

EXHIBIT B

114TH CONGRESS
1ST SESSION

S. 1640

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 SENATE OF THE UNITED STATES

JUNE 22, 2015

Mr. SESSIONS (for himself, Mr. COTTON, Mr. PERDUE, Mr. VITTER, and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to 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”.

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[TITLE I—IMMIGRATION LAW ENFORCEMENT BY STATES AND LOCALITIES](#)

SEC. 101. DEFINITIONS AND SEVERABILITY.

(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 political subdivision of a State, may not admit aliens to or remove them from the United States.

SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(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

require, the Secretary shall provide the National Crime Information 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 departure agreement, any alien who has overstayed their authorized period of stay, 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 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 of the United States, regardless of whether any such alien has received notice of the violation 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(a) 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.
- (10) If applicable, the phone number and email address pertaining to the alien.

(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 Secretary shall make grants to States, and to political subdivisions of States, for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting aliens who are inadmissible or deportable, including additional administrative costs incurred under this title.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State, or a political subdivision of a State, must have the authority to, and 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 enforcement duties of such State or political subdivision of a State. Entities covered under this section may not have any policy or practice that prevents local law enforcement from inquiring about a suspect's immigration status.

(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 distributed 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 shall—

“(1) request that the relevant State or local law enforcement agency temporarily hold the alien in their custody or transport the alien for transfer to Federal custody; and

“(2) if the State or local law enforcement agency is unable to transport the alien for transfer to Federal custody, take the alien into custody not later than 48 hours (excluding Saturdays, Sundays, and holidays) after the alien’s release from the custody of the State or political subdivision of the State.

“(b) POLICY ON DETENTION IN FEDERAL, CONTRACT, STATE, OR LOCAL DETENTION FACILITIES.—In carrying out section 241(g)(1), the Attorney General or 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, and 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, or 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 deportable 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, or 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.

(c) **APPLICABILITY.**—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide with them while on duty.

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

(e) **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 or 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, 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 Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) **FEDERAL PERSONNEL TRAINING.**—The training of State and local law enforcement personnel under this section shall not displace the training of

(3) CLARIFICATION.—Nothing in this title or any other provision of law shall be construed as making any immigration-related training a requirement 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 enforcement officer of a State or local law enforcement agency 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 that—

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

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

(C) removes 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; or

(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 practicable 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 locations.

(d) **EFFECTIVE DATE.**—This section shall take effect of the date of the enactment of this Act, except that subsection (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 written agreement with a State, or any political subdivision of a State, upon request of the State or political subdivision, pursuant to which an officer or employee of the State or subdivision, who is determined by the Secretary to be qualified to perform a function of an immigration officer in relation to the investigation, 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 enforcement agency shall be denied

absent a compelling reason. No limit on the number of agreements under this subsection may be imposed. The Secretary 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 paragraph (5) and paragraphs (3) through (10) as paragraphs (7) through (14), respectively;

(3) by inserting after paragraph (1) the following:

“(2) An agreement under this subsection shall accommodate a requesting State or political subdivision with respect 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 reasonable model the State or political subdivision believes is best suited to the immigration enforcement needs of its jurisdiction.

“(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 a cause of action against the Secretary in a United States District Court within the State regarding the termination of the agreement, 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 the Supreme Court.

“(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 available 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 agencies or facilities, online training courses by computer, teleconferencing, 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 scalable, 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 Department of Justice and the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel. Preference shall be given to private sector-based web-based immigration enforcement training programs for which the Federal Government has already provided support to develop.”.

SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).

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”;

(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 VIOLATIONS OF ENFORCEMENT OF IMMIGRATION LAWS.

(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 “Immigration and Naturalization Service” each place it appears and inserting “Department of Homeland Security”;

(2) in subsection (a), by striking “may” and inserting “shall”;

(3) in subsection (b)—

(A) by striking “no person or agency may ” and inserting “a person or agency shall not”;

(B) by striking “doing any of the following with respect to information” and inserting “undertaking any of the following law enforcement activities”; and

(C) by striking paragraphs (1) through (3) and inserting the following:

“(1) Notifying the Federal Government regarding the presence of inadmissible and deportable aliens who are encountered by law enforcement personnel of a State or political subdivision of a State.

“(2) Complying with requests for information from Federal law enforcement.

“(3) Issuing policies in the form of a resolutions, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal law or restrict a State or political subdivision of a State from complying with Federal law or coordinating with Federal law enforcement.”; and

(4) by adding at the end the following:

“(d) COMPLIANCE.—

“(1) IN GENERAL.—A State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers’ routine law enforcement duties 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\(i\)](#)) or 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

“(B) any other law enforcement or Department of Homeland Security grant.

“(2) ANNUAL DETERMINATION.—The Secretary shall determine annually which State or political subdivision of a State are not in compliance with this section and shall report such determinations to Congress on March 1 of each year.

“(3) REPORTS.—The Attorney General shall issue a report concerning the compliance of any particular State or political subdivision at the request of the House or Senate Judiciary Committee. Any jurisdiction that is found to be out of 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 eligible again after the Attorney General certifies that the jurisdiction is in compliance.

“(4) 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 political subdivision of the State, to comply with subsection (c) shall be reallocated to States, or to political subdivisions of States, that comply with such subsection.

