE VII—UNUSED EMPLOY-**
4 **MENT-BASED IMMIGRANT**
5 **VISAS**

6 **SEC. 701. RECAPTURE OF UNUSED EMPLOYMENT-BASED**
7 **IMMIGRANT VISAS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, the number of employment-based visas (as de-
10 fined in subsection (c)) made available for a fiscal year
11 (beginning with fiscal year 2001) shall be increased by the
12 number described in subsection (b). Visas made available
13 under this section shall only be available in a fiscal year
14 to employment-based immigrants under paragraph (1),
15 (2), or (3) of section 203(b) of the Immigration and Na-
16 tionality Act.

17 (b) NUMBER AVAILABLE.—

18 (1) IN GENERAL.—Subject to paragraph (2),
19 the number described in this subsection is the dif-
20 ference between the number of employment-based
21 visas that were made available in fiscal year 1999
22 and 2000 and the number of such visas that were
23 actually used in such fiscal years.

24 (2) REDUCTION.—The number described in
25 paragraph (1) shall be reduced, for each fiscal year

1 after fiscal year 2001, by the cumulative number of
2 immigrant visas made available under subsection (a)
3 for previous fiscal years.

4 (3) CONSTRUCTION.—Nothing in this sub-
5 section shall be construed as affecting the applica-
6 tion of section 201(c)(3)(C) of the Immigration and
7 Nationality Act (8 U.S.C. 1151(c)(3)(C)).

8 (c) EMPLOYMENT-BASED VISAS DEFINED.—For
9 purposes of this section, the term “employment-based
10 visa” means an immigrant visa which is issued pursuant
11 to the numerical limitation under section 203(b) of the
12 Immigration and Nationality Act (8 U.S.C. 1153(b)).

13 **TITLE VIII—MISCELLANEOUS** 14 **PROVISIONS**

15 **SEC. 801. TECHNICAL AND CONFORMING CHANGE CON-** 16 **CERNING BOARD OF IMMIGRATION APPEALS.**

17 (a) DELEGATION OF POWERS AND DUTIES OF AT-
18 TORNEY GENERAL TO BOARD.—Section 103(a) (8 U.S.C.
19 1103(a)) is amended—

20 (1) by redesignating the second paragraph (8)
21 and paragraph (9) as paragraphs (9) and (10), re-
22 spectively; and

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

24 “(11) The United States Board of Immigration Ap-
25 peals of the Department of Justice shall be charged with

1 any and all responsibilities and authority in the adminis-
2 tration of this title or title II which are conferred upon
3 the Attorney General as may be delegated to the Board
4 by the Attorney General or which may be prescribed by
5 the Attorney General.”.

6 (b) DEFINITIONS.—Section 101(b)(4) (8 U.S.C.
7 1101(b)(4)) is amended—

8 (1) by inserting “(A)” after “(4)”; and

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

10 “(B) The term ‘United States appellate immigration
11 judge’ means an attorney whom the Attorney General ap-
12 points as a member of the United States Board of Immi-
13 gration Appeals within the Executive Office for Immigra-
14 tion Review, qualified to conduct specified classes of appel-
15 late proceedings. A United States appellate immigration
16 judge shall be subject to such supervision and shall per-
17 form such duties as the Attorney General shall prescribe,
18 but shall not be employed by the Immigration and Natu-
19 ralization Service.”.

20 **SEC. 802. LIMITING FORFEITURE FOR CERTAIN ASSETS**
21 **USED TO VIOLATE INA WHERE THERE WAS**
22 **NO COMMERCIAL GAIN.**

23 Section 274(b)(1) (8 U.S.C. 1324(b)(1)) is amended
24 by inserting “for the purpose of commercial advantage or
25 private financial gain” after “subsection (a)”.

1 **SEC. 803. ELIMINATION OF BAN ON STATE AND LOCAL GOV-**
2 **ERNMENTS FROM PREVENTING COMMUNICA-**
3 **TIONS WITH THE INS.**

4 (a) IN GENERAL.—Section 642 of the Illegal Immi-
5 gration Reform and Immigrant Responsibility Act of 1996
6 (8 U.S.C. 1373) is repealed.

7 (b) VERIFICATION OF ELIGIBILITY FOR FEDERAL
8 PUBLIC BENEFITS.—Section 432 of the Personal Respon-
9 sibility and Work Opportunity Reconciliation Act of 1996
10 (8 U.S.C. 1642) is repealed.

