

Exhibit B



**Republic of Serbia
OFFICE OF THE WAR
CRIMES PROSECUTOR**

Ref. KTRR-55/2011
Belgrade, 28 April 2011

WAR CRIMES IN THE AREA OF ČAPLJINA

This text contains the integral version of notes for my presentation before the officials of the U.S. Embassy in Belgrade, ICE and FBI, at the meeting held on the premises of the War Crimes Prosecutor's Office in Belgrade on 11 April 2011, along with some additional information that I have collected after the meeting.

With reference to the subject of our today's meeting – the interest of the U.S. authorities in the events and war crimes that occurred in the territory of Čapljina, i.e. the role of certain individuals (who subsequently became U.S. residents) in the commission of those crimes – it is important to note that the primary activity of the Serbian War Crimes Prosecutor's Office is to prosecute Serbian citizens suspected of involvement in war crimes. I have to emphasize this fact in order for you to understand that our resources are predominantly directed towards collecting documents and data that could serve as evidence in the criminal prosecution of war crimes suspects who are available to the Serbian judicial authorities – namely the Republic of Serbia's citizens who also have residence in this state.

Specific issues related to war crimes committed by citizens of other former Yugoslav states, who can and ought to be prosecuted by their respective prosecution services, are addressed by this Prosecutor's Office in the framework of prosecutorial cooperation. This Office has exceptionally good cooperation with the Republic of Croatia's State Prosecutor's Office in the criminal prosecution of individuals responsible for war crimes. On the other hand, we still have certain problems in cooperation with the BH Prosecutor's Office due to the absence of a relevant agreement between the two Prosecutor's Offices. As far as I have been informed, however, these problems should soon be resolved – also owing to the U.S. efforts – by the signing of such an agreement.

War crimes in the area of Čapljina were addressed by this Office upon requests received from three states, i.e. their respective prosecution services that sought assistance in their criminal proceedings against individuals suspected of inhumane treatment of Serb civilians in Dretelj camp from May through August 1992. The first request related to the said case – specifically to investigation against one individual

(Mirsad Repak) – came to our Office in February 2007, from the Higher Public Prosecutor of the Norwegian National Prosecution Service in charge of war crimes, crimes against humanity and genocide committed abroad by persons who have residence in Norway. In May 2007, the Norwegian request was joined by the Public Prosecution Service in Stockholm, which had opened investigation against a suspect (Ahmet Makitan) who had residence in Sweden. Finally, in June 2010, a request relating to the Dretelj case came from the State Prosecutor of Bosnia-Herzegovina, the country in whose territory the particular crimes had taken place.

Acting upon the aforementioned requests, this Office provided its counterparts in Norway, Sweden and BH with copies of statements given by 62 persons – former Dretelj detainees – before courts in Serbia, Montenegro and BH, i.e. the Republic of Srpska. A copy of each of those statements was sent to the former Committee for Collecting Data on Crimes against Humanity and International Law, whose files – pursuant to the Serbian Government's decision – were placed at the disposal of this Office.

In response to requests for assistance to the aforementioned prosecution services relating to the Dretelj case, we located a number of former Dretelj inmates who have residence in the territory of Serbia, and facilitated interviews with them based on requests for international legal assistance. Being immediately involved in the realization of requests received from those prosecution services, I am familiar with the contents of statements provided by the former Dretelj inmates, which are also stored in my official computer, along with a copy of another statement from the Committee archives, namely that of Fikret Boškailo, given before the State Security Centre in Trebinje on 24 and 25 November 1994.

The documentation of the Committee for Collecting Data on Crimes against Humanity and International Law, parts of which had been available at this organ's official website until 2003, when it closed down. Part of the information obtained in relation to crimes committed against Serb population – including those in Dretelj camp – mainly consists of witness statements and has been delivered to the Office of the ICTY Prosecutor. Those statements served as a basis for reports on certain events, and credibility of those reports exclusively depended on the credibility of allegations in the said statements. In the period between 2003 and 2006, within research work done for the Ministry of Justice, I examined the contents of the Committee documentation and made a number of reports on certain events. As a result, I am familiar with the fact that the Committee associates, upon collecting various testimonies of a war crime event, would make reports which included basic characteristics of the particular event and names of victims involved – killed, tortured, raped etc., as well as those of possible perpetrators. Since most statements were given by victims or witnesses who – in one way or another – had also been victims, the knowledge of those people regarding the perpetrators was generally poor and would rarely include more than an occasional nickname, family name, place of birth or a physical feature. All those bits of information ought to be verified and supported by references to other sources.

Beside looking into war events in the territory of Čapljina regarding the Dretelj case, the War Crimes Prosecutor's Office has addressed a crime report received from the Serbian National Society (SND) 'Prebilovci' in June 2008. The report concerned individuals suspected of war crimes against civilian population in the Neretva valley. Since the crimes in question had been committed in the BH territory, this Office referred a photocopy of the crime report to the BH Prosecutor's Office. Being charged with the task of writing a note about the said crime report, I am familiar with its contents.

The aforementioned documents are the source of official information that I have obtained about certain war events in the Čapljina area, or more specifically, about crimes that also involve certain individuals who are the subject of the U.S. authorities' interest. Still, I believe that the basic source of your information regarding the persons whom you may consider interesting are the BH Prosecutor's Office, i.e. the relevant service of the BH Ministry of the Interior. Namely, the event which those persons were involved in ought to be a matter of those institutions' interest and consequent investigation. Beside that, the said institutions have access to documentation from military and police archives. I am familiar with the fact that the Dretelj case is addressed by International Prosecutor Jude Romano, whereas the head of the investigation team is Emily Tarr, who interviewed the former Dretelj inmates in this Office. My assessment was that Ms. Tarr had an excellent understanding of events that had taken place in the Čapljina area at the time. I also believe that the BH Prosecutor's Office is investigating other events committed in the Čapljina area.

Beside the official information that is available to me regarding the events which you are interested in, I have considerable unofficial knowledge about them since I was born in Čapljina and lived there until October 1991, when I was forced to leave the area. Likewise, some very interesting individuals were familiar to me at the time. On several occasions following the end of the war, during my private visits to Čapljina, I learnt additional details about the said events from my Croat and Muslim/Bosniak friends. Certainly, in what I am going to say about the persons who are relevant to you, I shall clearly separate my official knowledge from that acquired from private sources, since the latter might serve you solely as an operational auxiliary.

With reference to the persons relevant to your case, I would first mention the person under number 9. Boris Ružek, son of Ivan, born on 05 January 1974 in Ljubljana, Slovenia, of Croat nationality. In his statement before judge Milan Bosić of the Basic Court in Trebinje, former Dretelj inmate Radoslav Bulut, son of Savo, born on 01 October 1950 in Čapljina, now deceased, said: *Boris Ružek from Čapljina, whose father was an army officer, aged around 20, very short, was particularly rude, probably due to his short stature.* This statement – part of the said Committee documentation, filed under no. 445/94-2, is available to this Prosecutor's Office. It should be added that I personally knew Mr. Bulut, who – unfortunately – never recovered from the consequences of the torture suffered in Dretelj camp and died at a young age. I also know judge Milan Bosić, who had served in the Basic Court in Čapljina before the war. In a small place like Čapljina, both Mr. Radoslav Bulut and judge Milan Bosić might have known Boris Ružek from the time before the war,

although he was much younger than the two. Additionally, Milan Bosić's father was a JNA commander, and so was Boris Ružek's father Ivan, both serving in the JNA barracks 'Miro Popara' in village Grabovina outside Čapljina.

Miloš Samardžić, the former prisoner in Dretelj camp, mentions Boris Ružek in his statement given to an investigative judge of the District Court in Subotica (Committee ref. no. 674/95-1). Miloš Samardžić states that Boris Ružek was in the group of camp guards who beat up a newly arrived group of prisoners from Mostar, including Mr. Samardžić. The former prisoner in the same camp, Žarko Vujinović, gave a statement (Committee ref. no. 856/95-7) before Branko Karadeglić, the investigative judge of the Military Court in Bileća, who now has a lawyer's office in Čapljina. In his statement, he says that he remembered Boris Ružek called "Rijeka" as one of the infamous members of the HOS (Croatian Defense Forces).

Within the preparations for this meeting, I spoke to Vlado Milošević, who was imprisoned in Dretelj camp, as a retired JNA (Yugoslav People's Army) colonel. Before retirement, Vlado Milošević had been the commander of the JNA military barracks "National Hero Miro Popara". The father of Boris Ružek, Ivan Ružek, had served in that barracks and I knew him personally, as well as Vlado Milošević. I asked Mr. Milošević whether he had known the son of his former subordinate officer Ivan Ružek, and if so, whether he had seen that individual among guards in Dretelj camp. Vlado Milošević answered that he knew Ivan Ružek's son since the latter's childhood, because officers' children used to attend performances in the Čapljina JNA Centre in Čapljina, and that he was a guard in Dretelj camp, where he was known as Boris "Rijeka". Vlado Milošević added that he had not mentioned Boris Ružek neither in his statement given to an investigative judge of the District Court in Belgrade, nor in any other statement given to prosecutors' offices in Norway, Sweden or Bosnia and Herzegovina, because he had not beaten that witness, or anybody else in his presence. As a confirmation that he had known Boris Ružek as one of the guards in Dretelj camp, Vlado Milošević stated that on one occasion he had been ordered by Ružek to clean the latter's boots, which Milošević did. He had not mentioned that earlier because it had not been a crime, and nobody had asked him anything about Ružek.

Beside the abovementioned, Edin Sakoč, born on 7 March 1959 in Stolac, son of Meho, a Muslim, is the only person from the list we have received for the purposes of this meeting, who is mentioned in statements made by former Dretelj prisoners. Tatjana Čučak, daughter of Mihajlo, mentions this individual in her statement before a judge of the Basic Court in Trebinje (Committee ref. no. 445/94-37). Tatjana states: *On the same day when they took me to Dretelj, my mother and aunt were killed in our house. Later I found out that Edin Sakoč and his group had done it. I had known him before because he was from Tasovčići.* Fikret Boškailo states that Edo Sakoč told him, in the presence of "Boban" from Zagreb, that he had raped Tatjana Čučak called "Gara", bragging about the fact that she had been a virgin, as well as that "Boban" had killed her mother then. Edin Sakoč is better known by a shortened version of his name – Edo, of which I also have personal knowledge, because Mr. Sakoč lived in the house next to my parent's home. The fact that in her statement Tatjana Čučak fails to mention her being raped does not mean she was

not, because some other raped women were also reluctant to speak about it. At the same time, Tatjana Čučak's knowledge about Edin Sakoč murdering her mother Cvijeta Čučak - 93 at the time of the murder - and her aunt Vasilija Ekmečić, who was 80, may stem from her knowledge of the fact that Edin Sakoč was one of the two masked persons who took her to Dretelj, as she alleges in her statement. According to the witness information that we received from you in the meeting, Emily Tarr has contacts with Tatjana Čučak and she is willing to cooperate. In their future contacts, Emily Tarr could perhaps check whether it is possible for Tatjana Čučak to know that Edin Sakoč was one of the two masked persons who took her to Dretelj. Apart from that, I heard some unofficial information, albeit not from immediate witnesses, about a masked Edin Sakoč committing murders and rapes. Hiding behind a mask, he attacked and attempted to kill his mother's friend, Gordana Pjaca, who recognized him and started shouting his name, whereupon he left her alone and ran away.

Among other allegations in his statement, Fikret Boškailo mentions that Edo /Edin/ Sakoč was a member of Mirza Kudra's group. On the day of the attack on the left Neretva bank, that group organized an ambush in the place called Muminovača, where they intercepted vehicles with the rest of the Serbs fleeing from Tasovčići. In those vehicles they killed several individuals /Đorđe Đolanga, Branko Bekan, Vukašin Reljić, Novica Reljić and Đurđa Reljić/, while Jadranka Lečić and her underage daughter were wounded and taken to Čapljina. Beside the abovementioned, Fikret Boškailo, who specifies in his statement the houses he personally burnt - among others my parents' house - states that Edin Sakoč was in a group which destroyed and burned Serb houses in the neighborhood of Tasovčići. During my first post-war visit to Čapljina, in July 1998, I went to this neighborhood - before the war predominantly inhabited by Serbs - and saw the results of that burning and destruction. Ground-floor houses which could be destroyed by fire had been burnt down, whereas those which had two floors with concrete slab between them could not be burnt down, so they were destroyed by explosives. As I knew the owners of those houses, many of them were my relatives and friends, I went to the ruins and saw how thorough the destruction was - during that short period, I registered more than 100 destroyed and burnt Serb houses. I also saw one intact house owned by a Serb, who was married to a Croatian woman and who lived there. Having seen no traces of the previously existing houses familiar to me on the other side of the neighborhood, I found out that the clearing of the ruins had been partly carried out in that area, but was later discontinued. On that occasion I travelled through some other places formerly inhabited by Serbs /Klepci, Prebilovci and Gabela/ and saw that Serb houses had suffered the same fate as those in Tasovčići. The remains of Serbian victims from Čapljina, Stolac and a part of Mostar, killed by Ustashas in 1941, had been transferred shortly before the war - in August 1991 - to the crypt of an Orthodox church, which was under construction at the time, near the place called Prebilovci. By concrete ruins, I could barely establish the one-time existence of the church, which had been destroyed with the human remains in it.

As I referred to Fikret Boškailo's statement in the case of Edin Sakoč, and since other names interesting to you are mentioned in it, I feel compelled to clear out some facts related to that statement. Firstly, pursuant to the Criminal Procedure Law of the

Republic of Serbia, this statement would not be valid in proceedings as it was taken by an officer of the State Security Centre. Further more, one has to have reservations regarding contents of a statement given by a war prisoner during a war conflict. I have had such reservations ever since I learnt about that statement and read its content, and have analyzed it at least 20 times. Therefore on one occasion, I spoke about the circumstances of taking this statement with Vukašin Misita, one of the two police officers who had taken it, and who was later killed in a car accident near Belgrade. Another person present during witness Misita's testimony was Miro Prelo, head of the State Security Detachment for Čapljina, Ljubuški, Grude, Stolac and Neum before the war, and a person whom I personally know. I asked Vukašin Misita (who was younger than me and whom I had known for a long time as a distant relative) whether the contents of Fikret Boškailo's statement had been extorted in any way. Vukašin Misita told me then that Fikret Boškailo had not been under no pressure whatsoever, that they were only interested in what he had known, seen or heard, because the events about which he testified were indisputable, persons whom he mentioned as murdered were no longer alive, female prisoners in Dretelj camp had been raped and it was only important to link particular crimes to their perpetrators. On that occasion Vukašin Misita agreed with me that Fikret Boškailo, during his testimony about what had really happened according to his knowledge, might have consciously replaced the roles of some perpetrators, who certainly belonged to the group of people he mentioned, but I still lack a clear idea as to who of them did what. Among else, it is unknown to me whether Boškailo had killed Ilija Misita called "Pundo". Boškailo's allegations are unquestioned regarding Ilija Misita's being wounded by a grenade and the spot where he was found, and so is his description of the circumstances in which he had deprived Ilija Misita of life. However, that does not mean that Boškailo had killed him, i.e. it is possible that Ilija Misita had already succumbed to injuries at an earlier point. An answer to this question can only be found in the coroner's report, which is exclusively at the disposal of authorities in Bosnia and Herzegovina. The experience I have gained clarifying some of the war crimes committed by the Serbs in Croatia, has taught me that with so much time having passed since the crimes commission, successful settlement of those crimes is only possible if we secure a testimony from an individual who belonged to the perpetrators' circles. Fikret Boškailo states that he participated in the removal of Nikola and Dušanka Kuzman, dentists, from their apartment and in dividing their money, after Mirza Kudra had murdered them. In his interview of 22 September 1992 with police officers of the Trebinje Security Services Centre, Zoran Pudar, Nikola Kuuzman's maternal half-brother, said that Edo Sakoč had killed his brother Nikola and his wife Dušanka. He also stated that Olga Draško knew details about that murder, but Olga Draško could not have known anything about that, because she had been in Dretelj camp at the time, whereas the Kuzmans had been previously released from the camp. In your list of international witnesses which we received at the meeting, you mention Milenko Parović's witness statement, given to the Military Court in Bileća in May 1995. In that statement, witness Parović accuses Zdenko Jakiša and Edin Sakoč of having participated in the murder of Nikola and Dušanka Kuzman, but this witness could only have indirect knowledge about that murder. According to some information, one of Nikola Kuzman's friends could have more knowledge about the murder of Nikola and Dušanka Kuzman. His name is Zijad Hasanagić, called Zijo, a Muslim /Bosniak/, son

of Meho /or Mehmed/ and Nusreta, born in 1942 or 1943, now with residence in Sarajevo and Čapljina.

As to the individual named Zdenko Jakiša (Croat), son of Filip, he was born on 27 June 1968 in Čapljina and according to our data his actual name is Zdenko Jakić. This person was better known in Čapljina by his nickname "Pipa", which also was his father's nickname, as it often happens that a father and a son carry the same nickname. This individual is also related to several murders, but in Čapljina it is the "common knowledge" that Zdenko Jakiša killed Nevenka Elezović, daughter of Aleksa. I was familiar with that fact as early as during the war, and during my first post-war visit to Čapljina some people explained to me that Zdenko Jakiša had committed that murder due to the lack of self-possession and because he had wrongly believed that Nevenka Elezović was tipping the Serbian army about positions in Čapljina. Within preparations for this meeting, I tried to talk to Božidar Vulić about the circumstances of Nevenka Elezović's murder. Božidar Vulić is the son of Nevenka's sister, Anđelka, and was with her in the house at the time of her murder. As Božidar Vulić is now working in a lawyer's office and is in The Hague due to his obligations related to the ICTY, I had a telephone interview with him. In this conversation Božidar Vulić, who was 12 at the time of the critical events, said that he was sleeping in his aunt Nevenka's house. As he got up awoken by shooting, he found his aunt's dead body, and then – with Suad Vejzagić, a tenant in the Elezović house – went out into the yard and saw Zdenko Jakiša, who had murdered Nevenka. Božidar Vulić also said that then he ran off to the Outpatient Department to fetch his father, Dr. Borivoj Vulić, who was on call that night. After he had left, Zdenko Jakiša took Suad Vejzagić to a command office in Čapljina and maltreated him there for some time. According to Božidar Vulić, Suad Vejzagić is now living in Atlanta, U.S.A. When Božidar Vulić returns to Belgrade, he will come to this Prosecutor's Office for an interview about the aforementioned circumstances.

On the list of people you are interested in, person number 8 is Almir Kudra, son of Enver, born on 23 November 1973, a Muslim. This individual was better known under nickname "Hogar", because his brother Amar called "Žučo", who was two years older than Almir, had a similar name, so it was easier for others to differentiate them by nicknames. Before the outbreak of the armed conflict in Bosnia and Herzegovina, at the suggestion of the local SDA leadership (Democratic Action Party), both Kudra brothers were included in the reserve unit of the Public Safety Station in Čapljina. As a rule, all members of that unit were prepared for the upcoming armed conflict by nationalist parties and participation in the police forces served them to secure weapons. Fikret Boškailo was also in that group and, citing relatively accurate data about the age of the Kudra brothers, he separated them by their known nicknames – "Žučo" and "Hogar". However, during his testimony about the events, he mainly used their names, so it cannot be known with certainty which brother he had in mind when speaking about some events. The contents of the statement suggests that he mentioned Almir Kudra called "Hogar" only in relation to going to Dretelj camp in order to rape female prisoners, as well as that he burned Saveta Toholj's house, whereas the rest of his allegations are related to his brother, Amar Kudra, called "Žučo". In his statement before Branko Karadeglija, investigative judge of the Military Court in Bileća, witness Momčilo Bekan from Tasovčići, said that brothers Amar Kudra called "Žučo" and Almir Kudra called "Hogar", sons of Enver Kudra, were

known to him as Muslim extremists. However, this witness, as well as other Serbs from this neighborhood could not have known what those two did after crossing from Tasovčići to the right bank of the Neretva river, or upon their return on 7 June 1992.

As to the sons of Vejsilo Razić, i.e. individuals under numbers 4 and 5 on your list, their real names are Enes Razić, born on 2 January 1965 and Esad Razić, called "Eso", born on 2 November 1966. He is listed in your file as Eso Razić, called "Esad", but the usual nickname, i.e. shortened version of the name Esad is "Eso". In his statement, Fikret Boškailo refers to them as members of the Čapljina Public Safety Station reserve force, included at the suggestion of the local leadership of the Muslim SDA party, but he does not mention their participation in later events. I knew Esad Razić as a worker in the Čapljina-based industrial armature factory "Enegroingvest" - where I was also employed as assistant managing director - and I know that he had married a woman of Serbian nationality, which is also confirmed in Fikret Boškailo's statement. This Prosecutor's Office does not have any information about what the two brothers did in Čapljina.

The only reference to the individual under number 6 on your list, Ale Durić, called Ali, son of Jusa, born on 2 September 1966, is made in the aforementioned statement of Fikret Boškailo. Moreover, witness Boškailo states that he had seen Slaviša Zelenković's dead body on 7 June 1992 in Počitelj, which could be true, because Slaviša Zelenković, a member of the local Serbian territorial forces, was murdered on that date. Fikret Boškailo refers to Selim Dizdar, who allegedly told him that Slaviša Zelenković was wounded in the leg and that a certain Šuta - a Muslim soldier and Zelenković's neighbour - dressed his wound and that Ale Durić killed Slaviša Zelenković by shots from his machinegun. As in other parts of his statement, Fikret Boškailo cites a number of correct data connected to the abovementioned event in Počitelj. Beside the fact that Slaviša Zelenković was killed there, other truthful data include the following: Serbs from the Zelenković family and Muslims from the Šuta family were neighbours; Selim Dizdar was an inhabitant of Počitelj who could have seen the killing of Slaviša Zelenković; in Počitelj he saw the lifeless body of a person with the last name Puhalo who had a yellowish beard, and Slavko Puhalo (who did have a yellowish beard) was, in fact, killed there. This Prosecutor's Office does not have any other information which could confirm or deny Fikret Boškailo's claim that Ale Durić killed a wounded Slaviša Zelenković and that Selim Dizdar witnessed that.

As far as the person under number 3 on your list is concerned - Zoran Delić, son of Šero, born on 18 September 1975 in Bihać, Bosnia and Herzegovina, a Muslim - we do not have any reliable data. Zoran Delić, son of Šerif, born in 1965 in Travnik, is referred to in the aforementioned statement of Fikret Boškailo, as a security major in the former JNA (Yugoslav People's Army) who had been stationed in Zadar as a member of 116th brigade of the Croatian army, before he came to the Čapljina area.

According to my knowledge, this Prosecutor's Office does not have any data in connection with persons under numbers 7 and 10 on your list - Jeton Beriša and Osman Gološ.

As for the witnesses on the list we received from you in the meeting, I am aware of some facts, which could be of use to your further investigations.

Sakoč case: witness Sava Bekan has deceased. She knew that her son Branko Bekan had been murdered and she might have known the place of his murder. Likewise, she might have only heard from someone that a group including Edo Sakoč had committed the murder, but had no direct knowledge of the event. The data in Fikret Boškailo's statement about the witness number 7 in the Sakoč case, Robert Rebac, son of N/A, place and date of birth N/A, are positively correct. It is Robert Rebac, called "Huja", son of Pera and Vera (born Jelčić), probably born in 1966. Robert Rebac is now living in his birthplace – Čapljina, Tasovčići hamlet. However, there is a problem with witness Robert Rebac as he is a potential suspect in crimes against Serb civilians in the Čapljina area.

Jakiša/Sakoč case: under number 8 is not Pavrović, but Parović Milenko. The rest of the data is correct. According to my knowledge, Milenko Parović was a police officer in the Čapljina Public Security Station before the war. He probably knows both Sakoč and Jakiša. At the time when the Kuzman spouses and Zoran Nikolić were murdered, he was in Čapljina, but his knowledge about those events is decidedly indirect.

Jakiša case: the witnesses under 9, 10, 16 and 17 are known to me. Provided that they have direct knowledge about what Zdenko Jakiša did, the most relevant would be brothers Omer Bašić and Enes Bašić, as well as Fadil Zubović, an elderly man, around 75 years of age. On the other hand, I have heard that Luka Šutalo has deceased.

Kudra case: the witness under number 19 is not Markić, but Mrkić Jelena, daughter of Lazar, born on 11 November 1945. Jelena Mrkić was a prisoner in Dretelj camp, together with her husband – Ljubiša Mrkić. Jelena Mrkić gave a statement to an investigative judge of the District Court in Zrenjanin on 21 July 1994 and that statement is a part of the abovementioned Committee documentation, now at the disposal of this Prosecutor's Office. Comparison of Fikret Boškailo's and Jelena Mrkić's statements proves the truthfulness of Boškailo's allegation that Jelena Mrkić and Olga Draško were in one room in Dretelj camp. Reportedly Fikret Boškailo saw that when he came into the camp with Almir Kudra called "Hogar", i.e. when Almir Kudra raped Olga Draško and then Jelena Mrkić as well. In her statement, Jelena Mrkić also says that she was raped for days and by a number of persons, but she only specifies names and nicknames of the prison guards. There is a problem with Jelena Mrkić, as she has never agreed to testify, not even when she was summoned by this Prosecutor's Office, which was acting upon requests from prosecutors' offices of Norway, Sweden and Bosnia and Herzegovina. Because of the significance of her testimony, I have tried to influence her to change her position on this, i.e. to change her mind about testifying on what had happened to her in Dretelj - even through one of her elder cousins - but without success. This person informed me that Jelena was still frustrated by all that had happened to her in Dretelj, and especially by her story being published without authorization in some paper in the Republic of Srpska, after she was released from the camp.

Kudra/Sakoč case: the witness under number 20 is Olga Draško and all her personal data are correct. Her father's name, which is missing on your list, is Stevan. She was truly a victim of rape and every kind of physical abuse and psychological maltreatment in Dretelj camp. Olga Draško gave her testimony about the events before an investigative judge of the District Court in Belgrade on 25 August 1994. That statement is a part of the Committee's documentation and I am aware of its contents, i.e. I know that in this statement Olga Draško specified names and surnames, only names, nicknames or some other characteristics of 20 persons who had raped her one or more times. I have known Olga Draško since her childhood. I was her husband's friend and on one occasion when I met her after the war, I saw how damaged her health was. At the time when Norwegian investigators talked to other witnesses in Belgrade, at their request I spoke to Olga Draško on telephone and asked her to talk to them in Trebinje. She answered positively to that request, as well as to any other request for testifying, and so I know that she was a witness in the case against Mirsad Repak before the court in Oslo. I am also aware of Olga Draško's deteriorating health and of her problems arising from the lack of understanding on her husband's part. One should have those circumstances in mind when contacting her. She, most probably, has important information about some individuals you are interested in.

In relation to the case of Enes and Esad Razić/Sakoč, I know all the three witnesses: witness Boro Moro has deceased; witness Mirko Moro, who is old and seriously ill, is living in Serbia; witness Momo Bekan, who is also in poor health, is living in Čapljina, in the neighbourhood of Tasovčići, where his burnt-down house was reconstructed owing to donation funds. Neither Mirko Moro nor Momo Bekan have immediate knowledge about the conduct of brothers Enes and Esad Razić or that of Edin SAKOČ following the seizure of the left Neretva bank by the Croat/Muslim forces, since both had left Tasovčići at an earlier point. Similarly, the two could not have known what the Razić brothers and Sakoč had been doing at the time of their presence in the territory of Čapljina during April and May 1992.

In relation to the Enes and Esad Razić/Sakoč/Škudra case, you have mentioned two undoubtedly relevant witnesses. As for the testimony of Fikret Boškailo, I have already said whatever I have considered important, but the problem is that, according to your information, Fikret Boškailo has deceased. As for witness Mirza Kudra, while I can confirm the authenticity of his personal details, the problem lies in the fact that in the relevant criminal events in the Čapljina area Mirza Kudra certainly had a more significant role than any of the individuals within the scope of your interest. Mirza Kudra certainly knows what is and what is not correct in Fikret Boškailo's statement. Likewise, he must have knowledge about the conduct of Enes and Esad Razić, Edin Sakoč and Almir Kudra, as well as about that of Zdenko Jakiša and Zoran Delić. What I see as a problem is that, should the BH Prosecutor's Office investigate crimes against Serb civilians in the Čapljina area, Mirza Kudra, being a potential suspect, will primarily be concerned with his own defence, given that the aforementioned persons are also well aware of what he did.

In order for you to have a better understanding of the environment in which the individuals whom you are interested in were active, I would like to bring to your

attention certain details relating to the overall circumstances in the area of Čapljina, in the period between early April and late August 1992.

In early April 1992, when it had already become clear that the BH decision to secede from the Yugoslav Federation would receive international recognition on 06 April, the majority of Serb population inhabiting the parts of Čapljina along the right Neretva bank left their homes and sought refuge either in the parts of the Čapljina municipal territory along the left river bank, or in the neighbouring municipalities with the majority Serb population, or alternatively, in Serbia and Montenegro. Parallely, the majority of Muslim and Croat populations moved to the part of Čapljina along the opposite (right) bank of the Neretva river.

Serbs were a minority population in the Čapljina municipal territory. According to the April 1991 census, 54% of the municipal population were Croats, 28% were Muslims (who, since 1994, have declared themselves as Bosniaks), 14% were Serbs and 4% others (i.e. those who declared themselves as Yugoslavs, or who belonged to other ethnic communities in the SFRY territory). Therefore, an exceptionally small number of Serbs remained on the right Neretva bank. The majority of whole Serb families fled from that part of the Čapljina municipality leaving almost all their possessions behind. Only occasional elders remained to look after the households, and complete Serb families remaining in the area were rare exceptions – practically those of ethnically mixed marriages. The few remaining Serb civilians on the right Neretva bank were unlawfully arrested and detained, either in Dretelj camp or in one of the three prison facilities in the area, in the cellar of the Municipal Assembly building, on the premises of the local tobacco company and in the former JNA barracks 'National Hero Miro Popara', where they were subjected to physical torture. Such inhumane treatment resulted from the fact that they were Serbs who had remained on the wrong bank of the Neretva river. This can be best illustrated by the case of the aforementioned doctors of the Čapljina Outpatient Department, namely Nikola and Dušanka Kuzman, who were detained in Dretelj camp, released and finally killed. Other examples of inhumane treatment are those of Olga Draško and Srećko Marić, both of whom were subjected to sadistic treatment in Dretelj camp. The only doctor of Serb nationality who remained in the area and outside prison was Borivoje Vulić, just due to the fact that his wife – at the time dying of cancer – was an employee of the Social Welfare Centre, whose managing director was the wife of an influential HDZ (Croatian Democratic Union) official. The aforementioned married couple, Ljubiša and Jelena Mrkić, who had initially fled to Ljubiša's birthplace on the opposite bank of the Neretva river, responded the call made on the local radio by Serb Slobodan Zurovac, the vice-president of the Čapljina Municipal Assembly Executive Council, who urged all employees of Serb nationality to return to work. Having returned to their flat and to the local elementary school where they worked as teachers, the two were shortly forced out of their home and taken to Dretelj camp. Soon after his public appeal on the Serb population, Slobodan Zurovac got arrested and transferred to the territory of Croatia, to a prison facility situated in 'Lora', the former JNA war harbour outside Split. Slobodan Zurovac, son of Risto, born in 1954, is residing in the U.S.A.