“(e) CONSTRUCTION.—Nothing in this section shall require law enforcement officials from States, or from political 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 Responsibility Act of 1996 ([8 U.S.C. 1373](#)), as added by this section, shall take effect beginning one year after the date of the enactment of this Act.

SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.

(a) IN GENERAL.—Except as otherwise provided by Federal law or rule of procedure, the Secretary of Homeland Security shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute the Secretary’s duties.

(b) STATE AND LOCAL COOPERATION WITH DHS DETAINERS.—A State, or a political subdivision of a State, that has in effect a statute or policy or practice providing that it not comply with any Department of Homeland Security detainer ordering that it temporarily hold an alien in their custody so that the alien may be taken into Federal custody, or transport the alien for transfer to Federal custody, shall not be eligible to receive—

(1) 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\(i\)](#)) or 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

(2) any other law enforcement or Department of Homeland Security grant.

(c) IMMUNITY.—A State or a political subdivision of a State acting in compliance with a Department of Homeland Security detainer who temporarily holds aliens in its custody so that they may be taken into Federal custody, or transports the aliens for transfer to Federal custody, shall be considered to be acting under color of Federal authority for purposes of determining its liability, and immunity from suit, in civil actions brought by the aliens under Federal or State law.

(d) PROBABLE CAUSE.—It is the sense of Congress that the Department of Homeland Security has probable cause to believe that an alien is inadmissible or deportable when it issues a detainer regarding such alien under the standards in place on the date of introduction of this Act.

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) 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\(c\)\(4\)](#)) 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” each place it appears;

(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); 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 lawful 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 attendance at a proceeding to determine the alien’s inadmissibility or deportability.

(2) CLERICAL AMENDMENT.—The table of contents 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 enactment of this Act and sections 208(b)(2)(A), 212(a), 240A, 240B, 241(b)(3), and 249 of the Immigration and Nationality Act, as so amended, shall apply to—

- (1) all aliens in removal, deportation, or exclusion 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 described 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) in the matter preceding paragraph (1), by striking “who, during the period for which good moral character is required to be established, is,” and inserting “who is”;

(2) by inserting after paragraph (1) the following:

“(2) one who the Secretary of Homeland Security 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 classified, sensitive, or national security information;”;

(3) in paragraph (8), by striking “subsection (a)(43));” and inserting “subsection (a)(43)), regardless whether the crime was classified as an aggravated felony at the time of conviction;”; and

(4) 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 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 Immigration and Nationality Act ([8 U.S.C. 1427](#)) 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: *Provided*, That the findings of the Attorney General 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, whether, for purposes of an application for naturalization, 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 happiness of the United States.”.

(g) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of 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.

(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 following:

“(f)(1) If a person who has been naturalized participates 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 principles 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(c)(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 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

(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 such background and security checks as the Secretary may in his discretion require have been completed or updated to the satisfaction of the Secretary.

“(i) 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 nor the Attorney General may be required to—

“(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 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.

“(j) 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) or (i) 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 investigation 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.”.

(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 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”.

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 “an offense relating to 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 (B), by inserting “an offense relating to” before “illicit trafficking”;

(4) in subparagraph (C), by inserting “an offense relating to” before “illicit trafficking in firearms”;

(5) in subparagraph (F), by inserting “an offense relating to” before “a crime of violence”;

(6) in subparagraph (G), by striking “a theft offense (including receipt of stolen property) or a burglary offense” and inserting “an offense relating to theft (including receipt of stolen property) or burglary”;

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

(8) in subparagraph (N), by striking “paragraph (1)(A) or (2) of” and all that follows through the end and inserting “section 274(a) (relating to alien smuggling);”;

(9) 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 6 months;”;

(10) 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

(11) 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.—The amendments to section 101(a)(43) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(43\)](#)) made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of [Public Law 104–208](#); 110 Stat. 3009–627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CONVICTED 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 conspiracy or attempt to violate) an offense described in section 408 of title 42, United States Code (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 documents, authentication features, 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 inadmissible.

“(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 essential 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 accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

“(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 another 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 subparagraph.”; 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 subparagraphs (A)(i)(I), (III), (B), (D), (E), or (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 Homeland 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 removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

(e) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to create eligibility for relief from removal under former section 212(c) of the Immigration 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 Nationality Act ([8 U.S.C. 1182\(a\)\(3\)\(A\)](#)), is amended to read as follows:

“(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in, or who is engaged in, or with respect to clauses (i) and (iii) of this subparagraph 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)—

(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 section 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” 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. CONFORMING AMENDMENTS FOR THE AGGRAVATED FELONY DEFINITION.

(a) **IN GENERAL.**—Subparagraph (P) of section 101(a)(43) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(43\)](#)) is amended to read as follows:

“(P) an offense which is described in any section of [chapter 75](#) of title 18, United States Code, for which the term of imprisonment is at least 12 months;”.

(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 acts that occur before, on, or after the date of the enactment of this Act.

SEC. 308. PRECLUDING REFUGEE OR ASYLEE ADJUSTMENT OF STATUS FOR AGGRAVATED FELONS.

(a) **IN GENERAL.**—Section 209(c) of the Immigration and Nationality Act ([8 U.S.C. 1159\(c\)](#)) is amended by adding at the end thereof the following: “However, an alien who is convicted of an aggravated felony is not eligible for a waiver or for adjustment of status under this section.”.

(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 removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or after such date.

