To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2017

Mr. Labrador (for himself, Mr. Goodlatte, Mr. Collins of Georgia, Mr. Smith of Texas, Mr. Carter of Texas, and Mr. Poe of Texas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Michael Davis, Jr. and Danny Oliver in Honor of State and Local Law Enforcement Act”.
1 SEC. 2. TABLE OF CONTENTS.

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1 TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES

2 SEC. 101. DEFINITIONS AND SEVERABILITY.

3 (a) STATE DEFINED.—For the purposes of this title, the term “State” has the meaning given to such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(b) SECRETARY DEFINED.—For the purpose of this title, the term “Secretary” means the Secretary of Homeland Security.

(c) SEVERABILITY.—If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.
SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES.

(a) In General.—Subject to section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)), States, or political subdivisions of States, may enact, implement and enforce criminal penalties that penalize the same conduct that is prohibited in the criminal provisions of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), as long as the criminal penalties do not exceed the relevant Federal criminal penalties (without regard to ancillary issues such as the availability of probation or pardon). States, or political subdivisions of States, may enact, implement and enforce civil penalties that penalize the same conduct that is prohibited in the civil provisions of immigration laws (as defined in such section 101(a)(17)), as long as the civil penalties do not exceed the relevant Federal civil penalties.

(b) Law Enforcement Personnel.—Subject to section 274A(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of a State, or of a political subdivision of a State, may investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens for the purposes of enforcing the immigration laws of the United States to the same extent as Federal law enforcement personnel. Law enforcement
personnel of a State, or of a political subdivision of a
State, may also investigate, identify, apprehend, arrest, or
detain aliens for the purposes of enforcing the immigration
laws of a State or of a political subdivision of State, as
long as those immigration laws are permissible under this
section. Law enforcement personnel of a State, or of a po-
litical subdivision of a State, may not admit aliens to or
remove them from the United States.

SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-
TIONAL CRIME INFORMATION CENTER DATA-
BASE.

(a) Provision of Information to the NCIC.—
Not later than 180 days after the date of the enactment
of this Act and periodically thereafter as updates may re-
quire, the Secretary shall provide the National Crime In-
formation Center of the Department of Justice with all
information that the Secretary may possess regarding any
alien against whom a final order of removal has been
issued, any alien who has entered into a voluntary depar-
ture agreement, any alien who has violated the terms or
conditions of the alien’s admission or parole into the
United States or is unlawfully present in the United
States (as defined in section 212(a)(9)(B)(ii) of the Immi-
grantion and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii))
subject to the exceptions set forth in section
212(a)(9)(B)(iii) of the Act (8 U.S.C. 1182(a)(9)(B)(iii)), and any alien whose visa has been revoked. The National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

(1) the alien has received notice of a final order of removal;

(2) the alien has already been removed; or

(3) sufficient identifying information is available with respect to the alien.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

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

“(4) acquire, collect, classify, and preserve records of violations by aliens of the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C.
1101(a)(17)), regardless of whether any such alien has received notice of the violations or whether sufficient identifying information is available with respect to any such alien or whether any such alien has already been removed from the United States; and”.

(2) EFFECTIVE DATE.—The Attorney General and the Secretary shall ensure that the amendment made by paragraph (1) is implemented by not later than 6 months after the date of the enactment of this Act.

SEC. 104. TECHNOLOGY ACCESS.

States shall have access to Federal programs or technology directed broadly at identifying inadmissible or deportable aliens.

SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED ALIENS.

(a) Provision of Information.—In compliance with section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each State, and each political subdivision of a State, shall provide the Secretary of Homeland Security in a timely manner with the information specified in subsection (b)
with respect to each alien apprehended in the jurisdiction of the State, or in the political subdivision of the State, who is believed to be inadmissible or deportable.

(b) Information Required.—The information referred to in subsection (a) is as follows:

(1) The alien’s name.

(2) The alien’s address or place of residence.

(3) A physical description of the alien.

(4) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(5) If applicable, the alien’s driver’s license number and the State of issuance of such license.

(6) If applicable, the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document.

(7) If applicable, the license plate number, make, and model of any automobile registered to, or driven by, the alien.

(8) A photo of the alien, if available or readily obtainable.

(9) The alien’s fingerprints, if available or readily obtainable.
(c) Annual Report on Reporting.—The Secretary shall maintain and annually submit to the Congress a detailed report listing the States, or the political subdivisions of States, that have provided information under subsection (a) in the preceding year.

(d) Reimbursement.—The Secretary shall reimburse States, and political subdivisions of a State, for all reasonable costs, as determined by the Secretary, incurred by the State, or the political subdivision of a State, as a result of providing information under subsection (a).

(e) Construction.—Nothing in this section shall require law enforcement officials of a State, or of a political subdivision of a State, to provide the Secretary with information related to a victim of a crime or witness to a criminal offense.

(f) Effective Date.—This section shall take effect on the date that is 120 days after the date of the enactment of this Act and shall apply with respect to aliens apprehended on or after such date.

SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL POLICE AGENCIES THAT ASSIST IN THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) Grants for Special Equipment for Housing and Processing Certain Aliens.—From amounts made available to make grants under this section, the Sec-
retary shall make grants to States, and to political subdivi-
sions of States, for procurement of equipment, technology,
facilities, and other products that facilitate and are di-
rectly related to investigating, apprehending, arresting,
detaining, or transporting aliens who are inadmissible or
deportable, including additional administrative costs in-
curred under this title.

(b) E LIGIBILITY.—To be eligible to receive a grant
under this section, a State, or a political subdivision of
a State shall have a written policy and a practice to assist
in the enforcement of the immigration laws of the United
States in the course of carrying out the routine law en-
forcement duties of such State or political subdivision of
a State. Entities covered under this section may not have
any policy or practice that is in violation of section 642
of the Illegal Immigration Reform and Immigrant Respon-

(c) GAO AUDIT.—Not later than 3 years after the
date of the enactment of this Act, the Comptroller General
of the United States shall conduct an audit of funds dis-
tributed to States, and to political subdivisions of a State,
under subsection (a).

SEC. 107. INCREASED FEDERAL DETENTION SPACE.

(a) Construction or Acquisition of Detention
Facilities.—
(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, detention facilities in the United States for aliens detained pending removal from the United States or a decision regarding such removal. Each facility shall have a number of beds necessary to effectuate the purposes of this title.

(2) DETERMINATIONS.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Secretary.

(b) TECHNICAL AND CONFORMING AMENDMENT.—

Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS IN THE UNITED STATES APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) STATE APPREHENSION.—

(1) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 240C the following:
“CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS PRESENT IN THE UNITED STATES

“Sec. 240D. (a) Transfer of Custody by State and Local Officials.—If a State, or a political subdivision of the State, exercising authority with respect to the apprehension or arrest of an inadmissible or deportable alien submits to the Secretary of Homeland Security a request that the alien be taken into Federal custody, notwithstanding any other provision of law, regulation, or policy the Secretary may take the alien into custody not later than 48 hours (excluding Saturdays, Sundays, and holidays) after a detainer has been issued pursuant to section 111(b)(2) of the Michael Davis, Jr., and Danny Oliver in Honor of State and Local Law Enforcement Act following the conclusion of the State or local charging process or dismissal process, or if no State or local charging or dismissal process is required, the Secretary may take the alien into custody not later than 48 hours (excluding Saturdays, Sundays, and holidays) after a detainer has been issued pursuant to section 111(b)(2) of the Michael Davis, Jr., and Danny Oliver in Honor of State and Local Law Enforcement Act, in order to determine whether the alien should be detained, placed in removal proceedings, released, or removed.
“(b) Policy on Detention in Federal, Contract, State, or Local Detention Facilities.—In carrying out section 241(g)(1), Secretary of Homeland Security shall ensure that an alien arrested under this title shall be held in custody, pending the alien’s examination under this section, in a Federal, contract, State, or local prison, jail, detention center, or other comparable facility. Notwithstanding any other provision of law, regulation or policy, such facility is adequate for detention, if—

“(1) such a facility is the most suitably located Federal, contract, State, or local facility available for such purpose under the circumstances;

“(2) an appropriate arrangement for such use of the facility can be made; and

“(3) the facility satisfies the standards for the housing, care, and security of persons held in custody by a United States Marshal.

“(c) Reimbursement.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for all reasonable expenses, as determined by the Secretary, incurred by the State, or political subdivision, as a result of the incarceration and transportation of an alien who is inadmissible or deportable as described in subsections (a) and (b). Compensation provided for costs incurred under such subsections shall be the average
cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State, or of a political subdivision of a State, plus the cost of transporting the alien from the point of apprehension to the place of detention, and to the custody transfer point if the place of detention and place of custody are different.

“(d) SECURE FACILITIES.—The Secretary of Homeland Security shall ensure that aliens incarcerated pursuant to this title are held in facilities that provide an appropriate level of security.

“(e) TRANSFER.—

“(1) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transfer of apprehended aliens from the custody of States, and political subdivisions of a State, to Federal custody.

“(2) CONTRACTS.—The Secretary may enter into contracts, including appropriate private contracts, to implement this subsection.”.

(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the United States.”.
(b) GAO Audit.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of compensation to States, and to political subdivisions of a State, for the incarceration of inadmissible or deportable aliens under section 240D(a) of the Immigration and Nationality Act (as added by subsection (a)(1)).

(c) Effective Date.—Section 240D of the Immigration and Nationality Act, as added by subsection (a), shall take effect on the date of the enactment of this Act, except that subsection (e) of such section shall take effect on the date that is 120 day after the date of the enactment of this Act.

SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) Establishment of Training Manual and Pocket Guide.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish—

(1) a training manual for law enforcement personnel of a State, and of a political subdivision of a State, to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of inadmissible and de-
portable aliens in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and

(2) an immigration enforcement pocket guide for law enforcement personnel of a State, and of a political subdivision of a State, to provide a quick reference for such personnel in the course of duty.

(b) Availability.—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(e) Costs.—The Secretary shall be responsible for any costs incurred in establishing the training manual and pocket guide.

(d) Training Flexibility.—

(1) In general.—The Secretary shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness, onsite training held at State and local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-learning through a secure,
encrypted distributed learning system that has all its
servers based in the United States, is scalable, sur-
vivable, and can have a portal in place not later than
30 days after the date of the enactment of this Act,
shall be made available by the Federal Law Enforce-
ment Training Center Distributed Learning Pro-
gram for State and local law enforcement personnel.

(2) **Federal Personnel Training.**—The
training of State and local law enforcement per-
sonnel under this section shall not displace the train-
ing of Federal personnel.

(3) **Clarification.**—Nothing in this title or
any other provision of law shall be construed as
making any immigration-related training a require-
ment for, or prerequisite to, any State or local law
enforcement officer to assist in the enforcement of
Federal immigration laws.

(4) **Priority.**—In carrying out this subsection,
priority funding shall be given for existing Web-
based immigration enforcement training systems.

**SEC. 110. IMMUNITY.**

Notwithstanding any other provision of law, a law en-
forcement officer of a State or local law enforcement agen-
cy who is acting within the scope of the officer’s official
duties shall be immune, to the same extent as a Federal
law enforcement officer, from personal liability arising out of the performance of any duty described in this title, including the authorities to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody, an alien for the purposes of enforcing the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) or the immigration laws of a State or a political subdivision of a State.

SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.

(a) Continuation and Expansion.—

(1) In general.—The Secretary shall continue to operate and implement a program designed to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) Expansion.—The program shall be extended to all States. Any State that receives Federal funds for the incarceration of criminal aliens (pursuant to the State Criminal Alien Assistance Program authorized under section 241(i) of the Immigration
and Nationality Act (8 U.S.C. 1231(i)) or other similar program) shall—

(A) cooperate with officials of the program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such program as a condition of receiving such funds.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State, or of a political subdivision of a State, are authorized to—

(1) hold a criminal alien for a period of up to 48 hours (excluding Saturdays, Sundays, and holidays) after the alien has completed the alien’s sentence under State or local law in order to effectuate the transfer of the alien to Federal custody when the alien is inadmissible or deportable; and

(2) issue a detainer that would allow aliens who have served a prison sentence under State or local law to be detained by the State or local prison or jail until the Secretary can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as video conferencing, shall be used to the maximum extent prac-
ticable in order to make the program available in remote
locations. Mobile access to Federal databases of aliens and
live scan technology shall be used to the maximum extent
practicable in order to make these resources available to
State and local law enforcement agencies in remote loca-
tions.

(d) EFFECTIVE DATE.—This section shall take effect
of the date of the enactment of this Act, except that sub-
section (a)(2) shall take effect on the date that is 180 days
after such date.

SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.

Section 287(g) of the Immigration and Nationality
Act (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (1) by striking “may enter”
and all that follows through the period at the end
and inserting the following: “shall enter into a writ-
ten agreement with a State, or any political subdivi-
sion of a State, upon request of the State or political
subdivision, pursuant to which officers or employees
of the State or subdivision, who are determined by
the Secretary to be qualified to perform a function
of an immigration officer in relation to the investiga-
tion, apprehension, or detention of aliens in the
United States (including the transportation of such
aliens across State lines to detention centers), may
carry out such function at the expense of the State
or political subdivision and to extent consistent with
State and local law. No request from a bona fide
State or political subdivision or bona fide law en-
forcement agency shall be denied absent a compell-
ing reason. No limit on the number of agreements
under this subsection may be imposed. The Sec-
retary shall process requests for such agreements
with all due haste, and in no case shall take not
more than 90 days from the date the request is
made until the agreement is consummated.”;

(2) by redesignating paragraph (2) as para-
graph (5) and paragraphs (3) through (10) as para-
graphs (7) through (14), respectively;

(3) by inserting after paragraph (1) the fol-
lowing:

“(2) An agreement under this subsection shall accom-
modate a requesting State or political subdivision with re-
spect to the enforcement model or combination of models,
and shall accommodate a patrol model, task force model,
jail model, any combination thereof, or any other reason-
able model the State or political subdivision believes is best
suited to the immigration enforcement needs of its juris-
diction.
“(3) No Federal program or technology directed broadly at identifying inadmissible or deportable aliens shall substitute for such agreements, including those establishing a jail model, and shall operate in addition to any agreement under this subsection.

“(4)(A) No agreement under this subsection shall be terminated absent a compelling reason.

“(B)(i) The Secretary shall provide a State or political subdivision written notice of intent to terminate at least 180 days prior to date of intended termination, and the notice shall fully explain the grounds for termination, along with providing evidence substantiating the Secretary’s allegations.

“(ii) The State or political subdivision shall have the right to a hearing before an administrative law judge and, if the ruling is against the State or political subdivision, to appeal the ruling to the Federal Circuit Court of Appeals and, if the ruling is against the State or political subdivision, to petition the Supreme Court for certiorari.

“(C) The agreement shall remain in full effect during the course of any and all legal proceedings.”; and

(4) by inserting after paragraph (5) (as redesignated) the following:

“(6) The Secretary of Homeland Security shall make training of State and local law enforcement officers avail-
able through as many means as possible, including
through residential training at the Center for Domestic
Preparedness and the Federal Law Enforcement Training
Center, onsite training held at State or local police agen-
cies or facilities, online training courses by computer, tele-
conferencing, and videotape, or the digital video display
(DVD) of a training course or courses. Distance learning
through a secure, encrypted distributed learning system
that has all its servers based in the United States, is scal-
able, survivable, and can have a portal in place not later
than 30 days after the date of the enactment of this Act,
shall be made available by the COPS Office of the Depart-
ment of Justice and the Federal Law Enforcement Train-
ing Center Distributed Learning Program for State and
local law enforcement personnel. Preference shall be given
to private sector-based Web-based immigration enforce-
ment training programs for which the Federal Govern-
ment has already provided support to develop.”.

SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM

(SCAAAP).

Section 241(i) of the Immigration and Nationality
Act (8 U.S.C. 1231(i)) is amended—

(1) by striking “Attorney General” the first
place such term appears and inserting “Secretary of
Homeland Security”;

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(2) by striking “Attorney General” each place such term appears thereafter and inserting “Secretary”; and

(3) in paragraph (3)(A), by inserting “charged with or” before “convicted”.