11 **SEC. 804. ELIMINATION OF AUTHORITY TO PERMIT STATE**
12 **PERSONNEL TO CARRY OUT IMMIGRATION**
13 **OFFICER FUNCTIONS.**

14 Section 287(g) (8 U.S.C. 1357(g)) is repealed.

15 **SEC. 805. PAROLE AUTHORITY.**

16 Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)(A)) is
17 amended by striking “only on a case-by-case basis for ur-
18 gent humanitarian reasons or significant public benefit”
19 and inserting “for emergent reasons or for reasons deemed
20 strictly in the public interest”.

21 **SEC. 806. ENHANCED BORDER PATROL RECRUITMENT AND**
22 **RETENTION.**

23 (a) IN GENERAL.—

24 (1) GS-11 CLASSIFICATION.—Any Border Pa-
25 trol agent classified as a GS-1896 position who
26 completes a 1-year period of service at a GS-9 grade

1 and whose current rating of record is fully successful
2 or higher shall be classified at a GS–11 grade and
3 receive pay at the minimum rate of basic pay for a
4 GS–11 position.

5 (2) NONREDUCTION.—Paragraph (1) shall not
6 be construed to—

7 (A) limit or reduce the rate of pay of any
8 Border Patrol agent; or

9 (B) reclassify a Border Patrol agent at a
10 lower classification of position.

11 (b) OFFICE OF BORDER PATROL RECRUITMENT AND
12 RETENTION.—

13 (1) ESTABLISHMENT.—Not later than 90 days
14 after the date of enactment of this Act, the Commis-
15 sioner of the Immigration and Naturalization Serv-
16 ice shall establish an Office of Border Patrol Re-
17 cruitment and Retention within the Immigration and
18 Naturalization Service.

19 (2) FUNCTIONS.—The Office of Border Patrol
20 Recruitment and Retention shall—

21 (A) develop outreach programs to identify
22 and recruit prospective Border Patrol agents;

23 (B) develop programs to retain Border Pa-
24 trol agents; and

1 (C) submit recommendations to the Com-
2 missioner of the Immigration and Naturaliza-
3 tion Service relating to pay and benefits of Bor-
4 der Patrol agents.

5 (3) REPORT TO CONGRESS.—Not later than
6 150 days after the date of enactment of this Act, the
7 Commissioner of the Immigration and Naturaliza-
8 tion Service shall submit a report to the Congress on
9 the establishment and activities of the Office of Bor-
10 der Patrol Recruitment and Retention.

11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated \$50,000,000 for fiscal
13 year 2000 and such sums as may be necessary for each
14 fiscal year thereafter to carry out this section.

15 **SEC. 807. ELIMINATION OF DENIAL OF IMMIGRATION BENE-**
16 **FITS FOR ERRONEOUS ASYLUM APPLICA-**
17 **TION.**

18 Section 208(d) (8 U.S.C. 1158(d)) is amended by
19 striking paragraphs (6) and (7).

20 **SEC. 808. AUTHORIZATION OF APPROPRIATIONS FOR IM-**
21 **PLEMENTATION OF ACT.**

22 There are authorized to be appropriated for fiscal
23 years 2000 through 2006 such sums as may be necessary
24 to implement this Act.

1 **TITLE IX—EFFECTIVE DATES**

2 **SEC. 901. GENERAL EFFECTIVE DATE.**

3 Except as provided in section 902, the amendments
4 made by this Act shall take effect on the date of the enact-
5 ment of this Act.

6 **SEC. 902. OTHER EFFECTIVE DATES.**

7 (a) TITLE I.—

8 (1) SECTION 101.—The amendment made by
9 section 101 shall take effect on the date of the en-
10 actment of this Act and shall apply to determina-
11 tions pending on or after such date with respect to
12 which—

13 (A) a final administrative decision has
14 been not been rendered as of such date; or

15 (B) such a decision has been rendered but
16 the period for seeking judicial review of the de-
17 cision has not expired.

18 (2) SECTION 102.—The amendments made by
19 section 102 shall take effect on the date of the en-
20 actment of this Act and shall apply to petitions for
21 review of determinations of the Attorney General
22 made on or after such date.

23 (3) SECTION 103.—The amendment made by
24 section 103 shall take effect on the date of the en-

1 actment of this Act and shall apply to aliens who are
2 in custody on or after such date.

3 (4) SECTIONS 104 AND 105.—The amendments
4 made by sections 104 and 105 shall take effect on
5 the date of the enactment of this Act and shall apply
6 to petitions for review filed on or after such date.