Apart from being unlawfully arrested and sent to detention facilities where they were subjected to various forms of physical and psychological torture, Serb civilians present in that part of the Čapljina municipal territory were removed from their homes and subsequently killed, save for Nevenka Elezović, who was killed right inside her flat. The main criterion for the killing of Serb civilians was their ethnic background since their murderers risked no punishment. The perpetrators were additionally motivated to take the lives of the innocent since by doing so they could also plunder their victims' possessions, as described in Fikret Boškailo's statement relating to the murders of Nikola and Dušanka Kuzman. Plunder was probably an additional motive for the murders of Sreten Tripić and his son Dražen. Sreten Tripić, who was a guesthouse owner, was killed along with his son despite the fact that his wife was of Croat nationality.

Prior to the outbreak and throughout the course of the armed clashes in Bosnia-Herzegovina, that part of the Čapljina municipal territory was under the control of the so-called Herceg-Bosna armed forces, which consisted of the Croatian Defence Council (HVO) and Croatian Armed Forces (HOS). The HOS formation included a substantial number of Muslims/Bosniaks. Prior to the appearance of the Croat-Muslim conflict, the few Muslim armed formations operating in the area had been parts of the BH Patriotic League and Territorial Defence force. It should be noted that all of the aforementioned formations – HVO, HOS and Patriotic League, pursuant to the decision rendered by the Muslim-Croat BH Presidency, formed part of the armed forces of Bosnia-Herzegovina.

In the barracks 'Miro Popara', where, up to November 1991, there had been a drivers' training centre, the JNA had only two companies – a reinforced motorized company and that in charge of background support. From February 1992 onwards, the barracks was under permanent blockade. On 23 April of the same year, the majority of its staff was evacuated by helicopters, whereas the remaining 25 soldiers and an officer who did not manage to embark were subsequently captured. In subsequence, the JNA barracks was turned into a HVO military facility, part of which was used as a prison area for Serb civilians. The JNA warehouse in village Gabela, around 5 km away from the said barracks, formerly used for the storage of explosive devices which had been evacuated along with the JNA staff, was seized without resistance on 14 April 1992, and all of the 16 JNA members who were found inside were transferred to Lora, a former JNA war harbour outside Split, at the time serving as a prison facility under the control of the Croatian army.

Since the summer 1993, premises of the Gabela warehouse had served as a prison facility for male captives of Muslim/Bosniak nationality. In the JNA fuel storage area in village Dretelj – which had previously been abandoned – the Croatian Defence Forces (HOS) formed a training centre for their staff, which was named after Bruno Bušić, a notorious Ustashi terrorist who had organized a plane hijack in the U.S.A. Since early May until late August 1992, Serb civilians – men and women – captured in the areas of Čapljina, Mostar and Stolac were kept confined at that site. In the summer of 1993, males of Muslim/Bosniak nationality were imprisoned there.

Even prior to the armed conflicts in Bosnia-Herzegovina, the Croatian army had been present in the part of the Čapljina municipal territory along the right Neretva bank, as well as in the areas of Ljubuški, Čitluk and Mostar. Substantial forces of the Croatian army arrived in that territory in May 1992. On 07 June 1992, an attack on the left Neretva bank was launched from that site. The offensive was headed by Janko Bobetko, the late Croatian army general who was later indicted before the ICTY as a person responsible for war crimes committed in the Republic of Croatia. However, due to illness and old age, Janko Bobetko was not brought before the court. In the aftermath of the said offensive, launched against the weak forces of local Serbs following the JNA withdrawal from the BH territory, the Croatian forces quickly took control over the territory extending up to the borders of the former Croatian Banate (administrative district governed by a 'ban'), established in the Kingdom of Yugoslavia in 1919 under the known Cvetković-Maček Agreement (Dragiša Cvetković, the Kingdom's prime minister; Vlatko Maček, deputy prime minister and president of the Croatian Peasants' Party, at the time the strongest Croatian party). The highest political, military and police officials of Herceg-Bosna have been indicted before the ICTY for ethnic cleansing and other war crimes against the Muslim population in that territory.

Following the breakthrough by the Croatian army, Muslim and Muslim/Croatian forces into the territory of the left Neretva bank on 07 June 1992, less than 30 Serb civilians remained in that part of Čapljina, virtually only those who had not been able to run away due to old age or poor health. The vulnerability of those people, however, did not prevent their attackers from killing most of them. Thus, in the neighbourhood of Tasovčići, beside the aforementioned locals who were killed while attempting to run away, four elderly civilians (three women and a man) were ambushed on the road outside village Muminovača and killed on the spot. The victims' names were as follows: Soka Prelo, Stana Dušanović, Cvija Draško and Vojko Ijačić.

Since you are in the possession of data regarding the victims' names, I am not going to bother you with each individual case of Serbs perished in the Čapljina area. Out of all the victims listed in the report on crime commission (ref. KU 284/05 of 10 November 2005) issued by the Trebinje Public Security Centre, only six were lethally injured as a result of combat activities, whereas one (Milica Zurovac) is reasonably suspected of committing suicide. All of the remaining victims on the list were Serb civilians killed with a deliberate purpose, i.e. because of their national backgrounds, regardless of their age, sex or other circumstances. Thus, the list includes the names of three mentally disabled female victims, namely Slavojka Elezović, Divna Pudar and Neđa Golo.

The foregoing example of the suffering of Serb civilians in the area of Čapljina is a typical illustration of war developments in the former Yugoslavia. Almost as a rule, in territories controlled by the armed forces of one party to the conflict, the few remaining inhabitants belonging to the 'hostile nation' were subjected to all kinds of terror and often killed. Since – as it has been mentioned earlier – we focus on establishing the facts about crimes committed by our compatriots, I have personally dealt with a number of cases relating to the crimes committed against Croatian population in Eastern Slavonia. Consequently, I have been able to notice a large

number of similarities between crimes committed in Eastern Slavonia and those in the Čapljina area. Likewise, I am familiar with the fact that, in the period between early April and early June 1992, the part of the Čapljina municipal territory along the left Neretva bank – at the time controlled by the Serb forces – was also the scene of crimes against Croatian and Muslim civilians, destruction of Croatian and Muslim family homes and plunder of their movable and immovable possessions. Among other houses burnt down in that period was that of the Razić brothers in Tasovčići.

All of those involved in the armed clashes across the area of Čapljina since early April until early June 1992, including the individuals relevant to your case, engaged in cowardly acts of violence against defenceless civilians rather than in combat, which virtually did not exist in the area at the time. Up to 23 April 1992, there had been occasional fire exchange between the JNA staff of the 'Miro Popara' barracks and those who maintained blockade around it. Until 07 June 1992, there had been occasional artillery and infantry exchange from one Neretva bank to the other. On 07 June 1992, massive forces of the Croatian army and local Muslim/Croatian elements attacked the territory on the left bank of the Neretva river, where they were met by three incomplete companies of local Serbs who, unable to offer any resistance, withdrew without a fight together with the scarce civilian population that had remained in the area.

Milan Bekan
Investigator
War Crimes Prosecutor's Office

Hamilton, Gene (OAG)

From: Hamilton, Gene (OAG)
Sent: Tuesday, January 30, 2018 8:41 AM
To: Zadrozny, John A. EOP/WHO; Mizelle, Chad R. EOP/WHO; Walk, John EOP/WHO; Veprek, Andrew M. EOP/WHO; Whetstone, Trevor D. EOP/WHO
Cc: Wetmore, David H. (ODAG)
Subject: RE: Washington Times: Judge rules illegals have constitutional right to 'say goodbye' to family

We were all shocked here. Working on next steps

Gene P. Hamilton
Counselor to the Attorney General
U.S. Department of Justice

From: Zadrozny, John A. EOP/WHO [mailto: (b) (6)]
Sent: Tuesday, January 30, 2018 8:28 AM
To: Mizelle, Chad R. EOP/WHO <(b) (6)>; Walk, John EOP/WHO <(b) (6)>; Veprek, Andrew M. EOP/WHO <(b) (6)>; Whetstone, Trevor D. EOP/WHO <(b) (6)>
Cc: Hamilton, Gene (OAG) <(b) (6)>; Wetmore, David H. (ODAG) <(b) (6)>
Subject: FW: Washington Times: Judge rules illegals have constitutional right to 'say goodbye' to family
Sensitivity: Confidential

I don't even have the words.

JZ

w: (b) (6)
c: (b) (6)

Sent: Tuesday, January 30, 2018 8:26 AM
Subject: Washington Times: Judge rules illegals have constitutional right to 'say goodbye' to family
Sensitivity: Confidential

Judge rules illegals have constitutional right to 'say goodbye' to family

By [Stephen Dinan](#) - *The Washington Times* - Monday, January 29, 2018

Illegal immigrants snared by deportation officers have "the freedom to say goodbye" to their

illegal immigrants snatched by deportation officers have the freedom to say goodbye to their families, a federal judge in [New York](#) ruled Monday, ordering the government to release a prominent activist to his family.

Judge [Katherine B. Forrest](#), whom President Barack Obama appointed to the bench, said the government was following the law when it picked up Ravidath [Lawrence Ragbir](#), the illegal immigrant. But she said "larger, more fundamental" rights were at stake.

"In sum, the court finds that when this country allowed petitioner to become a part of our community fabric, allowed him to build a life with and among us and to enjoy the liberties and freedom that come with that, it committed itself to allowance of an orderly departure when the time came," she wrote. "By denying petitioner these rights, the government has acted wrongly."

She becomes the latest federal district judge to delve deeply into immigration — an area Congress has said belongs to the separate immigration court system and to appellate judges, not district court judges.

Other cases are raging over deportations of Iraqis and Indonesians. Federal judges have taken unprecedented steps to stop deportations and rule on individual cases.

Judge [Forrest](#) said her ruling doesn't mean [Mr. Ragbir](#) is safe from deportation.

<https://www.washingtontimes.com/news/2018/jan/29/judge-illegals-constitutional-right-say-goodbye/>

Hamilton, Gene (OAG)

From: Hamilton, Gene (OAG)
Sent: Tuesday, January 30, 2018 10:51 AM
To: Cutrona, Danielle (OAG)
Subject: RE:

It doesn't exist. I've asked our team to [REDACTED] (b) (5)

Gene P. Hamilton
Counselor to the Attorney General
U.S. Department of Justice

From: Cutrona, Danielle (OAG)
Sent: Tuesday, January 30, 2018 10:51 AM
To: Hamilton, Gene (OAG) [REDACTED] (b) (6)
Subject:

I don't understand what right we're talking about here.

Judge rules illegals have constitutional right to 'say goodbye' to family

By [Stephen Dinan](#) - *The Washington Times* - Monday, January 29, 2018

Illegal immigrants snared by deportation officers have "the freedom to say goodbye" to their families, a federal judge in [New York](#) ruled Monday, ordering the government to release a prominent activist to his family.

Judge [Katherine B. Forrest](#), whom President Barack Obama appointed to the bench, said the government was following the law when it picked up Ravidath [Lawrence Ragbir](#), the illegal immigrant. But she said "larger, more fundamental" rights were at stake.

"In sum, the court finds that when this country allowed petitioner to become a part of our community fabric, allowed him to build a life with and among us and to enjoy the liberties and freedom that come with that, it committed itself to allowance of an orderly departure when the time came," she wrote. "By denying petitioner these rights, the government has acted wrongly."

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<https://www.washingtontimes.com/news/2018/jan/29/judge-illegals-constitutional-right-say-goodbye/>

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTERN DISTRICT OF NEW YORK**

RAVIDATH LAWRENCE RAGBIR;)
)
NEW SANCTUARY COALITION OF)
NEW YORK CITY;)
)
CASA DE MARYLAND, INC.;)
)
DETENTION WATCH NETWORK;)
)
NATIONAL IMMIGRATION PROJECT)
OF THE NATIONAL LAWYERS GUILD;)
)
and)
)
NEW YORK IMMIGRATION)
COALITION,)

Plaintiffs,

v.

THOMAS D. HOMAN, in his official)
capacity as Deputy Director and Senior)
Official Performing the Duties of the)
Director of U.S. Immigration and Customs)
Enforcement;)
)
THOMAS R. DECKER, in his official)
capacity as New York Field Office Director)
for U.S. Immigration and Customs)
Enforcement;)
)
SCOTT MECHKOWSKI, in his official)
capacity as Assistant New York Field Office)
Director for U.S. Immigration and Customs)
Enforcement;)
)
U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT;)
)

Civil Action No. _____

KIRSTJEN M. NIELSEN, in her official)
 capacity as Secretary of Homeland Security;)
)
 U.S. DEPARTMENT OF)
 HOMELAND SECURITY;)
)
 JEFFERSON B. SESSIONS III, in his)
 official capacity as Attorney General of the)
 United States;)
)
 and)
)
 U.S. DEPARTMENT OF JUSTICE,)
)
)
 Defendants.)
 _____)
)

COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND HABEAS RELIEF

NATURE OF ACTION

1. This case is about who we are as a nation. Whether it remains true that “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.” *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). Whether ours is a nation where the privilege and responsibility of prosecutorial discretion are nothing more than a thin veil for persecution of disfavored political views. The nation’s immigration laws provide for the removal of some non-citizens from the United States. In years past, to determine who to remove and when, the Executive Branch has considered factors such as whether the individual poses a danger to the community, the impact of removal on international relations, and the “human concerns” of whether the individual “has children born in the United States, long ties to the community, or a record of distinguished military service.” *Arizona v. United States*, 567 U.S. 387, 396 (2012).

2. But with the new Administration, something has changed. Federal immigration authorities have specifically targeted prominent and outspoken immigrant-rights activists across the country on the basis of their speech and political advocacy on behalf of immigrants' rights and social justice. These activists have been surveilled, intimidated, harassed, and detained, their homes have been raided, many have been plucked off the street in broad daylight, and some have even been deported. The "broad discretion exercised by immigration officials," *id.*, has been abused in a cynical effort to punish those who disagree with the Administration. To sweep away all opposition. The Government's targeting of activists on the basis of their core political speech is unfair, discriminatory, and un-American. And it violates the First Amendment.

3. Cities that protect noncitizen immigrants are called "sanctuaries" for a reason. Many immigrants live in the shadows for fear of possible of deportation. Many of the rights that birthright American citizens take for granted—the right to speak, to worship, to work, and to live as one pleases—are exercised only with caution by immigrants. Yet courageously, some immigrants speak out. They boldly educate other immigrants about their rights. They bravely advocate for changes to our immigration laws and enforcement policies. They fearlessly call out the injustices they see in our nation's immigration system. They do this because the Constitution not only allows but encourages it. Because of our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open." *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

4. Plaintiff Ravidath "Ravi" Lawrence Ragbir, a father, husband, and nationally-recognized immigration rights activist, is one such immigrant who has freely exercised his right to speak out against the injustices and inhumanity of our current immigration system and has been targeted for removal by federal immigration authorities on the basis of his outspoken

advocacy. Plaintiff New Sanctuary Coalition of New York City depends on Mr. Ragbir as its Executive Director. He is the lifeblood of the organization and a central figure in the broader community of immigration advocates. He has devoted his life to the dignity and well-being of others, working tirelessly at the intersection of faith and immigrant communities, and gathering support from faith leaders, elected officials at all levels of government, immigrant-rights activists, and hundreds of community members.

5. Mr. Ragbir has lived in the United States for over 25 years, but for the last 10 years he has been subject to a final order of removal. Yet, because of his special contributions to his community, federal immigration authorities until recently allowed him to remain in the United States with his beloved U.S. citizen wife and daughter, granting him an order of supervision and four administrative stays of removal. But on January 11, 2018, with his most recent administrative stay of removal still in place, U.S. Immigration and Customs Enforcement (ICE) officials suddenly and inexplicably detained him at a routine check-in.

6. Just ten days ago, in response to the cruel and unconstitutional actions of federal immigration officials, this Court granted Mr. Ragbir a writ of habeas corpus, requiring ICE to release him from custody. The Court wrote that “[i]t ought not to be—and it has never before been—that those who have lived without incident in this country for years are subjected to treatment we associate with regimes we revile as unjust.” *Ragbir v. Sessions*, No. 18-cv-236 (KBF), 2018 WL 623557, at *1 (S.D.N.Y. Jan. 29, 2018) (Forrest, J.).

7. Mr. Ragbir is not alone. Plaintiff immigrants’ rights organizations have joined this lawsuit because they too have seen their leading advocates targeted because of their advocacy.

8. The Government cannot silence critics of its immigration laws and policies by deporting them. The First Amendment does not allow it. It is a matter of “grave concern” indeed that Mr. Ragbir and other likeminded activists “ha[ve] been targeted as a result of [their] speech and political advocacy on behalf of immigrants’ rights and social justice.” *Id.* at *1 n.1. “[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content.” *United States v. Alvarez*, 167 U.S. 709, 716 (2012) (alteration in original) (quoting *Ashcroft v. Am. Civil Liberties Union*, 535 U.S. 564, 573 (2002)).

9. This Court should prevent Defendants from doing just that. The Court should declare that targeting immigrant-rights activists on the basis of their protected political speech violates the First Amendment, and enjoin Defendants from taking any further retaliatory actions. And the Court should restrain Defendants from taking any action to effectuate Mr. Ragbir’s removal from the United States unless Defendants demonstrate to the Court’s satisfaction that such action is untainted by unlawful retaliation or viewpoint discrimination.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction under 28 U.S.C. § 1331; 28 U.S.C. § 2241; and the Suspension Clause of the United States Constitution. Plaintiffs’ causes of action arise under the laws and Constitution of the United States, including the First Amendment. In addition, Plaintiff Ragbir is subject to a final order of removal, which “is sufficient, by itself, to establish the requisite custody” for purposes of habeas jurisdiction. *Simmonds v. I.N.S.*, 326 F.3d 351, 354 (2d Cir. 2003); *see also Jones v. Cunningham*, 371 U.S. 236, 239-40 (1963).

11. Nothing in the Immigration and Nationality Act (INA) strips this Court of its jurisdiction over Plaintiffs’ claims. *See* 8 U.S.C. § 1252 (specifying provisions governing

judicial review of orders of removal). Plaintiffs here do not challenge underlying orders of removal or actions committed to unreviewable agency discretion. They challenge, rather, Defendants' pattern and practice of targeting immigrant-rights activists for immigration enforcement on the basis of their core protected political speech. This includes Defendants' actions targeting Mr. Ragbir, which arose long after his removal order became final. No other forum exists to address these claims. Applying any statutory provision to curb jurisdiction in this case therefore would deprive Plaintiffs of any effective judicial review of their claims, and a "serious constitutional question ... would arise if a federal statute were construed to deny any judicial forum for a colorable constitutional claim." *Webster v. Doe*, 486 U.S. 592, 603 (1988) (quotation marks omitted). And, with respect to Mr. Ragbir, the Suspension Clause guarantees review of his claims. See *INS v. St. Cyr*, 533 U.S. 289 (2001); *Simmonds*, 326 F.3d 351.

12. Venue is proper in this district under 28 U.S.C. § 1391. A substantial part of the events giving rise to this action occurred in this judicial district.

13. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 1351, 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651.

PARTIES

14. Plaintiff Ravidath Lawrence Ragbir is a resident of Brooklyn, New York. He is a prominent immigrant-rights activist and Executive Director of the New Sanctuary Coalition of New York City. Mr. Ragbir became a Lawful Permanent Resident of the United States in 1994. He received a final order of removal in 2007, but has continued to live and work in the United States with authorization from ICE since his release from an initial period of immigration detention in 2008.

15. Plaintiff New Sanctuary Coalition of New York City (the Coalition) is an interfaith network of congregations, organizations, and individuals, standing publicly in solidarity with families and communities resisting detention and deportation in order to stay together. Since its inception in 2007, the Coalition has grown from a half-dozen congregations to a city-wide movement, working in coalition with New York City's major immigrant organizations to reform immigration enforcement practices and policies, both locally and nationally. The Coalition is based in New York.

16. Plaintiff CASA de Maryland, Inc. (CASA) is a non-profit 501(c)(3) membership organization headquartered in Langley Park, Maryland, with offices in Maryland, Virginia, and Pennsylvania. Founded in 1979, CASA is the largest membership-based immigrant-rights organization in the mid-Atlantic region, with more than 90,000 members. CASA's mission is to create a more just society by building power and improving the quality of life in low-income immigrant communities. In furtherance of this mission, CASA offers a wide variety of social, health, job training, employment, and legal services to immigrant communities in Maryland, as well as the greater Washington, DC metropolitan area, Virginia, and Pennsylvania.

17. Plaintiff National Immigration Project of the National Lawyers Guild (NIPNLG) is a national non-profit 501(c)(3) membership organization headquartered in Boston, Massachusetts. Formed in 1971 as a committee of the National Lawyers Guild, NIPNLG became a freestanding organization in 1981. Today it is one of the few national legal support groups that specialize in defending the rights of immigrants facing incarceration and deportation. It provides technical assistance and support to community-based immigrant organizations, legal practitioners, and advocates seeking and working to advance the rights of noncitizens. NIPNLG works independently and collaboratively with immigration advocacy organizations across the

United States to educate and strengthen the capacity of immigration professionals and immigrant organizations to defend immigrant rights, and promotes public policy change through litigation, advocacy, and support for community organizing on the ground.

18. Plaintiff New York Immigration Coalition (NYIC) is an umbrella policy and advocacy organization for more than 200 groups in New York State. NYIC envisions a New York state that is stronger because all people are welcome, treated fairly, and given the chance to pursue their dreams. Its mission is to unite immigrants, members, and allies so all New Yorkers can thrive. NYIC represents the collective interests of New York's diverse immigrant communities and organizations and devises solutions to advance them; advocates for laws, policies, and programs that lead to justice and opportunity for all immigrant groups; and builds the power of immigrants and the organizations that serve them to ensure their sustainability, to improve people's lives, and to strengthen the state.

19. Plaintiff Detention Watch Network (DWN) is a national coalition of approximately 200 organizations and individuals headquartered in Washington, DC. Founded in 1997 in response to the explosive growth of the U.S. immigration detention and deportation system, DWN works against the injustices of those systems and for profound change that promotes the rights of dignity of all persons. DWN is the only national network that focuses exclusively on immigration detention and deportation issues, is a go-to resource on detention issues, and is known as a critical national advocate for just policies that promote an eventual end to immigration detention. DWN unites diverse constituencies to advance the civil and human rights of those impacted by the immigration detention and deportation systems. DWN members, many of whom are directly affected by detention and deportation policies, are community organizers, advocates, social workers, lawyers, doctors, clergy, students, and formerly detained

immigrants and their families. They are engaged in individual case and impact litigation, documenting conditions violations, local and national administrative and legislative advocacy, community organizing and mobilizing, teaching, and social service.

20. Defendant Thomas D. Homan is the Deputy Director and Senior Official Performing the Duties of the Director of ICE. He is named in his official capacity. He is responsible for the enforcement of the immigration laws, including against Mr. Ragbir. He supervises Defendants Decker and Mechkowski. His address is U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC, 20536.

21. Defendant Thomas R. Decker is the New York Field Office Director for ICE. He is named in his official capacity. He is responsible for the enforcement of the immigration laws in New York City and surrounding counties within New York, including against Mr. Ragbir. He supervises Defendant Scott Mechkowski. His address is New York Field Office, 26 Federal Plaza, 11th Floor, New York, New York, 10278.

22. Defendant Scott Mechkowski is the New York Field Office Deputy Director for ICE. He is named in his official capacity. He is responsible for the enforcement of the immigration laws in New York City and surrounding counties within New York, including against Mr. Ragbir. His address is New York Field Office, 26 Federal Plaza, 11th Floor, New York, New York, 10278.

23. Defendant Department of Homeland Security (DHS) is an executive department of the United States Government. DHS is headquartered in Washington, DC.

24. Defendant ICE is a component of DHS headquartered in Washington, DC.

25. Defendant Kirstjen M. Nielsen is the Secretary of Homeland Security. She is named in her official capacity. She is responsible for the administration and enforcement of the

immigration laws, including against Mr. Ragbir. She supervises Defendants Homan, Decker, and Mechkowski. Her address is U.S. Department of Homeland Security, 800 K Street, NW #1000, Washington, DC, 20528.

26. Defendant Jefferson B. Sessions III is the Attorney General of the United States. He is named in his official capacity. He is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). He is responsible for Mr. Ragbir's removal proceedings, and supervises immigration judges and the Board of Immigration Appeals. His address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC, 20530.

27. Defendant Department of Justice (DOJ) is an executive department of the United States Government. DOJ is headquartered in Washington, DC.

FACTUAL ALLEGATIONS

A. Defendants Have Engaged in a Pattern and Practice of Targeting Immigrant-Rights Activists on the Basis of their Core Protected Political Speech

28. Since January 2017, federal immigration authorities across the country have engaged in a pattern and practice of targeting outspoken immigrant-rights activists who publically criticize U.S. immigration law, policy, and enforcement.

29. Defendants have investigated, surveilled, harassed, raided, arrested, detained, and even deported these activists in order to silence them. They have arrested activists immediately following press appearances and news conferences. They have detained spokespeople and directors of immigration advocacy organizations. They have surveilled the organizations' headquarters and targeted their members. And they have targeted communities identified by the federal government as "sanctuary cities" to punish those communities for taking legislative,

municipal, and political action to limit official cooperation with federal immigration enforcement.

30. This sharp spike in immigration enforcement specifically targeting the most vocal immigration activists is intended to stifle dissent. According to U.S. Representative Jerry Nadler: “These are well-known activists who’ve been here for decades, and [ICE is] saying to them: Don’t raise your head.”¹ Similarly, U.S. Representative Luis Guitierrez has stated: “I have long suspected that very vocal advocates were harshly targeted after they spoke out. ... I would go to ... an immigration hearing, and the person who made the biggest impression? I’d find out that they’d been detained. And that started last year.”²

31. Since 2017, media organizations have reported on many immigrants, including Plaintiff Ravidath Ragbir and others, whom ICE has detained or taken other adverse action against based on their speech or other protected activities.

B. Defendants Surveilled, Detained, and Seek To Deport Mr. Ragbir in Retaliation for his Outspoken Criticism of U.S. Immigration Law and Policy

1. Mr. Ragbir’s Activism and Political Speech

32. Plaintiff Ravidath Ragbir, Executive Director of the Coalition, is a father, husband, and nationally recognized immigrant-rights leader.

33. Since his release from immigration detention with a final order of removal over a decade ago, Mr. Ragbir has dedicated his professional and personal life to speaking out against immigration policies that he considers unjust. He has been a vocal critic of ICE and other

¹ Maria Sacchetti and David Weigel, *Ice has Detained or Deported Prominent Immigrant Rights Activists*, Washington Post (Jan. 19, 2018), https://www.washingtonpost.com/powerpost/ice-has-detained-or-deported-foreigners-who-are-also-immigration-activists/2018/01/19/377af23a-fc95-11e7-a46b-a3614530bd87_story.html?utm_term=.5be0c8e2393b.

² *Id.*

components of DHS. His work and his views about immigration policy and enforcement are frequently profiled in local and national media.

34. As Executive Director of the Coalition, Mr. Ragbir has maintained a regular presence outside ICE offices and Department of Justice immigration courts in New York, located at 26 Federal Plaza, which also houses the United States Citizenship and Immigration Services (USCIS) and other DHS and Department of Justice offices, and outside of 201 Varick Street, which houses the detained immigration court and serves as a processing center for immigrants who ICE intends to detain. At both locations, Mr. Ragbir organizes weekly prayerful vigils called “Jericho Walks” that are led by Coalition faith leaders.

35. In his capacity as the Coalition’s Executive Director, Mr. Ragbir has also had extensive contact with ICE’s offices and the immigration courts through the Coalition’s Accompaniment Program. This program ensures that immigrants who have immigration court dates and check-in appointments do not face these experiences alone. As part of this program, the Coalition has trained hundreds of volunteers on how to accompany immigrants to court and to check-ins (which occur at 26 Federal Plaza, 201 Varick Street, and other locations), whereby immigrants who are subject to some form of supervised release routinely meet with ICE officers. These volunteers provide critical support to those who would like to comply with the immigration laws and rules, but are scared to go to court and check-ins alone. In many cases, legal services providers now reach out to Mr. Ragbir directly to ask the Coalition to provide accompaniment for their clients. The Coalition provides an average of 11 accompaniments per week to immigrants in enforcement proceedings.

36. Second, Mr. Ragbir created a program in which volunteers help immigrants to find attorneys to assist them in immigration proceedings, in navigating interactions with ICE, and, where possible, in speaking out about the injustices they experience.

37. In addition to this work, Mr. Ragbir has been a vocal advocate for immigrant rights across the United States and a frequent critic of current immigration policies. For example, Mr. Ragbir testified before the New York City Council on detention and deportation policies, met with President Obama's transition team to discuss his perspective and experiences on immigration policy, and has spoken at countless conferences, media events, and places of worship. He coordinates workshops with attorneys and other experts to help immigrants fleeing violence in their home countries to learn about their right to apply for asylum. And he trains advocates and elected officials on immigration issues and how to reform the deportation system.

38. Over the years, Mr. Ragbir has received numerous accolades for his zealous advocacy. He was awarded the 2017 Immigrant Excellence Award by the New York State Association of Black and Puerto Rican Legislators for his "deep commitment to the enhancement of their community." He also won the 2017 ChangeMaker Award by South Asian Americans Leading Together (SAALT) for his "tremendous sacrifice, fierce advocacy, and fearless leadership" on behalf of immigrants. He was recently awarded the Bishop's Cross from the Episcopal Diocese of Long Island for his "exceptional service to the church and to the community it serves."

2. Mr. Ragbir's Immigration History

39. Mr. Ragbir's work is informed by his personal experience of being detained and facing deportation.

40. Mr. Ragbir received Lawful Permanent Resident status in the United States in 1994. His daughter was born in the United States the next year.

41. In May 2006, ICE detained Mr. Ragbir after he was convicted of criminal wire fraud—a conviction for which Mr. Ragbir served his time.³

42. On August 4, 2006, an Immigration Judge entered an order of deportation in Mr. Ragbir’s case, which became final when the Board of Immigration Appeals rejected his appeal in March 2007.

43. Throughout his immigration court proceedings and after issuance of an order of deportation, Mr. Ragbir remained in detention, despite two Post Order Custody Reviews.