SEC. 309. 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 removal, deportation, or exclusion proceedings that are filed, pending, or reopened on or after such date.

SEC. 310. INADMISSIBILITY AND DEPORTABILITY OF DRUNK DRIVERS.

(a) **IN GENERAL.**—Section 101(a)(43) of the Immigration 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 following:

“(V) a second or subsequent conviction for driving while intoxicated (including a conviction for driving while under the influence of or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under State law.”.

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

SEC. 311. 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 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 subparagraph 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 documents 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 safety;

“(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences 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 CERTIFICATION.—

“(i) RENEWAL.—The Secretary of Homeland Security may renew a certification under subparagraph (B)(ii)(II) every 6 months, after providing an opportunity for the alien to request reconsideration 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 subparagraph (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 Assistant Secretary for 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 judge orders a stay of removal, the Secretary of Homeland Security, in the exercise of the Secretary's discretion, may impose conditions on release as provided in paragraph (3).

“(E) REDETENTION.—The Secretary of Homeland Security, in the exercise of the Secretary's discretion, without any limitations other than those specified in this section, may again detain any alien subject to a final removal order who is released from custody, if removal becomes likely in the reasonably foreseeable 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 returned to custody pursuant to this subparagraph, 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 review by any other agency.”.

(b) DETENTION OF ALIENS DURING REMOVAL PROCEEDINGS.—

(1) CLERICAL AMENDMENT.—Section 236 of the Immigration and Nationality Act ([8 U.S.C. 1226](#)) is amended—

(A) by striking “Attorney General” each place it appears (except in the second place that term appears in subsection (a)) and inserting “Secretary of Homeland Security”;

(B) in subsection (a) of such Act, by inserting “the Secretary of Homeland Security or” before “the Attorney General—”; and

(C) in subsection (e) by striking “Attorney General’s” and inserting “Secretary of Homeland Security’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 the Immigration and Nationality Act ([8 U.S.C. 1226\(c\)\(1\)](#)) is amended to read as follows:

“(1) CUSTODY.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall take into custody any alien who is described in paragraph (2) or (3) of section 212(a), section 237(a)(2), section 237(a)(4), or who has no lawful status in the United States and has been convicted one or more times for driving while intoxicated (including a conviction for driving while under the influence or impaired by alcohol or drugs), any time after the alien is released, without regarding to whether—

“(i) an alien is released related to any activity, offense, or conviction described in this paragraph;

“(ii) the alien is released on parole, supervised release or probation; or

“(iii) the alien may be arrested or imprisoned again for the same offense.

“(B) SUBSEQUENT CUSTODY.—If the activity described in this paragraph does not result in the alien being taken into custody by any person other than the Secretary of Homeland Security, 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 Secretary shall take such alien into custody.”.

(4) RELEASE ON BOND.—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) 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 risk to another person or the community.

“(2) CERTAIN ALIENS INELIGIBLE.—No alien detained under subsection (c) may seek release on bond.”.

(5) CLERICAL AMENDMENTS.—Section 236 of the Immigration and Nationality Act ([8 U.S.C. 1226](#)) is amended—

(A) in subsection (a)(2)(B), by striking “conditional parole;” and inserting “recognizance;”; and

(B) in subsection (b), 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) SUBSECTION (a).—The amendments made by subsection (a) shall take effect upon the date of 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) SUBSECTION (b).—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. 312. 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 5 or more persons that has as one of its primary purposes the commission of 1 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 Attorney General, as meeting these criteria. The offenses described, whether in violation of Federal or State law or foreign law and regardless of whether the offenses occurred before, on, or after the date of the enactment of this paragraph, are the following:

“(i) A ‘felony drug offense’ (as defined in section 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, victim, or informant, or burglary.

“(v) Any conduct punishable under sections 1028 and 1029 of title 18, United States Code (relating to fraud and related activity in connection with identification documents or access devices), sections 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 enterprises), section 1956 of such title (relating to the laundering of monetary instruments), section 1957 of such title (relating to engaging in monetary transactions 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 described in clauses (i) through (v).

“(B) Notwithstanding any other provision of law (including 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:

“(O) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—Any alien is inadmissible who a consular officer, the Secretary of Homeland Security, or the Attorney General knows or has reason 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 activities of a criminal gang (as defined in section 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 Immigration 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 Secretary 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 activities 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) ANNUAL REPORT ON DETENTION OF CRIMINAL STREET GANG MEMBERS.—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 to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the number of aliens detained who are described by subparagraph (O) of section 212(a)(2) and subparagraph (H) of section 237(a)(2) of the Immigration and Nationality Act ([8 U.S.C. 1182\(a\)\(2\)](#) and [1227\(a\)\(2\)](#)), as added by subsections (b) and (c).

(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)(O)(i) or section 237(a)(2)(H) (i) or who is” after “to an alien”.

(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)(O)(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 “States, or” and inserting “States;”;

(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 has been, an alien described in section 212(a)(2)(O)(i) or section 237(a)(2)(H)(i).”; 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 Security 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. 313. 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. 314. 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

(2) 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. 315. 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:

“(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 3 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. 316. 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.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection was convicted before such removal or departure—

“(1) for 3 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 sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not less than 2 years and not more than 15 years, or both;

“(3) for a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not less than 4 years and 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 3 or more felonies of any kind, the alien shall be fined under such title, imprisoned not less than 5 years and not more than 25 years, or both.