7 (5) SECTION 106.—The amendment made by
8 section 106 shall take effect on the date of the en-
9 actment of this Act and shall apply to appeals from
10 denial of a request for an order of voluntary depart-
11 ure, and requests for a stay of an alien’s removal
12 pending consideration of any claim with respect to
13 voluntary departure, filed on or after such date.

14 (6) SECTION 107.—The amendment made by
15 section 107 shall take effect on the date of the en-
16 actment of this Act and shall apply to cases in which
17 a final order of exclusion or deportation is entered
18 on or after the date of the enactment of this Act.

19 (7) SECTION 111.—The amendments made by
20 section 111 shall take effect on the date of the en-
21 actment of this Act and shall apply to removal pro-
22 ceedings pending on or after such date.

23 (8) SECTION 112.—The amendment made by
24 section 112 shall take effect on the date of the en-

1 actment of this Act and shall apply to applications
2 for admission pending on or after such date.

3 (9) SECTION 131.—

4 (A) IN GENERAL.—The amendment made
5 by section 131(a) shall take effect 120 days
6 after the date of the enactment of this Act.

7 (B) DEADLINE FOR REGULATIONS.—Pro-
8 posed regulations with respect to the amend-
9 ment made by section 131(a) shall be promul-
10 gated not later than 30 days after the date of
11 the enactment of this Act.

12 (C) APPOINTMENTS.—Members of the
13 Board of Visa Appeals under section 225 of the
14 Immigration and Nationality Act (as inserted
15 by section 131(a) of this Act) shall be ap-
16 pointed not later than 120 days after the date
17 of the enactment of this Act.

18 (b) TITLE II.—

19 (1) SECTION 201.—The amendments made by
20 section 201 shall take effect on the date of the en-
21 actment of this Act and shall apply to applications
22 pending on or after such date with respect to which
23 no final administrative decision has been rendered.

24 (2) SECTION 202.—

1 (A) SUBSECTION (a).—The amendment
2 made by section 202(a) shall apply to offenses
3 committed on or after the date of the enact-
4 ment of this Act.

5 (B) SUBSECTIONS (b) AND (c).—The
6 amendments made by subsections (b) and (c) of
7 section 202 shall apply to convictions entered
8 on or after April 24, 1996.

9 (C) SUBSECTION (d).—The amendment
10 made by section 202(d) shall apply to convic-
11 tions entered on or after the date of the enact-
12 ment of this Act.

13 (3) SECTION 203.—The amendments made by
14 section 203 shall take effect on the date of the en-
15 actment of this Act and shall apply to convictions
16 and sentences entered on or after such date.

17 (4) SECTION 204.—The amendment made by
18 section 204 shall apply to convictions entered on or
19 after the date of the enactment of this Act.

20 (5) SECTIONS 206 AND 207.—The amendments
21 made by sections 206(a) and 207 shall take effect
22 on the date of the enactment of this Act and shall
23 apply to aliens in removal proceedings on or after
24 April 1, 1997.

1 (6) SECTIONS 211 AND 214.—The amendments
2 made by sections 211 and 214 shall apply to deter-
3 minations of inadmissibility made on or after April
4 1, 1997.

5 (7) SECTION 212.—The amendments made by
6 section 212 shall apply to aliens who obtain the sta-
7 tus of a nonimmigrant under section 101(a)(15)(F)
8 of the Immigration and Nationality Act after the
9 end of the 60-day period beginning on September
10 30, 1996, including aliens whose status as such a
11 nonimmigrant is extended after the end of such pe-
12 riod.

13 (8) SECTION 213.—The amendments made by
14 section 213 shall apply to representations made on
15 or after September 30, 1996.

16 (c) TITLE III.—

17 (1) SECTION 301.—The amendments made by
18 section 301 shall take effect on the date of the en-
19 actment of this Act and shall apply to an alien who
20 is the beneficiary of a classification petition filed
21 under section 204 before, on, or after such date.

22 (2) SECTION 302.—The amendment made by
23 section 302 shall take effect on the date of the en-
24 actment of this Act and shall apply to applications

1 for admission as a refugee pending on or after such
2 date.

3 (3) SECTION 303.—The amendment made by
4 section 303 shall take effect on the date of the en-
5 actment of this Act and shall apply to asylum appli-
6 cations pending on or after such date.