44. ICE finally released Mr. Ragbir from custody following a third Post Order Custody Review in February 2008. ICE reported in the Post Order Custody Review that led to his release that Mr. Ragbir “did not commit a crime of violence and does not appear to be a flight risk and he is fully aware that he will have to report to ICE custody when required.” The notice further explained, once removal was commenced, “[y]ou will, at that time, be given an opportunity to prepare for an orderly departure.”

45. Mr. Ragbir has always contested his removability, most recently with the assistance of pro bono counsel. As of today, Mr. Ragbir has three pending legal applications, a petition in the U.S. District Court for the District of New Jersey for a writ of *coram nobis*, a petition for a presidential pardon, and a motion with the Board of Immigration Appeals to reconsider, reopen, and remand his removal proceedings based on new evidence undermining the deportability ground in his case, as well as his petition for adjustment of status on the basis of his eight years of marriage to Amy Gottlieb, a U.S. citizen and attorney. Like Mr. Ragbir, Ms.

³ Mr. Ragbir continues to dispute the basis of his conviction. Further, as this Court recently noted ordering his release from detention, “[i]t is uncontested that since his release from custody, [Mr. Ragbir] has lived the life of a redeemed man.” *Ragbir v. Sessions*, No. 18-cv-236 (KBF), 2018 WL 623557, at *3 n.11 (S.D.N.Y. Jan. 29, 2018) (Forrest, J.).

Gottlieb is a prominent immigrant-rights advocate who has dedicated her career to the pursuit of a just immigration policy.

46. Meanwhile, for approximately a decade, Mr. Ragbir has dutifully checked in with ICE and complied with all conditions of his release. Orders of supervision authorize individuals like Mr. Ragbir to live and work in the United States in compliance with the conditions of the order. If an order of supervision is revoked on grounds unrelated to flight risk or dangerousness, the individual will be given the opportunity for an “orderly departure,” including time (generally two to three months) to get his affairs in order, purchase a ticket, and provide proof of departure.

47. Following his order of removal, Mr. Ragbir also applied for and received work permits that allowed him to work in the United States. It was pursuant to this work authorization that he was able to work full-time for the Coalition.

48. For several years, Mr. Ragbir has also received and renewed an administrative stay of removal (Form I-246). This stay assured Mr. Ragbir that ICE would not seek his deportation for the period covered by the administrative stay. Mr. Ragbir’s first stay of removal was granted by the ICE Field Office in New York City in December 2011, and was renewed three times, in February 2013, March 2014 and January 2016. In November 2017, he filed for renewal of his administrative stay.

3. Mr. Ragbir’s March 9, 2017 Check-In

49. On March 9, 2017, Mr. Ragbir was due to check in with ICE officers at 26 Federal Plaza. In the tradition of the Accompaniment Program he designed, Mr. Ragbir was accompanied by his family, lawyers and clergy.

50. In addition, Mr. Ragbir brought with him several New York elected officials, including New York State Senator Gustavo Rivera, New York City Council Members Daniel Dromm, Ydanis Rodriguez, and Jumaane Williams, and then-New York City Council Speaker

Melissa Mark-Viverito. Several hundred additional community members gathered outside in support of Mr. Ragbir.

51. During the March 9, 2017 check-in, several of the elected officials accompanying Mr. Ragbir encountered then-Assistant Field Office Director Scott Mechkowski in the hallway outside the check-in room on the 9th Floor. Mechkowski demanded that the elected officials leave the hallway.

52. Media reports described a tense confrontation between ICE officers and the elected officials who accompanied Mr. Ragbir. “The conference was cut short when a man ... ordered the group to clear the hallway immediately. City Councilmember Jumaane Williams observed that the group wasn’t blocking the hallway and asked the man to identify himself. The man refused, but insisted that Mr. Ragbir, his friends, and the elected officials leave the hallway. For a moment the two men squared off, eye to eye. The unnamed federal official eventually stepped away, and Mr. Ragbir’s entourage boarded elevators to descend.”⁴

53. Due in part to the high-profile detentions of other immigrant activists, there was a significant media presence at 26 Federal Plaza the morning of March 9, 2017, prior to and following Mr. Ragbir’s check-in.

54. After the check-in, several media outlets worldwide reported on Mr. Ragbir’s struggle to remain in the United States and his confrontational March 9 check-in with ICE.⁵

⁴ Nick Pinto, *Behind ICE’s Closed Doors*, “The Most Un-American Thing I’ve Seen,” Village Voice (Mar. 10, 2017), <https://www.villagevoice.com/2017/03/10/behind-ices-closed-doors-the-most-un-american-thing-ive-seen/>.

⁵ See, e.g., Liz Robbins, *Once Routine, Immigration Check-Ins Are Now High Stakes*, N.Y. Times (Apr. 11, 2017), <https://www.nytimes.com/2017/04/11/nyregion/ice-immigration-check-in-deportation.html>; *Apoyado por cientos, defensor de inmigrantes evade deportación en Nueva York*, La Nación Costa Rica (Mar. 9, 2017), <https://www.nacion.com/el-mundo/politica/apoyado-por-cientos-defensor-de-inmigrantes-evade-deportacion-en-nueva-york/NQTJGKHIWJAYREVGOWMLAWJCE/story/>; *New York: malgré un casier judiciaire*,

55. Those reports also included the comments of elected officials who were present at the check-in and critical of ICE's enforcement policies. In the resulting press coverage, Mr. Ragbir spoke publically regarding the emotional toll taken by the ICE check-in: "When I speak about how I feel, I cannot breathe."⁶

56. Mr. Ragbir also criticized federal immigration policy, commenting on the profit motive fueling current ICE detention policies: "So, you know how much it costs to feed—when I was locked in detention, do you know how much it cost to feed me for one day? Seventy-five cents. They were spending to feed one immigrant 75 cents. And you know how we knew that? Because they felt they were spending too much, and they wanted to bring that cost under 45 cents, so the numbers were thrown out, and we were hearing and seeing this happen. So, the profits—the cost is low, but the profits are high, because they're being paid \$120, right?"⁷

57. In a panel discussion alongside Councilmember Mark-Viverito, Mr. Ragbir rallied community members to become involved in the sanctuary-city movement. He insisted that "sanctuary cities can only work if everyone becomes part of the movement," saying, "we want to see sanctuary in the schools, the restaurants as well as churches." He encouraged community members to protest ICE actions.

un immigré évite l'expulsion, Le Parisien (Mar. 10, 2017), <http://www.leparisien.fr/flash-actualite-monde/new-york-malgre-un-casier-judiciaire-un-immigre-evite-l-expulsion-10-03-2017-6751086.php>.

⁶ Tiziana Rinaldi, *It's Good News and Bad News for an Immigrant Advocate Facing Deportation*, PRI (March 10, 2017), <https://www.pri.org/stories/2017-03-10/its-good-news-and-bad-news-immigrant-advocate-facing-deportation>.

⁷ Amy Goodman, *Exclusive: Facing Possible Deportation, Immigrant Activist Ravi Ragbir Speaks Out Before ICE Check-in*, Democracy Now! (Mar. 9, 2017), https://www.democracynow.org/2017/3/9/exclusive_facing_likely_deportation_immigrant_activist.

4. ICE Officials' Reaction to the March 9, 2017 Check-In

58. On information and belief, on January 3, 2018, days before Mr. Ragbir's next scheduled check-in, one of the co-founders of the Coalition, Jean Montrevil, was arrested by ICE agents outside his home during his lunch break from work. Mr. Montrevil, a Haitian national, immigrant rights activist, and green-card holder who was placed into removal proceedings as a teenager due to a drug charge, was in the midst of a motion to reopen his order of removal. Nonetheless, on January 3, 2018, Mr. Montrevil was transferred to detention in ICE's Krome Detention Center in Florida, and deported to Haiti just six days later, on January 9, 2018.⁸ He was forced to leave behind his four U.S. citizen children, and an active community of organizers who worked with him to advance immigrant rights, including Mr. Ragbir.

59. On information and belief, Mr. Montrevil's lawyer asked Scott Mechkowski, ICE's Deputy Field Office Director for New York, why the agency had sent a team to apprehend Mr. Montrevil at home months before his scheduled check-in. Mechkowski responded that "We [ICE] war-gamed this over and over," adding, "[t]his was the best time and place to take him."

60. On information and belief, during this same period, ICE officials surveilled Mr. Ragbir and members of the Coalition.⁹

61. On information and belief, on January 5, 2018, Rev. Juan Carlos Ruiz, one of the co-founders of the Coalition, and an immigrant-rights organizer, went with three other faith leaders to discuss Mr. Montrevil's situation with ICE Director Thomas Decker at 26 Federal Plaza. The clergy were told that Director Decker was not available and instead met with Deputy

⁸ Nick Pinto, *No Sanctuary*, Intercept (Jan. 19, 2018), <https://theintercept.com/2018/01/19/ice-new-sanctuary-movement-ravi-ragbir-deportation/>

⁹ *Id.*

Director Scott Mechkowski to discuss Mr. Montrevil's case. Without prompting, Mechkowski brought up Mr. Ragbir's case and his remarks to the media after his last check-in. In addition:

- a. Mechkowski stated that Mr. Ragbir and Mr. Montrevil's cases were the two "highest profile" cases in his office.
- b. Mechkowski made negative remarks about the elected officials who spoke out about ICE practices after Mr. Ragbir's last check-in.
- c. Mechkowski stated that he would not permit the clergy members to accompany Mr. Ragbir to this check-in, as they had in the past, and described the upcoming check-in as "D-Day."
- d. Mechkowski stated that the manner of Mr. Montrevil's detention was intended to avoid the sort of noisy protest that had accompanied Mr. Ragbir's previous check-in, and stated that ICE "didn't want the display of wailing kids and wailing clergy." Clergy members reported that he added: "That can't happen this time around."¹⁰
- e. Lastly, although Mechkowski denied that ICE was surveilling Mr. Ragbir, he stated: "I know where Mr. Ragbir lives, and I have seen him walking around, and I could have taken him myself."

62. On information and belief, on January 8, 2018, Mr. Ragbir's counsel spoke with ICE Deputy Director Mechkowski. Speaking of Mr. Ragbir, Mechkowski stated that things were "different" now than they were in the past, referring to changes in leadership. Significantly, Mechkowski stated that he felt "resentment" about the March 9, 2017 check-in.

63. In addition, Mechkowski stated that:

¹⁰ *Id.*

- a. Mechkowski heard Mr. Ragbir's statements to the press, and that he continued to see him at vigils at 26 Federal Plaza; and
- b. Mechkowski was angry about the presence of the elected officials in 26 Federal Plaza, specifically naming Melissa Mark-Viverito and "that guy from Brooklyn" (presumably Councilmember Jumaane Williams).

5. Defendants' Unnecessarily Cruel Detention of Mr. Ragbir

64. As noted above, Mr. Ragbir's counsel applied for renewal of his administrative stay in November 2017. At that time Mr. Ragbir's current administrative stay was due to expire on January 19, 2018. His counsel received an e-mail from Mechkowski on January 10, 2018 stating that Mr. Ragbir's request for renewal of his administrative stay was pending, and that no decision had been reached.

65. Mr. Ragbir's January 11, 2018 check-in was atypical in several respects:

- a. First, in advance of Mr. Ragbir's scheduled January 11, 2018 check-in, Mechkowski suggested that—rather than following the normal protocol by which Mr. Ragbir would check-in with the Deportation Officer assigned to his case—Mr. Ragbir should report directly to him on January 11, 2018.
- b. Second, upon meeting Mechkowski as instructed on January 11, 2018, the group was told that only one of Mr. Ragbir's legal representatives and his wife would be allowed to enter. The undisputed fact that another attorney and two law students had entered G-28 Notices of Appearance on behalf of Mr. Ragbir was disregarded.

66. In the ensuing meeting, Mechkowski reported that ICE would no longer await a pending decision from the Office of Chief Counsel on Mr. Ragbir's motion to reopen his removal proceedings. He stated that he was not willing to wait longer and would be "enforcing

the order.” He said that a decision was made that morning to deny Mr. Ragbir’s application for a renewed stay of removal, and handed his counsel a letter from Director Decker stating that his request for the renewed stay was denied. He then said he would be taking Mr. Ragbir into custody. Upon hearing the news, Mr. Ragbir briefly lost consciousness.

67. In the subsequent few hours, Mr. Ragbir’s representatives were not given any arrest warrant authorizing Mr. Ragbir’s arrest. Further, ICE officers engaged in evasive maneuvers to separate Mr. Ragbir from his wife and transfer him to a Florida detention center, rather than one of the many detention centers typically used by ICE in New York and New Jersey. Specifically:

- a. Mr. Ragbir’s counsel was not told what detention facility he would be taken to; ICE officers simply stated that they did not know.
- b. The ambulance that took Mr. Ragbir, his wife, and ICE officers to a local hospital dropped his wife off at one hospital, where his wife believed Mr. Ragbir would be “medically cleared,” and then took Mr. Ragbir to a second hospital.
- c. At the hospital, ICE officers attempted to rush the process of medical clearance.
- d. Although several detention centers are typically used by ICE in the New York-New Jersey area, ICE officers took Mr. Ragbir in a van to Newark Airport, and then to a plane to Miami, Florida to be booked at a facility there. ICE later disclosed that they had purchased the tickets to Miami the day before.
- e. ICE initially refused to return Mr. Ragbir to the New York area despite this Court’s January 11 order enjoining the Government from transferring him

outside the jurisdiction of the New York field office. Mr. Ragbir was returned only after filing a motion to enforce the Court's order.

68. Mr. Ragbir was "processed" curbside at Newark Airport, had his fingerprint placed on various papers but not given copies of any documents other than the letter denying his stay application. He learned later that his current stay (which was valid until January 19, 2018) and ongoing order of supervision had been revoked. He has never been provided with a reason for the revocation.

69. Mr. Ragbir spent more than two weeks in detention. His movements were restricted and monitored. Contact with his wife and his counsel was extremely limited, particularly while detained in Florida. He was unable to receive calls at all, nor could he make outgoing calls unless funds were placed in his phone account. In-person visits were strictly limited in Florida, and family could only visit for a one-hour period, through plexiglass. During Mr. Ragbir's detention, ICE officers indicated that they were aware of his activism.

70. Mr. Ragbir's counsel filed a petition for Writ of Habeas Corpus on January 11, 2018 in this Court, challenging ICE's detention of Mr. Ragbir as unlawful.

71. On January 29, 2018, this Court granted that petition, ordering his immediate release from detention. The Court noted ICE's abrupt detention was both cruel and unusual.

[W]hen this country allowed petitioner to become a part of our community fabric, allowed him to build a life with and among us and to enjoy the liberties and freedom that come with that, it committed itself to avoidance of unnecessary cruelty when the time came. By denying petitioner these rights, the Government has acted wrongly.

Ragbir, 2018 WL 623557, at *2.

72. This Court also indicated that ICE's motivation for Mr. Ragbir's detention merited further scrutiny:

The Court also notes with grave concern the argument that petitioner has been targeted as a result of his speech and political advocacy on behalf of immigrants' rights and social justice. "[A]s a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content."

Id. at *1 n.1 (emphasis added) (quoting *Alvarez*, 567 U.S. at 716).

6. ICE's Ongoing Efforts To Deport Mr. Ragbir

73. Mr. Ragbir was released from detention on January 29, 2018, as a result of the Court's decision. ICE's treatment of Mr. Ragbir was unusual even in the final moments of his detention. Before he was released, ICE officers shackled him once more for the duration of his return from Orange County Correctional Facility in Goshen, New York, to New York City.¹¹ He was then processed for release and personally served a notice to report for deportation on Saturday, February 10, 2018 by Mechkowski at 26 Federal Plaza.

74. Nonetheless, Mr. Ragbir has continued his activism since his release.¹² On January 31, 2018, Mr. Ragbir returned to 26 Federal Plaza, the site of his detention, and led a Jericho walk in protest.¹³ Speaking to a crowd, he stated, "There is a psychological warfare out there and they want us to be weak They want us to cave . . . so our spirits are broken." *Id.*

75. Meanwhile, Defendants continue to employ extraordinary tactics to remove Mr. Ragbir as quickly as possible and without regard to this Court's order holding that Mr. Ragbir

¹¹ *Exclusive: Ravi Ragbir Speaks Out After Being Freed from "Unnecessarily Cruel" ICE Detention*, Democracy Now! (Jan. 30, 2018), https://www.democracynow.org/2018/1/30/exclusive_immigrant_leader_ravi_ragbir_freed.

¹² Kristin Toussaint, *Immigrant rights leader Ravi Ragbir released from ICE detention*, Metro (Jan. 30, 2018), <https://www.metro.us/news/local-news/new-york/immigrant-rights-leader-ravi-ragbir-released-ice>.

¹³ Molly Crane-Newman, *Immigrant activist Ravi Ragbir returns to site of his arrest for Manhattan protest march: "They want us to cave,"* Daily News (Feb. 1 2018), <http://www.nydailynews.com/new-york/manhattan/ravi-ragbir-returns-site-arrest-nyc-protest-march-article-1.3793363>.

was entitled to an orderly departure. In fact, as of today's date, ICE has ordered Mr. Ragbir to check in again on Saturday, February 10, 2018, less than two weeks after the date of this Court's Order, with "one piece of luggage not to exceed 44 pounds."¹⁴

76. ICE's check-in date, February 10, 2018, is notable. It provides Mr. Ragbir less than two weeks from the date of this Court's Order to prepare himself to leave the country where he has lived for over two decades, and where he will leave a wife and daughter. In addition, it is the day after a scheduled hearing on Mr. Ragbir's motion for a stay of his removal pending adjudication of his *coram nobis* petition in the District Court of the District of New Jersey. On information and belief, ICE is aware that the New Jersey District Court has ordered that Mr. Ragbir shall not be removed until it has reached a decision on that motion, and aware that February 9 is a hearing date, and not likely to be the date that the motion is decided.

77. Upon information and belief, it is highly unusual to require an individual to check in or report to ICE on a Saturday, when ICE offices—and courts—are typically closed. Counsel for Mr. Ragbir noted that the Saturday reporting date would impede his access to the courts, and asked for a weekday report date, but this request was rejected.

C. Defendants Have Targeted Numerous Other Immigrant-Rights Activists on the Basis of Their Core Protected Political Speech on Immigration Issues

78. The arrests of Mr. Ragbir and Jean Montrevil are not unique. Rather, under the current Administration, ICE has engaged in a pattern and practice of targeting immigrants who exercised their fundamental First Amendment rights to criticize immigration policy and immigration enforcement.

¹⁴ Letter of Thomas Decker to Alina Das (Feb. 5, 2018).

1. Daniela Vargas

79. On information and belief, on March 1, 2017, in Jackson, Mississippi, ICE agents detained Daniela Vargas, a 22-year-old activist and DACA recipient as she left a news conference where she had spoken alongside other immigration advocacy groups.¹⁵ Vargas had witnessed ICE's arrest of her family the previous month, and was not detained at that time because she explained to the officers that she had DACA status. That status had expired, but Vargas was in the process of applying for renewal. At the conference, she asked President Trump to protect her.

80. ICE agents arrested Vargas minutes after she spoke to reporters outside Jackson City Hall. A person present at the arrest reported that ICE agents opened the car door saying "you know who we are and you know why we're here." Although she had a pending DACA case, ICE agents claimed that she was listed as a "visa overstay" and would have to be detained.¹⁶

2. Migrant Justice

81. On information and belief, ICE has targeted multiple members of Migrant Justice, a community based non-profit organization of Vermont dairy farmworkers and their families. A majority of Vermont dairy workers are immigrants, and Migrant Justice has engaged in campaigns to defend the rights of their members as workers and as immigrants. In particular, Migrant Justice has sought to hold immigration enforcement agencies including ICE accountable for rights violations.

¹⁵ Phil Helsel, *'Dreamer' Applicant Arrested After Calling for Immigrant Protection*, NBC News (Mar. 2, 2017), <https://www.nbcnews.com/news/us-news/dreamer-applicant-arrested-after-calling-immigrant-protections-n727961>.

¹⁶ *ICE Intimidates Latino Community With Arrest of DACA Recipient Practicing Free Speech*, HuffPost (Mar. 3, 2017), https://www.huffingtonpost.com/entry/ice-intimidates-latino-community-with-arrest-of-daca_us_58b9dd6de4b02b8b584dfb6d

82. On April 21, 2016, ICE arrested Jose Victor Garcia Diaz outside a Mexican cultural event in Stowe, Vermont.¹⁷ Mr. Garcia Diaz is a public spokesperson for Migrant Justice's Milk with Dignity campaign. The day before his arrest, he had returned from a gathering of the Food Chain Workers Alliance in Los Angeles, California. Mr. Garcia Diaz represented Vermont farmworkers at the meeting in an effort to build a unified movement for respect for human rights in food supply chains. His immigration removal proceedings are ongoing.

83. On March 17, 2017, the day after Migrant Justice announced an escalation of its Milk with Dignity campaign with respect to Ben & Jerry's, ICE arrested Jose Enrique Balcazar Sanchez shortly after he left a meeting at Migrant Justice's office. ICE had previously identified Balcazar as a target for enforcement.¹⁸ He has been a very visible representative of Migrant Justice and publicly promoted policies to limit ICE's entanglement with local law enforcement. Over the past few years, Balcazar Sanchez has served as one of Migrant Justice's primary spokespeople in its campaigns for driver's licenses and for a fair and impartial policing policy. He served on a task force established to advise the Vermont Attorney General on immigration issues, which resulted in guidance for Vermont cities and towns to limit their role in immigration law enforcement.

84. On March 17, 2017, ICE also arrested Zully Victoria Palacios Rodriguez, who was a passenger in Balcazar Sanchez's car. Palacios Rodriguez is a key Migrant Justice

¹⁷ Compl. ¶ 16, *Migrant Justice v. U.S. Dep't of Homeland Sec.*, No. 17-cv-197 (D. Vt. Oct. 11, 2017).

¹⁸ On September 22, 2016, ICE arrested Miguel Alfredo AlcuDia Gamas, another Migrant Justice member. Mr. AlcuDia Gamas is also a public spokesperson for Migrant Justice's Milk with Dignity campaign. When ICE arrested Mr. AlcuDia Gamas, ICE officers made statements implying that they were targeting a fellow Migrant Justice leader, Jose Enrique Balcazar Sanchez. *Id.* ¶ 18.

organizer. Just prior to her arrest, she had also just left Migrant Justice's office. Notably, Palacios was arrested on the grounds that she had overstayed her visa—a civil violation—by approximately eight months. She was held without bail, which is extremely atypical treatment for an immigrant who has merely overstayed a visa.¹⁹

85. On June 17, 2017, two more Migrant Justice activists were arrested for immigration violations as they returned home from a march for better work conditions. Esau Peche and Yesenia Hernandez participated in the march with approximately 200 others walking from Montpelier Vermont, to a Ben & Jerry's factory in Waterbury. After the March, they drove home to East Franklin, which is north of Waterbury. They were stopped by Border Patrol, arrested and turned over to ICE. A Border Patrol spokesperson stated that the two Mexican nationals "appeared to the agent to have come across the border" and were stopped as part of routine operations.²⁰

86. Migrant Justice is currently engaged in litigation to confirm through a Freedom of Information Act request whether its members have been targeted by ICE because of their advocacy on behalf of migrant workers.²¹

3. Maru Mora Villalpando

87. On information and belief, in December 2017, ICE served Maru Mora Villalpando with a Notice to Appear for removal proceedings.²² Villalpando is a renowned

¹⁹ Milton J. Valencia, *Hundreds in Boston Will Protest Vermont ICE Arrests*, The Boston Globe (Mar. 26, 2017), <https://www.bostonglobe.com/metro/2017/03/26/hundreds-protest-vermont-ice-arrests-boston-monday/MdxOtwc9TP6sVHsgEjEAY/story.html>

²⁰ Elizabeth Murray, *Protesters decry farmworkers' arrest after Ben & Jerry's march* (June 19, 2017), <http://www.burlingtonfreepress.com/story/news/local/vermont/2017/06/19/border-patrol-arrests-2-immigrants-east-franklin/408333001/>.

²¹ Compl., *Migrant Justice, et. al v. United States Dep't of Homeland Security, et. al*, No. 17-cv-197 (D. Vt. Oct. 11, 2017).

immigrants' rights activist in Washington State with no criminal record. She has lived in the United States for 22 years, and during that time, has taken an active and public role in speaking out for immigrant rights.

88. On information and belief, Villalpando was originally admitted to the United States under a tourist visa, and did not leave the country when the visa expired. She has now resided in the United States for over 25 years. She raised a daughter in the United States: Josefina Alanis Mora, who is now a university student. She has no criminal history.

89. On information and belief, Villalpando was well-known to federal officials for many years before she was issued a Notice to Appear. She met with federal officials during the Obama administration, when she helped publicize detainees' hunger strikes and other protests in Washington State. She acted as a spokeswoman for immigrants held at the Northwest Detention Center in Tacoma, Washington. There is no explanation for her ICE's sudden issuance of a Notice to Appear. She explained to the *Washington Post* that, "There's no way for them to know about me except for the work that I do[.]"²³

4. Baltazar Aburto Gutierrez

90. On information and belief, in early December 2017, Baltazar "Rosas" Aburto Gutierrez was detained by an ICE agent who explicitly referenced the fact that he had spoken to a newspapers in November 2017.²⁴ Though his comments were made anonymously in a *Seattle*

²² Maria Sacchetti & David Weigel, *ICE Has Detained or Deported Prominent Immigration Activists*, *Washington Post* (Jan. 19, 2018), https://www.washingtonpost.com/powerpost/ice-has-detained-or-deported-foreigners-who-are-also-immigration-activists/2018/01/19/377af23a-fc95-11e7-a46b-a3614530bd87_story.html?utm_term=.64d28708d652.

²³ *Id.*

²⁴ Nina Shapiro, *ICE Tracks Down Immigrants Who Spoke to Media in SW Washington: "You Are the One from the Newspaper,"* *Seattle Times* (Dec. 3, 2017), <https://www.seattletimes.com>.

Times article, a second article in the *Chinook Observer* referenced his nick-name (“Rosas”).²⁵ In addition, his partner’s full name and details of the ICE action to arrest and deport her were reported in both articles.

91. On information and belief, Gutierrez had commented to the press about the wrenching circumstances of his partner’s arrest by ICE and her deportation to Mexico in November 2017. ICE at that time declined to arrest Gutierrez as well, stating that while his partner had a prior deportation order, he did not.

92. On information and belief, the next month, the agent who arrested Gutierrez approached him again stating, “You are Rosas,” and “You are the one from the newspaper.”²⁶ Gutierrez also stated that the agent told him “My supervisor asked me to come find you because of what appeared in the newspaper.”²⁷ ICE did not explain why the rationale that prevented Gutierrez’s arrest the month before had changed.

5. Eliseo Jurado

93. On information and belief, Eliseo Jurado was born in Mexico and came to the United States as a teenager. His father is a United States citizen; his mother is a green card holder. He is married to Encalada Latorre, a Peruvian woman who has taken sanctuary in churches in Boulder Colorado since December 2016. The couple has two U.S. citizen children. Jurado’s wife, Latorre has been the subject of extensive news coverage since she moved into a local church to avoid deportation.

com/seattle-news/ice-tracks-down-immigrant-who-spoke-to-media-in-sw-washington-you-are-the-one-from-the-newspaper.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

94. On information and belief, although local ICE Field Office Director Jeffrey Lynch denied that Jurado's arrest was related to his wife's decision to take sanctuary, he confirmed in a statement that Jurado came to the agency's attention during an investigation into Encalada Latorre.²⁸

6. Amer Othman Adi

95. Amer Othman Adi, a 57-year-old businessman, husband and father, arrived in the United States at 19 years old. He was placed into removal proceedings decades ago, accused of entering into a "sham" marriage to secure Lawful Permanent Resident status. Adi was told that he would be deported in 2016, and prepared himself and his United States citizen second-wife for a scheduled departure on January 7 departure. Then, ICE granted a temporary stay that prevented his January 7 deportation.

96. On January 16, 2018, ICE arrested Adi and placed him in detention. To protest his deportation, Adi began a hunger strike. Ohio Democratic congressman Tim Ryan introduced a private bill to grant Adi lawful permanent resident status, which would allow him to remain in the United States. The House Judiciary Subcommittee on Immigration and Border Security approved the private bill, asking ICE to grant Adi a six-month stay of deportation. In an extraordinary move, ICE reversed its prior stay and rejected the congressional request to stay Adi's deportation. Adi was deported to Jordan on January 29, 2018.

7. Immigrant Sanctuaries

97. On information and belief, ICE has also targeted communities that it identifies as "sanctuary cities" to punish those communities for taking legislative, municipal and political

²⁸ John Bear & Jenn Fields, *Husband of Peruvian Woman Taking Sanctuary at Boulder Church Detained by ICE*, The Denver Post (Jan. 11, 2018), <https://www.denverpost.com/2018/01/11/ingrid-encalada-latorre-husband-detained-immigration-boulder-sanctuary>.

action to limit official cooperation with federal immigration enforcement.²⁹ These are communities where activists have successfully lobbied to prevent local government from assisting the federal government in immigration enforcement actions against immigrant residents.

98. In September 2017, ICE announced that it would undertake a series of raids designed to target sanctuary cities, and publically designated the action, “Operation Safe City.” According to ICE, Operation Safe City would target cities and regions “where ICE deportation officers are denied access to jails and prisons to interview suspected immigration violators or jurisdictions where ICE detainers are not honored.”³⁰ Operation Safe City resulted in hundreds of arrests in communities that had taken actions to limit local government’s cooperation with federal immigration enforcement. These communities included New York, Philadelphia, Los Angeles, Boston, Denver, and Portland, Oregon.³¹

99. Following the Operation Safe City raids, on October 5, 2017, California Governor Jerry Brown signed SB54 into law, a statute cancelling almost all state and local cooperation

²⁹ These activities align with broader efforts of the current administration. On January 25, 2017, the President issued an Executive Order entitled, “Enhancing Public Safety in the Interior of the United States.” Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017). The Executive Order announces that it is the Executive Branch’s policy to withhold federal funds from “sanctuary jurisdictions,” directs the Attorney General and Secretary of Homeland Security to ensure that sanctuary jurisdictions do not receive federal grants, and directs the Attorney General to take enforcement action against any local entity that “hinders the enforcement of Federal law.” *Id.* at 8801. In July 2017, the Department of Justice increased pressure on sanctuary cities by imposing additional requirements for federal grants. Pete Williams, *Attorney General Sessions Raises Stakes for Sanctuary Cities*, NBC News (July 25, 2017), <https://www.nbcnews.com/politics/politics-news/attorney-general-sessions-raises-stakes-sanctuary-cities-n786546>.