SEC. 114. STATE NONCOMPLIANCE WITH ENFORCEMENT OF IMMIGRATION LAW.

(a) IN GENERAL.—Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) IN GENERAL.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit or in any way restrict, a Federal, State, or local government entity, official or other personnel from complying with the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))), or from assisting or cooperating with Federal law enforcement entities, officials or other personnel regarding the enforcement of these laws.”;

(2) by striking subsection (b) and inserting the following:
“(b) LAW ENFORCEMENT ACTIVITIES.—Notwithstanding any other provision of Federal, State, or local law, no Federal, State, or local government entity, and no individual, may prohibit, or in any way restrict, a Federal, State, or local government entity, official or other personnel from undertaking any of the following law enforcement activities as they relate to information regarding the citizenship or immigration status, lawful or unlawful, the inadmissibility or deportability, and the custody status, of any individual:

“(1) Making inquiries to any individual in order to obtain such information regarding such individual or any other individuals.

“(2) Notifying the Federal Government regarding the presence of individuals who are encountered by law enforcement officials or other personnel of a State or political subdivision of a State.

“(3) Complying with requests for such information from Federal law enforcement entities, officials or other personnel.”;

(3) by amending subsection (c) by striking “Immigration and Naturalization Service” and inserting “Department of Homeland Security”; and

(4) by adding at the end the following:

“(d) COMPLIANCE.—
“(1) Eligibility for certain grant programs.—A State, or a political subdivision of a State, that is found not to be in compliance with subsection (a) or (b) shall not be eligible to receive—

“(A) any of the funds that would otherwise be allocated to the State or political subdivision under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)), the ‘Cops on the Beat’ program under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.), or the Edward Byrne Memorial Justice Assistance Grant Program (42 U.S.C. 3750–3758); or

“(B) any other grant administered by the Department of Justice or Department of Homeland Security that is substantially related to law enforcement, terrorism, national security, or immigration or naturalization.

“(2) Transfer of custody of aliens pending removal proceedings.—The Secretary, at the Secretary’s discretion, may decline to transfer an alien in the custody of the Department of Homeland Security to a State or political subdivision of a State found not to be in compliance with subsection (a) or
(b), regardless of whether the State or political subdivision of the State has issued a writ or warrant.

“(3) TRANSFER OF CUSTODY OF CERTAIN ALIENS PROHIBITED.—The Secretary shall not transfer an alien with a final order of removal pursuant to paragraphs (1)(A) or (5) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(1)(A), (5)) to a State or a political subdivision of a State that is found not to be in compliance with subsection (a) or (b).

“(4) ANNUAL DETERMINATION.—The Secretary shall determine for each calendar year which States or political subdivision of States are not in compliance with subsection (a) or (b) and shall report such determinations to Congress by March 1 of each succeeding calendar year.

“(5) REPORTS.—The Secretary of Homeland Security shall issue a report concerning the compliance with subsections (a) and (b) of any particular State or political subdivision of a State at the request of the House or Senate Judiciary Committee. Any jurisdiction that is found not to be in compliance shall be ineligible to receive Federal financial assistance as provided in paragraph (1) for a minimum period of 1 year, and shall only become eli-
ble again after the Secretary of Homeland Security
certifies that the jurisdiction has come into compli-
ance.

“(6) **REALLOCATION.**—Any funds that are not
allocated to a State or to a political subdivision of
a State due to the failure of the State or of the po-
litical subdivision of the State to comply with sub-
section (a) or (b) shall be reallocated to States or to
political subdivisions of States that comply with both
such subsections.

“(e) **CONSTRUCTION.**—Nothing in this section shall
require law enforcement officials from States, or from po-
litical subdivisions of States, to report or arrest victims
or witnesses of a criminal offense.”.

(b) **EFFECTIVE DATE.**—The amendments made by
this section shall take effect on the date of the enactment
of this Act, except that subsection (d) of section 642 of
the Illegal Immigration Reform and Immigrant Respon-
sibility Act of 1996 (8 U.S.C. 1373), as added by this sec-
tion, shall apply only to prohibited acts committed on or
after the date of the enactment of this Act.

**SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

(a) **IN GENERAL.**—Section 287(d) of the Immigra-
tion and Nationality Act (8 U.S.C. 1357(d)) is amended
to read as follows:
“(d) Detainer of Inadmissible or Deportable Aliens.—

“(1) In general.—In the case of an individual who is arrested by any Federal, State, or local law enforcement official or other personnel for the alleged violation of any criminal or motor vehicle law, the Secretary may issue a detainer regarding the individual to any Federal, State, or local law enforcement entity, official or other personnel if the Secretary has probable cause to believe that the individual is an inadmissible or deportable alien.

“(2) Probable cause.—Probable cause is deemed to be established if—

“(A) the individual who is the subject of the detainer matches, pursuant to biometric confirmation or other Federal database records, the identity of an alien who the Secretary has reasonable grounds to believe to be inadmissible or deportable;

“(B) the individual who is the subject of the detainer is the subject of ongoing removal proceedings, including matters where a charging document has already been served;

“(C) the individual who is the subject of the detainer has previously been ordered re-
moved from the United States and such an order is administratively final;

“(D) the individual who is the subject of the detainer has made voluntary statements or provided reliable evidence that indicate that they are an inadmissible or deportable alien; or

“(E) the Secretary otherwise has reasonable grounds to believe that the individual who is the subject of the detainer is an inadmissible or deportable alien.

“(3) TRANSFER OF CUSTODY.—If the Federal, State, or local law enforcement entity, official or other personnel to whom a detainer is issued complies with the detainer and detains for purposes of transfer of custody to the Department of Homeland Security the individual who is the subject of the detainer, the Department may take custody of the individual within 48 hours (excluding weekends and holidays), but in no instance more than 96 hours, following the date that the individual is otherwise to be released from the custody of the relevant Federal, State, or local law enforcement entity.”.

(b) IMMUNITY.—

(1) IN GENERAL.—A State or a political subdivision of a State (and the officials and personnel
of the State or subdivision acting in their official capa-
cieties), and a nongovernmental entity (and its per-
sonnel) contracted by the State or political subdivi-
sion for the purpose of providing detention, acting in
compliance with a Department of Homeland Secu-
rity detainer issued pursuant to this section who
temporarily holds an alien in its custody pursuant to
the terms of a detainer so that the alien may be
taken into the custody of the Department of Home-
land Security, shall be considered to be acting under
color of Federal authority for purposes of deter-
mining their liability and shall be held harmless for
their compliance with the detainer in any suit seek-
ing any punitive, compensatory, or other monetary
damages.

(2) Federal government as defendant.—
In any civil action arising out of the compliance with
a Department of Homeland Security detainer by a
State or a political subdivision of a State (and the
officials and personnel of the State or subdivision
acting in their official capacities), or a nongovern-
ment entity (and its personnel) contracted by the
State or political subdivision for the purpose of pro-
viding detention, the United States Government
shall be the proper party named as the defendant in
the suit in regard to the detention resulting from compliance with the detainer.

(3) BAD FAITH EXCEPTION.—Paragraphs (1) and (2) shall not apply to any mistreatment of an individual by a State or a political subdivision of a State (and the officials and personnel of the State or subdivision acting in their official capacities), or a nongovernmental entity (and its personnel) contracted by the State or political subdivision for the purpose of providing detention.

(c) PRIVATE RIGHT OF ACTION.—

(1) CAUSE OF ACTION.—Any individual, or their spouses, parents, or children (if the individual is deceased), who is the victim of a murder, rape, or any felony, as defined by the State, for which an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)) has been convicted and sentenced to a term of imprisonment of at least one year, may bring an action against a State or political subdivision of a State in the appropriate Federal or State court if the State or political subdivision released the alien from custody prior to the commission of such crime as a consequence of the State or political subdivision’s declining to honor a detainer issued pursuant to sec-
tion 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)).

(2) LIMITATION ON BRINGING ACTION.—An action brought under this paragraph may not be brought later than ten years following the occurrence of the crime, or death of a person as a result of such crime, whichever occurs later.

(3) ATTORNEY’S FEE AND OTHER COSTS.—In any action or proceeding under this paragraph, the court shall allow a prevailing plaintiff a reasonable attorney’s fee as part of the costs, and include expert fees as part of the attorney’s fee.

TITLE II—NATIONAL SECURITY

SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

(1) by inserting “or the Secretary of Homeland Security” after “if the Attorney General”; and

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

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV) or (IX) of section
212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in the discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) of such Act (8 U.S.C. 1229b(e)(4)) is amended—

(1) by striking “inadmissible under” and inserting “described in”; and

(2) by striking “deportable under” and inserting “described in”.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is amended by striking “deportable under section 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “described in paragraph (2)(A)(iii) or (4) of section 237(a);”.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in the matter preceding clause (i), by inserting “or the Secretary of Homeland Security” after “Attorney General”;
(2) in clause (iii), by striking “or” at the end;

(3) in clause (iv), by striking the period at the end and inserting a semicolon;

(4) by striking the flush matter that follows after clause (iv); and

(5) by inserting after clause (iv) the following:

“(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3), unless, in the case of an alien described in subparagraph (IV) or (IX) of section 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General determines, in discretion of the Secretary or the Attorney General, that there are not reasonable grounds for regarding the alien as a danger to the security of the United States; or”.

(e) RECORD OF ADMISSION.—

(1) IN GENERAL.—Section 249 of such Act (8 U.S.C. 1259) is amended to read as follows:

“RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972

“Sec. 249. The Secretary of Homeland Security, in the discretion of the Secretary and under such regulations as the Secretary may prescribe, may enter a record of law-
ful admission for permanent residence in the case of any
alien, if no such record is otherwise available and the
alien—

“(1) entered the United States before January
1, 1972;

“(2) has continuously resided in the United
States since such entry;

“(3) has been a person of good moral character
since such entry;

“(4) is not ineligible for citizenship;

“(5) is not described in paragraph (1)(A)(iv),
(2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

“(6) did not, at any time, without reasonable
cause fail or refuse to attend or remain in attend-
ance at a proceeding to determine the alien’s inad-
missibility or deportability.

Such recordation shall be effective as of the date of ap-
proval of the application or as of the date of entry if such
entry occurred prior to July 1, 1924.”.

(2) CLERICAL AMENDMENT.—The table of con-
tents for such Act is amended by amending the item
relating to section 249 to read as follows:

“Sec. 249. Record of admission for permanent residence in the case of certain
aliens who entered the United States prior to January 1,
1972.”.

(f) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date of the enactment
of this Act and sections 208(b)(2)(A), 212(a), 240A,
240B, 241(b)(3), and 249 of the Immigration and National-
ity Act, as so amended, shall apply to—

(1) all aliens in removal, deportation, or exclu-
sion proceedings;

(2) all applications pending on, or filed after,
the date of the enactment of this Act; and

(3) with respect to aliens and applications de-
scribed in paragraph (1) or (2) of this subsection,
acts and conditions constituting a ground for exclusion,
deportation, or removal occurring or existing
before, on, or after the date of the enactment of this
Act.

SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.

(a) Definition of Good Moral Character.—

Section 101(f) of the Immigration and Nationality Act (8
U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the fol-
lowing:

“(2) one who the Secretary of Homeland Secu-

rity or Attorney General determines to have been at
any time an alien described in section 212(a)(3) or
237(a)(4), which determination may be based upon
any relevant information or evidence, including clas-
sified, sensitive, or national security information;”;

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(2) in paragraph (8), by inserting “, regardless whether the crime was classified as an aggravated felony at the time of conviction, except that the Secretary of Homeland Security or Attorney General may, in the unreviewable discretion of the Secretary or Attorney General, determine that this paragraph shall not apply in the case of a single aggravated felony conviction (other than murder, manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a minor) for which completion of the term of imprisonment or the sentence (whichever is later) occurred 10 or more years prior to the date of application” after “(as defined in subsection (a)(43))”;

(3) in the matter following paragraph (9), by striking the first sentence and inserting the following: “The fact that any person is not within any of the foregoing classes shall not preclude a discretionary finding for other reasons that such a person is or was not of good moral character. The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the period for which good moral character is required, but may take into consideration as a basis for determination the applicant’s conduct and acts at any time.”.
(b) AGGRAVATED FELONS.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note) is amended to read as follows:

“(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 29, 1990, and shall apply to convictions occurring before, on or after such date.”.

(c) TECHNICAL CORRECTION TO THE INTELLIGENCE REFORM ACT.—Section 5504(2) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is amended by striking “adding at the end” and inserting “inserting after paragraph (8)”.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act, shall apply to any act that occurred before, on, or after such date and shall apply to any application for naturalization or any other benefit or relief, or any other case or matter under the immigration laws pending on or filed after such date. The amendments made by subsection (c) shall take effect as if enacted in the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

SEC. 203. TERRORIST BAR TO NATURALIZATION.

(a) NATURALIZATION OF PERSONS ENDANGERING THE NATIONAL SECURITY.—Section 316 of the Immigra-
tion and Nationality Act (8 U.S.C. 1426) is amended by
adding at the end the following:

“(g) Persons Endangering the National Security.—No person shall be naturalized who the Secretary of Homeland Security determines to have been at any time an alien described in section 212(a)(3) or 237(a)(4). Such determination may be based upon any relevant information or evidence, including classified, sensitive, or national security information.”.

(b) Concurrent Naturalization and Removal Proceedings.—Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended by striking “other Act,” and inserting “other Act; and no application for naturalization shall be considered by the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant’s inadmissibility or deportability, or to determine whether the applicant’s lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced, except that the findings of the Secretary of Homeland Security in terminating removal proceedings, or in canceling the removal of an alien, pursuant to the provisions of this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether
such person has established his eligibility for naturalization as required by this title;”.

(c) Pending Denaturalization or Removal Proceedings.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is amended by adding at the end the following: “No petition shall be approved pursuant to this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could (whether directly or indirectly) result in the petitioner’s denaturalization or the loss of the petitioner’s lawful permanent resident status.”.

(d) Conditional Permanent Residents.—Sections 216(e) and section 216A(e) of the Immigration and Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are each amended by striking the period at the end and inserting “, if the alien has had the conditional basis removed pursuant to this section.”.

(e) District Court Jurisdiction.—Subsection 336(b) of the Immigration and Nationality Act (8 U.S.C. 1447(b)) is amended to read as follows:

“(b) If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period after the date on which the Secretary of Homeland Security completes all examinations and interviews conducted under such section, as such terms are defined
by the Secretary of Homeland Security pursuant to regulations, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary of Homeland Security for the Secretary’s determination on the application.”.

(f) CONFORMING AMENDMENT.—Section 310(c) of the Immigration and Nationality Act (8 U.S.C. 1421(c)) is amended—

(1) by inserting “, not later than the date that is 120 days after the Secretary of Homeland Security’s final determination,” after “seek”; and

(2) by striking the second sentence and inserting the following: “The burden shall be upon the petitioner to show that the Secretary’s denial of the application was not supported by facially legitimate and bona fide reasons. Except in a proceeding under section 340, notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to determine, or to review a determination of the Secretary made at any time regarding, for purposes
of an application for naturalization, whether an alien
is a person of good moral character, whether the
alien understands and is attached to the principles
of the Constitution of the United States, or whether
an alien is well disposed to the good order and hap-
piness of the United States.”.

(g) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date of the enactment
of this Act, shall apply to any act that occurred before,
on, or after such date, and shall apply to any application
for naturalization or any other case or matter under the
immigration laws pending on, or filed after, such date.

SEC. 204. DENATURALIZATION FOR TERRORISTS.

(a) IN GENERAL.—Section 340 of the Immigration
and Nationality Act is amended—

(1) by redesignating subsections (f) through (h)
as subsections (g) through (i), respectively; and

(2) by inserting after subsection (e) the fol-
lowing:

“(f)(1) If a person who has been naturalized partici-
pates in any act described in paragraph (2), the Attorney
General is authorized to find that, as of the date of such
naturalization, such person was not attached to the prin-
ciples of the Constitution of the United States and was
not well disposed to the good order and happiness of the
United States at the time of naturalization, and upon such finding shall set aside the order admitting such person to citizenship and cancel the certificate of naturalization as having been obtained by concealment of a material fact or by willful misrepresentation, and such revocation and setting aside of the order admitting such person to citizenship and such canceling of certificate of naturalization shall be effective as of the original date of the order and certificate, respectively.