7 (4) SECTION 304.—The amendments made by
8 section 304 shall take effect 90 days after the date
9 of the enactment of this Act and shall apply to ap-
10 plications pending on or after such effective date.

11 (5) SECTIONS 312(a), 313, AND 341.—The
12 amendments made by sections 312(a), 313, and 341
13 shall take effect on the date of the enactment of this
14 Act and shall apply to applications pending on or
15 after such date with respect to which no final ad-
16 ministrative decision has been rendered.

17 (6) SECTION 312(b).—The amendment made by
18 section 312(b) shall take effect on the date of the
19 enactment of this Act and shall apply to proceedings
20 pending on or after such date with respect to which
21 no final administrative decision has been rendered.

22 (7) SECTION 321.—The amendment made by
23 section 321 shall take effect on the date of the en-
24 actment of this Act and shall apply to applications

1 for adjustment of status pending on or after such
2 date.

3 (d) TITLE IV.—

4 (1) SECTION 401.—The amendments made by
5 section 401 shall take effect on the date of the en-
6 actment of this Act and shall apply to asylum appli-
7 cations pending on or after such date.

8 (2) SECTION 402.—The amendments made by
9 section 402 shall take effect on the date of the en-
10 actment of this Act and shall apply to applications
11 for asylum or admission as a refugee, and deter-
12 minations under section 241(b)(3) of the Immigra-
13 tion and Nationality Act, pending on or after such
14 date.

15 (3) SECTION 403.—The amendment made by
16 section 403 shall take effect on the date of the en-
17 actment of this Act and shall apply to applications
18 for adjustment of status pending on or after such
19 date.

20 (e) TITLE V.—

21 (1) SECTION 514.—The amendments made by
22 paragraphs (3), (4), and (8) of section 514 shall
23 take be effect as if included in the enactment of the
24 Nicaraguan Adjustment and Central American Re-
25 lief Act.

1 (2) SECTION 515.—The amendments made by
2 paragraphs (3), (4), and (8) of section 515 shall
3 take effect as if included in the enactment of the
4 Haitian Refugee Immigration Fairness Act of 1998.

5 (3) SECTION 541.—The amendment made by
6 section 541 shall be effective as if included in the
7 enactment of section 201 of the Immigration Reform
8 and Control Act of 1986 (Public Law 99–603; 100
9 Stat. 3394).

10 (f) TITLE VI.—

11 (1) SECTION 602.—

12 (A) SUBSECTION (a).—The amendments
13 made by section 602(a) shall apply to applica-
14 tions for adjustment of status pending on, or
15 made on or after, January 14, 1998.

16 (B) SUBSECTIONS (b)(1) AND (c)(1).—The
17 amendment made by subsections (b)(1) and
18 (c)(1) of section 602 shall take effect as if in-
19 cluded in the enactment of section 304 of the
20 Illegal Immigration Reform and Immigrant Re-
21 sponsibility Act of 1996 (division C of Public
22 Law 104–208, 110 Stat. 587).

23 (C) SUBSECTION (b)(2)—The amendments
24 made by section 602(b)(2) shall take effect as
25 if included in the enactment of section 309 of

1 the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (8 U.S.C. 1101
3 note).

4 (2) SECTION 607.—

5 (A) SUBSECTION (a).—The amendment
6 made by section 607(a) shall take effect as if
7 included in the enactment of section 304 of the
8 Illegal Immigration Reform and Immigrant Re-
9 sponsibility Act of 1996 (division C of Public
10 Law 104–208; 110 Stat. 587).

11 (B) SUBSECTION (b).—The amendments
12 made by section 607(b) shall take effect as if
13 included in the enactment of subtitle G of title
14 IV of the Violent Crime Control and Law En-
15 forcement Act of 1994 (Public Law 103–322;
16 108 Stat. 1953 et seq.).

17 (3) SECTION 613.—The amendment made by
18 section 613 shall be effective as if included in sub-
19 title G of title IV of the Violent Crime Control and
20 Law Enforcement Act of 1994 (Public Law 103–
21 322; 108 Stat. 1953 et seq.).

22 (g) TITLE VIII.—

23 (1) SECTION 806.—Paragraphs (1) and (2) of
24 section 806(a) shall take effect on the first day of
25 the first applicable pay period beginning on or after

1 the date that is 120 days after the date of the enact-
2 ment of this Act.

3 (2) SECTION 807.—The amendment made by
4 section 807 shall take effect on the date of the en-
5 actment of this Act and shall apply to asylum appli-
6 cations made before, on, or after such date.

○