³⁰ ICE, *ICE Arrests over 450 on federal immigration charges during Operation ‘Safe City,’* (Sept. 28, 2017), <https://www.ice.gov/news/releases/ice-arrests-over-450-federal-immigration-charges-during-operation-safe-city>.

³¹ Miriam Jordan, *Immigration Agents Arrest Hundreds in Sweep of Sanctuary Cities*, N.Y. Times (Sept. 28, 2017), <https://www.nytimes.com/2017/09/28/us/ice-arrests-sanctuary-cities.html>.

with federal deportation officers. On information and belief, the statute was the result of, among other things intense lobbying from immigrant rights organizations. The next day, Acting Director Thomas Homan, in direct response to the California legislation, made the following threats in an official statement:

SB54 will negatively impact ICE operations in California by nearly eliminating all cooperation and communication with our law enforcement partners in the state, voiding the delegated authority that the Orange County Sheriff's Office has under the 287g program, and prohibiting local law enforcement from contracting with the federal government to house detainees.

*ICE will have no choice but to conduct at-large arrests in local neighborhoods and at worksites, which will inevitably result in additional collateral arrests, instead of focusing on arrests at jails and prisons where transfers are safer for ICE officers and the community. ICE will also likely have to detain individuals arrested in California in detention facilities outside of the state, far from any family they may have in California.*³²

D. ICE's Retaliatory Enforcement Actions Cause Grave Harm to Plaintiffs

1. Mr. Ragbir

100. Mr. Ragbir's sudden detention has inflicted long-lasting and irreparable harm.

The stress of his recent unexpected detention and the prospect of imminent deportation has exacerbated symptoms of depression and post-traumatic stress disorder. Mr. Ragbir's symptoms are also intensified by worry that those who care about him are suffering as well.

101. Nearly all of Mr. Ragbir's family resides in the United States. Mr. Ragbir has not lived in Trinidad in nearly three decades.

³² ICE, Statement from ICE Acting Director Tom Homan on California Sanctuary Law (Oct. 6, 2017), <https://www.ice.gov/news/releases/statement-ice-acting-director-tom-homan-california-sanctuary-law> (emphasis added).

102. If Mr. Ragbir is deported to Trinidad, he will be indefinitely separated from his family and community. Mr. Ragbir's wife and daughter are U.S. citizens and unable to move to Trinidad.

103. Mr. Ragbir is continuing to challenge the basis for his removal. But even in the event that Mr. Ragbir prevails on his challenge, there is no indication that ICE would facilitate his return to the United States.

104. The trauma of deportation to Trinidad will further exacerbate Mr. Ragbir's depression and post-traumatic stress disorder, resulting in long-lasting psychological harm.

2. New Sanctuary Coalition of New York City

105. The Coalition has grown rapidly in the past year, with numerous programs throughout the week providing support and services to immigrant communities. However, as a direct result of ICE's targeting of the Coalition leaders, the organization was deprived of its sole full-time employee and Executive Director, Mr. Ragbir, for several weeks while Mr. Ragbir was in detention, and may lose Mr. Ragbir completely if he is deported.

106. Mr. Ragbir's deportation would be devastating to the Coalition. Mr. Ragbir is the face of NSC, and was the primary point of contact with funders, elected officials, faith leaders, legal services organizations, and community partners. Mr. Ragbir's deportation would greatly diminish NSC's network

107. The sudden execution of Mr. Ragbir's final removal order has made it extremely difficult to maintain the organization's day-to-day administrative activities. Mr. Ragbir is the organization's sole full-time employee. NSC has had to divert immense resources to litigation challenging Mr. Ragbir's imminent deportation.

108. ICE's targeting of critics of federal immigrant-rights advocates has also sown fear in the immigrant community, impeding NSC's pursuit of its mission. NSC staff receive numerous calls from worried immigrants asking whether they should go to their ICE check-ins.

109. In the wake of Mr. Ragbir's and Mr. Montrevil's detentions, both volunteers and recipients of the Coalition's services have expressed fear about attending workshops, clinics, and check-ins and immigration court dates. The Coalition has had to respond to numerous requests for advice and support from these individuals.

110. Immigrants are increasingly reluctant to participate in the Coalition's activities for fear of attracting the attention of ICE authorities.

111. In addition to targeting Mr. Ragbir, ICE's pattern and practice of targeting critics of federal immigration policy against immigrant rights activists has directly impeded the Coalition's ability to carry out its mission. ICE has directly interfered with the Coalition's legal activities in support of immigrants. For example, in the summer of 2017, ICE officers at 26 Federal Plaza began to interfere with the Coalition's accompaniment program by restricting public access to the ICE check-in room at 26 Federal Plaza—thwarting volunteers from the Accompaniment Program who sought to assist immigrants during their check-ins. Even clergy who attempted to accompany people at their check-ins were often turned away.

112. ICE also appears to have surveilled the Coalition's gatherings in an attempt to intimidate its members.³³

³³ Several Coalition members saw evidence of ICE officers surveilling a meeting on the eve of Mr. Ragbir's arrest. In addition, clergy have spoken to ICE officers who appeared to surveil Coalition members at a religious service. Nick Pinto, *No Sanctuary*, *The Intercept* (Jan. 19, 2018), <https://theintercept.com/2018/01/19/ice-new-sanctuary-movement-ravi-ragbir-deportation/>.

3. National Immigration Project of the National Lawyers Guild

113. NIPNLG has had to expend considerable resources in response to ICE's targeting of the members and leaders of immigration advocacy organizations. For example, NIPNLG provided technical assistance to Villalpando on her removal proceedings when she was served with an NTA by ICE after decades of working without incident as an organizer. Recognizing ICE's pattern and practice of targeting activists, NIPNLG has had to identify and recruit counsel for certain activists that it anticipated would be targets of retaliatory action. NIPNLG has also published several substantial guides and hosted workshops to advise activists in the immigrant rights community of best practices under the Trump Administration, which included preparing a plan of action.³⁴

114. Further, NIPNLG's members—which include Mr. Ragbir and his wife, Amy Gottlieb—have been directly affected by ICE's targeting of immigrant activists.

4. CASA de Maryland

115. Defendants' retaliatory actions have had a highly negative impact on the community that CASA serves, and is also extremely detrimental to the mission and purpose of the organization. ICE's actions will harm CASA's mission in multiple ways and has already forced CASA to divert valuable resources away from its usual activities.

116. CASA has observed ICE targeting members of CASA's community and has responded to more than 50 reported ICE raids over the last year. CASA has seen blatant

³⁴ See, e.g., Julie (Yihong) Mao, Jan Collatz, *Understanding the Federal Offenses of Harboring, Transporting, Smuggling and Encouraging under 8 U.S.C. § 1324(a)* (Sept. 28, 2017), http://www.nipnl.org/PDFs/practitioners/practice_advisories/pr/2017_28Sep_memo-1324a.pdf; NIPNLG/Mijente, *In Defense of Organizing*, (May 2017), https://www.nationalimmigrationproject.org/PDFs/community/2017_05June_in-defense-of-mijente-en.pdf.

instances of racial profiling, including ICE targeting two Latinos at a convenience store in Baltimore.

117. As CASA raises its profile, including through increasing impact litigation, the risks of CASA's leaders and their families being targeted have increased. Leaders like Missael Garcia and Monica Camacho, two of CASA's most outspoken activists and both plaintiffs in CASA's DACA lawsuit, face potential retaliation for continuing to defend their families and their communities. As they lose protections like DACA and TPS, these leaders become vulnerable to increasingly aggressive ICE enforcement action.

118. Over the past year, ICE has deported several CASA leaders, including Liliana Cruz, Catia Paz, and two young brothers, Diego and Lizandro Claros. All of these leaders had been vocal supporters of CASA and immigration programs like DACA and DAPA. They had received extensive media coverage for their advocacy and engagement with elected officials. Each of them was effectively silenced by ICE through their deportation, which in the case of Diego and Lizandro happened a mere five days after reporting for a routine ICE check-in.

119. The selective targeting of CASA leaders has required an increased dedication of resources to defending these members, including through legal services, organizing and communications. Although CASA will never stop advocating for the community it serves, its mission is inherently negatively affected whenever one of its members, and particularly when one of its leaders, is deported.

120. CASA has had to redirect resources to deal with ICE's increasingly vindictive and unrestrained enforcement activity. CASA has dramatically expanded its Know Your Rights (KYR) presentations across the organization, helping to educate thousands of immigrants over

the past year about their constitutional rights and how to protect their families from immigration enforcement.

121. CASA has restructured its services to deal with the termination of DACA and TPS, and has increased the number of comprehensive immigration screenings it provides to its members, in anticipation of continuing excessive ICE enforcement activity.

122. CASA has significantly expanded its litigation efforts to challenge the Administration's unconstitutional actions against its members and the broader immigrant community. All of these changes have taken resources away from other vital CASA programming and advocacy efforts.

5. New York Immigration Coalition

123. Defendants' targeting of immigrant-rights activists like Mr. Ragbir directly interferes with NYIC's mission of advancing immigrant rights throughout New York. Defendants' retaliatory measures against the Coalition—one of NYIC's own member organizations—weakens NYIC's unified strength as a coalition and spreads fear among the immigrant communities that NYIC serves.

CLAIMS FOR RELIEF

COUNT I

(Retaliation in Violation of the First Amendment)

124. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

125. To sustain a First Amendment retaliation claim, a plaintiff must show “(1) that the speech or conduct at issue was protected, (2) that the defendant took adverse action against the plaintiff, and (3) that there was a causal connection between the protected speech and the adverse action.” *Gonzalez v. Hasty*, 802 F.3d 212, 222 (2d Cir. 2015) (quotation marks omitted).

126. Plaintiffs have engaged in speech protected by the First Amendment. They have criticized U.S. immigration law and policy, organized rallies and protests against the U.S. immigration system, helped noncitizens navigate that system, and urged government officials to change it. Plaintiffs’ speech about U.S. immigration law and policy pertains to matters of public concern and seeks political change. It is therefore entitled to the highest level of protection under the First Amendment.

127. Defendants have taken adverse actions against Plaintiffs. Defendants have detained Mr. Ragbir and seek to deport him. Defendants have deported one of the Coalition’s leaders and are seeking to deport another. And Defendants have engaged in a nationwide pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy.

128. There is a causal connection between Plaintiffs’ protected speech and Defendants’ adverse actions. Defendants have selectively enforced the immigration laws against Plaintiffs and their leaders and members on the basis of their protected speech regarding U.S. immigration law and policy.

129. As a result, this Court should declare that Defendants' retaliatory actions violate the First Amendment; enter a preliminary and permanent injunction restraining Defendants from taking any action to effectuate Mr. Ragbir's removal from the United States unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful retaliation; and enter a preliminary and permanent injunction restraining Defendants from selectively enforcing the immigration laws against any individual based on the individual's protected speech regarding U.S. immigration law and policy.

COUNT II
(Content, Viewpoint, and Speaker Discrimination
in Violation of the First Amendment)

130. Plaintiffs incorporate the preceding paragraphs as if fully set forth herein.

131. Government action that targets speech based on its content is presumptively unconstitutional and is justified only if the Government demonstrates that it is narrowly tailored to serve a compelling state interest. *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218 (2015).

132. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy targets speech based on its content, does not serve a compelling state interest, and is not narrowly tailored.

133. Government action that targets private speech based on the viewpoint taken by the speaker is unconstitutional. *Matal v. Tam*, 137 S. Ct. 1744 (2017); *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011).

134. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy targets private speech based on the viewpoint of the speaker.

135. Government action that targets speech based on the identity of the speaker is presumptively unconstitutional and is justified only if the Government demonstrates that it is narrowly tailored to serve a compelling state interest. *Citizens United v. Fed. Election Comm'n*, 558 U.S. 310 (2010).

136. Defendants' pattern and practice of selectively enforcing the immigration laws against immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy targets speech based on the identity of the speaker, does not serve a compelling state interest, and is not narrowly tailored.

137. As a result, this Court should declare that Defendants' pattern and practice of targeting immigration-rights activists on the basis of their protected speech regarding U.S. immigration law and policy violates the First Amendment; enter a preliminary and permanent injunction restraining Defendants from taking any action to effectuate Mr. Ragbir's removal from the United States unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful discrimination; and enter a preliminary and permanent injunction restraining Defendants from selectively enforcing the immigration laws against any individual based on the individual's protected speech regarding U.S. immigration law and policy.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court enter judgment in their favor and:

- a. Declare that Defendants' retaliatory enforcement of the immigration laws against Mr. Ragbir and other immigrant-rights activists on the basis of their protected political speech about U.S. immigration law and policy violates the First Amendment;

b. Declare that Defendants' pattern and practice of discriminatorily enforcing the immigration laws against Mr. Ragbir and other immigrant-rights activists based on the content and viewpoint of their speech and the identity of the speaker violates the First Amendment;

c. Enter a preliminary and permanent injunction restraining Defendants from taking any action to effectuate Mr. Ragbir's removal from the United States unless Defendants demonstrate to the Court's satisfaction that such action is untainted by unlawful retaliation or discrimination against protected speech;

d. Enter a preliminary and permanent injunction restraining Defendants on a nationwide basis from selectively enforcing the immigration laws against any individual—including, without limitation, through investigation, surveillance, detention, deportation, or any other adverse enforcement action—based on the individual's protected political speech about U.S. immigration law and policy;

e. Award Plaintiffs costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

February 8, 2018

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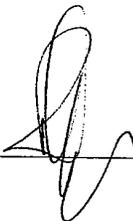
Counsel for Plaintiffs

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Ravidath Ragbir, being duly sworn, deposes and says:

I am Ravidath Ragbir, a plaintiff in the within action; I have read the foregoing Verified Complaint and know the contents thereof; except as to matters therein alleged on information and belief, and except as to matters within the personal knowledge of another plaintiff, I have learned of the facts alleged therein, either through my own personal knowledge or through information reported to me in the ordinary course of business; as to those matters as to which I do not have personal knowledge, I believe them to be true.



Ravidath Ragbir

Sworn to and subscribed this
7th day of February, 2018



Notary Public

Jessica L. Rife
Notary Public, State of New York
No. 02906353789
Qualified in Kings County
Certificate on File in New York County
Commission Expires January 30, 2021

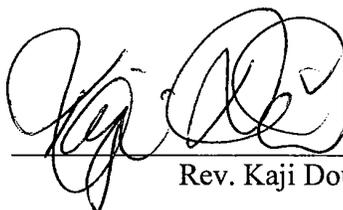
VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Kaji Douša, being duly sworn, deposes and says:

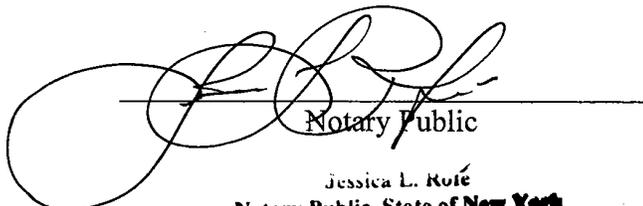
I am co-chair of the New Sanctuary Coalition of New York City, a plaintiff in the within action; I have read the foregoing Verified Complaint and know the contents thereof; except as to matters therein alleged on information and belief, and except as to matters within the personal knowledge of another plaintiff, I have learned of the facts alleged therein, either through my own personal knowledge or through information reported to me in the ordinary course of business; as to those matters as to which I do not have personal knowledge, I believe them to be true.

This verification is made by deponent because plaintiff is an organization.



Rev. Kaji Douša

Sworn to and subscribed this
07 day of February, 2018



Notary Public

Jessica L. Kofe
Notary Public, State of New York
No. 02RO6353705
Qualified in Kings County
Certificate on File in New York County
Commission Expires January 30, 2021

1 Title: To strengthen border security, increase resources for the enforcement of immigration laws,
2 and for other purposes.

3
4
5 Be it enacted by the Senate and House of Representatives of the United States of America in
6 Congress assembled,

7 SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

8 (a) Short Titles.—This Act may be cited as the “~~Security, Enforcement, and Compassion~~
9 ~~United in Reform Efforts Act~~Immigration Reform and Technical Corrections Act of 2018” or the
10 “~~SECURE-IRTCA~~Act of 2018”.

11 (b) Table of Contents.—The table of contents for this Act is as follows:

12 Sec.1.Short titles; table of contents.

13 TITLE I—BUILDING AMERICA’S TRUST ACT

14 Sec.1001.Short title.

15 Subtitle A—Border Security

16 Sec.1101.Definitions.

17 Chapter 1—Infrastructure and Equipment

18 Sec.1111.Strengthening the requirements for barriers along the southern border.

19 Sec.1112.Land use or acquisition.

20 Sec.1113.Air and Marine Operations flight hours.

21 Sec.1114.Capability deployment to specific sectors and transit zone.

22 Sec.1115.Deployment of assets.

23 Sec.1116.U.S. Border Patrol activities.

24 Sec.1117.Border security technology program management.

25 Sec.1118.National Guard support to secure the southern border and reimbursement of States for
26 deployment of the National Guard at the southern border.

27 Sec.1119.Operation Phalanx.

28 Sec.1120.Merida Initiative.

29 Sec.1121.Prohibitions on actions that impede border security on certain Federal land.

30 Sec.1122.Landowner and rancher security enhancement.

31 Sec.1123.Limitation on land owner’s liability.

32 Sec.1124.Eradication of carrizo cane and salt cedar.

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- 20 related criminal cases.

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14 humanity from the United States.

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16 Sec.1712.Gang membership, removal, and increased criminal penalties related to gang violence.

17 Sec.1713.Barring aliens with convictions for driving under the influence or while intoxicated.

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19 admission to the United States.

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21 Sec.1716.Enhanced criminal penalties for high speed flight.

22 Sec.1717.Prohibition on asylum and cancellation of removal for terrorists.

23 Sec.1718.Aggravated felonies.

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25 Sec.1720.Failure to obey removal orders.

26 Sec.1721.Sanctions for countries that delay or prevent repatriation of their nationals.

27 Sec.1722.Enhanced penalties for construction and use of border tunnels.

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30 Chapter 2—Strong Visa Integrity Secures America Act

31 Sec.1731.Short title.

32 Sec.1732.Visa security.

- 1 Sec.1733.Electronic passport screening and biometric matching.
- 2 Sec.1734.Reporting visa overstays.
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5 Chapter 3—Visa Cancellation and Revocation

- 6 Sec.1741.Cancellation of additional visas.
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10 Chapter 4—Secure Visas Act

- 11 Sec.1751.Short title.
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13 Chapter 5—Visa Fraud and Security Improvement Act of 2017

- 14 Sec.1761.Short title.
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20 Chapter 6—Other Matters

- 21 Sec.1771.Requirement for completion of background checks.
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- 26 Sec.1776.Uniform statute of limitations for certain immigration, naturalization, and peonage
- 27 offenses.
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30 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status

31 in the United States

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3 Sec.1801.Lawful permanent residents as applicants for admission.

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6 inadmissibility and deportability.

7 Sec.1804.Revocation of lawful permanent resident status for human rights violators.

8 Sec.1805.Removal of condition on lawful permanent resident status prior to naturalization.

9 Sec.1806.Prohibition on terrorists and aliens who pose a threat to national security or public
10 safety from receiving an adjustment of status.

11 Sec.1807.Treatment of applications for adjustment of status during pending denaturalization
12 proceedings.

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14 Sec.1809.Barring persecutors and terrorists from registry.

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16 Citizenship

17 Sec.1821.Barring terrorists from becoming naturalized United States citizens.

18 Sec.1822.Terrorist bar to good moral character.

19 Sec.1823.Prohibition on judicial review of naturalization applications for aliens in removal
20 proceedings.

21 Sec.1824.Limitation on judicial review when agency has not made decision on naturalization
22 application and on denials.

23 Sec.1825.Clarification of denaturalization authority.

24 Sec.1826.Denaturalization of terrorists.

25 Sec.1827.Treatment of pending applications during denaturalization proceedings.

26 Sec.1828.Naturalization document retention.

27 Chapter 3—Forfeiture of Proceeds From Passport and Visa
28 Offenses, and Passport Revocation.

29 Sec.1831.Forfeiture of proceeds from passport and visa offenses.

30 Sec.1832.Passport Revocation Act.

31 TITLE II—PERMANENT REAUTHORIZATION OF
32 VOLUNTARY E-VERIFY

- 1 Sec.2001.Permanent reauthorization.
- 2 Sec.2002.Preemption; liability.
- 3 Sec.2003.Information sharing.
- 4 Sec.2004.Small Business Demonstration Program.
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7 TITLE III—SUCCEED ACT

- 8 Sec.3001.Short titles.
- 9 Sec.3002.Definitions.
- 10 Sec.3003.Cancellation of removal of certain long-term residents who entered the United States as
- 11 children.
- 12 Sec.3004.Conditional permanent resident status.
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- 14 Sec.3006.Benefits for relatives of aliens granted conditional permanent resident status.
- 15 Sec.3007.Exclusive jurisdiction.
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- 17 Sec.3009.Restriction on welfare benefits for conditional permanent residents.
- 18 Sec.3010.GAO report.
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22 TITLE IV—ENSURING FAMILY REUNIFICATION

- 23 Sec.4001.Short title.
- 24 Sec.4002.Family-Sponsored immigration priorities.
- 25 Sec.4003.Elimination of Diversity Visa Program.

26 TITLE V—OTHER MATTERS

- 27 Sec.5001.Other Immigration and Nationality Act amendments.
- 28 Sec.5002.Exemption from the Administrative Procedure Act.
- 29 Sec.5003.Exemption from the Paperwork Reduction Act.
- 30 Sec.5004.Ability to fill and retain Department of Homeland Security positions in United States
- 31 territories.
- 32 Sec.5005.Severability.

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2 TITLE VI—TECHNICAL AMENDMENTS

3 Sec.6001.References to the Immigration and Nationality Act.

4 Sec.6002.Technical amendments to title I of the Immigration and Nationality Act.

5 Sec.6003.Technical amendments to title II of the Immigration and Nationality Act.

6 Sec.6004.Technical amendments to title III of the Immigration and Nationality Act.

7 Sec.6005.Technical amendment to title IV of the Immigration and Nationality Act.

8 Sec.6006.Technical amendments to title V of the Immigration and Nationality Act.

9 Sec.6007.Other amendments.

10 Sec.6008.Repeals; rule of construction.

11 Sec.6009.Miscellaneous technical correction.

12 TITLE I—BUILDING AMERICA’S TRUST ACT

13 SEC. 1001. SHORT TITLE.

14 This title may be cited as the “Building America’s Trust Act”.

15 Subtitle A—Border Security

16 SEC. 1101. DEFINITIONS.

17 In this subtitle:

18 (1) **ADVANCED UNATTENDED SURVEILLANCE SENSORS.**—The term “advanced unattended
19 surveillance sensors” means sensors that utilize an onboard computer to analyze detections
20 in an effort to discern between vehicles, humans, and animals, and ultimately filter false
21 positives before transmission.

22 (2) **APPROPRIATE CONGRESSIONAL COMMITTEE.**—The term “appropriate congressional
23 committee” has the meaning given the term in section 2(2) of the Homeland Security Act of
24 2002 (6 U.S.C. 101(2)).

25 (3) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of U.S.
26 Customs and Border Protection.

27 (4) **HIGH TRAFFIC AREAS.**—The term “high traffic areas” has the meaning given the term
28 in section 102(f)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of
29 1996, as added by section 1111.

30 (5) **OPERATIONAL CONTROL.**—The term “operational control” has the meaning given the
31 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
32 367).

33 (6) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

34 (7) **SITUATIONAL AWARENESS.**—The term “situational awareness” has the meaning given

1 the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year
2 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

3 (8) SMALL UNMANNED AERIAL VEHICLE.—The term “small unmanned aerial vehicle” has
4 the meaning given the term “small unmanned aircraft” in section 331 of the FAA
5 Modernization and Reform Act of 2012 (49 U.S.C. 40101 note; Public Law 112–95).

6 (9) TRANSIT ZONE.—The term “transit zone” has the meaning given the term in section
7 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C.
8 223(a)(7); Public Law 114–328).

9 (10) UNMANNED AERIAL SYSTEM.—The term “unmanned aerial system” has the meaning
10 given the term “unmanned aircraft system” in section 331 of the FAA Modernization and
11 Reform Act of 2012 (49 U.S.C. 40101 note; Public Law 112–95).

12 (11) UNMANNED AERIAL VEHICLE.—The term “unmanned aerial vehicle” has the meaning
13 given the term “unmanned aircraft system” in section 331 of the FAA Modernization and
14 Reform Act of 2012 (49 U.S.C. 40101 note; Public Law 112–95).

15 CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

16 SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR 17 BARRIERS ALONG THE SOUTHERN BORDER.

18 Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
19 (Division C of Public Law 104–208; 8 U.S.C. 1103 note) is amended—

20 (1) by amending subsection (a) to read as follows:

21 “(a) In General.—The Secretary of Homeland Security shall take such actions as may be
22 necessary (including the removal of obstacles to detection of illegal entrants) to construct, install,
23 deploy, operate, and permanently maintain physical barriers, tactical infrastructure and
24 technology in the vicinity of the United States border to achieve situational awareness and
25 operational control of the border and deter, impede, and detect illegal activity in high traffic
26 areas.”;

27 (2) in subsection (b)—

28 (A) in the subsection heading, by striking “Fencing and Road Improvements” and
29 inserting “Physical Barriers”;

30 (B) in paragraph (1)—

31 (i) in subparagraph (A)—

32 (I) by striking “subsection (a)” and inserting “this section”;

33 (II) by striking “roads, lighting, cameras, and sensors” and inserting
34 “tactical infrastructure, and technology”; and

35 (III) by striking “gain” and inserting “achieve situational awareness and”;
36 and

37 (ii) by amending subparagraph (B) to read as follows:

1 “(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

2 “(i) IN GENERAL.—Not later than September 30, 2022, the Secretary of
3 Homeland Security, in carrying out this section, shall deploy along the United
4 States border the most practical and effective physical barriers and tactical
5 infrastructure available for achieving situational awareness and operational
6 control of the border.

7 “(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL
8 INFRASTRUCTURE.—The deployment of physical barriers and tactical
9 infrastructure under this subparagraph shall not apply in areas along the border
10 where natural terrain features, natural barriers, or the remoteness of such area or
11 region would make any such deployment ineffective, as determined by the
12 Secretary, for the purposes of gaining situational awareness or operational control
13 of such area or region if, in the absence of tactical infrastructure, the Secretary
14 deploys and permanently maintains the most practical and effective technology or
15 personnel in order to gain situational awareness and operational control of such
16 area or region.”;

17 (iii) in subparagraph (C)—

18 (I) by amending clause (i) to read as follows:

19 “(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland
20 Security, before constructing physical barriers in a specific area or region, shall
21 consult with the Secretary of the Interior, the Secretary of Agriculture, appropriate
22 representatives of Federal, State, local, and tribal governments, and appropriate
23 private property owners in the United States to minimize the impact on the
24 environment, culture, commerce, and quality of life for the communities and
25 residents located near the sites at which such physical barriers are to be
26 constructed.”;

27 (II) by redesignating clause (ii) as clause (iii); and

28 (III) by inserting after clause (i), as amended, the following:

29 “(ii) NOTIFICATION.—Not later than 60 days after the consultation required
30 under clause (i), the Secretary of Homeland Security shall notify the Committee
31 on Homeland Security of the House of Representatives and the Committee on
32 Homeland Security and Governmental Affairs of the Senate of the type of
33 physical barriers, tactical infrastructure, or technology the Secretary has
34 determined is most practical and effective to achieve situational awareness and
35 operational control in a specific area and the other alternatives the Secretary
36 considered before making such a determination.”; and

37 (iv) by striking subparagraph (D);

38 (C) in paragraph (2)—

39 (i) by striking “Attorney General” and inserting “Secretary of Homeland
40 Security”;

41 (ii) by striking “this subsection” and inserting “this section”; and

1 (iii) by striking “construction of fences” and inserting “the construction of
2 physical barriers”; and

3 (D) by amending paragraph (3) to read as follows:

4 “(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security,
5 when designing, constructing, and deploying physical barriers, tactical infrastructure, or
6 technology, shall incorporate such safety features into the design, construction, or
7 deployment of such physical barriers, tactical infrastructure, or technology, that the
8 Secretary determines, in the Secretary’s sole discretion, are necessary to maximize the
9 safety and effectiveness of officers or agents of the Department of Homeland Security or of
10 any other Federal agency deployed in the vicinity of such physical barriers, tactical
11 infrastructure, or technology.”;

12 (3) in subsection (c), by amending paragraph (1) to read as follows:

13 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of
14 Homeland Security shall have the authority to waive all legal requirements that the
15 Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious
16 design, testing, construction, installation, deployment, operation, and maintenance of the
17 physical barriers, tactical infrastructure and technology under this section. Any such
18 decision by the Secretary shall be effective upon publication in the Federal Register.”; and

19 (4) by adding after subsection (d) the following:

20 “(e) Technology.—Not later than September 30, 2022, the Secretary of Homeland Security, in
21 carrying out this section, shall deploy, operate, and permanently maintain along the United States
22 border the most practical and effective technology available for achieving situational awareness
23 and operational control of the border.

24 “(f) Definitions.—In this section:

25 “(1) HIGH TRAFFIC AREAS.—The term ‘high traffic areas’ means areas in the vicinity of
26 the United States border that—

27 “(A) are within the responsibility of U.S. Customs and Border Protection; and

28 “(B) have significant unlawful cross-border activity, as determined by the Secretary
29 of Homeland Security.

30 “(2) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given the
31 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
32 367).

33 “(3) SITUATIONAL AWARENESS DEFINED.—The term ‘situational awareness’ has the
34 meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for
35 Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

36 “(4) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps,
37 access gates, checkpoints, lighting, and roads.

38 “(5) TECHNOLOGY.—The term ‘technology’ means border surveillance and detection
39 technology, including—

40 “(A) tower-based surveillance technology;

- 1 “(B) deployable, lighter-than-air ground surveillance equipment;
2 “(C) Vehicle and Dismount Exploitation Radars (VADER);
3 “(D) 3-dimensional, seismic acoustic detection and ranging border tunneling
4 detection technology;
5 “(E) advanced unattended surveillance sensors;
6 “(F) mobile vehicle-mounted and man-portable surveillance capabilities;
7 “(G) unmanned aerial vehicles; and
8 “(H) other border detection, communication, and surveillance technology necessary
9 to achieve situational awareness and operational control.

10 “(6) UNMANNED AERIAL VEHICLES.—The term ‘unmanned aerial vehicle’ has the
11 meaning given the term ‘unmanned aircraft system’ in section 331 of the FAA
12 Modernization and Reform Act of 2012 (49 U.S.C. 40101 note; Public Law 112–95).”.