“(2) The acts described in this paragraph are the following:

“(A) Any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means.

“(B) Engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section 212(a)(3)(B)).

“(C) Incitement of terrorist activity under circumstances indicating an intention to cause death or serious bodily harm.

“(D) Receiving military-type training (as defined in section 2339D(e)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a
terrorist organization (as defined in section 212(a)(3)(B)(vi)).

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

SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION FOR NATIONAL SECURITY PURPOSES.

(a) SPECIAL AGRICULTURAL WORKERS.—Section 210(b)(6) of the Immigration and Nationality Act (8 U.S.C. 1160(b)(6)) is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (A), by striking “Department of Justice,” and inserting “Department of Homeland Security,”;

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(4) by inserting after subparagraph (B) the following:

“(C) AUTHORIZED DISCLOSURES.—

“(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of in-
formation furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

“(ii) NATIONAL SECURITY PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.”; and

(5) in subparagraph (D), as redesignated, by striking “Service” and inserting “Department of Homeland Security”.

(b) ADJUSTMENT OF STATUS UNDER THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)), is amended—

(1) by striking “Attorney General” each place such term appears and inserting “Secretary of Homeland Security”; 

(2) in subparagraph (A), by striking “Department of Justice,” and inserting “Department of Homeland Security,”;
(3) by amending subparagraph (C) to read as follows:

“(C) Authorized disclosures.—

“(i) Census purpose.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of information furnished under this section in the same manner and circumstances as census information may be disclosed under section 8 of title 13, United States Code.

“(ii) National security purpose.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing, use, publication, or release of information furnished under this section in any investigation, case, or matter, or for any purpose, relating to terrorism, national intelligence or the national security.”; and

(4) in subparagraph (D)(i), striking “Service” and inserting “Department of Homeland Security”.

SEC. 206. BACKGROUND AND SECURITY CHECKS.

(a) Requirement To Complete Background and Security Checks.—Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) is amended by adding at the end the following:
“(h) Notwithstanding any other provision of law (statutory or nonstatutory), including but not limited to section 309 of Public Law 107–173, sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, neither the Secretary of Homeland Security, the Attorney General, nor any court may—

“(1) grant, or order the grant of or adjudication of an application for adjustment of status to that of an alien lawfully admitted for permanent residence;

“(2) grant, or order the grant of or adjudication of an application for United States citizenship or any other status, relief, protection from removal, employment authorization, or other benefit under the immigration laws;

“(3) grant, or order the grant of or adjudication of, any immigrant or nonimmigrant petition; or

“(4) issue or order the issuance of any documentation evidencing or related to any such grant, until—

“(A) such background and security checks as the Secretary may in the Secretary’s discretion require have been completed or updated to the satisfaction of the Secretary; and
“(B) any suspected or alleged materially false information, material misrepresentation or omission, concealment of a material fact, fraud or forgery, counterfeiting, or alteration, or falsification of a document, as determined by the Secretary, relating to the adjudication of an application or petition for any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this subsection has been investigated and resolved to the Secretary’s satisfaction.

“(i) Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to require any of the acts in subsection (h) to be completed by a certain time or award any relief for failure to complete or delay in completing such acts.”.

(b) CONSTRUCTION.—

(1) In general.—Chapter 4 of title III of the Immigration and Nationality Act (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:
“CONSTRUCTION

“Sec. 362. (a) In General.—Nothing in this Act or any other law, except as provided in subsection (d), shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or a consular officer to grant any application, approve any petition, or grant or continue any relief, protection from removal, employment authorization, or any other status or benefit under the immigration laws by, to, or on behalf of—

“(1) any alien deemed by the Secretary to be described in section 212(a)(3) or section 237(a)(4); or

“(2) any alien with respect to whom a criminal or other proceeding or investigation is open or pending (including, but not limited to, issuance of an arrest warrant, detainer, or indictment), where such proceeding or investigation is deemed by the official described in subsection (a) to be material to the alien’s eligibility for the status or benefit sought.

“(b) Denial or Withholding of Adjudication.—An official described in subsection (a) may, in the discretion of the official, deny (with respect to an alien described in paragraph (1) or (2) of subsection (a)) or withhold adjudication of pending resolution of the inves-
tigation or case (with respect to an alien described in subsection (a)(2) of this section) any application, petition, relief, protection from removal, employment authorization, status or benefit.

“(c) JURISDICTION.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to review a decision to deny or withhold adjudication pursuant to subsection (b) of this section.

“(d) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This section does not limit or modify the applicability of section 241(b)(3) or the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject to any reservations, understandings, declarations and provisos contained in the United States Senate resolution of ratification of the Convention, as implemented by section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with respect to an alien otherwise eligible for protection under such provisions.”.
(2) Clerical Amendment.—The table of contents for such Act is amended by inserting after the item relating to section 361 the following:

“Sec. 362. Construction.”.

(e) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications for immigration benefits pending on or after such date.

SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004.

(a) Transit Without Visa Program.—Section 7209(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking “the Secretary, in conjunction with the Secretary of Homeland Security,” and inserting “the Secretary of Homeland Security, in consultation with the Secretary of State,”.

(b) Technology Acquisition and Dissemination Plan.—Section 7201(c)(1) of such Act is amended by inserting “and the Department of State” after “used by the Department of Homeland Security”.

SEC. 208. REVOCATION OR DENIAL OF PASSPORTS AND PASSPORT CARDS TO TERRORISTS.

The Act entitled “An Act to regulate the issue and validity of passports, and for other purposes”, approved
July 3, 1926 (22 U.S.C. 211a et seq.) (commonly known as the “Passport Act of 1926”), is amended by adding at the end the following:

“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT AND PASSPORT CARD.

“(a) ISSUANCE.—Subject to subsection (c), the Secretary of State, in the Secretary’s discretion, may decline to issue a passport or passport card to any national of the United States who—

“(1) has been convicted under chapter 113B of title 18, United States Code; or

“(2) the Secretary has determined would be described, if the national were an alien—

“(A) in subclause (IV)(aa) or (VIII) of section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)), but only to the extent that the relevant terrorist organization is described in subclause (I) or (II) of section 212(a)(3)(B)(vi) of such Act (8 U.S.C. 1182(a)(3)(B)(vi));


“(C) in subclause (IV)(bb), (V)(bb), or (VI)(ee) of section 212(a)(3)(B)(iv) of such Act (8 U.S.C. 1182(a)(3)(B)(iv)).
“(b) Revocation.—Subject to subsection (c), the Secretary of State, in the Secretary’s discretion, may revoke a passport or passport card previously issued to any United States national described in subsection (a).

“(c) Limitation for Return to United States.—

“(1) Declination of issue.—If the Secretary of State declines to issue a passport or passport card pursuant to subsection (a) to a national of the United States who is not physically present in the United States, the Secretary shall issue, at the national’s request, a passport or passport card only valid for direct return to the United States.

“(2) Revocation.—If the Secretary of State revokes a passport or passport card pursuant to subsection (b) to a national of the United States who is not physically present in the United States, the Secretary shall, at the national’s request, issue a passport or passport card only valid for direct return to the United States.

“(d) Right of Review.—Any person who, in accordance with this section, is denied issuance of a passport or passport card, or has their passport or passport card revoked, by the Secretary of State, may request a due
process hearing not later than 60 days after receiving such notice of the nonissuance or revocation.

“(e) DEFINITIONS.—For purposes of this section:

“(1) ALIEN.—The term ‘alien’ has the meaning given such term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

“(2) NATIONAL OF THE UNITED STATES.—The term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of such Act (8 U.S.C. 1101(a)(22)).”.

SEC. 209. CLARIFICATION OF TERRORISM DEFINITIONS.


(1) in subclause (I), by striking “death or serious bodily injury, a terrorist activity;” and inserting “death, serious bodily injury, or substantial damage to property, a terrorist activity”;

(2) in subclause (V)(cc), by striking “or” at the end;

(3) in subclause (VI)(dd), by striking the period at the end and inserting “; or”; and

(4) by adding at the end the following:

“(VII) to threaten, attempt, or conspire to do any of the acts de-
scribed in subclauses (I) through (VI).”.

**TITLE III—REMOVAL OF CRIMINAL ALIENS**

**SEC. 301. DEFINITION OF AGGRAVATED FELONY.**

(a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking “The term ‘aggravated felony’ means—” and inserting “Notwithstanding any other provision of law, the term ‘aggravated felony’ applies to an offense described in this paragraph, whether in violation of Federal or State law, or in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment for the offense is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—”;

(2) in subparagraph (A), by striking “murder, rape, or sexual abuse of a minor;” and inserting “murder, manslaughter, homicide, rape (whether the victim was conscious or unconscious), or any offense
of a sexual nature involving a victim under the age
of 18 years;”;

(3) in subparagraph (I), by striking “or 2252”
and inserting “2252, or 2252A”;

(4) in subparagraph (F), by striking “at least
one year;” and inserting “is at least one year, except
that if the conviction records do not conclusively es-
tablish whether a crime constitutes a crime of vio-
ience, the Attorney General may consider other evi-
dence related to the conviction that clearly estab-
ishes that the conduct for which the alien was en-
gaged constitutes a crime of violence;”;

(5) by striking subparagraph (G) and inserting
the following:

“(G) a theft offense under State or Federal law
(including theft by deceit, theft by fraud, and receipt
of stolen property) or burglary offense under State
or Federal law for which the term of imprisonment
is at least one year, except that if the conviction
records do not conclusively establish whether a crime
constitutes a theft or burglary offense, the Secretary
of Homeland Security may consider other evidence
related to the conviction that clearly establishes that
the conduct for which the alien was engaged con-
stitutes a theft or burglary offense;”;}
(6) in subparagraph (N)—

(A) by striking “paragraph (1)(A) or (2)
of”; and

(B) by inserting a semicolon at the end;

(7) in subparagraph (O), by striking “section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph” and inserting “section 275 or 276 for which the term of imprisonment is at least 1 year”;

(8) in subparagraph (P)—

(A) by striking “(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)” and inserting “which is described in any section of chapter 75 of title 18, United States Code, and”; and

(B) by striking “, except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose for assisting, abetting, or aiding only the alien’s spouse, child, or parent
(and no other individual) to violate a provision of this Act’’;

(9) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense described in this paragraph” and inserting “attempting or conspiring to commit an offense described in this paragraph, or aiding, abetting, counseling, procuring, commanding, inducing, or soliciting the commission of such an offense”; and

(10) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—

(1) IN GENERAL.—The amendments made by subsection (a)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any act or conviction that occurred before, on, or after such date.

(2) APPLICATION OF IIRIRA AMENDMENTS.—

627) shall continue to apply, whether the conviction
was entered before, on, or after September 30, 1996.

SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-
VICTED OF AGGRAVATED FELONIES OR
OTHER SERIOUS OFFENSES.

(a) INADMISSIBILITY ON CRIMINAL AND RELATED
GROUNDS; WAIVERS.—Section 212 of the Immigration
and Nationality Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(2)(A)(i)—

(A) in subclause (I), by striking “or” at
the end;

(B) in subclause (II), by adding “or” at
the end; and

(C) by inserting after subclause (II) the
following:

“(III) a violation of (or a con-
spiration or attempt to violate) an of-
fense described in section 208 of the
Social Security Act (42 U.S.C. 408)
(relating to social security account
numbers or social security cards) or
section 1028 of title 18, United States
Code (relating to fraud and related
activity in connection with identifica-
tion documents, authentication fea-
tures, and information),”;

(2) by adding at the end of subsection (a)(2) the following:

“(J) PROCUREMENT OF CITIZENSHIP OR
NATURALIZATION UNLAWFULLY.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of, a violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section 1425 of title 18, United States Code (relating to the procurement of citizenship or naturalization unlawfully) is inad-
missible.

“(K) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted under any law of, or who admits having committed or admits committing acts which constitute the es-
sential elements of, purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or ac-
cessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United

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States Code) in violation of any law is inadmissible.

“(L) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated felony at any time is inadmissible.

“(M) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION ORDERS, CRIMES AGAINST CHILDREN.—

“(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—Any alien who at any time is convicted of, or who admits having committed or admits committing acts which constitute the essential elements of, a crime of domestic violence, a crime of stalking, or a crime of child abuse, child neglect, or child abandonment is inadmissible. For purposes of this clause, the term ‘crime of domestic violence’ means any crime of violence (as defined in section 16 of title 18, United States Code) against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a
spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual’s acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local or foreign government.

“(ii) Violators of Protection Orders.—Any alien who at any time is enjoined under a protection order issued by a court and whom the court determines has engaged in conduct that violates the portion of a protection order that involves protection against credible threats of violence, repeated harassment, or bodily injury to the person or persons for whom the protection order was issued is inadmissible. For purposes of this clause, the term ‘protection order’ means any injunction issued for the purpose of preventing violent or threatening acts of domestic violence, including temporary or final orders issued by
civil or criminal courts (other than support
or child custody orders or provisions)
whether obtained by filing an independent
action or as a independent order in an-
other proceeding.

“(iii) WAIVER AUTHORIZED.—The
waiver authority available under section
237(a)(7) with respect to section
237(a)(2)(E)(i) shall be available on a
comparable basis with respect to this sub-
paragraph.

“(iv) CLARIFICATION.—If the convic-
tion records do not conclusively establish
whether a crime of domestic violence con-
stitutes a crime of violence (as defined in
section 16 of title 18, United States Code),
the Attorney General may consider other
evidence related to the conviction that
clearly establishes that the conduct for
which the alien was engaged constitutes a
crime of violence.”; and

(3) in subsection (h)—

(A) by striking “The Attorney General
may, in his discretion, waive the application of
subparagraphs (A)(i)(I), (B), (D), and (E) of
subsection (a)(2)” and inserting “The Attorney
General or the Secretary of Homeland Security
may, in the discretion of the Attorney General
or the Secretary, waive the application of sub-
paragraphs (A)(i)(I), (III), (B), (D), (E), (K),
and (M) of subsection (a)(2)”;

(B) by striking “a criminal act involving
torture.” and inserting “a criminal act involving
torture, or has been convicted of an aggravated
felony.”;

(C) by striking “if either since the date of
such admission the alien has been convicted of
an aggravated felony or the alien” and inserting
“if since the date of such admission the alien”; and

(D) by inserting “or Secretary of Home-
land Security” after “the Attorney General” each place it appears.

(b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
237(a)(3)(B) of the Immigration and Nationality Act (8
U.S.C. 1227(a)(3)(B)) is amended—

(1) in clause (ii), by striking “or” at the end;

(2) in clause (iii), by inserting “or” at the end;

and

(3) by inserting after clause (iii) the following:
“(iv) of a violation of, or an attempt or a conspiracy to violate, section 1425(a) or (b) of title 18 (relating to the procurement of citizenship or naturalization unlawfully),”.

(c) Deportability; Other Criminal Offenses.—
Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

“(G) Fraud and related activity associated with Social Security Act benefits and identification documents.—Any alien who at any time after admission has been convicted of a violation of (or a conspiracy or attempt to violate) section 208 of the Social Security Act (42 U.S.C. 408) (relating to social security account numbers or social security cards) or section 1028 of title 18, United States Code (relating to fraud and related activity in connection with identification) is deportable.”.

(d) Effective Date.—The amendments made by this section shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and
(2) to all aliens who are required to establish
admissibility on or after such date, and in all re-
moval, deportation, or exclusion proceedings that are
filed, pending, or reopened, on or after such date.

(e) CONSTRUCTION.—The amendments made by sub-
section (a) shall not be construed to create eligibility for
relief from removal under former section 212(c) of the Im-
migration and Nationality Act where such eligibility did
not exist before these amendments became effective.

SEC. 303. ESPIONAGE CLARIFICATION.