“(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 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. 317. 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

[“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 immigration laws of the United States 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 fraudulent 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. 318. 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. 319. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE ON CRIMINAL OR SECURITY GROUNDS.

(a) **IN GENERAL.**—Section 238(b) of the Immigration and Nationality Act ([8 U.S.C. 1228\(b\)](#)) is amended—

(1) in paragraph (1)—

(A) by striking “Attorney General” and inserting “Secretary of Homeland Security in the exercise of discretion”; and

(B) by striking “set forth in this subsection or” and inserting “set forth in this subsection, in lieu of removal proceedings under”;

(2) in paragraph (3), by striking “paragraph (1) until 14 calendar days” and inserting “paragraph (1) or (3) until 7 calendar days”;

(3) by striking “Attorney General” each place it appears in paragraphs (3) and (4) and inserting “Secretary of Homeland Security”;

(4) in paragraph (5)—

(A) by striking “described in this section” and inserting “described in paragraph (1) or (2)”;

(B) by striking “the Attorney General may grant in the Attorney General’s discretion” and inserting “the Secretary of Homeland Security or the Attorney General may grant, in the discretion of the Secretary or Attorney General, in any proceeding”;

(5) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(6) by inserting after paragraph (2) the following new paragraph:

“(3) The Secretary of Homeland Security in the exercise of discretion may determine inadmissibility under section 212(a)(2) (relating to criminal offenses) or section 212(a)(3) (related to security grounds) 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 section 235(b)(1)(B); and

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

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) 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 as of such date.

SEC. 320. 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. 321. 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) or any offense defined in section 111 of the Adam Walsh Child Protection and Safety Act of 2006 ([42 U.S.C. 16911](#)), 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 striking “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. 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),”; and

(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) IN GENERAL.—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:

“(J) 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) 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 subparagraph:

“(G) CRIMINAL OFFENSES.—

“(i) IN GENERAL.—For purposes of determining whether an underlying criminal offense constitutes a ground of deportability 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.”.

(c) FINALITY OF SENTENCES FOR IMMIGRATION PURPOSES.—Section 101(a)(48) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(48\)](#)) is amended by adding at the end the following subparagraph:

“(C) Any modification, clarification, vacatur, or any other such similar action with respect to an alien’s conviction, other than a full and complete pardon, made after the initiation of any proceedings to remove the alien from the United States shall have no effect for the purposes of this Act.”.

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 nonimmigrant 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.

(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 facilitation 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 subparagraph (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 national security;

“(ii) identified by the Secretary of Homeland Security as a person of concern; or

“(iii) applying for a visa in a visa category with respect to which the Secretary of Homeland Security has determined that a waiver of the visa interview would create a high risk of degradation of visa program integrity.”.

SEC. 404. NON-INTERVIEW OF CERTAIN INELIGIBLE VISA APPLICANTS.

(a) **IN GENERAL.**—Section 222(h)(1) of the Immigration and Nationality Act ([8 U.S.C. 1202\(h\)\(1\)](#)) is amended by inserting “the alien is determined by the Secretary 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 Congress 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.

“(c) 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) 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)”.

(3) 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 by—

(1) striking “subsection” and inserting “section”; and

(2) striking “consular office” and inserting “consular officer”.

SEC. 406. FUNDING FOR THE VISA SECURITY PROGRAM.

(a) IN GENERAL.—The Department of State and Related Agency Appropriations Act, 2005 (title IV of division B of [Public Law 108–447](#)) is amended, in the fourth paragraph under the heading “Diplomatic and Consular Programs”, by striking “Beginning” and all that follows through the period at the end and inserting the following: “Beginning in fiscal year 2005 and thereafter, the Secretary of State is authorized to charge surcharges related to consular services in support of enhanced border security that are in addition to the immigrant visa fees in effect on January 1, 2004: *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 be 10 percent of the fee assessed on immigrant visa applications.”.

(b) REPAYMENT OF APPROPRIATED FUNDS.—Twenty percent of the funds collected each fiscal year 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](#)), as amended by subsection (a), shall be

deposited into the general fund of the Treasury as repayment of funds appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been repaid.

SEC. 407. EXPEDITIOUS EXPANSION OF VISA SECURITY PROGRAM TO HIGH-RISK POSTS.

(a) **IN GENERAL.**—Section 428(i) of the Homeland Security Act of 2002 ([6 U.S.C. 236\(i\)](#)) is amended to read as follows:

“(i) **VISA ISSUANCE AT DESIGNATED HIGH-RISK POSTS.**—Notwithstanding any other provision of law, the Secretary of Homeland Security shall conduct an on-site review of all visa applications and supporting documentation before adjudication at the top 30 visa-issuing posts designated jointly by the Secretaries of State and Homeland Security as high-risk posts.”.

(b) **ASSIGNMENT OF PERSONNEL.**—Not later than one year after the date of enactment of this section, the Secretary of Homeland Security shall assign personnel to the visa-issuing posts referenced in section 428(i) of the Homeland Security Act of 2002 ([6 U.S.C. 236\(i\)](#)), as amended by this section, and communicate such assignments to the Secretary of State.

(c) **APPROPRIATIONS.**—There is authorized to be appropriated \$60,000,000 for each of the fiscal years 2015 and 2016, which shall be used to expedite the implementation of section 428(i) of the Homeland Security Act, as amended by this section.