13 SEC. 1112. LAND USE OR ACQUISITION.

14 Section 103(b) of the Immigration and Nationality Act (8 U.S.C. 1103) is amended to read as
15 follows:

16 “(b)(1) The Secretary may lease, contract for, or buy any interest in land, including temporary
17 use rights, adjacent to or in the vicinity of an international land border when the Secretary
18 determines that such land is essential to control and guard the boundaries and borders of the
19 United States against any violation of this Act.

20 “(2) The Secretary may lease, contract for, or buy any interest in land described in paragraph
21 (1) when—

22 “(A) the lawful owner of that interest fixes a price for leasing, contracting, or buying such
23 interest; and

24 “(B) the Secretary considers the price referred to in subparagraph (A) to be reasonable.

25 “(3) If the Secretary and the lawful owner of an interest in land described in paragraph (1) are
26 unable to agree to lease, contract for, or buy such interest at a reasonable price for such lease,
27 contract, or purchase, the Secretary may commence condemnation proceedings pursuant to the
28 Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

29 “(4) The Secretary may accept, on behalf of the United States, a gift of any interest in land
30 described in paragraph (1)”.

31 SEC. 1113. AIR AND MARINE OPERATIONS FLIGHT 32 HOURS.

33 (a) Increased Flight Hours.—The Secretary, after coordination with the Administrator of the
34 Federal Aviation Administration, shall ensure that not fewer than 95,000 annual flight hours are
35 carried out by Air and Marine Operations of U.S. Customs and Border Protection.

36 (b) Unmanned Aerial System.—The Secretary shall ensure that Air and Marine Operations
37 operate unmanned aerial systems on the southern border of the United States for not fewer than

1 24 hours per day for 5 days per week.

2 (c) Contract Air Support Authorization.—The Commissioner shall contract for the unfulfilled
3 identified air support mission critical hours, as identified by the Chief of the U.S. Border Patrol.

4 (d) Primary Mission.—The Commissioner shall ensure that—

5 (1) the primary missions for Air and Marine Operations are to directly support U.S.
6 Border Patrol activities along the southern border of the United States and Joint Interagency
7 Task Force South operations in the transit zone; and

8 (2) the Executive Assistant Commissioner of Air and Marine Operations assigns the
9 greatest priority to support missions established by the Commissioner to carry out the
10 requirements under this Act.

11 (e) High-demand Flight Hour Requirements.—In accordance with subsection (d), the
12 Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—

13 (1) identify critical flight hour requirements; and

14 (2) direct Air and Marine Operations to support requests from Sector Chiefs as their
15 primary mission.

16 (f) Small Unmanned Aerial Vehicles.—

17 (1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent for
18 U.S. Customs and Border Protection’s use of small, unmanned aerial vehicles for the
19 purpose of meeting the U.S. Border Patrol’s unmet flight hour operational requirements and
20 to achieve situational awareness and operational control.

21 (2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol
22 shall—

23 (A) coordinate flight operations with the Administrator of the Federal Aviation
24 Administration to ensure the safe and efficient operation of the National Airspace
25 System; and

26 (B) coordinate with the Executive Assistant Commissioner for Air and Marine
27 Operations of U.S. Customs and Border Protection to ensure the safety of other aircraft
28 flying in the vicinity of small, unmanned aerial vehicles operated by the U.S. Border
29 Patrol.

30 (3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of
31 2002 (6 U.S.C. 211(e)(3)) is amended—

32 (A) in subparagraph (B), by striking “and” at the end;

33 (B) by redesignating subparagraph (C) as subparagraph (D); and

34 (C) by inserting after subparagraph (B) the following:

35 “(C) carry out the small unmanned aerial vehicle requirements pursuant to section
36 1113(f) of the Building America’s Trust Act; and”.

37 (g) Savings Clause.—Nothing in this section may be construed to confer, transfer, or delegate
38 to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine
39 Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any

1 authority of the Secretary of Transportation or the Administrator of the Federal Aviation
2 Administration relating to the use of airspace or aviation safety.

3 **SEC. 1114. CAPABILITY DEPLOYMENT TO SPECIFIC**
4 **SECTORS AND TRANSIT ZONE.**

5 (a) In General.—Not later than September 30, 2022, the Secretary, in implementing section
6 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended
7 by section 1111, and acting through the appropriate component of the Department of Homeland
8 Security, shall deploy to each sector or region of the southern border and the northern border, in
9 a prioritized manner to achieve situational awareness and operational control of such borders, the
10 following additional capabilities:

11 (1) SAN DIEGO SECTOR.—For the San Diego sector, the following:

- 12 (A) Tower-based surveillance technology.
- 13 (B) Subterranean surveillance and detection technologies.
- 14 (C) To increase coastal maritime domain awareness, the following:
 - 15 (i) Deployable, lighter-than-air surface surveillance equipment.
 - 16 (ii) Unmanned aerial vehicles with maritime surveillance capability.
 - 17 (iii) U.S. Customs and Border Protection maritime patrol aircraft.
 - 18 (iv) Coastal radar surveillance systems.
 - 19 (v) Maritime signals intelligence capabilities.
- 20 (D) Ultralight aircraft detection capabilities.
- 21 (E) Advanced unattended surveillance sensors.
- 22 (F) A rapid reaction capability supported by aviation assets.
- 23 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 24 (H) Man-portable unmanned aerial vehicles.
- 25 (I) Improved agent communications capabilities.

26 (2) EL CENTRO SECTOR.—For the El Centro sector, the following:

- 27 (A) Tower-based surveillance technology.
- 28 (B) Deployable, lighter-than-air ground surveillance equipment.
- 29 (C) Man-portable unmanned aerial vehicles.
- 30 (D) Ultralight aircraft detection capabilities.
- 31 (E) Advanced unattended surveillance sensors.
- 32 (F) A rapid reaction capability supported by aviation assets.
- 33 (G) Man-portable unmanned aerial vehicles.
- 34 (H) Improved agent communications capabilities.

- 1 (3) YUMA SECTOR.—For the Yuma sector, the following:
- 2 (A) Tower-based surveillance technology.
- 3 (B) Deployable, lighter-than-air ground surveillance equipment.
- 4 (C) Ultralight aircraft detection capabilities.
- 5 (D) Advanced unattended surveillance sensors.
- 6 (E) A rapid reaction capability supported by aviation assets.
- 7 (F) Mobile vehicle-mounted and man-portable surveillance systems.
- 8 (G) Man-portable unmanned aerial vehicles.
- 9 (H) Improved agent communications capabilities.
- 10 (4) TUCSON SECTOR.—For the Tucson sector, the following:
- 11 (A) Tower-based surveillance technology.
- 12 (B) Increased flight hours for aerial detection, interdiction, and monitoring
- 13 operations capability.
- 14 (C) Deployable, lighter-than-air ground surveillance equipment.
- 15 (D) Ultralight aircraft detection capabilities.
- 16 (E) Advanced unattended surveillance sensors.
- 17 (F) A rapid reaction capability supported by aviation assets.
- 18 (G) Man-portable unmanned aerial vehicles.
- 19 (H) Improved agent communications capabilities.
- 20 (5) EL PASO SECTOR.—For the El Paso sector, the following:
- 21 (A) Tower-based surveillance technology.
- 22 (B) Deployable, lighter-than-air ground surveillance equipment.
- 23 (C) Ultralight aircraft detection capabilities.
- 24 (D) Advanced unattended surveillance sensors.
- 25 (E) Mobile vehicle-mounted and man-portable surveillance systems.
- 26 (F) A rapid reaction capability supported by aviation assets.
- 27 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 28 (H) Man-portable unmanned aerial vehicles.
- 29 (I) Improved agent communications capabilities.
- 30 (6) BIG BEND SECTOR.—For the Big Bend sector, the following:
- 31 (A) Tower-based surveillance technology.
- 32 (B) Deployable, lighter-than-air ground surveillance equipment.
- 33 (C) Improved agent communications capabilities.

- 1 (D) Ultralight aircraft detection capabilities.
- 2 (E) Advanced unattended surveillance sensors.
- 3 (F) A rapid reaction capability supported by aviation assets.
- 4 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 5 (H) Man-portable unmanned aerial vehicles.
- 6 (I) Improved agent communications capabilities.
- 7 (7) DEL RIO SECTOR.—For the Del Rio sector, the following:
 - 8 (A) Tower-based surveillance technology.
 - 9 (B) Increased monitoring for cross-river dams, culverts, and footpaths.
 - 10 (C) Improved agent communications capabilities.
 - 11 (D) Improved maritime capabilities in the Amistad National Recreation Area.
 - 12 (E) Advanced unattended surveillance sensors.
 - 13 (F) A rapid reaction capability supported by aviation assets.
 - 14 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
 - 15 (H) Man-portable unmanned aerial vehicles.
 - 16 (I) Improved agent communications capabilities.
- 17 (8) LAREDO SECTOR.—For the Laredo sector, the following:
 - 18 (A) Tower-based surveillance technology.
 - 19 (B) Maritime detection resources for the Falcon Lake region.
 - 20 (C) Increased flight hours for aerial detection, interdiction, and monitoring
 - 21 operations capability.
 - 22 (D) Increased monitoring for cross-river dams, culverts, and footpaths.
 - 23 (E) Ultralight aircraft detection capability.
 - 24 (F) Advanced unattended surveillance sensors.
 - 25 (G) A rapid reaction capability supported by aviation assets.
 - 26 (H) Man-portable unmanned aerial vehicles.
 - 27 (I) Improved agent communications capabilities.
- 28 (9) RIO GRANDE VALLEY SECTOR.—For the Rio Grande Valley sector, the following:
 - 29 (A) Tower-based surveillance technology.
 - 30 (B) Deployable, lighter-than-air ground surveillance equipment.
 - 31 (C) Increased flight hours for aerial detection, interdiction, and monitoring
 - 32 operations capability.
 - 33 (D) Ultralight aircraft detection capability.

- 1 (E) Advanced unattended surveillance sensors.
2 (F) Increased monitoring for cross-river dams, culverts, footpaths.
3 (G) A rapid reaction capability supported by aviation assets.
4 (H) Increased maritime interdiction capabilities.
5 (I) Mobile vehicle-mounted and man-portable surveillance capabilities.
6 (J) Man-portable unmanned aerial vehicles.
7 (K) Improved agent communications capabilities.
- 8 (10) BLAINE SECTOR.—For the Blaine sector, the following:
9 (A) Increased flight hours for aerial detection, interdiction, and monitoring
10 operations capability.
11 (B) Coastal radar surveillance systems.
12 (C) Increased maritime interdiction capabilities.
13 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
14 (E) Advanced unattended surveillance sensors.
15 (F) Ultralight aircraft detection capabilities.
16 (G) Man-portable unmanned aerial vehicles.
17 (H) Improved agent communications capabilities.
- 18 (11) SPOKANE SECTOR.—For the Spokane sector, the following:
19 (A) Increased flight hours for aerial detection, interdiction, and monitoring
20 operations capability.
21 (B) Increased maritime interdiction capabilities.
22 (C) Mobile vehicle-mounted and man-portable surveillance capabilities.
23 (D) Advanced unattended surveillance sensors.
24 (E) Ultralight aircraft detection capabilities.
25 (F) Completion of six miles of the Bog Creek road.
26 (G) Man-portable unmanned aerial vehicles.
27 (H) Improved agent communications systems.
- 28 (12) HAVRE SECTOR.—For the Havre sector, the following:
29 (A) Increased flight hours for aerial detection, interdiction, and monitoring
30 operations capability.
31 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
32 (C) Advanced unattended surveillance sensors.
33 (D) Ultralight aircraft detection capabilities.

- 1 (E) Man-portable unmanned aerial vehicles.
2 (F) Improved agent communications systems.
3 (13) GRAND FORKS SECTOR.—For the Grand Forks sector, the following:
4 (A) Increased flight hours for aerial detection, interdiction, and monitoring
5 operations capability.
6 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
7 (C) Advanced unattended surveillance sensors.
8 (D) Ultralight aircraft detection capabilities.
9 (E) Man-portable unmanned aerial vehicles.
10 (F) Improved agent communications systems.
11 (14) DETROIT SECTOR.—For the Detroit sector, the following:
12 (A) Increased flight hours for aerial detection, interdiction, and monitoring
13 operations capability.
14 (B) Coastal radar surveillance systems.
15 (C) Increased maritime interdiction capabilities.
16 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
17 (E) Advanced unattended surveillance sensors.
18 (F) Ultralight aircraft detection capabilities.
19 (G) Man-portable unmanned aerial vehicles.
20 (H) Improved agent communications systems.
21 (15) BUFFALO SECTOR.—For the Buffalo sector, the following:
22 (A) Increased flight hours for aerial detection, interdiction, and monitoring
23 operations capability.
24 (B) Coastal radar surveillance systems.
25 (C) Increased maritime interdiction capabilities.
26 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
27 (E) Advanced unattended surveillance sensors.
28 (F) Ultralight aircraft detection capabilities.
29 (G) Man-portable unmanned aerial vehicles.
30 (H) Improved agent communications systems.
31 (16) SWANTON SECTOR.—For the Swanton sector, the following:
32 (A) Increased flight hours for aerial detection, interdiction, and monitoring
33 operations capability.
34 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.

- 1 (C) Advanced unattended surveillance sensors.
2 (D) Ultralight aircraft detection capabilities.
3 (E) Man-portable unmanned aerial vehicles.
4 (F) Improved agent communications systems.
- 5 (17) HOULTON SECTOR.—For the Houlton sector, the following:
6 (A) Increased flight hours for aerial detection, interdiction, and monitoring
7 operations capability.
8 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
9 (C) Advanced unattended surveillance sensors.
10 (D) Ultralight aircraft detection capabilities.
11 (E) Man-portable unmanned aerial vehicles.
12 (F) Improved agent communications systems.
- 13 (18) TRANSIT ZONE.—For the transit zone, the following:
14 (A) Not later than 2 years after the date of the enactment of this Act, an increase in
15 the number of overall cutter, boat, and aircraft hours spent conducting interdiction
16 operations over the average number of such hours during the preceding 3 fiscal years.
17 (B) Increased maritime signals intelligence capabilities.
18 (C) To increase maritime domain awareness—
19 (i) unmanned aerial vehicles with maritime surveillance capability; and
20 (ii) increased maritime aviation patrol hours.
21 (D) Increased operational hours for maritime security components dedicated to joint
22 counter-smuggling and interdiction efforts with other Federal agencies, including the
23 Deployable Specialized Forces of the Coast Guard.
24 (E) Coastal radar surveillance systems with long range day and night cameras
25 capable of providing full maritime domain awareness of the United States territorial
26 waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island,
27 Culebra Island, Saint Thomas, Saint John, and Saint Croix.
- 28 (b) Reimbursement Related to the Lower Rio Grande Valley Flood Control Project.—The
29 International Boundary and Water Commission is authorized to reimburse State and local
30 governments for any expenses incurred before, on, or after the date of the enactment of this Act
31 by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley
32 Flood Control Project of the Commission.
- 33 (c) Tactical Flexibility.—
- 34 (1) SOUTHERN AND NORTHERN LAND BORDERS.—
35 (A) IN GENERAL.—Beginning on September 30, 2022, or after the Secretary has
36 deployed at least 25 percent of the capabilities required in each sector specified in
37 subsection (a), whichever comes later, the Secretary may deviate from such capability

1 deployments if the Secretary determines that such deviation is required to achieve
2 situational awareness or operational control.

3 (B) NOTIFICATION.—If the Secretary exercises the authority described in
4 subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify
5 the Committee on Homeland Security and Governmental Affairs of the Senate and the
6 Committee on Homeland Security of the House of Representatives regarding the
7 deviation under such subparagraph that is the subject of such exercise. Not later than
8 90 days after the Secretary makes any changes to such deviation, the Secretary shall
9 notify such committees regarding such change.

10 (2) TRANSIT ZONE.—

11 (A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland
12 Security and Governmental Affairs of the Senate, the Committee on Commerce,
13 Science, and Transportation of the Senate, the Committee on Homeland Security of the
14 House of Representatives, and the Committee on Transportation and Infrastructure of
15 the House of Representatives regarding the capability deployments for the transit zone
16 specified in subsection (a)(18), including information relating to—

17 (i) the number and types of assets and personnel deployed; and

18 (ii) the impact such deployments have on the capability of the Coast Guard to
19 conduct its mission in the transit zone referred to in subsection (a)(18).

20 (B) ALTERATION.—The Secretary may alter the capability deployments referred to
21 in this section if the Secretary—

22 (i) determines, after consultation with the committees referred to in
23 subparagraph (A), that such alteration is necessary; and

24 (ii) not later than 30 days after making a determination under clause (i), notifies
25 the committees referred to in such subparagraph regarding such alteration,
26 including information relating to—

27 (I) the number and types of assets and personnel deployed pursuant to
28 such alteration; and

29 (II) the impact such alteration has on the capability of the Coast Guard to
30 conduct its mission in the transit zone referred to in subsection (a)(18).

31 (d) Exigent Circumstances.—

32 (1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the
33 capabilities referred to in subsection (a) in a manner that is inconsistent with the
34 requirements specified in such subsection if, after the Secretary has deployed at least 25
35 percent of such capabilities in each sector, the Secretary determines that exigent
36 circumstances demand such an inconsistent deployment or that such an inconsistent
37 deployment is vital to the national security interests of the United States.

38 (2) NOTIFICATION.—Not later than 30 days after making a determination under paragraph
39 (1), the Secretary shall notify the Committee on Homeland Security of the House of
40 Representatives and the Committee on Homeland Security and Governmental Affairs of the
41 Senate of such determination and include, in such notification, a detailed justification for

1 such determination.

2 SEC. 1115. DEPLOYMENT OF ASSETS.

3 (a) Joint Briefing.—Not later than March 1 of each year, the Secretary (or the Secretary’s
4 designees) shall conduct a joint, comprehensive briefing for all Members of the appropriate
5 congressional committees on the deployment of Department of Homeland Security personnel
6 and assets along the borders of the United States.

7 (b) Content.—Each briefing conducted pursuant to subsection (a) shall include—

8 (1) the number and types of assets and personnel to be deployed in each sector and
9 district;

10 (2) the cause for any change in deployments of assets and personnel in each sector and
11 district; and

12 (3) the anticipated impact that such deployments or change in deployments will have in
13 terms of the capacity of the Department of Homeland Security to conduct its mission in
14 each sector or district.

15 SEC. 1116. U.S. BORDER PATROL ACTIVITIES.

16 The Chief of the U.S. Border Patrol shall prioritize the deployment of U.S. Border Patrol
17 agents to as close to the physical land border as possible, consistent with border security
18 enforcement priorities and accessibility to such areas.

19 SEC. 1117. BORDER SECURITY TECHNOLOGY 20 PROGRAM MANAGEMENT.

21 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
22 seq.) is amended by adding at the end the following:

23 “SEC. 434. BORDER SECURITY TECHNOLOGY 24 PROGRAM MANAGEMENT.

25 “(a) Major Acquisition Program Defined.—In this section, the term ‘major acquisition
26 program’ means an acquisition program of the Department that the Secretary estimates will
27 require a total life cycle cost of at least \$300,000,000 (based on fiscal year 2017 constant
28 dollars).

29 “(b) Planning Documentation.—For each border security technology acquisition program of
30 the Department that is a major acquisition program, the Secretary shall—

31 “(1) ensure that such program has a written acquisition program baseline approved by the
32 relevant acquisition decision authority;

33 “(2) document that such program is meeting cost, schedule, and performance thresholds
34 as specified in such baseline, in compliance with relevant departmental acquisition policies
35 and the Federal Acquisition Regulation; and

36 “(3) have a plan for meeting program implementation objectives by managing contractor
37 performance.

1 “(c) Adherence to Standards.—The Secretary, acting through the Under Secretary for
2 Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border
3 security technology acquisition program managers who are responsible for carrying out this
4 section adhere to relevant internal control standards identified by the Comptroller General of the
5 United States. The Commissioner shall provide information, as needed, to assist the Under
6 Secretary in monitoring management of border security technology acquisition programs under
7 this section.

8 “(d) Plan.—The Secretary, acting through the Under Secretary for Management, in
9 coordination with the Under Secretary for Science and Technology and the Commissioner of
10 U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a
11 plan for testing, evaluating, and using independent verification and validation resources for
12 border security technology. Under the plan, new border security technologies shall be evaluated
13 through a series of assessments, processes, and audits to ensure—

14 “(1) compliance with relevant departmental acquisition policies and the Federal
15 Acquisition Regulation; and

16 “(2) the effective use of taxpayer dollars.”.

17 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
18 of 2002 is amended by inserting after the item relating to section 433 the following:

19 “Sec.434.Border security technology program management.”.

20 (c) Prohibition on Additional Authorization of Appropriations.—No additional funds are
21 authorized to be appropriated to carry out section 434 of the Homeland Security Act of 2002, as
22 added by subsection (a). Such section shall be carried out using amounts otherwise authorized
23 for such purposes.

24 **SEC. 1118. NATIONAL GUARD SUPPORT TO SECURE**
25 **THE SOUTHERN BORDER AND REIMBURSEMENT OF**
26 **STATES FOR DEPLOYMENT OF THE NATIONAL GUARD**
27 **AT THE SOUTHERN BORDER.**

28 (a) In General.—With the approval of the Secretary and the Secretary of Defense, the
29 Governor of a State may order any units or personnel of the National Guard of such State to
30 perform operations and missions under section 502(f) of title 32, United States Code, along the
31 southern border for the purposes of assisting U.S. Customs and Border Protection to achieve
32 situational awareness and operational control of the border.

33 (b) Assignment of Operations and Missions.—

34 (1) IN GENERAL.—National Guard units and personnel deployed under subsection (a) may
35 be assigned such operations and missions specified in subsection (c) as may be necessary to
36 secure the southern border.

37 (2) NATURE OF DUTY.—The duty of National Guard personnel performing operations and
38 missions described in paragraph (1) shall be full-time duty under title 32, United States
39 Code.

1 (c) Range of Operations and Missions.—The operations and missions assigned under
2 subsection (b) shall include the temporary authority to—

3 (1) construct reinforced fencing or other physical barriers;

4 (2) operate ground-based surveillance systems;

5 (3) operate unmanned and manned aircraft;

6 (4) provide radio communications interoperability between U.S. Customs and Border
7 Protection and State, local, and tribal law enforcement agencies;

8 (5) construct checkpoints along the Southern border to bridge the gap to long-term
9 permanent checkpoints; and

10 (6) provide intelligence support.

11 (d) Materiel and Logistical Support.—The Secretary of Defense shall deploy such materiel,
12 equipment, and logistical support as may be necessary to ensure success of the operations and
13 missions conducted by the National Guard under this section.

14 (e) Reimbursement Required.—

15 (1) IN GENERAL.—The Secretary of Defense shall reimburse States for the cost of the
16 deployment of any units or personnel of the National Guard to perform operations and
17 missions in full-time State Active Duty in support of a southern border mission. The
18 Secretary of Defense may not seek reimbursement from the Secretary for any
19 reimbursements paid to States for the costs of such deployments.

20 (2) LIMITATION.—The total amount of reimbursements under this section may not exceed
21 \$35,000,000 in any fiscal year.

22 SEC. 1119. OPERATION PHALANX.

23 (a) In General.—The Secretary of Defense, with the concurrence of the Secretary, shall
24 provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing
25 efforts to secure the southern border.

26 (b) Types of Assistance Authorized.—The assistance provided under subsection (a) may
27 include—

28 (1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-
29 based surveillance systems to support continuous surveillance of the southern border; and

30 (2) intelligence analysis support.

31 (c) Materiel and Logistical Support.—The Secretary of Defense may deploy such materiel,
32 equipment, and logistics support as may be necessary to ensure the effectiveness of the
33 assistance provided under subsection (a).

34 (d) Authorization of Appropriations.—There are authorized to be appropriated for the
35 Department of Defense \$75,000,000 to provide assistance under this section. The Secretary of
36 Defense may not seek reimbursement from the Secretary for any assistance provided under this
37 section.

38 (e) Reports.—

1 (1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and
2 annually thereafter, the Secretary of Defense shall submit a report to the appropriate
3 congressional defense committees (as defined in section 101(a)(16) of title 10, United States
4 Code) regarding any assistance provided under subsection (a) during the period specified in
5 paragraph (3).

6 (2) ELEMENTS.—Each report under paragraph (1) shall include, for the period specified in
7 paragraph (3), a description of—

8 (A) the assistance provided;

9 (B) the sources and amounts of funds used to provide such assistance; and

10 (C) the amounts obligated to provide such assistance.

11 (3) PERIOD SPECIFIED.—The period specified in this paragraph is—

12 (A) in the case of the first report required under paragraph (1), the 90-day period
13 beginning on the date of the enactment of this Act; and

14 (B) in the case of any subsequent report submitted under paragraph (1), the calendar
15 year for which the report is submitted.

16 SEC. 1120. MERIDA INITIATIVE.

17 (a) Sense of Congress.—It is the sense of Congress that assistance to Mexico, including
18 assistance from the Department of State and the Department of Defense and any aid related to
19 the Merida Initiative—

20 (1) should be focused on providing enhanced border security at Mexico’s northern and
21 southern borders, judicial reform, and support for Mexico’s anti-drug efforts; and

22 (2) should return to its original focus and prioritize security, training, and acquisition of
23 equipment for Mexican security forces involved in anti-drug efforts as well as be used to
24 train prosecutors in ongoing justice reform efforts.

25 (b) Assistance for Mexico.—The Secretary of State, in coordination with the Secretary and the
26 Secretary of Defense, shall provide level and consistent assistance to Mexico—

27 (1) to combat drug production and trafficking and related violence, transnational
28 organized criminal organizations, and corruption;

29 (2) to build a secure, modern border security system capable of preventing illegal
30 migration;

31 (3) to support border security and cooperation with United States military, intelligence,
32 and law enforcement agencies on border incursions;

33 (4) to support judicial reform, institution building, and rule of law activities to build
34 judicial capacity, address corruption and impunity, and support human rights; and

35 (5) to provide for training and equipment for Mexican security forces involved in efforts
36 to eradicate and interdict drugs.

37 (c) Allocation of Funds; Report.—

38 (1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any

1 assistance appropriated in any appropriations Act to implement this section shall be
2 withheld until after the Secretary of State submits a written report to the congressional
3 committees specified in paragraph (3) certifying that the Government of Mexico is—

4 (A) significantly reducing illegal migration, drug trafficking, and cross-border
5 criminal activities on Mexico's northern and southern borders;

6 (B) taking significant action to address corruption, impunity, and human rights
7 abuses; and

8 (C) improving the transparency and accountability of Mexican Federal police forces
9 and working with Mexican State and municipal authorities to improve the transparency
10 and accountability of Mexican State and municipal police forces.

11 (2) MATTERS TO INCLUDE.—The report required under paragraph (1) shall include a
12 description of—

13 (A) actions taken by the Government of Mexico to address the matters described in
14 such paragraph;

15 (B) any relevant assessments by civil society and non-government organizations in
16 Mexico relating to such matters; and

17 (C) any instances in which the Secretary determines that the actions taken by the
18 Government of Mexico are inadequate to address such matters.

19 (3) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in
20 this paragraph are—

21 (A) the Committee on Appropriations of the Senate;

22 (B) the Committee on Homeland Security and Governmental Affairs of the Senate;

23 (C) the Committee on the Judiciary of the Senate;

24 (D) the Committee on Foreign Relations of the Senate;

25 (E) the Committee on Appropriations of the House of Representatives;

26 (F) the Committee on Homeland Security of the House of Representatives;

27 (G) the Committee on the Judiciary of the House of Representatives; and

28 (H) the Committee on Foreign Affairs of the House of Representatives.

29 (d) Notifications.—Any assistance made available by the Secretary of State under this section
30 shall be subject to—

31 (1) the notification procedures set forth in section 634A of the Foreign Assistance Act of
32 1961 (22 U.S.C. 2394–1); and

33 (2) the notification requirements of—

34 (A) the Committee on Homeland Security and Governmental Affairs of the Senate;

35 (B) the Committee on the Judiciary of the Senate;

36 (C) the Committee on Foreign Relations of the Senate;

1 (D) the Committee on Homeland Security of the House of Representatives;

2 (E) the Committee on the Judiciary of the House of Representatives; and

3 (F) the Committee on Foreign Affairs of the House of Representatives.

4 (e) Spending Plan.—Not later than 60 days after the date of the enactment of this Act, the
5 Secretary of State shall submit, to the congressional committees specified in subsection (c)(3), a
6 detailed spending plan for assistance to Mexico under this section, which shall include a strategy,
7 developed after consulting with relevant authorities of the Government of Mexico, for—

8 (1) combating drug trafficking and related violence and organized crime; and

9 (2) anti-corruption and rule of law activities, which shall include concrete goals, actions
10 to be taken, budget proposals, and a description of anticipated results.

11 SEC. 1121. PROHIBITIONS ON ACTIONS THAT IMPEDE 12 BORDER SECURITY ON CERTAIN FEDERAL LAND.

13 (a) Prohibition on Interference With U.S. Customs and Border Protection.—

14 (1) IN GENERAL.—The Secretary concerned shall not impede, prohibit, or restrict
15 activities of U.S. Customs and Border Protection on covered Federal land to carry out the
16 activities described in subsection (b).

17 (2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct
18 activities described in subsection (b) on covered Federal land applies without regard to
19 whether a state of emergency exists.

20 (b) Authorized Activities of U.S. Customs and Border Protection.—

21 (1) IN GENERAL.—U.S. Customs and Border Protection shall have immediate access to
22 covered Federal land to conduct the activities described in paragraph (2) on such land to
23 prevent all unlawful entries into the United States, including entries by terrorists, unlawful
24 aliens, instruments of terrorism, narcotics, and other contraband through the southern border
25 or the northern border.

26 (2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

27 (A) the use of motorized vehicles, foot patrols, and horseback to patrol the border
28 area, apprehend illegal entrants, and rescue individuals; and

29 (B) the design, testing, construction, installation, deployment, and operation of
30 physical barriers, tactical infrastructure, and technology pursuant to section 102 of the
31 Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by
32 section 1111.

33 (c) Clarification Relating to Waiver Authority.—

34 (1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in
35 subsection (b)(2) may be carried out without regard to the provisions of law specified in
36 paragraph (2).

37 (2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this paragraph are
38 all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or

1 related to the subject of, the following laws:

2 (A) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

3 (B) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

4 (C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly
5 referred to as the “Clean Water Act”).

6 (D) Division A of subtitle III of title 54, United States Code (54 U.S.C. 300301 et
7 seq.) (formerly known as the “National Historic Preservation Act”).

8 (E) The Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).

9 (F) The Clean Air Act (42 U.S.C. 7401 et seq.).

10 (G) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

11 (H) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

12 (I) The Noise Control Act of 1972 (42 U.S.C. 4901 et seq.).