Section 212(a)(3)(A) of the Immigration and Nation-
ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read
as follows:

“(A) IN GENERAL.—Any alien who a con-
sular officer, the Attorney General, or the Sec-
retary of Homeland Security knows, or has rea-
sonable ground to believe, seeks to enter the
United States to engage solely, principally, or
incidentally in, or who is engaged in, or with re-
spect to clauses (i) and (iii) of this subpara-
graph has engaged in—

“(i) any activity—

“(I) to violate any law of the
United States relating to espionage or
sabotage; or
“(II) to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information;
“(ii) any other unlawful activity; or
“(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means;

is inadmissible.”.

SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY, CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5), in subparagraph (B), by striking “(y)(2)” and all that follows and inserting “(y), is in the United States not as an alien lawfully admitted for permanent residence;”;

(2) in subsection (g)(5), in subparagraph (B), by striking “(y)(2)” and all that follows and inserting “(y), is in the United States not as an alien lawfully admitted for permanent residence;”; and

(3) in subsection (y)—

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(A) in the header, by striking “ADMITTED UNDER NONIMMIGRANT VISAS.—” and inserting “NOT LAWFULLY ADMITTED FOR PERMANENT RESIDENCE.—”;

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) the term ‘lawfully admitted for permanent residence’ has the same meaning as in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)).”;

(C) in paragraph (2), by striking “under a nonimmigrant visa” and inserting “but not lawfully admitted for permanent residence”; and

(D) in paragraph (3)(A), by striking “admitted to the United States under a nonimmigrant visa” and inserting “lawfully admitted to the United States but not as an alien lawfully admitted for permanent residence”.

SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

Section 3291 of title 18, United States Code, is amended by striking “No person” and all that follows through the period at the end and inserting the following:

“No person shall be prosecuted, tried, or punished for a
violation of any section of chapters 69 (relating to nationality and citizenship offenses) and 75 (relating to passport, visa, and immigration offenses), or for a violation of any criminal provision of sections 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act, or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information is filed within ten years after the commission of the offense.”.

SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION OF RACKETEERING ACTIVITY.

Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other documents)” and inserting “sections 1541–1548 (relating to passports and visas)”.

SEC. 307. PRECLUDING ASYLEE AND REFUGEE ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF INADMISSIBILITY AND DEPORTABILITY.

(a) GROUNDS FOR INADMISSIBILITY.—Section 209(c) of the Immigration and Nationality Act (8 U.S.C. 1159(c)) is amended by striking “any other provision of such section (other than paragraph (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph (3))” and inserting “paragraph (1) of such section”.

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(b) GROUNDS FOR DEPORTABILITY.—Section 209 of the Immigration and Nationality Act (8 U.S.C. 1159) is amended by adding at the end the following:

“(d) COORDINATION WITH GROUNDS FOR DEPORTABILITY.—An alien may not adjust status under this section if the alien is deportable under any provision of section 237 except subsection (a)(5) of such section.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply—

(1) to any act that occurred before, on, or after the date of the enactment of this Act; and

(2) to all aliens who are required to establish admissibility on or after such date, and in all removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 308. PRECLUDING WITHHOLDING OF REMOVAL FOR AGGRAVATED FELONS.

(a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)), as amended by section 201, is further amended by inserting after clause (v), as inserted by section 201, the following:

“(vi) the alien is convicted of an aggravated felony.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply—
(1) to any act that occurred before, on, or after
the date of the enactment of this Act; and

(2) to all aliens who are required to establish
admissibility on or after such date, and in all re-
moval, deportation, or exclusion proceedings that are
filed, pending, or reopened on or after such date.

SEC. 309. INADMISSIBILITY AND DEPORTABILITY OF

DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43) of the Immi-
gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
amended by this Act) is further amended—

(1) in subparagraph (T), by striking “and”;

(2) in subparagraph (U), by striking the period
at the end and inserting “; and”; and

(3) by inserting after subparagraph (U) the fol-
lowing:

“(V)(i) a single conviction for driving while
intoxicated (including a conviction for driving
while under the influence of or impairment by
alcohol or drugs), when such impaired driving
was a cause of the serious bodily injury or
death of another person; or

“(ii) a second or subsequent conviction for
driving while intoxicated (including a conviction
for driving under the influence of or impaired by alcohol or drugs.”.

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

**SEC. 310. DETENTION OF DANGEROUS ALIENS.**

(a) **In General.**—Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”;

(2) in paragraph (1), by amending subparagraph (B) to read as follows:

“(B) **Beginning of Period.**—The removal period begins on the latest of the following:

“(i) The date the order of removal becomes administratively final.

“(ii) If the alien is not in the custody of the Secretary on the date the order of removal becomes administratively final, the date the alien is taken into such custody.
“(iii) If the alien is detained or confined (except under an immigration process) on the date the order of removal becomes administratively final, the date the alien is taken into the custody of the Secretary, after the alien is released from such detention or confinement.”;

(3) in paragraph (1), by amending subparagraph (C) to read as follows:

“(C) SUSPENSION OF PERIOD.—

“(i) EXTENSION.—The removal period shall be extended beyond a period of 90 days and the Secretary may, in the Secretary’s sole discretion, keep the alien in detention during such extended period if—

“(I) the alien fails or refuses to make all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s
removal that is subject to an order of removal;

“(II) a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal;

“(III) the Secretary transfers custody of the alien pursuant to law to another Federal agency or a State or local government agency in connection with the official duties of such agency; or

“(IV) a court or the Board of Immigration Appeals orders a remand to an immigration judge or the Board of Immigration Appeals, during the time period when the case is pending a decision on remand (with the removal period beginning anew on the date that the alien is ordered removed on remand).

“(ii) RENEWAL.—If the removal period has been extended under clause (C)(i),
a new removal period shall be deemed to have begun on the date—

“(I) the alien makes all reasonable efforts to comply with the removal order, or to fully cooperate with the Secretary’s efforts to establish the alien’s identity and carry out the removal order;

“(II) the stay of removal is no longer in effect; or

“(III) the alien is returned to the custody of the Secretary.

“(iii) MANDATORY DETENTION FOR CERTAIN ALIENS.—In the case of an alien described in subparagraphs (A) through (D) of section 236(c)(1), the Secretary shall keep that alien in detention during the extended period described in clause (i).

“(iv) SOLE FORM OF RELIEF.—An alien may seek relief from detention under this subparagraph only by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. No alien whose period of detention is extended under this sub-
paragraph shall have the right to seek release on bond.”;

(4) in paragraph (3)—

(A) by adding after “If the alien does not leave or is not removed within the removal period” the following: “or is not detained pursuant to paragraph (6) of this subsection”; and

(B) by striking subparagraph (D) and inserting the following:

“(D) to obey reasonable restrictions on the alien’s conduct or activities that the Secretary prescribes for the alien, in order to prevent the alien from absconding, for the protection of the community, or for other purposes related to the enforcement of the immigration laws.”;

(5) in paragraph (4)(A), by striking “paragraph (2)” and inserting “subparagraph (B)”; and

(6) by striking paragraph (6) and inserting the following:

“(6) Additional rules for detention or release of certain aliens.—

“(A) Detention review process for cooperative aliens established.—For an alien who is not otherwise subject to mandatory detention, who has made all reasonable efforts
to comply with a removal order and to cooperate fully with the Secretary of Homeland Security’s efforts to establish the alien’s identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien’s departure, and who has not conspired or acted to prevent removal, the Secretary shall establish an administrative review process to determine whether the alien should be detained or released on conditions. The Secretary shall make a determination whether to release an alien after the removal period in accordance with subparagraph (B). The determination shall include consideration of any evidence submitted by the alien, and may include consideration of any other evidence, including any information or assistance provided by the Secretary of State or other Federal official and any other information available to the Secretary of Homeland Security pertaining to the ability to remove the alien.

“(B) AUTHORITY TO DETAIN BEYOND REMOVAL PERIOD.—

“(i) IN GENERAL.—The Secretary of Homeland Security, in the exercise of the
Secretary’s sole discretion, may continue to detain an alien for 90 days beyond the removal period (including any extension of the removal period as provided in paragraph (1)(C)). An alien whose detention is extended under this subparagraph shall have no right to seek release on bond.

“(ii) SPECIFIC CIRCUMSTANCES.—The Secretary of Homeland Security, in the exercise of the Secretary’s sole discretion, may continue to detain an alien beyond the 90 days authorized in clause (i)—

“(I) until the alien is removed, if the Secretary, in the Secretary’s sole discretion, determines that there is a significant likelihood that the alien—

“(aa) will be removed in the reasonably foreseeable future; or

“(bb) would be removed in the reasonably foreseeable future, or would have been removed, but for the alien’s failure or refusal to make all reasonable efforts to comply with the removal order, or to cooperate fully with the
Secretary’s efforts to establish
the alien’s identity and carry out
the removal order, including
making timely application in
good faith for travel or other doc-
ments necessary to the alien’s
departure, or conspires or acts to
prevent removal;
“(II) until the alien is removed,
if the Secretary of Homeland Security
certifies in writing—
“(aa) in consultation with
the Secretary of Health and
Human Services, that the alien
has a highly contagious disease
that poses a threat to public safe-
ty;
“(bb) after receipt of a writ-
ten recommendation from the
Secretary of State, that release
of the alien is likely to have seri-
ous adverse foreign policy con-
sequences for the United States;
“(cc) based on information
available to the Secretary of
Homeland Security (including classified, sensitive, or national security information, and without regard to the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States; or

“(dd) that the release of the alien will threaten the safety of the community or any person, conditions of release cannot reasonably be expected to ensure the safety of the community or any person, and either (AA) the alien has been convicted of one or more aggravated felonies (as defined in section 101(a)(43)(A)) or of one or more crimes identified by the Secretary of Homeland Security by regulation, or of one or more attempts or conspiracies to commit any such aggravated felonies or such identified
crimes, if the aggregate term of imprisonment for such attempts or conspiracies is at least 5 years; or (BB) the alien has committed one or more crimes of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, the alien is likely to engage in acts of violence in the future; or

“(III) pending a certification under subclause (II), so long as the Secretary of Homeland Security has initiated the administrative review process not later than 30 days after the expiration of the removal period (including any extension of the removal period, as provided in paragraph (1)(C)).

“(iii) NO RIGHT TO BOND HEARING.— An alien whose detention is extended under
this subparagraph shall have no right to
seek release on bond, including by reason
of a certification under clause (ii)(II).

“(C) RENEWAL AND DELEGATION OF CER-
TIFICATION.—

“(i) RENEWAL.—The Secretary of
Homeland Security may renew a certifi-
cation under subparagraph (B)(ii)(II)
every 6 months, after providing an oppor-
tunity for the alien to request reconsider-
ation of the certification and to submit
documents or other evidence in support of
that request. If the Secretary does not
renew a certification, the Secretary may
not continue to detain the alien under sub-
paragraph (B)(ii)(II).

“(ii) DELEGATION.—Notwithstanding
section 103, the Secretary of Homeland
Security may not delegate the authority to
make or renew a certification described in
item (bb), (cc), or (dd) of subparagraph
(B)(ii)(II) below the level of the Director
of Immigration and Customs Enforcement.

“(iii) HEARING.—The Secretary of
Homeland Security may request that the
Attorney General or the Attorney General’s
designee provide for a hearing to make the
determination described in item (dd)(BB)
of subparagraph (B)(ii)(II).

“(D) RELEASE ON CONDITIONS.—If it is
determined that an alien should be released
from detention by a Federal court, the Board of
Immigration Appeals, or if an immigration
d judge orders a stay of removal, the Secretary of
Homeland Security, in the exercise of the Sec-
retary’s discretion, may impose conditions on
release as provided in paragraph (3).

“(E) REDETENTION.—The Secretary of
Homeland Security, in the exercise of the Sec-
retary’s discretion, without any limitations
other than those specified in this section, may
again detain any alien subject to a final re-
moval order who is released from custody, if re-
moval becomes likely in the reasonably foresee-
able future, the alien fails to comply with the
conditions of release, or to continue to satisfy
the conditions described in subparagraph (A),
or if, upon reconsideration, the Secretary, in
the Secretary’s sole discretion, determines that
the alien can be detained under subparagraph
(B). This section shall apply to any alien re-
turned to custody pursuant to this subpara-
graph, as if the removal period terminated on
the day of the redetention.

“(F) REVIEW OF DETERMINATIONS BY
SECRETARY.—A determination by the Secretary
under this paragraph shall not be subject to re-
view by any other agency.”.

(b) DETENTION OF ALIENS DURING REMOVAL PRO-
CEEDINGS.—

(1) CLERICAL AMENDMENT.—(A) Section 236
of the Immigration and Nationality Act (8 U.S.C.
1226) is amended by striking “Attorney General”
each place it appears (except in the second place
that term appears in section 236(a)) and inserting
“Secretary of Homeland Security”.

(B) Section 236(a) of such Act (8 U.S.C.
1226(a)) is amended by inserting “the Secretary of
Homeland Security or” before “the Attorney Gen-
eral—”.

(C) Section 236(e) of such Act (8 U.S.C.
1226(e)) is amended by striking “Attorney Gen-
eral’s” and inserting “Secretary of Homeland Secu-
rity’s”.
(2) **LENGTH OF DETENTION.**—Section 236 of such Act (8 U.S.C. 1226) is amended by adding at the end the following:

“(f) **LENGTH OF DETENTION.**—

“(1) **IN GENERAL.**—Notwithstanding any other provision of this section, an alien may be detained, and for an alien described in subsection (c) shall be detained, under this section without time limitation, except as provided in subsection (h), during the pendency of removal proceedings.

“(2) **CONSTRUCTION.**—The length of detention under this section shall not affect detention under section 241.”.

(3) **DETENTION OF CRIMINAL ALIENS.**—Section 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is amended—

(A) in subparagraph (C), by striking “or” at the end:

(B) by inserting after subparagraph (D) the following:

“(E) is unlawfully present in the United States and has been convicted for driving while intoxicated (including a conviction for driving while under the influence or impaired by alcohol or drugs) without regard to whether the convic-
tion is classified as a misdemeanor or felony under State Law, or

“(F)(i)(I) is inadmissible under section 212(a)(6)(i),

“(II) is deportable by reason of a visa revocation under section 221(i), or

“(III) is deportable under section 237(a)(1)(C)(i), and

“(ii) has been arrested or charged with a particularly serious crime or a crime resulting in the death or serious bodily injury (as defined in section 1365(h)(3) of title 18, United States Code) of another person;”; and

(C) by amending the matter following subparagraph (F) (as added by subparagraph (B) of this paragraph) to read as follows:

“any time after the alien is released, without regard to whether an alien is released related to any activity, offense, or conviction described in this paragraph; to whether the alien is released on parole, supervised release, or probation; or to whether the alien may be arrested or imprisoned again for the same offense. If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary,
then when the alien is brought to the attention of
the Secretary or when the Secretary determines it is
practical to take such alien into custody, the Sec-
retary shall take such alien into custody.”.

(4) Administrative review.—Section 236 of
the Immigration and Nationality Act (8 U.S.C.
1226), as amended by paragraph (2), is further
amended by adding at the end the following:
“(g) Administrative review.—The Attorney Gen-
eral’s review of the Secretary’s custody determinations
under subsection (a) for the following classes of aliens
shall be limited to whether the alien may be detained, re-
leased on bond (of at least $1,500 with security approved
by the Secretary), or released with no bond:
“(1) Aliens in exclusion proceedings.
“(2) Aliens described in section 212(a)(3) or
237(a)(4).
“(3) Aliens described in subsection (e).
“(h) Release on Bond.—
“(1) In general.—An alien detained under
subsection (a) may seek release on bond. No bond
may be granted except to an alien who establishes
by clear and convincing evidence that the alien is not
a flight risk or a danger to another person or the
community.
“(2) Certain aliens ineligible.—No alien detained under subsection (e) may seek release on bond.”.

(5) Clerical amendments.—(A) Section 236(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)(B)) is amended by striking “conditional parole” and inserting “recognizance”.

(B) Section 236(b) of such Act (8 U.S.C. 1226(b)) is amended by striking “parole” and inserting “recognizance”.