SEC. 408. EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.

Section 428 of the Homeland Security Act of 2002 ([6 U.S.C. 236](#)) is amended by adding at the end the following:

“(j) **EXPEDITED CLEARANCE AND PLACEMENT OF DEPARTMENT OF HOMELAND SECURITY PERSONNEL AT OVERSEAS EMBASSIES AND CONSULAR POSTS.**—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, the Chief of Mission of a post to which the Secretary of Homeland Security has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the date on which the Secretary of Homeland Security communicates such assignment to the Secretary of State, that such personnel have been stationed and accommodated at post and are able to carry out their duties.”.

SEC. 409. ACCREDITATION REQUIREMENTS.

(a) COLLEGES, UNIVERSITIES, AND LANGUAGE TRAINING PROGRAMS.—Section 101(a) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)](#)) is amended—

(1) in paragraph (15)(F)(i)—

(A) by striking “section 214(l) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States” and inserting “section 214(m) at an accredited college, university, or language training program, or at an established seminary, conservatory, academic high school, elementary school, or other academic institution in the United States”;

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

(C) by striking “and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn,” and inserting “and if any such institution of learning or place of study fails to make reports promptly or fails to comply with any accreditation requirement (including deadlines for submitting accreditation applications or obtaining accreditation) the approval shall be withdrawn,”; and

(2) by amending paragraph (52) to read as follows:

“(52) Except as provided in section 214(m)(4), the term ‘accredited college, university, or language training program’ means a college, university, or language training program that is accredited by an accrediting agency recognized by the Secretary of Education.”.

(b) OTHER ACADEMIC INSTITUTIONS.—Section 214(m) of the Immigration and Nationality Act ([8 U.S.C. 1184\(m\)](#)) is amended by adding at the end the following:

“(3) The Secretary of Homeland Security shall require accreditation of an academic institution (except for seminaries or other religious institutions) for purposes of section 101(a)(15)(F) if—

“(A) that institution is not already required to be accredited under section 101(a)(15)(F)(i); and

“(B) an appropriate accrediting agency recognized by the Secretary of Education is able to provide such accreditation.

“(4) The Secretary of Homeland Security, in the Secretary’s discretion, may waive the accreditation requirement in paragraph (3) or section 101(a)(15)(F)(i)

with respect to an institution if such institution—

“(A) is otherwise in compliance with the requirements of section 101(a)(15)(F)(i); and

“(B) has been a candidate for accreditation for at least 1 year and continues to progress toward accreditation by an accrediting agency recognized by the Secretary of Education.”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall—

(A) take effect on the date that is 180 days after the date of enactment of this Act; and

(B) apply with respect to applications for nonimmigrant visas that are filed on or after the effective date described in subparagraph (A).

(2) TEMPORARY EXCEPTION.—During the 3-year period beginning on the effective date described in paragraph (1)(A), an institution that is newly required to be accredited under this section may continue to participate in the Student and Exchange Visitor Program notwithstanding the institution’s lack of accreditation if the institution—

(A) was certified under the Student and Exchange Visitor Program on such date;

(B) submitted an application for accreditation to an accrediting agency recognized by the Secretary of Education during the 6-month period ending on such date; and

(C) continues to progress toward accreditation by such accrediting agency.

SEC. 410. VISA FRAUD.

(a) TEMPORARY SUSPENSION OF SEVIS ACCESS.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ([8 U.S.C. 1372\(d\)](#)) is amended—

(1) in paragraph (1)(A), by striking “institution,,” and inserting “institution,”; and

(2) by adding at the end the following:

“(3) EFFECT OF REASONABLE SUSPICION OF FRAUD.—If the Secretary of Homeland Security has reasonable suspicion that an owner of, or a designated school official at, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program has committed fraud or attempted to commit fraud relating to any aspect of the Student and Exchange Visitor Program (SEVP), the Secretary may immediately suspend, without notice, such official’s or such school’s access to the Student and Exchange Visitor Information System (SEVIS), including the ability to issue Form I–20s, pending a final determination by the Secretary with respect to the institution’s certification under the Student and Exchange Visitor Program.”.

(b) EFFECT OF CONVICTION FOR VISA FRAUD.—Such section 641(d), as amended by subsection (a)(2), is further amended by adding at the end the following:

“(4) PERMANENT DISQUALIFICATION FOR FRAUD.—A designated school official at, or an owner of, an approved institution of higher education, an other approved educational institution, or a designated exchange visitor program who is convicted for fraud relating to any aspect of the Student and Exchange Visitor Program shall be permanently disqualified from filing future petitions and from having an ownership interest or a management role, including serving as a principal, owner, officer, board member, general partner, designated school official, or any other position of substantive authority for the operations or management of the institution, in any United States educational institution that enrolls nonimmigrant alien students described in subparagraph (F) or (M) of section 101(a)(15) the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)](#)).”.

SEC. 411. BACKGROUND CHECKS.

(a) IN GENERAL.—Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ([8 U.S.C. 1372\(d\)](#)), as amended by section 411(b) of this Act, is further amended by adding at the end the following:

“(5) BACKGROUND CHECK REQUIREMENT.—

“(A) IN GENERAL.—An individual may not serve as a designated school official or be granted access to SEVIS unless the individual is a national of the United States or an alien lawfully admitted for permanent residence and during the most recent 3-year period—

“(i) the Secretary of Homeland Security has—

“(I) conducted a thorough background check on the individual, including a review of the individual’s criminal and sex offender history and the verification of the individual’s immigration status; and

“(II) determined that the individual has not been convicted of any violation of United States immigration law and is not a risk to national security of the United States; and

“(ii) the individual has successfully completed an on-line training course on SEVP and SEVIS, which has been developed by the Secretary.