13 (J) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

14 (K) The Comprehensive Environmental Response, Compensation, and Liability Act
15 of 1980 (42 U.S.C. 9601 et seq.).

16 (L) Chapter 3125 of title 54, United States Code (formerly known as the
17 “Archeological and Historic Preservation Act”).

18 (M) The Antiquities Act (16 U.S.C. 431 et seq.).

19 (N) Chapter 3203 of title 54, United States Code (formerly known as the “Historic
20 Sites, Buildings, and Antiquities Act”).

21 (O) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

22 (P) The Farmland Protection Policy Act (7 U.S.C. 4201 et seq.).

23 (Q) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

24 (R) The Wilderness Act (16 U.S.C. 1131 et seq.).

25 (S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

26 (T) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C.
27 668dd et seq.).

28 (U) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).

29 (V) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).

30 (W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code
31 (commonly known as the “Administrative Procedure Act”).

32 (X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).

33 (Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994
34 (Public Law 103–433).

35 (Z) Division A of subtitle I of title 54, United States Code (formerly known as the

- 1 “National Park Service Organic Act”.
- 2 (AA) The National Park Service General Authorities Act (Public Law 91–383, 16
3 U.S.C. 1a–1 et seq.).
- 4 (BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of
5 1978 (Public Law 95–625).
- 6 (CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law
7 101–628).
- 8 (DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).
- 9 (EE) The Eagle Protection Act (16 U.S.C. 668 et seq.).
- 10 (FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001
11 et seq.).
- 12 (GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).
- 13 (HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).
- 14 (II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).
- 15 (JJ) The Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.).
- 16 (3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in
17 paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1,
18 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1)
19 shall apply to the provision of such title that corresponds to the provision of law specified in
20 paragraph (2) to the same extent the waiver applied to that provision of law.
- 21 (4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed
22 as affecting, negating, or diminishing in any manner the applicability of section 552 of title
23 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any
24 relevant matter.
- 25 (d) Protection of Legal Uses.—Nothing in this section may be construed to provide—
- 26 (1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the
27 use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or
28 the Secretary of Agriculture; or
- 29 (2) any additional authority to restrict legal access to such land.
- 30 (e) Effect on State and Private Land.—This section shall have no force or effect on State lands
31 or private lands and shall not provide authority, on or access to, State lands or private lands.
- 32 (f) Tribal Sovereignty.—Nothing in this section may be construed to supersede, replace,
33 negate, or diminish treaties or other agreements between the United States and Indian tribes.
- 34 (g) Memoranda of Understanding.—The requirements under this section shall not apply to the
35 extent that such requirements are incompatible with any memorandum of understanding or
36 similar agreement entered into between the Commissioner of U.S. Customs and Border
37 Protection and a National Park Unit before, on, or after the date of the enactment of this Act.
- 38 (h) Definitions.—In this section:

1 (1) COVERED FEDERAL LAND.—The term “covered Federal land” includes all land under
2 the control of the Secretary concerned that is located within 100 miles of the southern
3 border or the northern border.

4 (2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

5 (A) with respect to land under the jurisdiction of the Department of Agriculture, the
6 Secretary of Agriculture; and

7 (B) with respect to land under the jurisdiction of the Department of the Interior, the
8 Secretary of the Interior.

9 SEC. 1122. LANDOWNER AND RANCHER SECURITY 10 ENHANCEMENT.

11 (a) Establishment of National Border Security Advisory Committee.—The Secretary shall
12 establish a National Border Security Advisory Committee, which—

13 (1) may advise, consult with, report to, and make recommendations to the Secretary on
14 matters relating to border security matters, including—

15 (A) verifying security claims and the border security metrics established by the
16 Department of Homeland Security under section 1092 of the National Defense
17 Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

18 (B) discussing ways to improve the security of high traffic areas along the northern
19 border and the southern border; and

20 (2) may provide, through the Secretary, recommendations to Congress.

21 (b) Consideration of Views.—The Secretary shall consider the information, advice, and
22 recommendations of the National Border Security Advisory Committee in formulating policy
23 regarding matters affecting border security.

24 (c) Membership.—The National Border Security Advisory Committee shall consist of at least
25 1 member from each State who—

26 (1) has at least 5 years practical experience in border security operations; or

27 (2) lives and works in the United States within 80 miles of the southern border or within
28 80 miles of the northern border.

29 (d) Nonapplicability of Federal Advisory Committee Act.—The Federal Advisory Committee
30 Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

31 SEC. 1123. LIMITATION ON LAND OWNER’S LIABILITY.

32 Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at
33 the end the following:

34 “(i) Indemnity for Actions of Law Enforcement Officers.—

35 “(1) DEFINITIONS.—In this subsection—

36 “(A) the term ‘land’ includes roads, water, watercourses, and private ways, and
37 buildings, structures, machinery, and equipment that is attached to real property; and

1 “(B) the term ‘owner’ includes the possessor of a fee interest, a tenant, a lessee, an
2 occupant, the possessor of any other interest in land, and any person having a right to
3 grant permission to use the land.

4 “(2) REIMBURSEMENT AUTHORIZED.—Notwithstanding any other provision of law, and
5 subject to the availability of appropriations, any owner of land located in the United States
6 within 150 miles of the southern border of the United States may seek reimbursement from
7 the Department and the Secretary shall pay for any adverse final tort judgment for
8 negligence (excluding attorneys’ fees and costs) authorized under Federal or State tort law,
9 arising directly from any border patrol action, such as apprehensions, tracking, and
10 detention of aliens, that is conducted on privately-owned land if—

11 “(A) such land owner has been found negligent by a Federal or State court in any
12 tort litigation;

13 “(B) such land owner has not already been reimbursed for the final tort judgment,
14 including outstanding attorneys’ fees and costs;

15 “(C) such land owner did not have or does not have sufficient property insurance to
16 cover the judgment and has had an insurance claim for such coverage denied; and

17 “(D) such tort action was brought against such land owner as a direct result of
18 activity of law enforcement officers of the Department of Homeland Security, acting in
19 their official capacity, on the owner’s land.

20 “(3) EXCEPTIONS.—Nothing in this subsection may be construed to require the Secretary
21 to reimburse a land owner under paragraph (2) for any adverse final tort judgment for
22 negligence or to limit land owner liability which would otherwise exist for—

23 “(A) willful or malicious failure to guard or warn against a known dangerous
24 condition, use, structure, or activity likely to cause harm;

25 “(B) maintaining an attractive nuisance;

26 “(C) gross negligence; or

27 “(D) direct interference with, or hindrance of, any agent or officer of the Federal
28 Government who is authorized to enforce the immigration laws during—

29 “(i) a patrol of such landowner’s land; or

30 “(ii) any action taken to apprehend or detain any alien attempting to enter the
31 United States illegally or to evade execution of an arrest warrant for a violation of
32 any immigration law.

33 “(4) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect any
34 right or remedy available pursuant to chapter 171 of title 28, United States Code (commonly
35 known as the ‘Federal Tort Claims Act’).”

36 SEC. 1124. ERADICATION OF CARRIZO CANE AND SALT 37 CEDAR.

38 Not later than September 30, 2022, the Secretary, after coordinating with the heads of the
39 relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any

1 salt cedar along the Rio Grande River.

2 **SEC. 1125. PREVENTION, DETECTION, CONTROL, AND**
3 **ERADICATION OF DISEASES AND PESTS.**

4 (a) Definitions.—In this section:

5 (1) ANIMAL.—The term “animal” means any member of the animal kingdom (except a
6 human).

7 (2) ARTICLE.—The term “article” means any pest or disease or any material or tangible
8 object that could harbor a pest or disease.

9 (3) DISEASE.—The term “disease” has the meaning given such term by the Secretary of
10 Agriculture.

11 (4) LIVESTOCK.—The term “livestock” means all farm-raised animals.

12 (5) MEANS OF CONVEYANCE.—The term “means of conveyance” means any personal
13 property used for, or intended for use for, the movement of any other personal property.

14 (6) PEST.—The term “pest” means any of the following that can directly or indirectly
15 injure, cause damage to, or cause disease in human livestock, a plant, or a plant part:

16 (A) A protozoan.

17 (B) A plant or plant part.

18 (C) An animal.

19 (D) A bacterium.

20 (E) A fungus.

21 (F) A virus or viroid.

22 (G) An infectious agent or other pathogen.

23 (H) An arthropod.

24 (I) A parasite or parasitic plant.

25 (J) A prion.

26 (K) A vector.

27 (L) Any organism similar to or allied with any of the organisms described in this
28 paragraph.

29 (7) PLANT.—The term “plant” means any plant (including any plant part) capable of
30 propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a
31 cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

32 (8) STATE.—The term “State” means any of the several States, the District of Columbia,
33 the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana
34 Islands, the Virgin Islands of the United States, and any territory or possession of the United
35 States.

1 (b) Detection, Control, and Eradication of the Spread of Diseases and Pests.—

2 (1) IN GENERAL.—The Secretary of Agriculture may carry out operations and measures to
3 prevent, detect, control, or eradicate the spread of any pest or disease of livestock or plant
4 that threatens any segment of agriculture.

5 (2) COMPENSATION.—

6 (A) IN GENERAL.—The Secretary of Agriculture may pay a claim arising out of—

7 (i) the destruction of any animal, plant, plant part, article, or means of
8 conveyance consistent with the purposes of this section; and

9 (ii) implementing measures to prevent, detect, control, or eradicate the spread
10 of any pest disease of livestock or plant that threatens any segment of agriculture.

11 (B) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary of Agriculture shall
12 compensate industry participants and State agencies that cooperate with the Secretary
13 of Agriculture in carrying out operations and measures under this subsection for up to
14 100 percent of eligible costs relating to—

15 (i) cooperative programs involving Federal, State, or industry participants to
16 control diseases of low or high pathogenicity and pests in accordance with
17 regulations issued by the Secretary of Agriculture; and

18 (ii) the construction and operation of research laboratories, quarantine stations,
19 and other buildings and facilities for special purposes.

20 (C) REVIEWABILITY.—The action of any officer, employee, or agent of the Secretary
21 of Agriculture under paragraph (1) shall not be subject to review by any officer or
22 employee of the Federal Government other than the Secretary of Agriculture or a
23 designee of the Secretary of Agriculture.

24 (c) Cooperation.—

25 (1) IN GENERAL.—In carrying out this section, the Secretary of Agriculture may cooperate
26 with other Federal agencies, States, State agencies, political subdivisions of States, national
27 and local governments of foreign countries, domestic and international organizations and
28 associations, domestic nonprofit corporations, Indian tribes, and other persons.

29 (2) RESPONSIBILITY.—The person or other entity cooperating with the Secretary of
30 Agriculture shall be responsible for the authority necessary to carry out operations or
31 measures—

32 (A) on all land and property within a foreign country or State, or under the
33 jurisdiction of an Indian tribe, other than on land and property owned or controlled by
34 the United States; and

35 (B) using other facilities and means, as determined by the Secretary of Agriculture.

36 (d) Funding.—For fiscal year 2018, and for each subsequent fiscal year, the Secretary of
37 Agriculture shall use such amounts from the Commodity Credit Cooperation as may be
38 necessary to carry out operations and measures to prevent, detect, control, or eradicate the spread
39 of any pest or disease of livestock or plant that threatens any segment of agriculture.

40 (e) Reimbursement.—The Secretary of Agriculture shall reimburse any Federal agency, State,

1 State agency, political subdivision of a State, national or local government of a foreign country,
2 domestic or international organization or association, domestic nonprofit corporation, Indian
3 tribe, or other person for specified costs, as prescribed by the Secretary of Agriculture, in the
4 discretion of the Secretary of Agriculture, that result from cooperation with the Secretary of
5 Agriculture in carrying out operations and measures under this section.

6 **SEC. 1126. TRANSNATIONAL CRIMINAL**
7 **ORGANIZATION ILLICIT SPOTTER PREVENTION AND**
8 **DETECTION.**

9 (a) Unlawfully Hindering Immigration, Border, and Customs Controls.—

10 (1) ENHANCED PENALTIES.—Chapter 9 of title II of the Immigration and Nationality Act
11 (8 U.S.C. 1351 et seq.) is amended by adding at the end the following:

12 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION,**
13 **BORDER, AND CUSTOMS CONTROLS.**

14 “(a) Illicit Spotting.—Any person who knowingly transmits, by any means, to another person
15 the location, movement, or activities of any Federal, State, local, or tribal law enforcement
16 agency or officer with the intent to further a Federal crime relating to United States immigration,
17 customs, controlled substances, agriculture, monetary instruments, or other border controls shall
18 be fined under title 18, imprisoned not more than 10 years, or both.

19 “(b) Destruction of United States Border Controls.—Any person who knowingly and without
20 lawful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other
21 physical or electronic device deployed by the Federal Government to control the border or a port
22 of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat,
23 circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic
24 device deployed by the Federal Government to control the border or a port of entry—

25 “(1) shall be fined under title 18, imprisoned not more than 10 years, or both; and

26 “(2) if, at the time of the offense, the person uses or carries a firearm or who, in
27 furtherance of any such crime, possesses a firearm, shall be fined under title 18, imprisoned
28 not more than 20 years, or both.

29 “(c) Conspiracy and Attempt.—Any person who attempts or conspires to violate subsection
30 (a) or (b) shall be punished in the same manner as a person who completes a violation of such
31 subsection.”.

32 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
33 and Nationality Act is amended by inserting after the item relating to section 294 the
34 following:

35 “Sec.295.Unlawfully hindering immigration, border, and customs controls.”.

36 (b) Carrying or Using a Firearm During and in Relation to an Alien Smuggling Crime.—
37 Section 924(c) of title 18, United States Code, is amended—

38 (1) in paragraph (1)—

1 (A) in subparagraph (A), by inserting “, alien smuggling crime,” after “crime of
2 violence” each place that term appears; and

3 (B) in subparagraph (D)(ii), by inserting “, alien smuggling crime,” after “crime of
4 violence”;

5 (2) by striking paragraphs (2) through (4);

6 (3) by redesignating paragraph (5) as paragraph (2); and

7 (4) by adding at the end the following:

8 “(3) For purposes of this subsection—

9 “(A) the term ‘alien smuggling crime’ means any felony punishable under section 274(a),
10 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328);

11 “(B) the term ‘brandish’ means, with respect to a firearm, to display all or part of the
12 firearm, or otherwise make the presence of the firearm known to another person, in order to
13 intimidate that person, regardless of whether the firearm is directly visible to that person;

14 “(C) the term ‘crime of violence’ means a felony offense that—

15 “(i) has as an element the use, attempted use, or threatened use of physical force
16 against the person or property of another; or

17 “(ii) by its nature, involves a substantial risk that physical force against the person or
18 property of another may be used in the course of committing the offense; and

19 “(D) the term ‘drug trafficking crime’ means any felony punishable under the Controlled
20 Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act
21 (21 U.S.C. 951 et seq.), or chapter 705 of title 46.”.

22 (c) Statute of Limitations.—Section 3298 of title 18, United States Code, is amended by
23 inserting “, or 295” after “274(a)”.

24 SEC. 1127. SOUTHERN BORDER THREAT ANALYSIS.

25 (a) Threat Analysis.—

26 (1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,
27 the Secretary shall submit a southern border threat analysis to the Committee on Homeland
28 Security and Governmental Affairs of the Senate and the Committee on Homeland Security
29 of the House of Representatives.

30 (2) CONTENTS.—The threat analysis submitted under paragraph (1) shall include an
31 assessment of—

32 (A) current and potential terrorism and criminal threats posed by individuals and
33 organized groups seeking—

34 (i) to unlawfully enter the United States through the southern border; or

35 (ii) to exploit security vulnerabilities along the southern border;

36 (B) improvements needed at and between ports of entry along the southern border to
37 prevent terrorists and instruments of terror from entering the United States;

1 (C) gaps in law, policy, and coordination between State, local, or tribal law
2 enforcement, international agreements, or tribal agreements that hinder effective and
3 efficient border security, counterterrorism, and anti-human smuggling and trafficking
4 efforts;

5 (D) the current percentage of situational awareness achieved by the Department of
6 Homeland Security along the southern border;

7 (E) the current percentage of operational control achieved by the Department of
8 Homeland Security along the southern border; and

9 (F) traveler crossing times and any potential security vulnerability associated with
10 prolonged wait times.

11 (3) ANALYSIS REQUIREMENTS.—In compiling the southern border threat analysis under
12 this subsection, the Secretary shall consider and examine—

13 (A) the technology needs and challenges, including such needs and challenges
14 identified as a result of previous investments that have not fully realized the security
15 and operational benefits that were sought;

16 (B) the personnel needs and challenges, including such needs and challenges
17 associated with recruitment and hiring;

18 (C) the infrastructure needs and challenges;

19 (D) the roles and authorities of State, local, and tribal law enforcement in general
20 border security activities;

21 (E) the status of coordination among Federal, State, local, tribal, and Mexican law
22 enforcement entities relating to border security;

23 (F) the terrain, population density, and climate along the southern border; and

24 (G) the international agreements between the United States and Mexico related to
25 border security.

26 (4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the southern
27 border threat analysis required under this subsection in unclassified form, but may submit a
28 portion of the threat analysis in classified form if the Secretary determines such action is
29 appropriate.

30 (b) U.S. Border Patrol Strategic Plan.—

31 (1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat
32 analysis under subsection (a), and every 5 years thereafter, the Secretary, acting through the
33 Chief of the U.S. Border Patrol, and in consultation with the Officer for Civil Rights and
34 Civil Liberties of the Department of Homeland Security, shall issue a Border Patrol
35 Strategic Plan.

36 (2) CONTENTS.—The Border Patrol Strategic Plan required under this subsection shall
37 include a consideration of—

38 (A) the southern border threat analysis required under subsection (a), with an
39 emphasis on efforts to mitigate threats identified in such threat analysis;

1 (B) efforts to analyze and disseminate border security and border threat information
2 between border security components of the Department of Homeland Security and
3 other appropriate Federal departments and agencies with missions associated with the
4 southern border;

5 (C) efforts to increase situational awareness, including—

6 (i) surveillance capabilities, including capabilities developed or utilized by the
7 Department of Defense, and any appropriate technology determined to be excess
8 by the Department of Defense; and

9 (ii) the use of manned aircraft and unmanned aerial systems, including camera
10 and sensor technology deployed on such assets;

11 (D) efforts to detect and prevent terrorists and instruments of terrorism from entering
12 the United States;

13 (E) efforts to detect, interdict, and disrupt aliens and illicit drugs at the earliest
14 possible point;

15 (F) efforts to focus intelligence collection to disrupt transnational criminal
16 organizations outside of the international and maritime borders of the United States;

17 (G) efforts to ensure that any new border security technology can be operationally
18 integrated with existing technologies in use by the Department of Homeland Security;

19 (H) any technology required to maintain, support, and enhance security and facilitate
20 trade at ports of entry, including nonintrusive detection equipment, radiation detection
21 equipment, biometric technology, surveillance systems, and other sensors and
22 technology that the Secretary determines to be necessary;

23 (I) operational coordination unity of effort initiatives of the border security
24 components of the Department of Homeland Security, including any relevant task
25 forces of the Department of Homeland Security;

26 (J) lessons learned from Operation Jumpstart and Operation Phalanx;

27 (K) cooperative agreements and information sharing with State, local, tribal,
28 territorial, and other Federal law enforcement agencies that have jurisdiction on the
29 northern border or the southern border;

30 (L) border security information received from consultation with State, local, tribal,
31 territorial, and Federal law enforcement agencies that have jurisdiction on the northern
32 border or the southern border, or in the maritime environment, and from border
33 community stakeholders (including through public meetings with such stakeholders),
34 including representatives from border agricultural and ranching organizations and
35 representatives from business and civic organizations along the northern border or the
36 southern border;

37 (M) staffing requirements for all departmental border security functions;

38 (N) a prioritized list of departmental research and development objectives to
39 enhance the security of the southern border;

40 (O) an assessment of training programs, including training programs for—

1 (i) identifying and detecting fraudulent documents;

2 (ii) understanding the scope of enforcement authorities and the use of force
3 policies; and

4 (iii) screening, identifying, and addressing vulnerable populations, such as
5 children and victims of human trafficking; and

6 (P) an assessment of how border security operations affect border crossing times.

7 SEC. 1128. AMENDMENTS TO U.S. CUSTOMS AND 8 BORDER PROTECTION.

9 (a) Duties.—Section 411(c) of the Homeland Security Act of 2002 (6 U.S.C. 211(c)) is
10 amended—

11 (1) in paragraph (18), by striking “and” at the end;

12 (2) by redesignating paragraph (19) as paragraph (21); and

13 (3) by inserting after paragraph (18) the following:

14 “(19) administer the U.S. Customs and Border Protection public private partnerships
15 under subtitle G;

16 “(20) administer preclearance operations under the Preclearance Authorization Act of
17 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title VIII of the Trade Facilitation
18 and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

19 (b) Office of Field Operations Staffing.—Section 411(g)(5)(A) of the Homeland Security Act
20 of 2002 (6 U.S.C. 211(g)(5)(A)) is amended by inserting “compared to the number indicated by
21 the current fiscal year work flow staffing model” before the period at the end.

22 (c) Implementation Plan.—Section 814(e)(1)(B) of the Preclearance Authorization Act of
23 2015 (19 U.S.C. 4433(e)(1)(B)) is amended to read as follows:

24 “(B) a port of entry vacancy rate which compares the number of officers identified
25 in subparagraph (A) with the number of officers at the port at which such officer is
26 currently assigned.”.

27 (d) Definitions.—Section 411(r) of the Homeland Security Act of 2002 (6 U.S.C. 211) is
28 amended—

29 (1) by striking “this section, the terms” and inserting the following: “this section:”

30 “(1) the terms”;

31 (2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and
32 inserting “; and”; and

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

34 “(2) the term ‘unmanned aerial systems’ has the meaning given the term ‘unmanned
35 aircraft system’ in section 331 of the FAA Modernization and Reform Act of 2012 (49
36 U.S.C. 40101 note; Public Law 112–95).”.

1 **SEC. 1129. AGENT AND OFFICER TECHNOLOGY USE.**

2 In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility
3 Act of 1996, as amended by section 1111, and in carrying out section 1113, the Secretary, to the
4 greatest extent practicable, shall ensure that technology deployed to gain situational awareness
5 and operational control of the border be provided to front-line officers and agents of the
6 Department of Homeland Security.

7 **SEC. 1130. INTEGRATED BORDER ENFORCEMENT**
8 **TEAMS.**

9 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
10 seq.), as amended by section 1117, is further amended by adding at the end the following:

11 **“SEC. 435. INTEGRATED BORDER ENFORCEMENT**
12 **TEAMS.**

13 “(a) Establishment.—The Secretary shall establish within the Department a program, which
14 shall be known as the Integrated Border Enforcement Team program (referred to in this section
15 as the ‘IBET Program’).

16 “(b) Purpose.—The Secretary shall administer the IBET Program in a manner that results in a
17 cooperative approach between the United States and Canada—

18 “(1) to strengthen security between designated ports of entry;

19 “(2) to detect, prevent, investigate, and respond to terrorism and violations of law related
20 to border security;

21 “(3) to facilitate collaboration among components and offices within the Department and
22 international partners;

23 “(4) to execute coordinated activities in furtherance of border security and homeland
24 security; and

25 “(5) to enhance information-sharing, including the dissemination of homeland security
26 information among such components and offices.

27 “(c) Composition and Location of IBETs.—

28 “(1) COMPOSITION.—IBETs shall be led by the U.S. Border Patrol and may be comprised
29 of personnel from—

30 “(A) other subcomponents of U.S. Customs and Border Protection;

31 “(B) U.S. Immigration and Customs Enforcement, led by Homeland Security
32 Investigations;

33 “(C) the Coast Guard, for the purpose of securing the maritime borders of the United
34 States;

35 “(D) other Department personnel, as appropriate;

36 “(E) other Federal departments and agencies, as appropriate;

1 “(F) appropriate State law enforcement agencies;

2 “(G) foreign law enforcement partners;

3 “(H) local law enforcement agencies from affected border cities and communities;
4 and

5 “(I) appropriate tribal law enforcement agencies.

6 “(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such
7 teams can contribute to IBET missions, as appropriate. When establishing an IBET, the
8 Secretary shall consider—

9 “(A) whether the region in which the IBET would be established is significantly
10 impacted by cross-border threats;

11 “(B) the availability of Federal, State, local, tribal, and foreign law enforcement
12 resources to participate in an IBET; and

13 “(C) whether other joint cross-border initiatives already take place within the region
14 in which the IBET would be established, including other Department cross-border
15 programs such as the Integrated Cross-Border Maritime Law Enforcement Operation
16 Program established under section 711 of the Coast Guard and Maritime
17 Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement
18 Security Task Force established under section 432.

19 “(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to
20 expand an existing IBET in a given region, the Secretary shall ensure that the IBET under
21 consideration does not duplicate the efforts of other existing interagency task forces or
22 centers within such region, including the Integrated Cross-Border Maritime Law
23 Enforcement Operation Program established under section 711 of the Coast Guard and
24 Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement
25 Security Task Force established under section 432.

26 “(d) Operation.—

27 “(1) IN GENERAL.—After determining the regions in which to establish IBETs, the
28 Secretary may—

29 “(A) direct the assignment of Federal personnel to such IBETs; and

30 “(B) take other actions to assist Federal, State, local, and tribal entities to participate
31 in such IBETs, including providing financial assistance, as appropriate, for operational,
32 administrative, and technological costs associated with such participation.

33 “(2) LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned
34 only for the purposes of securing the maritime borders of the United States, in accordance
35 with subsection (c)(1)(C).

36 “(e) Coordination.—The Secretary shall coordinate the IBET Program with other similar
37 border security and antiterrorism programs within the Department in accordance with the
38 strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

39 “(f) Memoranda of Understanding.—The Secretary may enter into memoranda of
40 understanding with appropriate representatives of the entities specified in subsection (c)(1)

1 necessary to carry out the IBET Program.

2 “(g) Report.—Not later than 180 days after the date on which an IBET is established, and
3 biannually thereafter for the following 6 years, the Secretary shall submit a report to the
4 appropriate congressional committees, including the Committee on Homeland Security and
5 Governmental Affairs of the Senate and the Committee on Homeland Security of the House of
6 Representatives, and in the case of Coast Guard personnel used to secure the maritime borders of
7 the United States, to the Committee on Transportation and Infrastructure of the House of
8 Representatives, that—

9 “(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection
10 (b);

11 “(2) assesses the impact of certain challenges on the sustainment of cross-border IBET
12 operations, including challenges faced by international partners;

13 “(3) addresses ways to support joint training for IBET stakeholder agencies and radio
14 interoperability to allow for secure cross-border radio communications; and

15 “(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated
16 Cross-Border Maritime Law Enforcement Operation Program can better align operations,
17 including interdiction and investigation activities.”.

18 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
19 of 2002 is amended by adding after the item relating to section 434, as added by section 1117(b),
20 the following:

21 “Sec.435.Integrated Border Enforcement Teams.”.

22 SEC. 1131. TUNNEL TASK FORCES.

23 The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and
24 remediating tunnels that breach the international borders of the United States.

25 SEC. 1132. PILOT PROGRAM ON USE OF 26 ELECTROMAGNETIC SPECTRUM IN SUPPORT OF 27 BORDER SECURITY OPERATIONS.

28 (a) In General.—The Commissioner of U.S. Customs and Border Protection, in consultation
29 with the Assistant Secretary of Commerce for Communications and Information, shall conduct a
30 pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and
31 Border Protection in support of border security operations through—

32 (1) ongoing management and monitoring of spectrum to identify threats such as
33 unauthorized spectrum use, and the jamming and hacking of United States communications
34 assets, by persons engaged in criminal enterprises;

35 (2) automated spectrum management to enable greater efficiency and speed for U.S.
36 Customs and Border Protection in addressing emerging challenges in overall spectrum use
37 on the United States border; and

38 (3) coordinated use of spectrum resources to better facilitate interoperability and

1 interagency cooperation and interdiction efforts at or near the United States border.

2 (b) Report to Congress.—Not later than 180 days after the conclusion of the pilot program
3 under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit a
4 report to the Committee on Homeland Security of the House of Representatives, the Committee
5 on Energy and Commerce of the House of Representatives, the Committee on Homeland
6 Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science,
7 and Transportation of the Senate that contains the findings and data derived from such pilot
8 program.

9 SEC. 1133. HOMELAND SECURITY FOREIGN 10 ASSISTANCE.

11 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
12 seq.), as amended by sections 1117 and 1130, is further amended by adding at the end the
13 following:

14 “SEC. 436. SECURITY ASSISTANCE.

15 “(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide,
16 to a foreign government, financial assistance and security assistance, with or without
17 reimbursement, including equipment, training, maintenance, supplies, and sustainment support.

18 “(b) Determination.—The Secretary may only provide financial assistance or security
19 assistance under subsection (a) if the Secretary determines that such assistance would enhance
20 the recipient government’s capacity—

21 “(1) to mitigate the risk or threat of transnational organized crime and terrorism;

22 “(2) to address irregular migration flows that may affect the United States, including any
23 detention or removal operations of the recipient government; or

24 “(3) to protect and expedite legitimate trade and travel.

25 “(c) Limitation on Transfer.—The Secretary may not—

26 “(1) transfer any equipment or supplies that are designated as a munitions item or
27 controlled on the United States Munitions List, pursuant to section 38 of the Foreign
28 Military Sales Act (22 U.S.C. 2778); or

29 “(2) transfer any vessel or aircraft pursuant to this section.

30 “(d) Related Training.—In conjunction with a transfer of equipment under subsection (a), the
31 Secretary may provide such equipment-related training and assistance as the Secretary
32 determines necessary.

33 “(e) Maintenance of Transferred Equipment.—The Secretary may provide for the maintenance
34 of transferred equipment through service contracts or other means, with or without
35 reimbursement, as the Secretary determines necessary.

36 “(f) Reimbursement of Expenses.—

37 “(1) IN GENERAL.—The Secretary may collect payment from the receiving entity for the
38 provision of security assistance under this section, including equipment, training,

1 maintenance, supplies, sustainment support, and related shipping costs.

2 “(2) TRANSFER.—Notwithstanding any other provision of law, to the extent the Secretary
3 does not collect payment under paragraph (1), any amounts appropriated or otherwise made
4 available to the Department of Homeland Security may be transferred to the account that
5 finances the security assistance provided under subsection (a).

6 “(g) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31,
7 United States Code, any reimbursement collected pursuant to subsection (f)—

8 “(1) shall be credited as offsetting collections to the account that finances the security
9 assistance under this section for which such reimbursement is received; and

10 “(2) shall remain available until expended for the purpose of carrying out this section.

11 “(h) Rule of Construction.—Nothing in this section may be construed as affecting,
12 augmenting, or diminishing the authority of the Secretary of State.”.