(c) Severability.—If any of the provisions of this section or any amendment by this section, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this section and of amendments made by this section, and the application of the provisions and of the amendments made by this section to any other person or circumstance shall not be affected by such holding.

(d) Effective dates.—

(1) The amendments made by subsection (a) shall take effect upon the date of the enactment of this Act, and section 241 of the Immigration and Nationality Act, as so amended, shall in addition apply to—
(A) all aliens subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(B) acts and conditions occurring or existing before, on, or after such date.

(2) The amendments made by subsection (b) shall take effect upon the date of the enactment of this Act, and section 236 of the Immigration and Nationality Act, as so amended, shall in addition apply to any alien in detention under provisions of such section on or after such date.

SEC. 311. GROUNDS OF INADMISSIBILITY AND DEPORTABILITY FOR ALIEN GANG MEMBERS.

(a) Definition of Gang Member.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(53)(A) The term ‘criminal gang’ means an ongoing group, club, organization, or association of five or more persons that has as one of its primary purposes the commission of one or more of the following criminal offenses and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the At-
torney General, as meeting these criteria. The offenses de-
scribed, whether in violation of Federal or State law or
foreign law and regardless of whether the offenses oc-
curred before, on, or after the date of the enactment of
this paragraph, are the following:

“(i) A ‘felony drug offense’ (as defined in sec-
tion 102 of the Controlled Substances Act (21
U.S.C. 802)).

“(ii) An offense under section 274 (relating to
bringing in and harboring certain aliens), section
277 (relating to aiding or assisting certain aliens to
enter the United States), or section 278 (relating to
importation of alien for immoral purpose).

“(iii) A crime of violence (as defined in section
16 of title 18, United States Code).

“(iv) A crime involving obstruction of justice,
tampering with or retaliating against a witness, vic-
tim, or informant, or burglary.

“(v) Any conduct punishable under sections
1028 and 1029 of title 18, United States Code (re-
lating to fraud and related activity in connection
with identification documents or access devices), sec-
tions 1581 through 1594 of such title (relating to
peonage, slavery and trafficking in persons), section
1952 of such title (relating to interstate and foreign
travel or transportation in aid of racketeering enter-
prises), section 1956 of such title (relating to the
laundering of monetary instruments), section 1957
of such title (relating to engaging in monetary trans-
actions in property derived from specified unlawful
activity), or sections 2312 through 2315 of such title
(relating to interstate transportation of stolen motor
vehicles or stolen property).

“(vi) A conspiracy to commit an offense de-
described in clauses (i) through (v).

“(B) Notwithstanding any other provision of law (in-
cluding any effective date), the term applies regardless of
whether the conduct occurred before, on, or after the date
of the enactment of this paragraph.”.

(b) INADMISSIBILITY.—Section 212(a)(2) of such Act
(8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
of this Act, is further amended by adding at the end the
following:

“(N) ALIENS ASSOCIATED WITH CRIMINAL
GANGS.—Any alien is inadmissible who a con-
sular officer, the Secretary of Homeland Secu-
rity, or the Attorney General knows or has rea-
son to believe—
“(i) to be or to have been a member
of a criminal gang (as defined in section
101(a)(53)); or

“(ii) to have participated in the activi-
ties of a criminal gang (as defined in sec-
tion 101(a)(53)), knowing or having reason
to know that such activities will promote,
further, aid, or support the illegal activity
of the criminal gang.”.

(c) DEPORTABILITY.—Section 237(a)(2) of the Im-
migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
amended by section 302(c) of this Act, is further amended
by adding at the end the following:

“(H) ALIENS ASSOCIATED WITH CRIMINAL
GANGS.—Any alien is deportable who the Sec-
retary of Homeland Security or the Attorney
General knows or has reason to believe—

“(i) is or has been a member of a
criminal gang (as defined in section
101(a)(53)); or

“(ii) has participated in the activities
of a criminal gang (as so defined), knowing
or having reason to know that such activi-
ties will promote, further, aid, or support
the illegal activity of the criminal gang.”.
(d) DESIGNATION.—

(1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by inserting after section 219 the following:

"DESIGNATION

"SEC. 220. (a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General, and the Secretary of State may designate a group or association as a criminal street gang if their conduct is described in section 101(a)(53) or if the group or association conduct poses a significant risk that threatens the security and the public safety of United States nationals or the national security, homeland security, foreign policy, or economy of the United States.

"(b) EFFECTIVE DATE.—Designations under subsection (a) shall remain in effect until the designation is revoked after consultation between the Secretary of Homeland Security, the Attorney General, and the Secretary of State or is terminated in accordance with Federal law.”.

(2) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting after the item relating to section 219 the following:

"220. Designation.”.

(e) MANDATORY DETENTION OF CRIMINAL STREET GANG MEMBERS.—
(1) IN GENERAL.—Section 236(c)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1226(c)(1)(D)) is amended—

(A) by inserting “or 212(a)(2)(N)” after “212(a)(3)(B)”; and

(B) by inserting “237(a)(2)(H) or” before “237(a)(4)(B)”.

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

(f) ASYLUM CLAIMS BASED ON GANG AFFILIATION.—

(1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the matter preceding clause (i), by inserting “who is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) or who is” after “to an alien”.

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(2) Ineligibility for Asylum.—Section 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A)) (as amended by this Act) is further amended—

(A) in clause (v), by striking “or” at the end;

(B) by redesignating clause (vi) as clause (vii); and

(C) by inserting after clause (v) the following:

“(vi) the alien is described in section 212(a)(2)(N)(i) or section 237(a)(2)(H)(i) (relating to participation in criminal street gangs); or”.

(g) Temporary Protected Status.—Section 244 of such Act (8 U.S.C. 1254a) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”;

(2) in subparagraph (c)(2)(B)—

(A) in clause (i), by striking “or” at the end;

(B) in clause (ii), by striking the period and inserting “; or”; and

(C) by adding at the end the following:
“(iii) the alien is, or at any time after
admission has been, a member of a crimi-
nal gang (as defined in section
101(a)(53)).”; and

(3) in subsection (d)—

(A) by striking paragraph (3); and

(B) in paragraph (4), by adding at the end
the following: ‘‘The Secretary of Homeland Se-
curity may detain an alien provided temporary
protected status under this section whenever
appropriate under any other provision of law.’’.

(h) EFFECTIVE DATE.—The amendments made by
this section shall take effect on the date of the enactment
of this Act and shall apply to acts that occur before, on,
or after the date of the enactment of this Act.

SEC. 312. EXTENSION OF IDENTITY THEFT OFFENSES.

Section 1028A of title 18, United States Code, is
amended by adding at the end the following:

“(d) STATE OF MIND PROOF REQUIREMENT.—In a
prosecution for a violation of subsection (a)(1) predicated
on a violation described in subsection (c)(2), (6), (7), (9),
or (10) of this section, the Government need not prove
that the defendant knew the means of identification was
of another person.”.
SEC. 313. LAUNDERING OF MONETARY INSTRUMENTS.

(a) ADDITIONAL PREDICATE OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting “section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),” after “section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),”; and

(2) by inserting “section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),” after “section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),”.

(b) INTENT TO CONCEAL OR DISGUISE.—Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (1) so that subparagraph (B) reads as follows:

“(B) knowing that the transaction—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,”; and
in paragraph (2) so that subparagraph (B) reads as follows:

“(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity, and knowing that such transportation, transmission, or transfer—

“(i) conceals or disguises, or is intended to conceal or disguise, the nature, source, location, ownership, or control of the proceeds of some form of unlawful activity; or

“(ii) avoids, or is intended to avoid, a transaction reporting requirement under State or Federal law,”.

SEC. 314. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.

(a) In General.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is amended to read as follows:

“ILLEGAL ENTRY OR PRESENCE

“Sec. 275. (a) In General.—

“(1) Illegal entry or presence.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

“(A) knowingly enters or crosses the border into the United States at any time or place
other than as designated by the Secretary of Homeland Security;

“(B) knowingly eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agriculture officer (including by failing to stop at the command of such officer);

“(C) knowingly enters or crosses the border to the United States and, upon examination or inspection, knowingly makes a false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws);

“(D) knowingly violates the terms or conditions of the alien’s admission or parole into the United States; or

“(E) knowingly is unlawfully present in the United States (as defined in section 212(a)(9)(B)(ii) subject to the exceptions set forth in section 212(a)(9)(B)(iii)).

“(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—
“(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

“(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years (or not more than 6 months in the case of a second or subsequent violation of paragraph (1)(E)), or both;

“(C) if the violation occurred after the alien had been convicted of three or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

“(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

“(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be
fined under such title, imprisoned not more than 20 years, or both.

“(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(A) alleged in the indictment or information; and

“(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration, customs, or agriculture officer.

“(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

“(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be
subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

“(1) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

“(2) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.”.

(b) Clerical Amendment.—The table of contents for the Immigration and Nationality Act is amended by striking the item relating to section 275 and inserting the following:

“Sec. 275. Illegal entry or presence.”.

SEC. 315. ILLEGAL REENTRY.

Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended to read as follows:

“REENTRY OF REMOVED ALIEN

“Sec. 276. (a) Reentry After Removal.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined
under title 18, United States Code, imprisoned not more
than 2 years, or both.

“(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
withstanding the penalty provided in subsection (a), if an
alien described in that subsection was convicted before
such removal or departure—

“(1) for three or more misdemeanors or for a
felony, the alien shall be fined under title 18, United
States Code, imprisoned not more than 10 years, or
both;

“(2) for a felony for which the alien was sen-
tenced to a term of imprisonment of not less than
30 months, the alien shall be fined under such title,
imprisoned not more than 15 years, or both;

“(3) for a felony for which the alien was sen-
tenced to a term of imprisonment of not less than
60 months, the alien shall be fined under such title,
imprisoned not more than 20 years, or both; or

“(4) for murder, rape, kidnapping, or a felony
offense described in chapter 77 (relating to peonage
and slavery) or 113B (relating to terrorism) of such
title, or for three or more felonies of any kind, the
alien shall be fined under such title, imprisoned not
more than 25 years, or both.
“(c) Reentry After Repeated Removal.—Any alien who has been denied admission, excluded, deported, or removed three or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

“(d) Proof of Prior Convictions.—The prior convictions described in subsection (b) are elements of the crimes described, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

“(1) alleged in the indictment or information; and

“(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

“(e) Affirmative Defenses.—It shall be an affirmative defense to a violation of this section that—

“(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

“(2) with respect to an alien previously denied admission and removed, the alien—
“(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

“(B) had complied with all other laws and regulations governing the alien’s admission into the United States.

“(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien.

“(g) Reentry of Alien Removed Prior to Completion of Term of Imprisonment.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien’s reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.
“(h) DEFINITIONS.—For purposes of this section and section 275, the following definitions shall apply:

“(1) CROSSES THE BORDER TO THE UNITED STATES.—The term ‘crosses the border’ refers to the physical act of crossing the border, regardless of whether the alien is free from official restraint.

“(2) FELONY.—The term ‘felony’ means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

“(3) MISDEMEANOR.—The term ‘misdemeanor’ means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

“(4) REMOVAL.—The term ‘removal’ includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

“(5) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”.
SEC. 316. REFORM OF PASSPORT, VISA, AND IMMIGRATION

FRAUD OFFENSES.

Chapter 75 of title 18, United States Code, is amended to read as follows:

"CHAPTER 75—PASSPORTS AND VISAS"

Sec.
"1541. Issuance without authority.
"1542. False statement in application and use of passport.
"1543. Forgery or false use of passport.
"1544. Misuse of a passport.
"1545. Schemes to defraud aliens.
"1546. Immigration and visa fraud.
"1547. Attempts and conspiracies.
"1548. Alternative penalties for certain offenses.
"1549. Definitions.

§ 1541. Issuance without authority

(a) IN GENERAL.—Whoever—

(1) acting or claiming to act in any office or capacity under the United States, or a State, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person; or

(2) being a consular officer authorized to grant, issue, or verify passports, knowingly grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not;

shall be fined under this title or imprisoned not more than 15 years, or both.
“(b) DEFINITION.—In this section, the term ‘State’ means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

§ 1542. False statement in application and use of passport

“Whoever knowingly—

“(1) makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

“(2) uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement; shall be fined under this title or imprisoned not more than 15 years, or both.

§ 1543. Forgery or false use of passport

“Whoever—

“(1) falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or
“(2) knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same;

shall be fined under this title or imprisoned not more than 15 years, or both.

“§ 1544. Misuse of a passport

“Whoever knowingly—

“(1) uses any passport issued or designed for the use of another;

“(2) uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

“(3) secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, stolen, or produced or issued without lawful authority; or

“(4) violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States;
shall be fined under this title, imprisoned not more than
15 years, or both.

“§ 1545. Schemes to defraud aliens

“Whoever inside the United States, or in or affecting
interstate or foreign commerce, in connection with any
matter that is authorized by or arises under the immigra-
tion laws (as defined in section 101(a)(17) of the Immig-
ration and Nationality Act (8 U.S.C. 1101(a)(17))) or
any matter the offender claims or represents is authorized
by or arises under the immigration laws of the United
States, knowingly executes a scheme or artifice—

“(1) to defraud any person, or

“(2) to obtain or receive money or anything else
of value from any person by means of false or fraud-
ulent pretenses, representations, or promises;

shall be fined under this title, imprisoned not more than
15 years, or both.

“§ 1546. Immigration and visa fraud

“Whoever knowingly—

“(1) uses any immigration document issued or
designed for the use of another;

“(2) forges, counterfeits, alters, or falsely
makes any immigration document;
“(3) mails, prepares, presents, or signs any immigration document knowing it to contain any materially false statement or representation;

“(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

“(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws;

“(6) transfers or furnishes, without lawful authority, an immigration document to another person for use by a person other than the person for whom the immigration document was issued or designed; or

“(7) produces, issues, authorizes, or verifies, without lawful authority, an immigration document; shall be fined under this title, imprisoned not more than 15 years, or both.

“§ 1547. Attempts and conspiracies

“Whoever attempts or conspires to violate this chapter shall be punished in the same manner as a person who completes that violation.
§ 1548. Alternative penalties for certain offenses

(a) TERRORISM.—Whoever violates any section in this chapter to facilitate an act of international terrorism or domestic terrorism (as such terms are defined in section 2331), shall be fined under this title or imprisoned not more than 25 years, or both.

(b) DRUG TRAFFICKING OFFENSES.—Whoever violates any section in this chapter to facilitate a drug trafficking crime (as defined in section 929(a)) shall be fined under this title or imprisoned not more than 20 years, or both.

§ 1549. Definitions

In this chapter:

(1) An ‘application for a United States passport’ includes any document, photograph, or other piece of evidence attached to or submitted in support of the application.

(2) The term ‘immigration document’ means any instrument on which is recorded, by means of letters, figures, or marks, matters which may be used to fulfill any requirement of the Immigration and Nationality Act.”.

SEC. 317. FORFEITURE.

Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:
“(I) Any property, real or personal, that has
been used to commit or facilitate the commission of
a violation of chapter 75, the gross proceeds of such
violation, and any property traceable to any such
property or proceeds.”.

SEC. 318. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE
ON CRIMINAL OR SECURITY GROUNDS.