“(B) INTERIM DESIGNATED SCHOOL OFFICIAL.—

“(i) IN GENERAL.—An individual may serve as an interim designated school official during the period that the Secretary is conducting the background check required by subparagraph (A)(i)(I).

“(ii) REVIEWS BY THE SECRETARY.—If an individual serving as an interim designated school official under clause (i) does not successfully complete the background check required by subparagraph (A)(i)(I), the Secretary shall review each Form I–20 issued by such interim designated school official.

“(6) FEE.—The Secretary is authorized to collect a fee from an approved school for each background check conducted under paragraph (6)(A)(i). The amount of such fee shall be equal to the average amount expended by the Secretary to conduct such background checks.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 412. NUMBER OF DESIGNATED SCHOOL OFFICIALS.

Section 641(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ([8 U.S.C. 1372\(d\)](#)), as amended by section 412(a) of this Act, is further amended by adding at the end the following:

“(7) NUMBER OF DESIGNATED SCHOOL OFFICIALS.—School officials may nominate as many Designated School Officials (DSOs) in addition to the school’s Principal Designated School Official (PDSO) as they determine necessary to adequately provide recommendations to students enrolled at the school regarding maintenance of nonimmigrant status under subparagraph (F) or (M) of section 101(a)(15) and to support timely and complete recordkeeping

and reporting to the Secretary of Homeland Security, as required by this section, except that a school may not have less than one DSO per every 200 students who have nonimmigrant status pursuant to subparagraph (F), (J), or (M) of such section. School officials shall not permit a DSO or PDSO nominee access to SEVIS until the Secretary approves the nomination.”.

SEC. 413. REPORTING REQUIREMENT.

Section 442(a) of the Homeland Security Act of 2002 ([6 U.S.C. 252\(a\)](#)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

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

“(5) STUDENT AND EXCHANGE VISITOR PROGRAM.—In administering the program under paragraph (4), the Secretary shall, not later than one year after the date of the enactment of this paragraph, prescribe regulations to require an institution or exchange visitor program sponsor participating in the Student Exchange Visitor Program to ensure that each student or exchange visitor who has nonimmigrant status pursuant to subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)](#)) enrolled at the institution or attending the exchange visitor program is reported to the Department within 10 days of—

“(A) transferring to another institution or program;

“(B) changing academic majors; or

“(C) any other changes to information required to be maintained in the system described in paragraph (4).”.

SEC. 414. FLIGHT SCHOOLS NOT CERTIFIED BY FAA.

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary of Homeland Security shall prohibit any flight school in the United States from accessing SEVIS or issuing a Form I–20 to an alien seeking a student visa pursuant to subparagraph (F)(i) or (M)(i) of section 101(a)(15) of the Immigration and Nationality Act ([8 U.S.C. 1101\(a\)\(15\)](#)) if the flight school has not been certified to the satisfaction of the Secretary and by the Federal Aviation Administration pursuant to part 141 or part 142 of title 14, Code of Federal Regulations (or similar successor regulations).

(b) TEMPORARY EXCEPTION.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary may waive the requirement under

subsection (a) that a flight school be certified by the Federal Aviation Administration if such flight school—

(1) was certified under the Student and Exchange Visitor Program on the date of the enactment of this Act;

(2) submitted an application for certification with the Federal Aviation Administration during the 1-year period beginning on such date; and

(3) continues to progress toward certification by the Federal Aviation Administration.

SEC. 415. REVOCATION OF ACCREDITATION.

At the time an accrediting agency or association is required to notify the Secretary of Education and the appropriate State licensing or authorizing agency of the final denial, withdrawal, suspension, or termination of accreditation of an institution pursuant to section 496 of the Higher Education Act of 1965 ([20 U.S.C. 1099b](#)), such accrediting agency or association shall notify the Secretary of Homeland Security of such determination and the Secretary of Homeland Security shall immediately terminate the school's Student and Exchange Visitor Program (SEVP) certification and prohibit the school from accessing the Student and Exchange Visitor Information System (SEVIS).

SEC. 416. REPORT ON RISK ASSESSMENT.

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 Senate and the Committee on the Judiciary of the House of Representatives a report that contains the risk assessment strategy that will be employed by the Secretary to identify, investigate, and take appropriate action against schools and school officials that are facilitating the issuance of Form I-20 and the maintenance of student visa status in violation of the immigration laws of the United States.

SEC. 417. IMPLEMENTATION OF GAO RECOMMENDATIONS.

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 Senate and the Committee on the Judiciary of the House of Representatives a report that describes—

(1) the process in place to identify and assess risks in the SEVP;

(2) a risk assessment process to allocate SEVP's resources based on risk;

(3) the procedures in place for consistently ensuring a school's eligibility, including consistently verifying in lieu of letters;

(4) how SEVP identified and addressed missing school case files;

(5) a plan to develop and implement a process to monitor State licensing and accreditation status of all SEVP-certified schools;

(6) whether all flight schools that have not been certified to the satisfaction of the Secretary and by the Federal Aviation Administration have been removed from the program and have been restricted from accessing SEVIS;

(7) the standard operating procedures that govern coordination among SEVP, the U.S. Immigration and Customs Enforcement (ICE) Counterterrorism and Criminal Exploitation Unit, and ICE field offices; and

(8) the established criteria for referring cases of a potentially criminal nature from SEVP to the counterterrorism and intelligence community.