13 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
14 of 2002 is amended by inserting after the item relating to section 435, as added by section 1130,
15 the following:

16 “Sec.436.Security assistance.”.

17 CHAPTER 2—PERSONNEL

18 SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER 19 PROTECTION AGENTS AND OFFICERS.

20 (a) Border Patrol Agents.—Not later than September 30, 2022, the Commissioner of U.S.
21 Customs and Border Protection shall hire, train, and assign sufficient agents to maintain an active
22 duty presence of not fewer than 26,370 full-time equivalent agents.

23 (b) CBP Officers.—In addition to positions authorized before the date of the enactment of this
24 Act and any existing officer vacancies within U.S. Customs and Border Protection as of such
25 date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2022—

26 (1) sufficient U.S. Customs and Border Protection officers to maintain an active duty
27 presence of not fewer than 27,725 full-time equivalent officers; and

28 (2) 350 full-time support staff distributed among all United States ports of entry.

29 (c) Air and Marine Operations.—Not later than September 30, 2022, the Commissioner of
30 U.S. Customs and Border Protection shall hire, train, and assign sufficient agents for Air and
31 Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-
32 time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern
33 border air and maritime operations.

34 (d) U.S. Customs and Border Protection K–9 Units and Handlers.—

35 (1) K–9 UNITS.—Not later than September 30, 2022, the Commissioner shall deploy not
36 fewer than 300 new K–9 units, with supporting officers of U.S. Customs and Border
37 Protection and other required staff, at land ports of entry and checkpoints, on the southern
38 border and the northern border.

1 (2) USE OF CANINES.—The Commissioner shall prioritize the use of canines at the
2 primary inspection lanes at land ports of entry and checkpoints.

3 (e) U.S. Customs and Border Protection Horseback Units.—

4 (1) INCREASE.—Not later than September 30, 2022, the Commissioner shall increase the
5 number of horseback units, with supporting officers of U.S. Customs and Border Protection
6 and other required staff, by not fewer than 100 officers and 50 horses for security patrol
7 along the Southern border.

8 (2) HORSE UNIT SUPPORT.—The Commissioner of U.S. Customs and Border Protection
9 shall construct new stables, maintain and improve existing stables, and provide other
10 resources needed to maintain the health and well-being of the horses that serve in the
11 horseback units.

12 (f) U.S. Customs and Border Protection Search Trauma and Rescue Teams.—Not later than
13 September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of
14 officers engaged in search and rescue activities along the southern border.

15 (g) U.S. Customs and Border Protection Tunnel Detection and Technology Program.—Not
16 later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number
17 of officers assisting task forces and activities related to deployment and operation of border
18 tunnel detection technology and apprehensions of individuals using such tunnels for crossing into
19 the United States, drug trafficking, or human smuggling.

20 (h) Agricultural Specialists.—Not later than September 30, 2022, the Secretary shall hire,
21 train, and assign to duty, in addition to the officers and agents authorized under subsections (a)
22 through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry
23 along the southern border and the northern border.

24 (i) Office of Professional Responsibility.—Not later than September 30, 2022, the
25 Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special
26 agents to maintain an active duty presence of not fewer than 550 full-time equivalent special
27 agents.

28 (j) GAO Report.—If the staffing levels required under this section are not achieved by
29 September 30, 2022, the Comptroller General of the United States shall conduct a review of the
30 reasons why such levels were not achieved.

31 SEC. 1142. FAIR LABOR STANDARDS FOR BORDER 32 PATROL AGENTS.

33 (a) In General.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is
34 amended by adding at the end the following:

35 “(s) Employment as a Border Patrol Agent.—No public agency shall be deemed to have
36 violated subsection (a) with respect to the employment of any border patrol agent (as defined in
37 section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days,
38 the border patrol agent receives compensation at a rate that is not less than 150 percent of the
39 regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours.
40 Payments required under this section shall be in addition to any payments made under section
41 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set

1 forth in that title.”.

2 (b) Technical and Conforming Amendments.—Section 13(a) of the Fair Labor Standards Act
3 of 1938 (29 U.S.C. 213(a)) is amended—

4 (1) in paragraph (16), by adding “or” at the end;

5 (2) in paragraph (17), in the undesignated matter following subparagraph (D), by striking
6 “; or” and inserting a period; and

7 (3) by striking paragraph (18).

8 **SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION**
9 **RETENTION INCENTIVES.**

10 (a) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the
11 following:

12 **“SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION**
13 **TEMPORARY EMPLOYMENT AUTHORITIES.**

14 “(a) Definitions.—For purposes of this section—

15 “(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border
16 Protection described under any of subsections (a) through (h) of section 1141 of the
17 Building America’s Trust Act;

18 “(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border
19 Protection;

20 “(3) the term ‘Director’ means the Director of the Office of Personnel Management;

21 “(4) the term ‘Secretary’ means the Secretary of Homeland Security; and

22 “(5) the term ‘appropriate congressional committees’ means—

23 “(A) the Committee on Oversight and Government Reform of the House of
24 Representatives;

25 “(B) the Committee on Homeland Security of the House of Representatives;

26 “(C) the Committee on Ways and Means of the House of Representatives;

27 “(D) the Committee on Homeland Security and Governmental Affairs of the Senate;
28 and

29 “(E) the Committee on Finance of the Senate.

30 “(b) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

31 “(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to
32 allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and
33 staffing levels required under section 1141 of the Solution for Undocumented Children
34 through Careers, Employment, Education, and Defending our Nation Act. The Secretary
35 may not use such authority beyond meeting the requirements under such section.

1 “(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any
2 provision of sections 3309 through 3319, candidates to positions in the competitive service
3 as CBP employees if the Secretary has given public notice for the positions.

4 “(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or
5 relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP
6 employee at the beginning of the service period multiplied by the number of years
7 (including a fractional part of a year) in the required service period to an individual (other
8 than an individual described in section 5753(a)(2)) if—

9 “(A) the Secretary determines that conditions consistent with the conditions
10 described in paragraphs (1) and (2) of section 5753(b) are satisfied with respect to the
11 individual (without regard to the regulations referenced in section 5753(b)(2)(B(ii)(I)
12 or to any other provision of section 5753); and

13 “(B) the individual enters into a written service agreement with the Secretary—

14 “(i) under which the individual is required to complete a period of employment
15 as a CBP employee of not less than 2 years; and

16 “(ii) that includes—

17 “(I) the commencement and termination dates of the required service
18 period (or provisions for the determination thereof);

19 “(II) the amount of the bonus; and

20 “(III) other terms and conditions under which the bonus is payable, subject
21 to the requirements of this subsection, including—

22 “(aa) the conditions under which the agreement may be terminated
23 before the agreed-upon service period has been completed; and

24 “(bb) the effect of a termination described in item (aa).

25 “(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent
26 of basic pay to an individual CBP employee (other than an individual described in section
27 5754(a)(2)) if—

28 “(A) the Secretary determines that—

29 “(i) a condition consistent with the condition described in section 5754(b)(1) is
30 satisfied with respect to the CBP employee (without regard to any other provision
31 of section 5754);

32 “(ii) in the absence of a retention bonus, the CBP employee would be likely to
33 leave—

34 “(I) the Federal service; or

35 “(II) for a different position in the Federal service, including a position in
36 another agency or component of the Department of Homeland Security; and

37 “(B) the individual enters into a written service agreement with the Secretary—

38 “(i) under which the individual is required to complete a period of employment
39 as a CBP employee of not less than 2 years; and

1 “(ii) that includes—

2 “(I) the commencement and termination dates of the required service
3 period (or provisions for the determination thereof);

4 “(II) the amount of the bonus; and

5 “(III) other terms and conditions under which the bonus is payable, subject
6 to the requirements under this subsection, including—

7 “(aa) the conditions under which the agreement may be terminated
8 before the agreed-upon service period has been completed; and

9 “(bb) the effect of a termination described in item (aa).

10 “(5) RULES FOR BONUSES.—

11 “(A) MAXIMUM BONUS.—

12 “(i) RECRUITMENT AND RELOCATION BONUS.—A bonus paid to an employee
13 under paragraph (3) may not exceed 100 percent of the annual rate of basic pay of
14 the employee as of the commencement date of the applicable service period.

15 “(ii) RETENTION BONUS.—A bonus paid to an employee under paragraph (4)
16 may not exceed 50 percent of the annual rate of basic pay of the employee.

17 “(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph
18 (3) or (4) shall not be considered part of the basic pay of the employee for any purpose,
19 including for retirement or in computing a lump-sum payment to the covered employee
20 for accumulated and accrued annual leave under section 5551 or section 5552.

21 “(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION
22 BONUSES.—A bonus paid to an employee under paragraph (4) may not be based on any
23 period of such service which is the basis for a recruitment or relocation bonus under
24 paragraph (3). A bonus paid to an employee under paragraph (3) or (4) may not be
25 based on any period of service which is the basis for a recruitment or relocation bonus
26 under section 5753 or a retention bonus under section 5754.

27 “(c) Special Rates of Pay.—In addition to the circumstances described in section 5305(b), the
28 Director may establish special rates of pay in accordance with that section to assist the Secretary
29 in meeting the requirements of section 1141 of the Solution for Undocumented Children through
30 Careers, Employment, Education, and Defending our Nation Act. The Director shall prioritize
31 the consideration of requests from the Secretary for such special rates of pay and issue a decision
32 as soon as practicable. The Secretary shall provide such information to the Director as the
33 Director deems necessary to evaluate special rates of pay under this subsection.

34 “(d) OPM Oversight.—

35 “(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a
36 report to the Director on U.S. Customs and Border Protection’s use of authorities provided
37 under subsections (b) and (c).

38 “(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

39 “(A) such information as the Director determines is appropriate to ensure
40 appropriate use of authorities under such subsections; and

1 “(B) an assessment of—
2 “(i) the impact of the use of authorities under subsections (b) and (c) on
3 implementation of section 1141 of the Solution for Undocumented Children
4 through Careers, Employment, Education, and Defending our Nation Act;
5 “(ii) solving hiring and retention challenges at the agency, including at specific
6 locations;
7 “(iii) whether hiring and retention challenges still exist at the agency or specific
8 locations; and
9 “(iv) whether the Secretary needs to continue to use authorities provided under
10 this section at the agency or at specific locations.
11 “(3) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary shall
12 consider—
13 “(A) whether any CBP employee accepted an employment incentive under
14 subsection (b) and (c) and then transferred to a new location or left U.S. Customs and
15 Border Protection; and
16 “(B) the length of time that each employee identified under subparagraph (A) stayed
17 at the original location before transferring to a new location or leaving U.S. Customs
18 and Border Protection.
19 “(4) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report
20 required under this subsection to the appropriate congressional committees.
21 “(e) OPM Action.—
22 “(1) NOTIFICATION.—The Director shall submit written notification to the Secretary and
23 the appropriate congressional committees if the Director determines the Secretary has
24 inappropriately used the authority under subsection (b) or a special rate of pay authorized
25 under subsection (c).
26 “(2) EFFECT OF NOTIFICATION.—Upon receipt of a notification under paragraph (1), the
27 Secretary may not make any new appointments or issue any new bonuses under subsection
28 (b) or provide CBP employees with further special rates of pay until the Director has
29 submitted written notice to the Secretary and the appropriate congressional committees
30 certifying that the Director is satisfied that safeguards are in place to prevent further
31 inappropriate use.
32 “(f) Improving CBP Hiring and Retention.—
33 “(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the
34 enactment of this section, and in conjunction with the Chief Human Capital Officer of the
35 Department of Homeland Security, the Secretary shall develop and implement a strategy to
36 improve the education regarding hiring and human resources flexibilities (including hiring
37 and human resources flexibilities for locations in rural or remote areas) for all employees,
38 serving in agency headquarters or field offices, who are involved in the recruitment, hiring,
39 assessment, or selection of candidates for locations in a rural or remote area, as well as the
40 retention of current employees.

1 “(2) ELEMENTS.—Elements of the strategy developed under paragraph (1) shall include—

2 “(A) developing or updating training and educational materials on hiring and human
3 resources flexibilities for employees who are involved in the recruitment, hiring,
4 assessment, or selection of candidates, as well as the retention of current employees;

5 “(B) regular training sessions for personnel who are critical to filling open positions
6 in rural or remote areas;

7 “(C) developing pilot programs or other programs, as appropriate, consistent with
8 authorities provided to the Secretary to address identified hiring challenges, including
9 in rural or remote areas;

10 “(D) developing and enhancing strategic recruiting efforts through the relationships
11 with institutions of higher education (as defined in section 102 of the Higher Education
12 Act of 1965 (20 U.S.C. 1002)), veterans transition and employment centers, and job
13 placement program in regions that could assist in filling positions in rural or remote
14 areas;

15 “(E) examining existing agency programs to determine how to most effectively aid
16 spouses and families of individuals who are candidates or new hires in a rural or
17 remote area;

18 “(F) gathering feedback from individuals who are candidates or new hires at
19 locations in a rural or remote area, including feedback on the quality of life in rural or
20 remote areas for new hires and their families;

21 “(G) gathering feedback from CBP employees, other than new hires, who are
22 stationed at locations in a rural or remote area, including feedback on the quality of life
23 in rural or remote areas for those CBP employees and their families; and

24 “(H) evaluating Department of Homeland Security internship programs and the
25 usefulness of such programs in improving hiring by the Secretary in rural or remote
26 areas.

27 “(3) EVALUATION.—

28 “(A) IN GENERAL.—The Secretary shall annually—

29 “(i) evaluate the extent to which the strategy developed and implemented under
30 paragraph (1) has improved the hiring and retention ability of the Secretary; and

31 “(ii) make any appropriate updates to the strategy developed under paragraph
32 (1).

33 “(B) INFORMATION.—The evaluation under subparagraph (A) shall include—

34 “(i) any reduction in the time taken by the Secretary to fill mission-critical
35 positions, including in rural or remote areas;

36 “(ii) a general assessment of the impact of the strategy implemented under
37 paragraph (1) on hiring challenges, including in rural or remote areas; and

38 “(iii) other information the Secretary determines relevant.

39 “(g) Inspector General Review.—Not later than 2 years after the date of the enactment of this

1 section, the Inspector General of the Department of Homeland Security shall review the use of
2 hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such
3 flexibilities is helping the Secretary meet hiring and retention needs, including in rural and
4 remote areas.

5 “(h) Report on Polygraph Requests.—The Secretary shall submit a report to the appropriate
6 congressional committees that identifies the number of requests the Secretary has received from
7 any other Federal agency for the file of an applicant for a position in U.S. Customs and Border
8 Protection that includes the results of a polygraph examination.

9 “(i) Exercise of Authority.—

10 “(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to
11 the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under
12 paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining
13 agreement.

14 “(2) DELEGATION.—The Secretary may delegate any authority under this section to the
15 Commissioner.

16 “(j) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary
17 or the Director from applicability of the merit system principles under section 2301.

18 “(k) Sunset.—The authorities under subsections (b) and (c) shall terminate on September 30,
19 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may
20 continue until such bonus has been paid, subject to the conditions specified in this section.”.

21 (b) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 5,
22 United States Code, is amended by adding at the end the following:

23 “9702. U.S. Customs and Border Protection temporary employment authorities.”.

24 (c) Overtime Limitation.—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C.
25 267(c)(1)) is amended by striking “\$25,000” and inserting “\$45,000”.

26 SEC. 1144. ANTI-BORDER CORRUPTION 27 REAUTHORIZATION ACT.

28 (a) Short Title.—This section may be cited as the “Anti-Border Corruption Reauthorization
29 Act of 2018”.

30 (b) Hiring Flexibility.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221) is
31 amended by striking subsection (b) and inserting the following:

32 “(b) Waiver Authority.—The Commissioner of U.S. Customs and Border Protection may
33 waive the application of subsection (a)(1)—

34 “(1) for a current, full-time law enforcement officer employed by a State or local law
35 enforcement agency who—

36 “(A) has continuously served as a law enforcement officer for not fewer than 3
37 years;

38 “(B) is authorized by law to engage in or supervise the prevention, detection,
39 investigation, or prosecution of, or the incarceration of any person for, any violation of

1 law, and has statutory powers for arrest or apprehension;

2 “(C) is not currently under investigation, has not been found to have engaged in
3 criminal activity or serious misconduct, has not resigned from a law enforcement
4 officer position under investigation or in lieu of termination, and has not been
5 dismissed from a law enforcement officer position; and

6 “(D) has, during the past 10 years, successfully completed a polygraph examination
7 as a condition of employment with such officer’s current law enforcement agency;

8 “(2) for a current, full-time Federal law enforcement officer who—

9 “(A) has continuously served as a law enforcement officer for not fewer than 3
10 years;

11 “(B) is authorized to make arrests, conduct investigations, conduct searches, make
12 seizures, carry firearms, and serve orders, warrants, and other processes;

13 “(C) is not currently under investigation, has not been found to have engaged in
14 criminal activity or serious misconduct, has not resigned from a law enforcement
15 officer position under investigation or in lieu of termination, and has not been
16 dismissed from a law enforcement officer position; and

17 “(D) holds a current Tier 4 background investigation or current Tier 5 background
18 investigation; and

19 “(3) for a member of the Armed Forces (or a reserve component thereof) or a veteran, if
20 such individual—

21 “(A) has served in the Armed Forces for not fewer than 3 years;

22 “(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top
23 Secret/Sensitive Compartmented Information clearance;

24 “(C) holds, or has undergone within the past 5 years, a current Tier 4 background
25 investigation or current Tier 5 background investigation;

26 “(D) received, or is eligible to receive, an honorable discharge from service in the
27 Armed Forces and has not engaged in criminal activity or committed a serious military
28 or civil offense under the Uniform Code of Military Justice; and

29 “(E) was not granted any waivers to obtain the clearance referred to subparagraph
30 (B).

31 “(c) Termination of Waiver Authority.—The authority to issue a waiver under subsection (b)
32 shall terminate on the date that is 4 years after the date of the enactment of the Solution for
33 Undocumented Children through Careers, Employment, Education, and Defending our Nation
34 Act.”.

35 (c) Supplemental Commissioner Authority and Definitions.—

36 (1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border
37 Corruption Act of 2010 (Public Law 111–376) is amended to read as follows:

38 “SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

1 “(a) Nonexemption.—An individual who receives a waiver under section 3(b) is not exempt
2 from other hiring requirements relating to suitability for employment and eligibility to hold a
3 national security designated position, as determined by the Commissioner of U.S. Customs and
4 Border Protection.

5 “(b) Background Investigations.—Any individual who receives a waiver under section 3(b)
6 and holds a current Tier 4 background investigation shall be subject to a Tier 5 background
7 investigation.

8 “(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and
9 Border Protection is authorized to administer a polygraph examination to an applicant or
10 employee who is eligible for, or receives a waiver under, section 3(b) if information is
11 discovered before the completion of a background investigation that results in a determination
12 that a polygraph examination is necessary to make a final determination regarding suitability for
13 employment or continued employment, as the case may be.”.

14 (2) REPORT.—The Anti-Border Corruption Act of 2010 (Public Law 111–376), as
15 amended by paragraph (1), is further amended by adding at the end the following:

16 **“SEC. 5. REPORTING.**

17 “(a) Annual Report.—Not later than 1 year after the date of the enactment of this section, and
18 annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner
19 of U.S. Customs and Border Protection shall submit a report to Congress that includes, with
20 respect to each such reporting period—

21 “(1) the number of waivers requested, granted, and denied under section 3(b);

22 “(2) the reasons for any denials of such waiver;

23 “(3) the percentage of applicants who were hired after receiving a waiver;

24 “(4) the number of instances that a polygraph was administered to an applicant who
25 initially received a waiver and the results of such polygraph;

26 “(5) an assessment of the current impact of the polygraph waiver program on filling law
27 enforcement positions at U.S. Customs and Border Protection; and

28 “(6) additional authorities needed by U.S. Customs and Border Protection to better utilize
29 the polygraph waiver program for its intended goals.

30 “(b) Additional Information.—The first report submitted under subsection (a) shall include—

31 “(1) an analysis of other methods of employment suitability tests that detect deception
32 and could be used in conjunction with traditional background investigations to evaluate
33 potential employees for suitability; and

34 “(2) a recommendation regarding whether a test referred to in paragraph (1) should be
35 adopted by U.S. Customs and Border Protection when the polygraph examination
36 requirement is waived pursuant to section 3(b).”.

37 (3) DEFINITIONS.—The Anti-Border Corruption Act of 2010 (Public Law 111–376), as
38 amended by paragraphs (1) and (2), is further amended by adding at the end the following:

39 **“SEC. 6. DEFINITIONS.**

1 “In this Act:

2 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’
3 has the meaning given the term ‘law enforcement officer’ in sections 8331(20) and
4 8401(17) of title 5, United States Code.

5 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term ‘serious military or civil offense’
6 means an offense for which—

7 “(A) a member of the Armed Forces may be discharged or separated from service in
8 the Armed Forces; and

9 “(B) a punitive discharge is, or would be, authorized for the same or a closely
10 related offense under the Manual for Court-Martial, as pursuant to Army Regulation
11 635-200 chapter 14–12.

12 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and ‘Tier 5’ with respect to background
13 investigations have the meaning given such terms under the 2012 Federal Investigative
14 Standards.

15 “(4) VETERAN.—The term ‘veteran’ has the meaning given such term in section 101(2) of
16 title 38, United States Code.”.

17 (d) Polygraph Examiners.—Not later than September 30, 2022, the Secretary shall increase to
18 not fewer than 150 the number of trained full-time equivalent polygraph examiners for
19 administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this
20 section.

21 SEC. 1145. TRAINING FOR OFFICERS AND AGENTS OF 22 U.S. CUSTOMS AND BORDER PROTECTION.

23 (a) In General.—Section 411(l) of the Homeland Security Act of 2002 (6 U.S.C. 211(l)) is
24 amended to read as follows:

25 “(l) Training and Continuing Education.—

26 “(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—The Commissioner shall
27 ensure that every agent and officer of U.S. Customs and Border Protection receives at least
28 21 weeks of training that is directly related to the mission of the U.S. Border Patrol, Air and
29 Marine, and the Office of Field Operations before the initial assignment of such agents and
30 officers.

31 “(2) FLETC.—The Commissioner shall work in consultation with the Director of the
32 Federal Law Enforcement Training Centers to establish guidelines and curriculum for the
33 training of agents and officers of U.S. Customs and Border Protection under subsection (a).

34 “(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers
35 of U.S. Customs and Border Protection who are required to undergo training under
36 subsection (a) to participate in not fewer than 8 hours of continuing education annually to
37 maintain and update understanding of Federal legal rulings, court decisions, and
38 Department policies, procedures, and guidelines related to relevant subject matters.

39 “(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the

1 Solution for Undocumented Children through Careers, Employment, Education, and
2 Defending our Nation Act, the Commissioner shall develop and require training courses
3 geared towards the development of leadership skills for mid- and senior-level career
4 employees not later than 1 year after such employees assume duties in supervisory roles.”.

5 (b) Report.—Not later than 180 days after the date of the enactment of this Act, the
6 Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee
7 on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland
8 Security of the House of Representatives, and the Committee on Ways and Means of the House
9 of Representatives that identifies the guidelines and curriculum established to carry out section
10 411(l) of the Homeland Security Act of 2002, as amended by subsection (a).

11 (c) Assessment.—Not later than 4 years after the date of the enactment of this Act, the
12 Comptroller General of the United States shall submit a report to the Committee on Homeland
13 Security of the House of Representatives and the Committee on Homeland Security and
14 Governmental Affairs of the Senate that assesses the training and education, including
15 continuing education, required under section 411(l) of the Homeland Security Act of 2002, as
16 amended by subsection (a).

17 SEC. 1146. ADDITIONAL U.S. IMMIGRATION AND 18 CUSTOMS ENFORCEMENT PERSONNEL.

19 (a) Enforcement and Removal Officers.—By not later than September 30, 2022, the Director
20 of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time,
21 active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Operations
22 law enforcement officers performing interior immigration enforcement functions to not fewer
23 than 8,500.

24 (b) Homeland Security Investigations Special Agents.—By not later than September 30, 2022,
25 the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained,
26 full-time, active duty Homeland Security Investigations special agents by not fewer than 1,500.

27 (c) Border Enforcement Security Task Force.—By not later than September 30, 2022, the
28 Director of U.S. Immigration and Customs Enforcement shall assign not fewer than 100
29 Homeland Security Investigations special agents to the Border Enforcement Security Task Force
30 Program established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

31 SEC. 1147. OTHER IMMIGRATION AND LAW 32 ENFORCEMENT PERSONNEL.

33 (a) Department of Justice.—

34 (1) UNITED STATES ATTORNEYS.—By not later than September 30, 2022, in addition to
35 positions authorized before the date of the enactment of this Act and any existing attorney
36 vacancies within the Department of Justice on such date of enactment, the Attorney General
37 shall—

38 (A) increase by not fewer than 100 the number of Assistant United States Attorneys;
39 and

40 (B) increase by not fewer than 50 the number of Special Assistant United States

1 Attorneys in the United States Attorneys' office to litigate denaturalization and other
2 immigration cases in the Federal courts.

3 (2) IMMIGRATION JUDGES.—

4 (A) ADDITIONAL IMMIGRATION JUDGES.—By not later than September 30, 2022, in
5 addition to positions authorized before the date of the enactment of this Act and any
6 existing vacancies within the Department of Justice on such date of enactment, the
7 Attorney General shall increase by 200 the number of trained full-time immigration
8 judges.

9 (B) FACILITIES, ~~AND~~ SUPPORT PERSONNEL, ~~AND FULL-TIME INTERPRETERS~~.—The
10 Attorney General is authorized to procure space, temporary facilities, ~~and~~ support staff,
11 and full-time interpreters on an expedited basis, to accommodate the additional
12 immigration judges authorized under subparagraph (A).

13 (3) BOARD OF IMMIGRATION APPEALS.—

14 (A) BOARD MEMBERS.—By not later than September 30, 2022, the Attorney General
15 shall increase the number of Board Members authorized to serve on the Board of
16 Immigration Appeals to 25.

17 (B) STAFF ATTORNEYS.—By not later than September 30, 2022, in addition to
18 positions authorized before the date of the enactment of this Act and any existing staff
19 attorney vacancies within the Department of Justice on such date of enactment, the
20 Attorney General shall increase the number of staff attorneys assigned to support the
21 Board of Immigration Appeals by not fewer than 50.

22 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General is authorized to
23 procure space, temporary facilities, and required administrative support staff, on an
24 expedited basis, to accommodate the additional Board Members authorized under
25 subparagraph (A).

26 (4) OFFICE OF IMMIGRATION LITIGATION.—By not later than September 30, 2022, in
27 addition to positions authorized before the date of the enactment of this Act and any
28 existing vacancies within the Department of Justice on such date of enactment, the Attorney
29 General shall increase by not fewer than 100 the number of attorneys for the Office of
30 Immigration Litigation.

31 (b) Department of Homeland Security.—

32 (1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September
33 30, 2022, in addition to positions authorized before the date of the enactment of this Act and
34 any existing officer vacancies within the Department of Homeland Security on such date of
35 enactment, the Director of U.S. Citizenship and Immigration Services shall increase by not
36 fewer than 100 the number of trained full-time active duty Fraud Detection and National
37 Security (FDNS) officers.

38 (2) ICE HOMELAND SECURITY INVESTIGATIONS FORENSIC DOCUMENT LABORATORY
39 PERSONNEL.—By not later than September 30, 2022, in addition to positions authorized
40 before the date of the enactment of this Act and any existing officer vacancies within the
41 Department of Homeland Security on such date of enactment, the Director of U.S.
42 Immigration and Customs Enforcement shall increase—

1 (A) the number of trained, full-time Forensic Document Laboratory Examiners by
2 15;

3 (B) the number of trained, full-time Fingerprint Specialists by 15;

4 (C) the number of trained, full-time Intelligence Officers by 10; and

5 (D) the number of trained, full-time administrative staff by 3.

6 (3) IMMIGRATION ATTORNEYS.—

7 (A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than
8 September 30, 2022, in addition to positions authorized before the date of the
9 enactment of this Act and any existing attorney vacancies within the Department of
10 Homeland Security on such date of enactment, the Director of U.S. Immigration and
11 Customs Enforcement shall increase the number of trained, full-time, active duty
12 Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of
13 such attorneys shall perform duties related to litigation of removal proceedings and
14 representing the Department of Homeland Security in immigration matters before the
15 immigration courts within the Department of Justice, the Executive Office for
16 Immigration Review, and enforcement of U.S. customs and trade laws. At least 50 of
17 these additional attorney positions shall be used by the Attorney General to increase
18 the number of U.S. Immigration and Customs Enforcement attorneys serving as
19 Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the
20 U.S. Attorneys, to assist with immigration-related litigation.

21 (B) USCIS IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in
22 addition to positions authorized before the date of the enactment of this Act and any
23 existing attorney vacancies within the Department of Homeland Security on such date
24 of enactment, the Director of U.S. Citizenship and Immigration Services shall increase
25 the number of trained, full-time, active duty Office of Chief Counsel attorneys by not
26 fewer than 250. Such attorneys shall primarily handle national security and public
27 safety cases, denaturalization cases, and legal sufficiency reviews of immigration
28 benefit decisions. At least 50 of these additional attorney positions shall be used by the
29 Attorney General to increase the number of U.S. Citizenship and Immigration Service
30 attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of
31 Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

32 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General and Secretary are
33 authorized to procure space, temporary facilities, and to hire the required
34 administrative and legal support staff, on an expedited basis, to accommodate the
35 additional positions authorized under this paragraph.

36 (c) Department of State.—

37 (1) VISA SPECIALISTS.—By not later than September 30, 2022, in addition to positions
38 authorized before the date of the enactment of this Act and any existing attorney vacancies
39 within the Department on such date of enactment, the Assistant Secretary of State for
40 Consular Affairs shall increase the number of trained, full-time analysts within the Bureau
41 of Consular Affairs by not fewer than 50. Such analysts primarily should handle and advise
42 on cases and matters involving the potential for visa denial on the basis of national security
43 and public safety concerns.

1 (2) IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to
2 positions authorized before the date of the enactment of this Act and any existing attorney
3 vacancies within the Department on such date of enactment, the Assistant Secretary of State
4 for Consular Affairs shall increase the number of trained, full-time, active attorneys adviser
5 within the Bureau of Consular Affairs by not fewer than 25. Such attorneys primarily
6 should handle and advise on cases and matters involving the potential for visa denial on the
7 basis of national security and public safety concerns.

8 (d) Authorization of Appropriations.—There are authorized to be appropriated, for each of the
9 fiscal years 2018 through 2022, such sums as may be necessary to carry out this section.