(a) IN GENERAL.—Section 238 of the Immigration
and Nationality Act (8 U.S.C. 1228) is amended—
(1) by adding at the end of the section heading
the following: “OR WHO ARE SUBJECT TO TER-
RORISM-RELATED GROUNDS FOR REMOVAL”;
(2) in subsection (b)—
(A) in paragraph (1)—
(i) by striking “Attorney General”
and inserting “Secretary of Homeland Se-
curity in the exercise of discretion”; and
(ii) by striking “set forth in this sub-
section or” and inserting “set forth in this
subsection, in lieu of removal proceedings
under”;
(B) in paragraphs (3) and (4), by striking
“Attorney General” each place the term ap-
pears and inserting “Secretary of Homeland
Security”;
(C) in paragraph (5)—

(i) by striking “described in this sec-

tion” and inserting “described in para-

graph (1) or (2)”;

(ii) by striking “the Attorney General

may grant in the Attorney General’s dis-

cretion.” and inserting “the Secretary of

Homeland Security or the Attorney Gen-

eral may grant, in the discretion of the

Secretary or the Attorney General, in any

proceeding.”;

(D) by redesignating paragraphs (3), (4),

and (5) as paragraphs (4), (5), and (6) respec-

respectively; and

(E) by inserting after paragraph (2) the

following:

“(3) The Secretary of Homeland Security, in

the exercise of discretion, may determine inadmis-

sibility under section 212(a)(2) and issue an order

of removal pursuant to the procedures set forth in

this subsection, in lieu of removal proceedings under

section 240, with respect to an alien who—

“(A) has not been admitted or paroled;
“(B) has not been found to have a credible fear of persecution pursuant to the procedures set forth in 235(b)(1)(B); and

“(C) is not eligible for a waiver of inadmissibility or relief from removal.”; and

(3) by redesignating the subsections after subsection (b) as subsections (d) and (e), respectively, and inserting after subsection (b) the following:

“(c) Removal Aliens Who Are Subject to Terrorism-Related Grounds for Removal.—

“(1) The Secretary of Homeland Security—

“(A) shall, notwithstanding section 240, in the case of every alien, determine the inadmissibility of the alien under subclause (I), (II), or (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section 237(a)(4)(B) as consequence of being described in one of such subclauses, and issue an order of removal pursuant to the procedures set forth in this subsection to every alien determined to be inadmissible or deportable on such a ground; and

“(B) may, in the case of any alien, determine the inadmissibility of the alien under subparagraph (A) or (B) of section 212(a)(3)
(other than subclauses (I), (II), and (III) of section 212(a)(3)(B)), or the deportability of the alien under subparagraph (A) or (B) of section 237(a)(4) (as a consequence of being described in subclause (I), (II), or (III) of section 212(a)(3)(B)), and issue an order of removal pursuant to the procedures set forth in this subsection or section 240 to every alien determined to be inadmissible or deportable on such a ground.

“(2) The Secretary of Homeland Security may not execute any order described in paragraph (1) until 14 calendar days have passed from the date that such order was issued, unless waived by the alien, in order that the alien has an opportunity to apply for judicial review under section 242.

“(3) Proceedings before the Secretary of Homeland Security under this subsection shall be in accordance with such regulations as the Secretary shall prescribe. The Secretary shall provide that—

“(A) the alien is given reasonable notice of the charges and of the opportunity described in subparagraph (C);

“(B) the alien shall have the privilege of being represented (at no expense to the Govern-
ment) by such counsel, authorized to practice in such proceedings, as the alien shall choose;

“(C) the alien has a reasonable opportunity to inspect the evidence and rebut the charges;

“(D) a determination is made on the record that the individual upon whom the notice for the proceeding under this section is served (either in person or by mail) is, in fact, the alien named in such notice;

“(E) a record is maintained for judicial review; and

“(F) the final order of removal is not adjudicated by the same person who issues the charges.

“(4) No alien described in this subsection shall be eligible for any relief from removal that the Secretary of Homeland Security may grant in the Secretary’s discretion.”.

(b) CONFORMING AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 238 and inserting the following:

“Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who are subject to terrorism-related grounds for removal.”.
(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to aliens who are in removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such date.

SEC. 319. INCREASED PENALTIES BARRING THE ADMISSION OF CONVICTED SEX OFFENDERS FAILING TO REGISTER AND REQUIRING DEPORTATION OF SEX OFFENDERS FAILING TO REGISTER.

(a) Inadmissibility.—Section 212(a)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)(A)(i)), as amended by section 302(a) of this Act, is further amended—

(1) in subclause (II), by striking “or” at the end;

(2) in subclause (III), by adding “or” at the end; and

(3) by inserting after subclause (III) the following:

“(IV) a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender),”.
(b) DEPORTABILITY.—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and 311(c) of this Act, is further amended—

(1) in subparagraph (A), by striking clause (v); and

(2) by adding at the end the following:

“(I) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of a violation of section 2250 of title 18, United States Code (relating to failure to register as a sex offender) is deportable.”.

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

SEC. 320. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A), by amending clause (viii) to read as follows:
“(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary’s sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.”;

and

(2) in subparagraph (B)(i)—

(A) by redesignating the second subclause (I) as subclause (II); and

(B) by amending such subclause (II) to read as follows:

“(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary’s sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.”.

(b) Nonimmigrants.—Section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-
ing “204(a)(1)(A)(viii)(I))” each place such term appears
and inserting “204(a)(1)(A)(viii))”.

(c) Effective Date.—The amendments made by
this section shall take effect on the date of the enactment
of this Act and shall apply to petitions filed on or after
such date.

SEC. 321. CLARIFICATION TO CRIMES OF VIOLENCE AND
CRIMES INVOLVING MORAL TURPITUDE.

(a) Inadmissible Aliens.—Section 212(a)(2)(A) of
the Immigration and Nationality Act (8 U.S.C.
1182(a)(2)(A)) is amended by adding at the end the fol-
lowing:

“(iii) Clarification.—If the convic-
tion records do not conclusively establish
whether a crime constitutes a crime involv-
ing moral turpitude, the Secretary of
Homeland Security may consider other evi-
dence related to the conviction that clearly
establishes that the conduct for which the
alien was engaged constitutes a crime in-
volving moral turpitude.”.

(b) Deportable Aliens.—

(1) General Crimes.—Section 237(a)(2)(A)
of such Act (8 U.S.C. 1227(a)(2)(A)), as amended
by section 320(b) of this Act, is further amended by inserting after clause (iv) the following:

“(v) Crimes involving moral turpitude.—If the conviction records do not conclusively establish whether a crime constitutes a crime involving moral turpitude, the Secretary of Homeland Security may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a crime involving moral turpitude.”.

(2) Domestic violence.—Section 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

“(iii) Crimes of violence.—If the conviction records do not conclusively establish whether a crime of domestic violence constitutes a crime of violence (as defined in section 16 of title 18, United States Code), the Secretary of Homeland Security may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien
was engaged constitutes a crime of violence.”.

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

SEC. 322. PENALTIES FOR FAILURE TO OBEY REMOVAL ORDERS.

(a) IN GENERAL.—Section 243(a) of the Immigration and Nationality Act (8 U.S.C. 1253(a)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1), by inserting “212(a) or” before “237(a),”;

(2) by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to acts that are described in subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)) that occur on or after the date of the enactment of this Act.

SEC. 323. PARDONS.

(a) DEFINITION.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), as amended by
section 312(a) of this Act, is further amended by adding at the end the following:

“(54) The term ‘pardon’ means a full and unconditional pardon granted by the President of the United States, Governor of any of the several States or constitutionally recognized body.”.

(b) DEPORTABILITY.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in paragraph (2)(A), by striking clause (vi); and

(2) by adding at the end the following:

“(8) PARDONS.—In the case of an alien who has been convicted of a crime and is subject to removal due to that conviction, if the alien, subsequent to receiving the criminal conviction, is granted a pardon, the alien shall not be deportable by reason of that criminal conviction.”.

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

SEC. 324. CONVICTIONS.

(a) Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following subparagraph:
“(O) **CONVICTIONS.**—

“(i) **IN GENERAL.**—For purposes of determining whether an underlying criminal offense constitutes a ground of inadmissibility under this subsection, all statutes or common law offenses are divisible so long as any of the conduct encompassed by the statute constitutes an offense that is a ground of inadmissibility.

“(ii) **OTHER EVIDENCE.**—If the conviction records do not conclusively establish whether a crime constitutes a ground of inadmissibility, the Attorney General or the Secretary of Homeland Security may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a ground of inadmissibility.”.

(b) Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following subparagraph:

“(J) **CRIMINAL OFFENSES.**—

“(i) **IN GENERAL.**—For purposes of determining whether an underlying criminal offense constitutes a ground of deport-
ability under this subsection, all statutes or common law offenses are divisible so long as any of the conduct encompassed by the statute constitutes an offense that is a ground of deportability.

“(ii) Other evidence.—If the conviction records do not conclusively establish whether a crime constitutes a ground of deportability, the Attorney General or the Secretary of Homeland Security may consider other evidence related to the conviction that clearly establishes that the conduct for which the alien was engaged constitutes a ground of deportability.”.

**TITLE IV—VISA SECURITY**

**SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

(a) In general.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary”; and

(B) by inserting “and any other non-immigrant visa issued by the United States that is in the possession of the alien” after “such visa”; and
(2) in paragraph (2)(A), by striking “(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien’s nationality” and inserting “(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien’s nationality or foreign residence”.

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

SEC. 402. VISA INFORMATION SHARING.

(a) IN GENERAL.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

(1) by striking “issuance or refusal” and inserting “issuance, refusal, or revocation”;

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “and on the basis of reciprocity”;

(3) in paragraph (2)(A)—

(A) by inserting “(i)” after “for the purpose of”; and

(B) by striking “illicit weapons; or” and inserting “illicit weapons, or (ii) determining a
person’s deportability or eligibility for a visa, admission, or other immigration benefit;”;

(4) in paragraph (2)(B)—

(A) by striking “for the purposes” and inserting “for one of the purposes”; and

(B) by striking “or to deny visas to persons who would be inadmissible to the United States.” and inserting “; or”; and

(5) in paragraph (2), by adding at the end the following:

“(C) with regard to any or all aliens in the database specified data elements from each record, if the Secretary of State determines that it is in the national interest to provide such information to a foreign government.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 60 days after the date of the enactment of the Act.

SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.

Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)(1)(B)) is amended—

(1) in paragraph (1)(C), by inserting “, in consultation with the Secretary of Homeland Security,” after “if the Secretary”;
(2) in paragraph (1)(C)(i), by inserting “,
where such national interest shall not include facili-
tation of travel of foreign nationals to the United
States, reduction of visa application processing
times, or the allocation of consular resources” before
the semicolon at the end; and

(3) in paragraph (2)—

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

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

(C) by adding at the end the following:
“(G) is an individual—
“(i) determined to be in a class of
aliens determined by the Secretary of
Homeland Security to be threats to na-
tional security;
“(ii) identified by the Secretary of
Homeland Security as a person of concern;
or
“(iii) applying for a visa in a visa cat-
egory with respect to which the Secretary
of Homeland Security has determined that
a waiver of the visa interview would create
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a high risk of degradation of visa program

integrity.”.

SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO

NOT INTERVIEW CERTAIN INELIGIBLE VISA

APPLICANTS.

(a) IN GENERAL.—Section 222(h)(1) of the Immi-

gration and Nationality Act (8 U.S.C. 1202(h)(1)) is

amended by inserting “the alien is determined by the Sec-

retary of State to be ineligible for a visa based upon review

of the application or” after “unless”.

(b) GUIDANCE.—Not later than 90 days after the
date of the enactment of this Act, the Secretary of State
shall issue guidance to consular officers on the standards
and processes for implementing the authority to deny visa
applications without interview in cases where the alien is
determined by the Secretary of State to be ineligible for
a visa based upon review of the application.

(c) REPORTS.—Not less frequently than once each
quarter, the Secretary of State shall submit to the Con-
gress a report on the denial of visa applications without
interview, including—

(1) the number of such denials; and

(2) a post-by-post breakdown of such denials.
SEC. 405. VISA REFUSAL AND REVOCATION.

(a) Authority of the Secretary of Homeland Security and the Secretary of State.—

(1) In general.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended by striking subsections (b) and (c) and inserting the following:

“(b) Authority of the Secretary of Homeland Security.—

“(1) In general.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) and except for the authority of the Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

“(A) shall have exclusive authority to issue regulations, establish policy, and administer and enforce the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the functions of consular officers of the United States in connection with the granting and refusal of a visa; and
“(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or designee, determines that such refusal or revocation is necessary or advisable in the security or foreign policy interests of the United States.

“(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

“(A) shall take effect immediately; and

“(B) shall automatically cancel any other valid visa that is in the alien’s possession.

“(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have jurisdiction to review a decision by the Secretary of Homeland Security to refuse or revoke a visa, and no court shall have jurisdiction to hear any claim arising from, or any challenge to, such a refusal or revocation.

“(e) AUTHORITY OF THE SECRETARY OF STATE.—

“(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse a visa requested by an alien if the Secretary of State determines such refusal to be necessary or advisable in the security or foreign policy interests of the United States.
“(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override a decision by the Secretary of Homeland Security under subsection (b).”.

(2) AUTHORITY OF THE SECRETARY OF STATE.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by striking “section, except in the context of a removal proceeding if such revocation provides the sole ground for removal under section 1227(a)(1)(B).” and inserting “section.”.

(3) CONFORMING AMENDMENT.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking “under section 221(i)”.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act and shall apply to visa refusals and revocations occurring before, on, or after such date.

(b) TECHNICAL CORRECTIONS TO THE HOMELAND SECURITY ACT.—Section 428(a) of the Homeland Security Act of 2002 (6 U.S.C. 236(a)) is amended—

(1) by striking “subsection” and inserting “section”; and
(2) by striking “consular office” and inserting “consular officer”.

SEC. 406. PETITION AND APPLICATION PROCESSING FOR VISAS AND IMMIGRATION BENEFITS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 211 the following:

“SEC. 211A. PETITION AND APPLICATION PROCESSING.

“(a) SIGNATURE REQUIREMENT.—

“(1) IN GENERAL.—No petition or application filed with the Secretary of Homeland Security or with a consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant may be approved unless the petition or application is signed by each party required to sign such petition or application.

“(2) APPLICATIONS FOR IMMIGRANT VISAS.—Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer.

“(b) COMPLETION REQUIREMENT.—No petition or application filed with the Secretary of Homeland Security
or with a consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant may be approved unless each applicable portion of the petition or application has been completed.

“(c) Translation Requirement.—No document submitted in support of a petition or application for a nonimmigrant or immigrant visa may be accepted by a consular officer if such document contains information in a foreign language, unless such document is accompanied by a full English translation, which the translator has certified as complete and accurate, and by the translator’s certification that he or she is competent to translate from the foreign language into English.

“(d) Requests for Additional Information.—In an instance where the Secretary of Homeland Security or a consular officer requests any additional information relating to a petition or application filed with the Secretary or consular officer relating to the issuance of a visa or to the admission of an alien to the United States as an immigrant or as a nonimmigrant, such petition or application may not be approved unless all of the additional information requested is provided in complete form and is provided on or before any deadline included in the request.
“SEC. 211B. BACKGROUND CHECKS AND OTHER SCREENING REQUIREMENTS.

“(a) Comprehensive Security and Background Check.—No petition or application filed with the Secretary of Homeland Security or with a consular officer relating to the issuance of a visa to or to the admission of an alien to the United States as an immigrant or as a nonimmigrant may be approved unless a background check to determine whether or not the alien is a national security threat and or is otherwise ineligible for such visa or admission is completed for—

“(1) the petitioner or applicant; and

“(2) each beneficiary or derivative of the petition or application.

“(b) Review of Social Media Activity.—The background check under subsection (a) shall include a review of the alien’s publicly available interactions on and posting of material to the Internet (including social media services).

“(c) DNA Testing.—No petition or application filed with the Secretary of Homeland Security or with a consular officer relating to the issuance of an immigrant visa to an alien or to the admission of an alien to the United States as an immigrant, if the eligibility for the immigration benefit is predicated on the fact that a biological relationship exists between the petitioner or applicant and the
beneficiary or derivative, may be approved, unless a genetic test is conducted to confirm such biological relationship and the results of such test are submitted as part of the petition or application. Any such genetic test shall be conducted at the expense of the petitioner or applicant. Evidence of a biological relationship, as submitted under this subsection, shall not in itself be determinative of such biological relationship.”.

(b) Clerical Amendment.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item pertaining to section 211 the following:

“211A. Petition and application processing.
211B. Background checks and other screening requirements.”.

(c) Conforming Amendment.—Section 222(e) of the Immigration and Nationality Act (8 U.S.C. 1201(e)) is amended by striking the following: “Except as may be otherwise prescribed by regulations, each application for an immigrant visa shall be signed by the applicant in the presence of the consular officer, and verified by the oath of the applicant administered by the consular officer.”.

(d) Application.—The amendments made by this section shall apply with respect to applications and petitions filed after the date of the enactment of this Act.