SEC. 418. IMPLEMENTATION OF SEVIS II.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Homeland Security shall complete the deployment of both phases of the 2nd generation Student and Exchange Visitor Information System (commonly known as "SEVIS II").

SEC. 419. DEFINITIONS.

(a) **DEFINITIONS.**—For purposes of this title:

(1) **SEVIS.**—The term "SEVIS" means the Student and Exchange Visitor Information System of the Department of Homeland Security.

(2) **SEVP.**—The term "SEVP" means the Student and Exchange Visitor Program of the Department of Homeland Security.

TITLE V—AID TO U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

SEC. 501. ICE IMMIGRATION ENFORCEMENT AGENTS.

(a) **IN GENERAL.**—The Secretary of Homeland Security shall authorize all immigration enforcement agents and 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 to arrest for any offense against the United States;

(2) section 287(a)(5)(B) of such Act to arrest for any felony;

(3) section 274(a) of such Act to arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;

(4) section 287(a) of such Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States; and

(5) section 287(a) of such Act to carry firearms, provided that 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,”.

(c) **PAY.**—Immigration enforcement agents shall be paid on the same scale as Immigration and Customs Enforcement deportation officers and shall receive the same benefits.

SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.

(a) **AUTHORIZATION.**—The Secretary of Homeland Security is authorized to hire 2,500 Immigration and Customs Enforcement detention enforcement officers.

(b) **DUTIES.**—Immigration and Customs Enforcement detention enforcement officers who have successfully completed detention enforcement officers’ basic training shall be responsible for—

(1) taking and maintaining custody of any person who has been arrested by an immigration officer;

(2) transporting and guarding immigration detainees;

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

(4) assisting in the processing of detainees.

SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS AND AGENTS.

(a) **BODY ARMOR.**—The Secretary of Homeland Security shall ensure that every Immigration and Customs Enforcement deportation officer and immigration enforcement agent 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 Immigration and Customs Enforcement deportation officers and immigration enforcement agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent 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) **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 Judiciary Committees 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 five of the ten Immigration and Customs Enforcement field offices with the largest removal caseloads to allow Immigration and Customs deportation officers and immigration enforcement agents to—

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

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

(b) DUTIES.—The pilot program described in subsection (a) shall be designed to allow deportation officers and immigration enforcement agents 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) within 6 months of the date of 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 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 Immigration and Customs Enforcement deportation officers by 5,000 above the number of full-time positions for which funds were appropriated for fiscal year 2013. 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 Immigration and Customs Enforcement deportation officers by 700 above the number of full-time positions for which funds were appropriated for fiscal year 2013.

SEC. 507. ADDITIONAL ICE PROSECUTORS.

The Secretary of Homeland Security shall increase by 60 the number of full-time trial attorneys working for the Immigration and Customs Enforcement Office of the Principal Legal Advisor.

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 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 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 such country is not included in such list, such 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 such country who receive

(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 such 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.

(c) **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 such country if, not later than 90 days after receiving a request to repatriate 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 travel documents.

(2) **FAILURE RATE.**—The term “failure rate” for a period means the percentage determined by dividing the total number of repatriation requests for aliens who are citizens, subjects, nationals, or residents of a country that such country refused or unreasonably 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 subsection (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 such 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 Attorney General 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.”;

(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 “paragraph (1)” and inserting “paragraphs (1) and (2)”;

(2) in subsection (b)(2), by striking “a period exceeding 60 days” and inserting “any period in excess of 45 days”;

(3) by amending subsection (c) to read as follows:

“(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 include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

“(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien’s agreement to depart voluntarily 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 Attorney General 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 additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsection (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 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 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”.

(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 Attorney General that the alien is otherwise eligible for such protection.”.

(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 Immigration 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 departed voluntarily, under an order of removal, deportation, 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 require proceedings under section 240 or other proceedings before an immigration judge.”.

(b) JUDICIAL REVIEW.—Section 242 of the Immigration 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.—Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, any other habeas corpus provision, 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. 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. 606. REPORTS TO CONGRESS.

(a) IN GENERAL.—Not later than 30 days after the end of each quarter of a fiscal year, the Secretary of Homeland Security and the Attorney General shall each provide to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives 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 previous quarter 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 quarter but not clearly and beyond a doubt entitled to be admitted by an immigration officer and who were not detained as required pursuant 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 quarter 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 quarter 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 or administratively closed in the previous quarter 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.

(8) Aliens released from custody, including the number of releases, the number of aliens who were released who have a criminal history, the general reasons for release, the conditions of release, and the zip codes of the last known addresses.

(9) Aliens granted an administrative stay of removal, or otherwise permitted to remain in the United States through any similar process by U.S. Immigration and Customs Enforcement.

(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.