SEC. 407. FRAUD PREVENTION.

(a) Prospective Analytics Technology.—
(1) **Plan for Implementation.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a plan for the use of advanced analytics software to ensure the proactive detection of fraud in immigration benefits applications and petitions and to ensure that any such applicant or petitioner does not pose a threat to national security.

(2) **Implementation of Plan.**—Not later than 1 year after the date of the submission of the plan under paragraph (1), the Secretary of Homeland Security shall begin implementation of the plan.

(b) **Benefits Fraud Assessment.**—

(1) **In General.**—The Secretary of Homeland Security, acting through the Fraud Detection and Nationality Security Directorate, shall complete a benefit fraud assessment by fiscal year 2021 on each of the following:

(A) Petitions by VAWA self-petitioners (as such term is defined in section 101(a)(51) of the Immigration and Nationality Act).
(B) Applications or petitions for visas or status under section 101(a)(15)(K) of such Act or under section 201(b)(2) of such Act, in the case of spouses.

(C) Applications for visas or status under section 101(a)(27)(J) of such Act.

(D) Applications for visas or status under section 101(a)(15)(U) of such Act.

(E) Petitions for visas or status under section 101(a)(27)(C) of such Act.

(F) Applications for asylum under section 208 of such Act.

(G) Applications for adjustment of status under section 209 of such Act.

(H) Petitions for visas or status under section 201(b) of such Act.

(2) REPORTING ON FINDINGS.—Not later than 30 days after the completion of each benefit fraud assessment under paragraph (1), the Secretary shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such assessment and recommendations on how to reduce the occurrence of instances of fraud identified by the assessment.
SEC. 408. VISA SECURITY PROGRAM.

(a) FUNDING.—Notwithstanding any other provision of law, beginning in fiscal year 2017 and thereafter, the Secretary of State shall charge surcharges in support of visa security that are in addition to the passport and immigrant visa fees in effect on January 1, 2004, and any other fees collected pursuant to the fourth paragraph under the heading “Diplomatic and Consular Programs” in the Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447): Provided, that funds collected pursuant to this authority shall be credited to the appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the fees were collected, and shall be available until expended for the funding of the Visa Security Program established by the Secretary of Homeland Security under section 428(e) of the Homeland Security Act of 2002 (Public Law 107–296): Provided further, that such surcharges shall total the amount sufficient annually to cover the Visa Security Program costs.

(b) EXPEDITIOUS EXPANSION OF ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is amended—
(A) in subsection (e)—

(i) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Not later than 4 years after the date of the enactment of the Visa Integrity and Security Act of 2016, the Secretary shall assign employees of the Department to each diplomatic and consular post at which visas are issued, and shall communicate such assignments to the Secretary of State.”; and

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

“(B) Review all such applications and supporting documentation prior to the adjudication of such an application.”; and

(B) by striking subsection (i).

(2) EXPEDITED CLEARANCE AND PLACEMENT OF DHS PERSONNEL.—Notwithstanding any other provision of law, and the processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any successor Directive, not later than one year after the date on which the Secretary of Homeland Security communicates to the Secretary of State the assignment of personnel to a diplomatic or consular post under section 428(e) of the Homeland
Security Act of 2002 (6 U.S.C. 236(e)), as amended by this Act, the Chief of Mission of such a post shall ensure that such personnel have been stationed and accommodated at that post and are able to carry out their duties.

**TITLE V—AID TO IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS**

**SEC. 501. ICE DEPORTATION OFFICERS.**

(a) In General.—The Secretary of Homeland Security shall authorize all deportation officers of the Department of Homeland Security who have successfully completed basic immigration law enforcement training to exercise the powers conferred by—

1. section 287(a)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(5)(A)) to arrest for any offense against the United States;
2. section 287(a)(5)(B) of such Act (8 U.S.C. 1357(a)(5)(B)) to arrest for any felony;
3. section 274(a) of such Act (8 U.S.C. 1324(a)) to arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;
4. section 287(a) of such Act (8 U.S.C. 1357(a)) to execute warrants of arrest for administrative immigration violations issued under section
236 of such Act (8 U.S.C. 1226) or to execute warrants of criminal arrest issued under the authority of the United States; and

(5) section 287(a) of such Act (8 U.S.C. 1357(a)) to carry firearms, if they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force.

(b) ARREST POWERS.—Section 287(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1357(a)(2)) is amended by striking “regulation and is likely to escape before a warrant can be obtained for his arrest,” and inserting “regulation,”.

SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.

(a) AUTHORIZATION.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active duty United States Immigration and Customs Enforcement detention enforcement officers by 2,500 above the number of full-time positions for which funds were appropriated for fiscal year 2017. The Secretary will determine the rate at which the additional officers will be added with due regard to filling positions as expeditiously
as possible without making any compromises in the selec-
tion or the training of the additional officers.

(b) DUTIES.—U.S. Immigration and Customs En-
forcement detention enforcement officers who have suc-
cessfully completed detention enforcement officers’ basic
training shall be responsible for—

(1) taking and maintaining custody of any per-
son who has been arrested by an immigration offi-
cer;

(2) transporting and guarding immigration de-
tainees;

(3) securing Department of Homeland Security
detention facilities; and

(4) assisting in the processing of detainees.

SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS.

(a) BODY ARMOR.—The Secretary of Homeland Se-
curity shall ensure that every U.S. Immigration and Cus-
toms Enforcement deportation officer on duty is issued
high-quality body armor that is appropriate for the climate
and risks faced by the agent. Enough body armor must
be purchased to cover every agent in the field.

(b) WEAPONS.—Such Secretary shall ensure that
U.S. Immigration and Customs Enforcement deportation
officers are equipped with weapons that are reliable and
effective to protect themselves, their fellow agents, and in-
nocent third parties from the threats posed by armed criminals. Such weapons shall include, at a minimum, standard-issue handguns, M–4 (or equivalent) rifles, and Tasers.

(c) Special Training for High-Risk Enforcement Operations.—Such Secretary shall provide appropriate training and certification to selected U.S. Immigration and Customs Enforcement deportation officers, at each field office, to conduct high-risk enforcement operations requiring enhanced tactical capabilities effectively to combat known dangers, to assist in high-risk transports, or to participate in other special assignments as designated by the Secretary and consistent with law, except that nothing in this subsection shall be construed to impose a requirement that such training be completed, or such certification be obtained, in order to participate in such a high-risk enforcement operation.

(d) Effective Date.—This section shall take effect 90 days after the date of the enactment of this Act.

SEC. 504. ICE ADVISORY COUNCIL.

(a) Establishment.—An ICE Advisory Council shall be established not later than 3 months after the date of the enactment of this Act.

(b) Membership.—The ICE Advisor Council shall be comprised of 7 members.
(c) APPOINTMENT.—Members shall to be appointed in the following manner:

(1) One member shall be appointed by the President.

(2) One member shall be appointed by the Chairman of the Judiciary Committee of the House of Representatives.

(3) One member shall be appointed by the Chairman of the Judiciary Committee of the Senate.

(4) One member shall be appointed by the Local 511, the ICE prosecutor’s union.

(5) Three members shall be appointed by the National Immigration and Customs Enforcement Council.

(d) TERM.—Members shall serve renewable, 2-year terms.

(e) VOLUNTARY.—Membership shall be voluntary and non-remunerated, except that members will receive reimbursement from the Secretary of Homeland Security for travel and other related expenses.

(f) RETALIATION PROTECTION.—Members who are employed by the Secretary of Homeland Security shall be protected from retaliation by their supervisors, managers, and other Department of Homeland Security employees for their participation on the Council.
(g) PURPOSE.—The purpose of the Council is to advise the Congress and the Secretary of Homeland Security on issues including the following:

(1) The current status of immigration enforcement efforts, including prosecutions and removals, the effectiveness of such efforts, and how enforcement could be improved.

(2) The effectiveness of cooperative efforts between the Secretary of Homeland Security and other law enforcement agencies, including additional types of enforcement activities that the Secretary should be engaged in, such as State and local criminal task forces.

(3) Personnel, equipment, and other resource needs of field personnel.

(4) Improvements that should be made to the organizational structure of the Department of Homeland Security, including whether the position of immigration enforcement agent should be merged into the deportation officer position.

(5) The effectiveness of specific enforcement policies and regulations promulgated by the Secretary of Homeland Security, and whether other enforcement priorities should be considered.
(h) REPORTS.—The Council shall provide quarterly reports to the Chairmen and Ranking Members of the Committees on the Judiciary of the Senate and the House of Representatives and to the Secretary of Homeland Security. The Council members shall meet directly with the Chairmen and Ranking Members (or their designated representatives) and with the Secretary to discuss their reports every 6 months.

SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROCESsing.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and Customs Enforcement field offices with the largest removal caseloads to allow U.S. Immigration and Customs Enforcement deportation officers to—

(1) electronically process and serve charging documents, including notices to appear, while in the field;

(2) electronically process and place detainers while in the field; and

(3) electronically collect biometric data for the purpose of identifying an alien and establishing both immigration status and criminal history while in the field.
(b) DUTIES.—The pilot program described in subsection (a) shall be designed to allow deportation officers to use handheld or vehicle-mounted computers to—

(1) enter any required data, including personal information about the alien subject and the reason for issuing the document;

(2) apply the electronic signature of the issuing officer or agent;

(3) set the date the alien is required to appear before an immigration judge, in the case of notices to appear;

(4) print any documents the alien subject may be required to sign, along with additional copies of documents to be served on the alien; and

(5) interface with the ENFORCE database so that all data is stored and retrievable.

(c) CONSTRUCTION.—The pilot program described in subsection (a) shall be designed to replace, to the extent possible, the current paperwork and data-entry process used for issuing such charging documents and detainers.

(d) DEADLINE.—The Secretary shall initiate the pilot program described in subsection (a) not later than 6 months after the date of the enactment of this Act.

(e) REPORT.—The Government Accountability Office shall report to the Judiciary Committee of the Senate and
the House of Representatives no later than 18 months after the date of the enactment of this Act on the effectiveness of the pilot program and provide recommendations for improving it.

(f) ADVISORY COUNCIL.—The ICE Advisory Council established by section 504 shall include recommendations on how the pilot program should work in the first quarterly report of the Council, and shall include assessments of the program and recommendations for improvement in each subsequent report.

(g) EFFECTIVE DATE.—This section shall take effect 180 days after the date of the enactment of this Act.

SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND SUPPORT STAFF.

(a) IN GENERAL.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty U.S. Immigration and Customs Enforcement deportation officers by 10,000 above the number of full-time positions for which funds were appropriated for fiscal year 2017. The Secretary will determine the rate at which the additional officers will be added with due regard to filling the positions as expeditiously as possible without making any compromises in the selection or the training of the additional officers.
(b) **Support Staff.**—The Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time support staff for U.S. Immigration and Customs Enforcement deportation officers by 700 above the number of full-time positions for which funds were appropriated for fiscal year 2017.

**SEC. 507. ADDITIONAL ICE PROSECUTORS.**

The Secretary of Homeland Security shall increase, subject to the availability of appropriations for such purpose, increase the number of positions for full-time trial attorneys working for United States Immigration and Customs Enforcement by 60 above the number of full-time positions for which funds were appropriated for fiscal year 2017. The Secretary will determine the rate at which the additional trial attorneys will be added with due regard to filling positions as expeditiously as possible without making any compromises in the selection or the training of the additional attorneys.

**TITLE VI—MISCELLANEOUS ENFORCEMENT PROVISIONS**

**SEC. 601. TIMELY REPATRIATION.**

(a) **Listing of Countries.**—Beginning on the date that is 6 months after the date of the enactment of this Act, and every 6 months thereafter, the Secretary of
Homeland Security shall publish a report including the following:

(1) A list of the following:

(A) Countries that have refused or unreasonably delayed repatriation of an alien who is a national of that country since the date of the enactment of this Act and the total number of such aliens, disaggregated by nationality.

(B) Countries that have an excessive repatriation failure rate.

(2) A list of each country that was included under subparagraph (B) or (C) of paragraph (1) in both the report preceding the current report and the current report.

(b) SANCTIONS.—Beginning on the date that a country is included in a list under subsection (a)(2) and ending on the date that that country is not included in such list, that country shall be subject to the following:

(1) The Secretary of State may not issue visas under section 101(a)(15)(A)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii)) to attendants, servants, personal employees, and members of their immediate families, of the officials and employees of that country who receive non-
immigrant status under clause (i) or (ii) of section 101(a)(15)(A) of such Act.

(2) Each 6 months thereafter that the country is included in that list, the Secretary of State shall reduce the number of visas available under clause (i) or (ii) of section 101(a)(15)(A) of the Immigration and Nationality Act in a fiscal year to nationals of that country by an amount equal to 10 percent of the baseline visa number for that country. Except as provided under section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253), the Secretary may not reduce the number to a level below 20 percent of the baseline visa number.

(e) WAIVERS.—

(1) NATIONAL SECURITY WAIVER.—If the Secretary of State submits to Congress a written determination that significant national security interests of the United States require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number. The Secretary of Homeland Security may not delegate the authority under this subsection.

(2) TEMPORARY EXIGENT CIRCUMSTANCES.—If the Secretary of State submits to Congress a written determination that temporary exigent circumstances
require a waiver of the sanctions under subsection (b), the Secretary may waive any reduction below 80 percent of the baseline visa number during 6-month renewable periods. The Secretary of Homeland Security may not delegate the authority under this subsection.

(d) EXEMPTION.—The Secretary of Homeland Security, in consultation with the Secretary of State, may exempt a country from inclusion in a list under subsection (a)(2) if the total number of nonrepatriations outstanding is less than 10 for the preceding 3-year period.

(e) UNAUTHORIZED VISA ISSUANCE.—Any visa issued in violation of this section shall be void.

(f) NOTICE.—If an alien who has been convicted of a criminal offense before a Federal or State court whose repatriation was refused or unreasonably delayed is to be released from detention by the Secretary of Homeland Security, the Secretary shall provide notice to the State and local law enforcement agency for the jurisdictions in which the alien is required to report or is to be released. When possible, and particularly in the case of violent crime, the Secretary shall make a reasonable effort to provide notice of such release to any crime victims and their immediate family members.

(g) DEFINITIONS.—For purposes of this section:
(1) Refused or unreasonably delayed.—
A country is deemed to have refused or unreasonably
delayed the acceptance of an alien who is a citizen,
subject, national, or resident of that country if, not
later than 90 days after receiving a request to repa-
triate such alien from an official of the United
States who is authorized to make such a request, the
country does not accept the alien or issue valid trav-
el documents.

(2) Failure rate.—The term “failure rate”
for a period means the percentage determined by di-
viding the total number of repatriation requests for
aliens who are citizens, subjects, nationals, or resi-
dents of a country that that country refused or un-
reasonably delayed during that period by the total
number of such requests during that period.

(3) Excessive repatriation failure
rate.—The term “excessive repatriation failure
rate” means, with respect to a report under sub-
section (a), a failure rate greater than 10 percent
for any of the following:

(A) The period of the 3 full fiscal years
preceding the date of publication of the report.

(B) The period of 1 year preceding the
date of publication of the report.
(4) Number of non-repatriations outstanding.—The term “number of non-repatriations outstanding” means, for a period, the number of unique aliens whose repatriation a country has refused or unreasonably delayed and whose repatriation has not occurred during that period.

(5) Baseline visa number.—The term “baseline visa number” means, with respect to a country, the average number of visas issued each fiscal year to nationals of that country under clauses (i) and (ii) of section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3 full fiscal years immediately preceding the first report under subsection (a) in which that country is included in the list under subsection (a)(2).