(a) IN GENERAL.—

(1) PROHIBITION ON USE OF FUNDS.—No funds, resources, or fees made available to the Secretary of Homeland Security, or to any other official of a Federal agency, by this Act or any other Act for any fiscal year, including any deposits into the “Immigration Examinations Fee Account” established under section 286(m) of the Immigration and Nationality Act ([8 U.S.C. 1356\(m\)](#)), may be used to implement, administer, enforce, or carry out (including through the issuance of any regulations) any of the policy changes set forth in the following memoranda (or any substantially similar policy changes issued or taken on or after January 9, 2015, whether set forth in memorandum, Executive order, regulation, directive, or by other action):

(A) The memorandum from the Director of United States Immigration and Customs Enforcement entitled “Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens” dated March 2, 2011.

(B) The memorandum from the Director of United States Immigration and Customs Enforcement entitled “Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens” dated June 17, 2011.

(C) The memorandum from the Principal Legal Advisor of United States Immigration and Customs Enforcement entitled “Case-by-Case Review of Incoming and Certain Pending Cases” dated November 17, 2011.

(D) The memorandum from the Director of United States Immigration and Customs Enforcement entitled “Civil Immigration Enforcement: Guidance on the Use of Detainers in the Federal, State, Local, and Tribal Criminal Justice Systems” dated December 21, 2012.

(E) The memorandum from the Secretary of Homeland Security entitled “Southern Border and Approaches Campaign” dated November 20, 2014.

(F) The memorandum from the Secretary of Homeland Security entitled “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants” dated November 20, 2014.

(G) The memorandum from the Secretary of Homeland Security entitled “Secure Communities” dated November 20, 2014.

(H) The memorandum from the Secretary of Homeland Security entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children and with Respect to Certain Individuals Who Are the Parents of U.S. Citizens or Permanent Residents” dated November 20, 2014.

(I) The memorandum from the Secretary of Homeland Security entitled “Expansion of the Provisional Waiver Program” dated November 20, 2014.

(J) The memorandum from the Secretary of Homeland Security entitled “Policies Supporting U.S. High-Skilled Businesses and Workers” dated November 20, 2014.

(K) The memorandum from the Secretary of Homeland Security entitled “Families of U.S. Armed Forces Members and Enlistees” dated November 20, 2014.

(L) The memorandum from the Secretary of Homeland Security entitled “Directive to Provide Consistency Regarding Advance Parole” dated November 20, 2014.

(M) The memorandum from the Secretary of Homeland Security entitled “Policies to Promote and Increase Access to U.S. Citizenship” dated November 20, 2014.

(N) The memorandum from the President entitled “Modernizing and Streamlining the U.S. Immigrant Visa System for the 21st Century” dated November 21, 2014.

(O) The memorandum from the President entitled “Creating Welcoming Communities and Fully Integrating Immigrants and Refugees” dated November 21, 2014.

(2) NO LEGAL EFFECT.—The memoranda referred to in subsection (a) (or any substantially similar policy changes issued or taken on or after January 9, 2015, whether set forth in memorandum, Executive order, regulation, directive, or by other action) have no statutory or constitutional basis and therefore have no legal effect.

(3) PROHIBITION ON FEDERAL BENEFITS.—No funds or fees made available to the Secretary of Homeland Security, or to any other official of a

Federal agency, by this Act or any other Act for any fiscal year, including any deposits into the “Immigration Examinations Fee Account” established under section 286(m) of the Immigration and Nationality Act ([8 U.S.C. 1356\(m\)](#)), may be used to grant any Federal benefit to any alien pursuant to any of the policy changes set forth in the memoranda referred to in subsection (a) (or any substantially similar policy changes issued or taken on or after January 9, 2015, whether set forth in memorandum, Executive order, regulation, directive, or by other action).

(b) DEFERRED ACTION FOR CHILDHOOD ARRIVALS.—No funds, resources, or fees made available to the Secretary of Homeland Security, or to any other official of a Federal agency, by this Act or any other Act for any fiscal year, including any deposits into the “Immigration Examinations Fee Account” established under section 286(m) of the Immigration and Nationality Act ([8 U.S.C. 1356\(m\)](#)), may be used to consider or adjudicate any new, renewal, or previously denied application for any alien requesting consideration of deferred action pursuant to the guidance in the June 15, 2012, memorandum entitled “Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children” (or any substantially similar policy changes issued or taken on or after January 9, 2015, whether set forth in memorandum, Executive order, regulation, directive, or by other action).

SEC. 608. 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. 609. REMOVAL PROCEEDINGS.

Subsection (b) of section 240 of the Immigration and Nationality Act ([8 U.S.C. 1229a](#)) is amended by adding at the end the following paragraph:

“(8) ORDER OF CONSIDERATION OF PROCEEDINGS.—Whenever possible, proceedings shall take place in the order in which aliens are placed in proceedings.”.

SEC. 610. ELIMINATING BACKLOG IN THE IMMIGRATION COURT SYSTEM.

Section 240A(e) of the Immigration and Nationality Act ([8 U.S.C. 1229b\(e\)](#)) is amended—

(1) in paragraph (1), by striking “(2) and (3),” and inserting “(2), (3), and (4),”; and

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

“(4) PROHIBITION ON DELAY.—The Attorney General may not, except for in cases in which the Attorney General has decided to grant an application under this section and the fiscal year cap has been reached, in any way delay or suspend making a final decision for an application submitted under this section.”.

SEC. 611. 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 paragraph:

“(2) one who has failed to properly file an income tax return for each year that one was required to be filed;”.