(h) GAO Report.—On the date that is 1 day after the date that the President submits a budget under section 1105(a) of title 31, United States Code, for fiscal year 2016, the Comptroller General of the United States shall submit a report to Congress regarding the progress of the Secretary of Homeland Security and the Secretary of State in implementation of this section and in making requests to repatriate aliens as appropriate.
SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

“(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien’s own expense under this subsection instead of being subject to proceedings under section 240.”;

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

“(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien’s own expense under this subsection after the initiation of removal proceedings under section 240 and
before the conclusion of such proceedings before an immigration judge.”;

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

“(A) Instead of removal.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.”;

(ii) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

“(B) Before the conclusion of removal proceedings.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States
and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.”;

(iv) in subparagraph (C), as redesignated, by striking “subparagraphs (C) and (D)(ii)” and inserting “subparagraphs (D) and (E)(ii)”;

(v) in subparagraph (D), as redesignated, by striking “subparagraph (B)” each place that term appears and inserting “subparagraph (C)”;

(vi) in subparagraph (E), as redesignated, by striking “subparagraph (B)”
each place that term appears and inserting
“subparagraph (C)”;
(F) in paragraph (4), by striking “para-
graph (1)” and inserting “paragraphs (1) and
(2)”;
(2) in subsection (b)(2), by striking “a period
exceeding 60 days” and inserting “any period in ex-
cess of 45 days”;  
(3) by amending subsection (c) to read as fol-
lows:
“(c) CONDITIONS ON VOLUNTARY DEPARTURE.—
“(1) VOLUNTARY DEPARTURE AGREEMENT.—
Voluntary departure may only be granted as part of
an affirmative agreement by the alien. A voluntary
departure agreement under subsection (b) shall in-
clude a waiver of the right to any further motion,
appeal, application, petition, or petition for review
relating to removal or relief or protection from re-
moval.
“(2) CONCESSIONS BY THE SECRETARY.—In
connection with the alien’s agreement to depart vol-
untarily under paragraph (1), the Secretary of
Homeland Security may agree to a reduction in the
period of inadmissibility under subparagraph (A) or
(B)(i) of section 212(a)(9).
“(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

“(4) FAILURE TO COMPLY WITH AGREEMENT.—

“(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

“(i) ineligible for the benefits of the agreement;

“(ii) subject to the penalties described in subsection (d); and

“(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).
“(B) Effect of filing timely appeal.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge’s decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien’s voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

“(5) Voluntary departure period not affected.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary’s discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien’s obligation to depart from the United States during the period agreed to by the alien and the Secretary.”;

(4) by amending subsection (d) to read as follows:

“(d) Penalties for failure to depart.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States
within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

“(1) Civil Penalty.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify this amount, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

“(2) Ineligibility for Relief.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien’s departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

“(3) Reopening.—The alien shall be ineligible to reopen the final order of removal that took effect
upon the alien’s failure to depart, or upon the alien’s other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Secretary of Homeland Security that the alien is otherwise eligible for such protection.”;

(5) by amending subsection (e) to read as follows:

“(e) Eligibility.—

“(1) Prior Grant of Voluntary Departure.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

“(2) Rulemaking.—The Secretary may promulgate regulations to limit eligibility or impose ad-
ditional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.”; and

(6) in subsection (f), by adding at the end the following: “Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.”.

(b) Rulemaking.—The Secretary shall within one year of the date of the enactment of this Act promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) Effective Dates.—

(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made

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on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 603. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking “seeks admission within 5 years of the date of such removal (or within 20 years” and inserting “seeks admission not later than 5 years after the date of the alien’s removal (or not later than 20 years after the alien’s removal”;

and

(2) in clause (ii), by striking “seeks admission within 10 years of the date of such alien’s departure or removal (or within 20 years of” and inserting “seeks admission not later than 10 years after the date of the alien’s departure or removal (or not later than 20 years after”.

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(b) Bar on Discretionary Relief.—Section 274D of such Act (8 U.S.C. 324d) is amended—

(1) in subsection (a), by striking “Commissioner” and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(c) Ineligibility for Relief.—

“(1) In general.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien’s departure from the United States.

“(2) Savings provision.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

“(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

“(B) makes a sufficient showing to the satisfaction of the Secretary of Homeland Security...
that the alien is otherwise eligible for such pro-
tection.”.

(c) EFFECTIVE DATES.—The amendments made by
this section shall take effect on the date of the enactment
of this Act with respect to aliens who are subject to a final
order of removal entered before, on, or after such date.

SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.

(a) IN GENERAL.—Section 241(a)(5) of the Immi-
gration and Nationality Act (8 U.S.C. 1231(a)(5)) is
amended to read as follows:

“(5) REINSTATEMENT OF REMOVAL ORDERS
AGAINST ALIENS ILLEGALLY REENTERING.—If the
Secretary of Homeland Security finds that an alien
has entered the United States illegally after having
been removed, deported, or excluded or having de-
parted voluntarily, under an order of removal, depar-
tation, or exclusion, regardless of the date of the
original order or the date of the illegal entry—

“(A) the order of removal, deportation, or
exclusion is reinstated from its original date
and is not subject to being reopened or reviewed
notwithstanding section 242(a)(2)(D);

“(B) the alien is not eligible and may not
apply for any relief under this Act, regardless
of the date that an application or request for
such relief may have been filed or made; and

“(C) the alien shall be removed under the
order of removal, deportation, or exclusion at
any time after the illegal entry.

Reinstatement under this paragraph shall not re-
quire proceedings under section 240 or other pro-
ceedings before an immigration judge.”.

(b) JUDICIAL REVIEW.—Section 242 of the Immigra-
tion and Nationality Act (8 U.S.C. 1252) is amended by
adding at the end the following:

“(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER
SECTION 241(a)(5).—

“(1) REVIEW OF REINSTATEMENT.—Judicial
review of determinations under section 241(a)(5) is
available in an action under subsection (a).

“(2) NO REVIEW OF ORIGINAL ORDER.—Not-
withstanding any other provision of law (statutory or
nonstatutory), including section 2241 of title 28,
United States Code, any other habeas corpus provi-
sion, or sections 1361 and 1651 of such title, no
court shall have jurisdiction to review any cause or
claim, arising from, or relating to, any challenge to
the original order.”.
(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect as if enacted on April 1, 1997, and shall apply to all orders reinstated or after that date by the Secretary of Homeland Security (or by the Attorney General prior to March 1, 2003), regardless of the date of the original order.

SEC. 605. ATTORNEY GENERAL'S DISCRETION IN DETERMINING COUNTRIES OF REMOVAL.

Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)(C)(iv), by striking the period at the end and inserting “, or the Attorney General decides that removing the alien to the country is prejudicial to the United States.”; and

(2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing the alien to one or more such countries is prejudicial to the United States,” after “this subparagraph,”.

SEC. 606. STATUTE OF LIMITATIONS FOR FRAUD OFFENSES INVOLVING CERTAIN HUMAN RIGHTS VIOLATIONS OR WAR CRIMES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:
“§3302. Fraud in connection with certain human rights violations or war crimes

“(a) IN GENERAL.—Unless the indictment is found or the information is instituted within 10 years after the commission of the offense, no person shall be prosecuted, tried, or punished for a violation of any provision of section 1001, 1015, 1546, or 1621, or for attempt or conspiracy to violate any of such provisions, when the violation, attempt, or conspiracy concerns the alleged offender’s—

“(1) participation, at any time, at any place, and irrespective of the nationality of the alleged offender or any victim, in a human rights violation or war crime; or

“(2) membership in, service in, or authority over, a military, paramilitary, or police organization that participated in such conduct during any part of any period in which the alleged offender was a member of, served in, or had authority over, the organization.

“(b) DEFINITIONS.—For purposes of this section:

“(2) The term ‘female genital mutilation’ means conduct described in section 116.

“(3) The term ‘genocide’ means conduct described in section 1091(a).

“(4) The term ‘human rights violation or war crime’ means genocide, incitement to genocide, war crimes, torture, female genital mutilation, extrajudicial killing under color of foreign law, persecution, particularly severe violations of religious freedom by a foreign government official, or the use or recruitment of child soldiers.

“(5) The term ‘incitement to genocide’ means conduct described in section 1091(c).

“(6) The term ‘particularly severe violations of religious freedom’ has the meaning given such term in section 3(13) of the International Religious Freedom Act of 1998 (22 U.S.C. 6402(13)).


“(8) The term ‘torture’ means conduct described in paragraph (1) or (2) of section 2340.

“(9) The term ‘use or recruitment of child soldiers’ means conduct described in section 2442(a).
“(10) The term ‘war crimes’ means conduct described in section 2441.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“3302. Fraud in connection with certain human rights violations or war crimes.”.

(c) APPLICATION.—The amendments made by this section shall apply to any offense committed on or after the date of the enactment of this Act.

SEC. 607. CLARIFICATION WITH RESPECT TO DEFINITION OF ADMISSION.

Section 101(a)(13)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(A)) is amended by adding at the end the following: “An alien’s adjustment of status to that of lawful permanent resident status under any provision of this Act, or under any other provision of law, shall be considered an ‘admission’ for any purpose under this Act, even if the adjustment of status occurred while the alien was present in the United States.”.

SEC. 608. TEMPORARY PROTECTED STATUS DESIGNATION.

(a) CONGRESSIONAL REVIEW OF EXTENSION OF DESIGNATION.—Section 244(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)) is amended—

(1) in subparagraph (A), by striking the final sentence; and
(2) by striking subparagraph (C) and inserting the following:

“(C) RECOMMENDATION TO CONGRESS TO EXTEND DESIGNATION.—If the Secretary determines under subparagraph (A) that a foreign state (or part of such foreign state) continues to meet the condition for designation under paragraph (1), the Secretary of Homeland Security shall submit a recommendation to the Congress to extend the period of designation for not more than 18 months. The Secretary shall set forth the justification for the extension, including the humanitarian concerns, or how the extension otherwise is in the national interest. If, 90 days after the submission of the Secretary’s recommendation, the President has not signed into law legislation passed by the House and the Senate extending the designation, the designation shall be terminated in accordance with subsection (d)(3).”.

(b) ADJUSTMENT OF STATUS OF ALIENS WITH TEMPORARY PROTECTED STATUS.—Section 244(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1254(f)(4)) is amended by striking the period at the end and inserting
“but shall not be regarded as satisfying the definition of the term ‘admitted’ under section 101(a)(13)(A).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendments made by subsection (a) shall not apply to extensions pursuant to subsection 244(b)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1254a(b)(3)(C)) of designations originally made pursuant to section 244(b)(1) of such Act (8 U.S.C. 1254a(b)(1)) before such date.

SEC. 609. INFORMATION ON FOREIGN CRIMES.

Section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) is amended by striking “and (3)” and inserting the following “(3) the Secretary of Homeland Security or the Attorney General has thoroughly examined the records of the alien’s countries of prior residence to determine whether the alien has committed a crime in any of those countries that renders the alien inadmissible, and (4)”.

SEC. 610. CLARIFICATION OF STANDARDS FOR FAMILY DETENTION.

(a) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232) is amended by adding at the end the following:
“(j) CONSTRUCTION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, judicial determination, consent decree, or settlement agreement, the detention of any alien child who is not an unaccompanied alien child shall be governed by sections 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231). There exists no presumption that an alien child who is not an unaccompanied alien child should not be detained, and all such determinations shall be in the discretion of the Secretary of Homeland Security.

“(2) RELEASE OF MINORS OTHER THAN UNACCOMPANIED ALIENS.—In no circumstances shall an alien minor who is not an unaccompanied alien child be released by the Secretary of Homeland Security other than to a parent or legal guardian.

“(3) CONDITIONS OF CONFINEMENT.—The conditions of confinement applicable under this subsection shall be in the discretion of the Secretary and, in no instance may specific licensing requirements be imposed beyond those deemed appropriate by the Secretary of Homeland Security.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enact-
ment of this Act and shall apply to all actions that occur
before, on, or after the date of the enactment of this Act.

SEC. 611. REPORTS TO CONGRESS ON THE EXERCISE AND
ABUSE OF PROSECUTORIAL DISCRETION.

(a) IN GENERAL.—Not later than 180 days after the
end of each fiscal year, the Secretary of Homeland Secu-
rit y and the Attorney General shall each provide to the
Committees on the Judiciary of the House of Representa-
tives and of the Senate a report on the following:

(1) Aliens apprehended or arrested by State or
local law enforcement agencies who were identified
by the Department of Homeland Security in the pre-
vious fiscal year and for whom the Department of
Homeland Security did not issue detainers and did
not take into custody despite the Department of
Homeland Security’s findings that the aliens were
inadmissible or deportable.

(2) Aliens who were applicants for admission in
the previous fiscal year but not clearly and beyond
a doubt entitled to be admitted by an immigration
officer and who were not detained as required pursu-
ant to section 235(b)(2)(A) of the Immigration and
Nationality Act (8 U.S.C. 1225(b)(2)(A)).

(3) Aliens who in the previous fiscal year were
found by Department of Homeland Security officials
performing duties related to the adjudication of applications for immigration benefits or the enforcement of the immigration laws to be inadmissible or deportable who were not issued notices to appear pursuant to section 239 of such Act (8 U.S.C. 1229) or placed into removal proceedings pursuant to section 240 (8 U.S.C. 1229a), unless the aliens were placed into expedited removal proceedings pursuant to section 235(b)(1)(A)(i) (8 U.S.C. 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228), were granted voluntary departure pursuant to section 240B, were granted relief from removal pursuant to statute, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(4) Aliens issued notices to appear that were cancelled in the previous fiscal year despite the Department of Homeland Security’s findings that the aliens were inadmissible or deportable, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B of such Act (8 U.S.C. 1229c), or were granted legal nonimmigrant or immigrant status pursuant to statute.
(5) Aliens who were placed into removal proceedings, whose removal proceedings were terminated in the previous fiscal year prior to their conclusion, unless the aliens were granted relief from removal pursuant to statute, were granted voluntary departure pursuant to section 240B, were granted legal nonimmigrant or immigrant status pursuant to statute, or were determined not to be inadmissible or deportable.

(6) Aliens granted parole pursuant to section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(7) Aliens granted deferred action, extended voluntary departure or any other type of relief from removal not specified in the Immigration and Nationality Act or where determined not to be inadmissible or deportable.

(b) CONTENTS OF REPORT.—The report shall include a listing of each alien described in each paragraph of subsection (a), including when in the possession of the Department of Homeland Security their names, fingerprint identification numbers, alien registration numbers, and reason why each was granted the type of prosecutorial discretion received. The report shall also include current criminal histories on each alien from the Federal Bureau of Investigation.
SEC. 612. CLARIFYING RESCISSION OF ADJUSTMENT OF STATUS.

Section 246(a) of the Immigration and Nationality Act (8 U.S.C. 1256(a)) is amending by striking “within five years”.

SEC. 613. GAO STUDY ON DEATHS IN CUSTODY.

The Comptroller General of the United States shall submit to Congress within 6 months after the date of the enactment of this Act, a report on the deaths in custody of detainees held by the Department of Homeland Security. The report shall include the following information with respect to any such deaths and in connection therewith:

(1) Whether any such deaths could have been prevented by the delivery of medical treatment administered while the detainee is in the custody of the Department of Homeland Security.

(2) Whether Department practice and procedures were properly followed and obeyed.

(3) Whether such practice and procedures are sufficient to protect the health and safety of such detainees.

(4) Whether reports of such deaths were made to the Deaths in Custody Reporting Program.
SEC. 614. REMOVAL PROCEEDINGS.

Section 240(b) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)) is amended by adding at the end the following:

“(8) ORDER OF CONSIDERATION OF PROCEEDINGS.—Whenever possible, proceedings shall take place in the order in which aliens are placed in proceedings, except that proceedings pertaining to aliens in the custody of the Secretary of Homeland Security shall, to the extent practical, take place prior to proceedings for aliens not in such custody.”.

SEC. 615. PROPER FILING OF INCOME TAXES REQUIRED FOR GOOD MORAL CHARACTER.

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

“(2) one who has failed properly to file an income tax return for each year that one was required to be filed, has not committed fraud on any tax return filed, and has paid all taxes owed;”.

SEC. 616. WAIVER OF RIGHTS BY B VISA NONIMMIGRANTS.

Section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B) is amended by adding before the semicolon at the end the following: “, and who has waived any right to review or appeal of an immigration officer’s determination as to the admissibility
of the alien at the port of entry into the United States,
or to contest, other than on the basis of an application
for asylum, any action for removal of the alien”.

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