10 SEC. 1148. JUDICIAL RESOURCES FOR BORDER 11 SECURITY.

12 (a) Border Crossing Prosecutions; Criminal Consequence Initiative.—

13 (1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

14 (A) to increase the number of criminal prosecutions for unlawful border crossing in
15 each and every sector of the southern border by not less than 80 percent per day, as
16 compared to the average number of such prosecutions per day during the 12-month
17 period preceding the date of the enactment of this Act, by increasing funding for—

18 (i) attorneys and administrative support staff in offices of United States
19 attorneys;

20 (ii) support staff and interpreters in court clerks' offices;

21 (iii) pre-trial services;

22 (iv) activities of the Office of the Federal Public Defender, including payments
23 to retain appointed counsel under section 3006A of title 18, United States Code;
24 and

25 (v) additional personnel, including deputy United States marshals in the United
26 States Marshals Service, to perform intake, coordination, transportation, and court
27 security; and

28 (B) to reimburse Federal, State, local, and tribal law enforcement agencies for any
29 detention costs related to the increased border crossing prosecutions carried out
30 pursuant to subparagraph (A).

31 (2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief
32 judge of each judicial district located within a sector of the southern border is authorized to
33 appoint additional full-time magistrate judges, who, consistent with the Constitution and
34 laws of the United States, shall have the authority to hear cases and controversies in the
35 judicial district in which the magistrate judges are appointed.

36 (3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for
37 each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this
38 subsection.

39 (b) Additional Permanent District Court Judgeships in Southern Border States.—

1 (1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the
2 Senate—

3 (A) 4 additional district judges for the District of Arizona;

4 (B) 2 additional district judges for the Southern District of California;

5 (C) 4 additional district judges for the Western District of Texas; and

6 (D) 2 additional district judges for the Southern District of Texas.

7 (2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The judgeships for the
8 District of Arizona and the Central District of California authorized under section 312(c) of
9 the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133
10 note), in existence on the day before the date of the enactment of this Act, shall be
11 authorized under section 133 of title 28, United States Code, and the individuals holding
12 such judgeships on such day shall hold office under section 133 of title 28, United States
13 Code, as amended by paragraph (3).

14 (3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a)
15 of title 28, United States Code, is amended—

16 (A) by striking the item relating to the district of Arizona and inserting the
17 following:2,L0,tp0,p0,10/12,s190n,xs95n11

18 “Arizonal17”;

19 (B) by striking the items relating to California and inserting the following
20 :2,L0,tp0,p0,10/12,s190n,xs95n11

21 l“California:l

22 Northernl19

23 Easternl12

24 Centrall28

25 Southernl15”; and

26 (C) by striking the items relating to Texas and inserting the following
27 :2,L0,tp0,p0,10/12,s190n,xs95n11

28 l“Texas:l

29 Northernl12

30 Southernl21

31 Easternl7

32 Westernl17”.

33 (c) Increase in Filing Fees.—

34 (1) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended—

35 (A) by striking “\$350” and inserting “\$375”; and

36 (B) by striking “\$5” and inserting “\$7”.

1 (2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the
2 amendments made by paragraph (1)—

3 (A) shall be deposited as offsetting receipts in the special fund of the Treasury
4 established under section 1931 of title 28, United States Code; and

5 (B) shall be available solely for the purpose of facilitating the processing of civil
6 cases, but only to the extent specifically appropriated by an Act of Congress enacted
7 after the date of the enactment of this Act.

8 **SEC. 1149. REIMBURSEMENT TO STATE AND LOCAL**
9 **PROSECUTORS FOR FEDERALLY INITIATED,**
10 **IMMIGRATION-RELATED CRIMINAL CASES.**

11 (a) In General.—The Attorney General shall reimburse State, county, tribal, and municipal
12 governments for costs associated with the prosecution of federally initiated criminal cases
13 declined to be prosecuted by local offices of the United States attorneys, including costs relating
14 to pre-trial services, detention, clerical support, and public defenders’ services associated to such
15 prosecution.

16 (b) Exception.—Reimbursement under subsection (a) shall not be available, at the discretion
17 of the Attorney General, if the Attorney General determines that there is reason to believe that
18 the jurisdiction seeking reimbursement has engaged in unlawful conduct in connection with
19 immigration-related apprehensions.

20 **CHAPTER 3—GRANTS**

21 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE**
22 **PROGRAM.**

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

24 (1) in paragraph (1)—

25 (A) by inserting “AUTHORIZATION.—” before “If the chief”; and

26 (B) by inserting “or an alien with an unknown status” after “undocumented criminal
27 alien” each place that term appears;

28 (2) by striking paragraphs (2) and (3) and inserting the following:

29 “(2) COMPENSATION.—

30 “(A) CALCULATION OF COMPENSATION.—Compensation under paragraph (1)(A)
31 shall be the average cost of incarceration of a prisoner in the relevant State, as
32 determined by the Attorney General.

33 “(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall
34 compensate the State or political subdivision of the State, in accordance with
35 subparagraph (A), for the incarceration of an alien—

36 “(i) whose immigration status cannot be verified by the Secretary; and

1 “(ii) who would otherwise be an undocumented criminal alien if the alien is
2 unlawfully present in the United States.

3 “(3) DEFINITIONS.—In this subsection:

4 “(A) ALIEN WITH AN UNKNOWN STATUS.—The term ‘alien with an unknown status’
5 means an individual—

6 “(i) who has been incarcerated by a Federal, State, or local law enforcement
7 entity; and

8 “(ii) whose immigration status cannot be definitively identified.

9 “(B) UNDOCUMENTED CRIMINAL ALIEN.—The term ‘undocumented criminal alien’
10 means an alien who—

11 “(i) has been charged with or convicted of a felony or any misdemeanors; and

12 “(ii)(I) entered the United States without inspection or at any time or place
13 other than as designated by the Secretary;

14 “(II) was the subject of exclusion or deportation or removal proceedings at the
15 time he or she was taken into custody by the State or a political subdivision of the
16 State; or

17 “(III) was admitted as a nonimmigrant and, at the time he or she was taken into
18 custody by the State or a political subdivision of the State, has failed to maintain
19 the nonimmigrant status in which the alien was admitted or to which it was
20 changed under section 248, or to comply with the conditions of any such status.”;

21 (3) in paragraph (4), by inserting “and aliens with an unknown status” after
22 “undocumented criminal aliens” each place that term appears;

23 (4) in paragraph (5)(C), by striking “to carry out this subsection” and all that follows and
24 inserting “\$950,000,000, for each of the fiscal years 2018 through 2022, to carry out this
25 subsection.”; and

26 (5) by adding at the end the following:

27 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any amounts provided to a State or to a
28 political subdivision of a State as compensation under paragraph (1)(A) for a fiscal year
29 shall be distributed to such State or political subdivision not later than 120 days after the last
30 day of the period specified by the Attorney General for the submission of requests under
31 that paragraph for that fiscal year.”.

32 SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE 33 GRANTS.

34 (a) Authority.—

35 (1) IN GENERAL.—The Secretary, in consultation with State and local law enforcement
36 agencies, may award border security assistance grants to law enforcement agencies located
37 in the Southwest border region for the purposes described in subsection (b).

38 (2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to

1 law enforcement agencies located in a county that is located within 25 miles of the Southern
2 border.

3 (b) Purposes.—Each grant awarded under subsection (a) shall be used to address drug
4 trafficking, smuggling, and border violence—

5 (1) by obtaining law enforcement equipment and tools, including secure 2-way
6 communication devices, portable laptops and office computers, license plate readers,
7 unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night
8 viewing capabilities, and any other appropriate law enforcement equipment;

9 (2) by hiring additional personnel, including administrative support personnel,
10 dispatchers, and jailers, and to provide overtime pay for such personnel;

11 (3) by purchasing law enforcement vehicles;

12 (4) by providing high performance aircraft and helicopters for border surveillance and
13 other critical mission applications and paying for the operational and maintenance costs
14 associated with such craft;

15 (5) by providing critical power generation systems, infrastructure, and technological
16 upgrades to support State and local data management systems and fusion centers; or

17 (6) by providing specialized training and paying for the direct operating expenses
18 associated with detecting and prosecuting drug trafficking, human smuggling, and other
19 illegal activity or violence that occurs at or near the Southern border.

20 (c) Application.—

21 (1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a
22 nonprofit organization or coalition acting as an agent for 1 or more such law enforcement
23 entities, shall submit an application to the Secretary that includes the information described
24 in paragraph (2) at such time and in such manner as the Secretary may require.

25 (2) CONTENT.—Each application submitted under paragraph (1) shall include—

26 (A) a description of the activities to be carried out with a grant awarded under
27 subsection (a);

28 (B) if equipment will be purchased with the grant, a detailed description of—

29 (i) the type and quantity of such equipment; and

30 (ii) the personnel who will be using such equipment;

31 (C) a description of the need of the law enforcement agency or agencies for the
32 grant, including a description of the inability of the agency or agencies to carry out the
33 proposed activities without the grant; and

34 (D) an assurance that the agency or agencies will, to the extent practicable, seek,
35 recruit, and hire women and members of racial and ethnic minority groups in law
36 enforcement positions of the agency or agencies.

37 (d) Review and Award.—

38 (1) REVIEW.—Not later than 90 days after receiving an application submitted under
39 subsection (c), the Secretary shall review and approve or reject the application.

1 (2) AWARD OF FUNDS.—Subject to the availability of appropriations, not later than 45
2 days after the date an application is approved under paragraph (1), the Secretary shall
3 transmit the grant funds to the applicant.

4 (3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to
5 high-intensity areas for drug trafficking, smuggling, and border violence.

6 (e) Authorization of Appropriations.—There is authorized to be appropriated, for each of the
7 fiscal years 2018 through 2022, \$300,000,000 for grants authorized under this section.

8 SEC. 1153. OPERATION STONEGARDEN.

9 (a) In General.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et
10 seq.) is amended by adding at the end the following:

11 “SEC. 2009. OPERATION STONEGARDEN.

12 “(a) Establishment.—There is established in the Department a program to be known as
13 ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall
14 make grants to eligible law enforcement agencies, through the State administrative agency, to
15 enhance border security in accordance with this section.

16 “(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law
17 enforcement agency—

18 “(1) shall be located in—

19 “(A) a State bordering Canada or Mexico; or

20 “(B) a State or territory with a maritime border; and

21 “(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection
22 operation coordinated through a U.S. Border Patrol sector office.

23 “(c) Permitted Uses.—The recipient of a grant under this section may use such grant for—

24 “(1) equipment, including maintenance and sustainment costs;

25 “(2) personnel, including overtime and backfill, in support of enhanced border law
26 enforcement activities;

27 “(3) any activity permitted for Operation Stonegarden under the Department of
28 Homeland Security’s [Fiscal Year 2017](#)most current fiscal year Homeland Security Grant
29 Program Notice of Funding Opportunity; and

30 “(4) any other appropriate activity, as determined by the Administrator, in consultation
31 with the Commissioner of U.S. Customs and Border Protection.

32 “(d) Period of Performance.—The Secretary shall award grants under this section to grant
33 recipients for a period of not less than 36 months.

34 “(e) Report.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a
35 report to the Committee on Homeland Security and Governmental Affairs of the Senate and the
36 Committee on Homeland Security of the House of Representatives containing information on the
37 expenditure of grants made under this section by each grant recipient.

1 “(f) Authorization of Appropriations.—There is authorized to be appropriated \$110,000,000,
2 for each of the fiscal years 2018 through 2022, for grants under this section.”.

3 (b) Conforming Amendment.—Section 2002(a) of the Homeland Security Act of 2002 (6
4 U.S.C. 603(a)) is amended to read as follows:

5 “(a) Grants Authorized.—The Secretary, through the Administrator, may award grants under
6 sections 2003, 2004, and 2009 to State, local, and tribal governments, as appropriate.”.

7 (c) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
8 of 2002 is amended by inserting after the item relating to section 2008 the following:

9 “Sec.2009.Operation Stonegarden.”.

10 SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS 11 OF CROSS-BORDER HUMAN SMUGGLING.

12 In addition to any funding for grants made available to the Attorney General for State and
13 local law enforcement assistance, the Attorney General shall award grants to county, municipal,
14 or tribal governments in States along the southern border for costs, or reimbursement of costs,
15 associated with the transportation and processing of unidentified alien remains that have been
16 transferred to an official medical examiner’s office or an institution of higher education in the
17 area with the capacity to analyze human remains using forensic best practices, including DNA
18 testing, where such expenses may contribute to the collection and analysis of information
19 pertaining to missing and unidentified persons.

20 SEC. 1155. GRANT ACCOUNTABILITY.

21 (a) Definitions.—In this section:

22 (1) AWARDING ENTITY.—The term “awarding entity” means the Secretary, the
23 Administrator of the Federal Emergency Management Agency, the Director of the National
24 Science Foundation, or the Chief of the Office of Citizenship and New Americans.

25 (2) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an
26 organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and
27 is exempt from taxation under section 501(a) of such Code.

28 (3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding
29 in a final audit report conducted by the Inspector General of the Department of Homeland
30 Security, or the Inspector General for the National Science Foundation for grants awarded
31 by the Director of the National Science Foundation, that the audited grantee has utilized
32 grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed
33 or resolved within 1 year after the date when the final audit report is issued.

34 (b) Accountability.—All grants awarded by an awarding entity pursuant to this subtitle shall
35 be subject to the following accountability provisions:

36 (1) AUDIT REQUIREMENT.—

37 (A) AUDITS.—Beginning in the first fiscal year beginning after the date of the
38 enactment of this Act, and in each fiscal year thereafter, the Inspector General of the
39 Department of Homeland Security, or the Inspector General for the National Science

1 Foundation for grants awarded by the Director of the National Science Foundation,
2 shall conduct audits of recipients of grants under this subtitle or any amendments made
3 by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such
4 Inspectors General shall determine the appropriate number of grantees to be audited
5 each year.

6 (B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is
7 found to have an unresolved audit finding shall not be eligible to receive grant funds
8 under this subtitle or any amendment made by this subtitle during the first 2 fiscal
9 years beginning after the end of the fiscal year in which a finding described in
10 subsection (A) was discovered.

11 (C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by
12 this subtitle, the awarding entity shall give priority to eligible applicants that did not
13 have an unresolved audit finding during the 3 fiscal years immediately preceding the
14 date on which the entity submitted the application for such grant.

15 (D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any
16 amendment made by this subtitle during the 2-year period when the entity is barred
17 from receiving grants under subparagraph (B), the awarding entity shall—

18 (i) deposit an amount equal to the amount of the grant funds that were
19 improperly awarded to such entity into the general fund of the Treasury; and

20 (ii) seek to recover the costs of the repayment under clause (i) from such entity.

21 (2) NONPROFIT ORGANIZATION REQUIREMENTS.—

22 (A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or
23 any amendment made by this subtitle to a nonprofit organization that holds money in
24 offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of
25 the Internal Revenue Code of 1986.

26 (B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this
27 subtitle or any amendment made by this subtitle and uses the procedures prescribed by
28 Internal Revenue regulations to create a rebuttable presumption of reasonableness for
29 the compensation of its officers, directors, trustees, and key employees, shall disclose
30 to the awarding entity, in the application for the grant, the process for determining such
31 compensation, including the independent persons involved in reviewing and approving
32 such compensation, the comparability data used, and contemporaneous substantiation
33 of the deliberation and decision. Upon request, the awarding entity shall make the
34 information disclosed under this subparagraph available for public inspection.

35 (3) CONFERENCE EXPENDITURES.—

36 (A) LIMITATION.—Amounts authorized to be appropriated to the Department of
37 Homeland Security or the National Science Foundation for grant programs under this
38 subtitle or any amendment made by this subtitle may not be used by an awarding entity
39 to host or support any expenditure for conferences that uses more than \$20,000 in
40 funds made available by the Department of Homeland Security or the National Science
41 Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director
42 of the National Science Foundation, or their designee, provides prior written

1 authorization that the funds may be expended to host the conference.

2 (B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a
3 written estimate of all costs associated with the conference, including the cost of all
4 food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

5 (C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director
6 of the National Science Foundation shall submit an annual report to Congress that
7 identifies all conference expenditures approved under this paragraph.

8 (4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date
9 of the enactment of this Act, and annually thereafter, each awarding entity shall submit a
10 report to Congress that—

11 (A) indicates whether—

12 (i) all audits issued by the Offices of the Inspector General under paragraph (1)
13 have been completed and reviewed by the appropriate individuals;

14 (ii) all mandatory exclusions required under paragraph (1)(B) have been issued;
15 and

16 (iii) all reimbursements required under paragraph (1)(D) have been made; and

17 (B) includes a list of any grant recipients excluded under paragraph (1) during the
18 previous year.

19 Subtitle B—Emergency Port of Entry Personnel and 20 Infrastructure Funding

21 SEC. 1201. DEFINITIONS.

22 In this subtitle:

23 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional
24 committees” means—

25 (A) the Committee on Homeland Security and Governmental Affairs of the Senate;

26 (B) the Committee on Finance of the Senate;

27 (C) the Committee on the Judiciary of the Senate;

28 (D) the Committee on Homeland Security of the House of Representatives;

29 (E) the Committee on Ways and Means of the House of Representatives; and

30 (F) the Committee on the Judiciary of the House of Representatives.

31 (2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

32 SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.

33 (a) Additional Ports of Entry.—

34 (1) AUTHORITY.—The Secretary may construct new ports of entry along the northern
35 border and along the southern border and determine the location of any such new ports of

1 entry.

2 (2) CONSULTATION.—

3 (A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of
4 State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of
5 Transportation, the Administrator of General Services, and appropriate representatives
6 of State and local governments, Indian tribes, and property owners in the United States
7 before selecting a location for any new port constructed pursuant to paragraph (1).

8 (B) CONSIDERATIONS.—The purpose of the consultations required under
9 subparagraph (A) shall be to minimize any negative impacts of such a new port on the
10 environment, culture, commerce, and quality of life of the communities and residents
11 located near such new port.

12 (b) Expansion and Modernization of High-volume Southern Border Ports of Entry.—Not later
13 than September 30, 2022, the Secretary shall expand or modernize the primary and secondary
14 inspection lanes for vehicle, cargo, and pedestrian inbound and outbound inspection lanes at
15 ports of entry on the southern border, as determined by the Secretary, for the purposes of
16 reducing wait times and enhancing security, as determined by the Secretary.

17 (c) Port of Entry Prioritization.—Before constructing any new ports of entry pursuant to
18 subsection (a), the Secretary shall complete the expansion and modernization of ports of entry
19 pursuant to subsection (b) to the extent practicable.

20 (d) Notifications.—

21 (1) NEW PORTS OF ENTRY.—Not later than 15 days after determining the location of any
22 new port of entry for construction pursuant to subsection (a), the Secretary shall submit a
23 report to the appropriate congressional committees and the Members of Congress who
24 represent the State or congressional district in which such new port of entry will be located
25 that includes—

26 (A) information relating to the location of such new port of entry;

27 (B) a description of the need for such new port of entry and associated anticipated
28 benefits;

29 (C) a description of the consultations undertaken by the Secretary pursuant to
30 subsection (a)(2);

31 (D) any actions that will be taken to minimize negative impacts of such new port of
32 entry; and

33 (E) the anticipated time line for the construction and completion of such new port of
34 entry.

35 (2) EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after
36 the date of the enactment of this Act, the Secretary shall notify the appropriate
37 congressional committees of—

38 (A) the ports of entry on the southern border selected for expansion or
39 modernization pursuant to subsection (b); and

40 (B) the Secretary's plan for expanding or modernizing the primary and secondary

1 inspection lanes at each such port of entry.

2 SEC. 1203. SECURE COMMUNICATIONS.

3 (a) In General.—The Secretary shall ensure that each U.S. Customs and Border Protection and
4 U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a
5 secure 2-way communication device, supported by system interoperability, that allows each such
6 officer to communicate—

7 (1) between ports of entry and inspection stations; and

8 (2) with other Federal, State, tribal, and local law enforcement entities.

9 (b) Land Border Agents and Officers.—The Secretary shall ensure that each U.S. Customs and
10 Border Protection agent or officer assigned or required to patrol on foot, by horseback, or with a
11 canine unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-
12 band encrypted portable radio.

13 SEC. 1204. BORDER SECURITY DEPLOYMENT 14 PROGRAM.

15 (a) Expansion.—Not later than September 30, 2022, the Secretary shall fully implement U.S.
16 Customs and Border Protection’s Border Security Deployment Program and expand the
17 integrated surveillance and intrusion detection system at land ports of entry along the southern
18 border and the northern border.

19 (b) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
20 appropriated for such purpose, there is authorized to be appropriated \$33,000,000, for each of the
21 fiscal year 2018 through 2022, to carry out subsection (a).

22 SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE 23 READERS AT PORTS OF ENTRY.

24 (a) Upgrade.—Not later than 1 year after the date of the enactment of this Act, the
25 Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate
26 readers on the northern border and on the southern border on incoming and outgoing vehicle
27 lanes.

28 (b) Pilot Program.—Not later than 90 days after the date of the enactment of this Act, the
29 Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program on
30 the southern border using license plate readers for 1 to 2 cargo lanes at the top 23 high-volume
31 southern border and top 2 high-volume northern border land ports of entry or checkpoints to
32 determine their effectiveness in reducing cross-border wait times for commercial traffic and
33 tractor-trailers.

34 (c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary
35 shall submit a report to the appropriate congressional committees that contains—

36 (1) the results of the pilot program under subsection (b); and

37 (2) recommendations for using such technology on the southern border.

1 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
2 appropriated for such purpose, there is authorized to be appropriated \$125,000,000 for fiscal year
3 2018 to carry out subsection (a).

4 SEC. 1206. BIOMETRIC TECHNOLOGY.

5 (a) Biometric Storage.—

6 (1) CREATION OR EXPANSION OF SYSTEM.—Not later than 180 days after the date of the
7 enactment of this Act, the Secretary shall create a system (or upgrade and expand the
8 capability and capacity of an existing system, if a Department of Homeland Security system
9 already has capability and capacity for storage) to allow for the storage of fingerprints,
10 photographs, iris scans, voice prints, and any other biometric data of aliens that can be used
11 by the Department of Homeland Security, other Federal agencies, and State and local law
12 enforcement agencies for identity verification, authentication, background checks, and
13 document production.

14 (2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system
15 created or expanded under paragraph (1) is compatible with existing State and local law
16 enforcement systems that are used for the collection and storage of biometric data for
17 criminal aliens.

18 (b) Pilot Program.—When the system created under subsection (a) is operational, U.S.
19 Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall
20 conduct a 6-month pilot program on the collection and use of iris scans and voice prints for
21 identity verification, authentication, background checks, and document production.

22 (c) Report.—Not later than 6 months after the conclusion of the pilot program under
23 subsection (b), the Secretary shall submit a report containing the results of the pilot program and
24 recommendations for using such technology to—

25 (1) the Committee on Homeland Security and Governmental Affairs of the Senate;

26 (2) the Committee on the Judiciary of the Senate;

27 (3) the Committee on Homeland Security of the House of Representatives; and

28 (4) the Committee on the Judiciary of the House of Representatives.

29 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
30 appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through
31 2022, \$10,000,000 carry out this section.

32 SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL 33 DEMONSTRATION PROJECT.

34 (a) In General.—

35 (1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act,
36 the Commissioner shall establish a 6-month operational demonstration project to deploy a
37 high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land
38 ports of entry along the United States-Mexico border with significant cross-border traffic.

1 (2) LOCATION.—The demonstration project established under paragraph (1)—

2 (A) shall be located within the pre-primary traffic flow; and

3 (B) should be scalable to span up to 26 contiguous in-bound traffic lanes without
4 reconfiguration of existing lanes.

5 (b) Report.—Not later than 90 days after the conclusion of the operational demonstration
6 project under subsection (a), the Commissioner shall submit a report to the Committee on
7 Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the
8 Senate, the Committee on Homeland Security of the House of Representatives, and the
9 Committee on Ways and Means of the House of Representatives that describes—

10 (1) the effects of the demonstration project on legitimate travel and trade;

11 (2) the effects of the demonstration project on wait times, including processing times, for
12 non-pedestrian traffic; and

13 (3) the effectiveness of the demonstration project in combating terrorism and smuggling.

14 SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

15 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et
16 seq.) is amended by inserting after section 415 the following:

17 “SEC. 416. BIOMETRIC ENTRY-EXIT.

18 “(a) Establishment.—The Secretary—

19 “(1) not later than 180 days after the date of the enactment of this section, shall submit an
20 implementation plan to the Committee on Homeland Security and Governmental Affairs of
21 the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland
22 Security of the House of Representatives, and the Committee on the Judiciary of the House
23 of Representatives for establishing a biometric exit data system to complete the integrated
24 biometric entry and exit data system required under section 7208 of the Intelligence Reform
25 and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

26 “(A) an integrated master schedule and cost estimate, including requirements and
27 design, development, operational, and maintenance costs of such a system, that takes
28 into account prior reports on such matters issued by the Government Accountability
29 Office and the Department;

30 “(B) cost-effective staffing and personnel requirements of such a system that
31 leverages existing resources of the Department that takes into account prior reports on
32 such matters issued by the Government Accountability Office and the Department;

33 “(C) a consideration of training programs necessary to establish such a system that
34 takes into account prior reports on such matters issued by the Government
35 Accountability Office and the Department;

36 “(D) a consideration of how such a system will affect arrival and departure wait
37 times that takes into account prior reports on such matter issued by the Government
38 Accountability Office and the Department;

39 “(E) information received after consultation with private sector stakeholders,

1 including the—
2 “(i) trucking industry;
3 “(ii) airport industry;
4 “(iii) airline industry;
5 “(iv) seaport industry;
6 “(v) travel industry; and
7 “(vi) biometric technology industry;
8 “(F) a consideration of how trusted traveler programs in existence as of the date of
9 the enactment of this section may be impacted by, or incorporated into, such a system;
10 “(G) defined metrics of success and milestones;
11 “(H) identified risks and mitigation strategies to address such risks;
12 “(I) a consideration of how other countries have implemented a biometric exit data
13 system; and
14 “(J) a list of statutory, regulatory, or administrative authorities needed to integrate
15 such a system into the operations of the Transportation Security Administration; and
16 “(2) not later than 2 years after the date of the enactment of this section, shall establish a
17 biometric exit data system at—
18 “(A) the 15 United States airports that support the highest volume of international
19 air travel, as determined by available Federal flight data;
20 “(B) the 10 United States seaports that support the highest volume of international
21 sea travel, as determined by available Federal travel data; and
22 “(C) the 15 United States land ports of entry that support the highest volume of
23 vehicle, pedestrian, and cargo crossings, as determined by available Federal border
24 crossing data.
25 “(b) Implementation.—
26 “(1) PILOT PROGRAM AT LAND PORTS OF ENTRY FOR NON-PEDESTRIAN OUTBOUND
27 TRAFFIC.—Not later than 6 months after the date of the enactment of this section, the
28 Secretary, in collaboration with industry stakeholders, shall establish a 6-month pilot
29 program to test the biometric exit data system referred to in subsection (a)(2) on
30 nonpedestrian outbound traffic at not fewer than 3 land ports of entry with significant cross-
31 border traffic, including at not fewer than 2 land ports of entry on the southern land border
32 and at least 1 land port of entry on the northern land border. Such pilot program may
33 include a consideration of more than 1 biometric mode, and shall be implemented to
34 determine—
35 “(A) how a nationwide implementation of such biometric exit data system at land
36 ports of entry shall be carried out;
37 “(B) the infrastructure required to carry out subparagraph (A);
38 “(C) the effects of such pilot program on legitimate travel and trade;

1 “(D) the effects of such pilot program on wait times, including processing times, for
2 such nonpedestrian traffic;

3 “(E) the effects of such pilot program on combating terrorism; and

4 “(F) the effects of such pilot program on identifying visa holders who violate the
5 terms of their visas.

6 “(2) EXPANSION TO LAND PORTS OF ENTRY FOR NONPEDESTRIAN OUTBOUND TRAFFIC.—

7 “(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this
8 section, the Secretary shall expand the biometric exit data system referred to in
9 subsection (a)(2) to all land ports of entry, and such system shall apply only in the case
10 of nonpedestrian outbound traffic.

11 “(B) EXTENSION.—The Secretary may extend for a single 2-year period the date
12 specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland
13 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
14 the Senate, the Committee on Homeland Security of the House of Representatives, and
15 the Committee on the Judiciary of the House of Representatives that the 15 land ports
16 of entry that support the highest volume of passenger vehicles, as determined by
17 available Federal data, do not have the physical infrastructure or characteristics to
18 install the systems necessary to implement a biometric exit data system.

19 “(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date
20 of the enactment of this section, the Secretary shall expand the biometric exit data system
21 referred to in subsection (a)(2) to all air and sea ports of entry.

22 “(4) EXPANSION TO LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than 5 years after
23 the date of the enactment of this section, the Secretary shall expand the biometric exit data
24 system referred to in subsection (a)(2) to all land ports of entry, and such system shall apply
25 only in the case of pedestrians.

26 “(c) Effects on Air, Sea, and Land Transportation.—The Secretary, in consultation with
27 appropriate private sector stakeholders, shall ensure that the collection of biometric data under
28 this section causes the least possible disruption to the movement of people or cargo in air, sea, or
29 land transportation, while fulfilling the goals of improving counterterrorism efforts and
30 identifying visa holders who violate the terms of their visas.

31 “(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary
32 shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection
33 of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure;
34 United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”)',
35 issued on April 24, 2008 (73 Fed. Reg. 22065).

36 “(e) Data-matching.—The biometric exit data system established under this section shall—

37 “(1) match biometric information for an individual who is departing the United States
38 against biometric data previously provided to the United States Government by such
39 individual for the purposes of international travel;

40 “(2) leverage the infrastructure and databases of the current biometric entry and exit
41 system established pursuant to section 7208 of the Intelligence Reform and Terrorism

1 Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

2 “(3) be interoperable with, and allow matching against, other Federal databases that—

3 “(A) store biometrics of known or suspected terrorists; and

4 “(B) identify visa holders who violate the terms of their visas.

5 “(f) Scope.—

6 “(1) IN GENERAL.—The biometric exit data system established under this section shall
7 include a requirement for the collection of biometric exit data at the time of departure for all
8 categories of individuals who are required by the Secretary to provide biometric entry data.

9 “(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the
10 case of an individual who exits and then enters the United States on a passenger vessel (as
11 such term is defined in section 2101 of title 46, United States Code) the itinerary of which
12 originates and terminates in the United States.

13 “(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a
14 United States or Canadian citizen who exits the United States through a land port of entry.

15 “(g) Collection of Data.—The Secretary may not require any entity that is not part of the
16 Federal Government to collect biometric data, or to contribute to the costs of collecting or
17 administering the biometric exit data system established under this section, except through a
18 mutual agreement.

19 “(h) Multi-modal Collection.—In carrying out subsections (a)(1) and (b), the Secretary shall
20 make every effort to collect biometric data using multiple modes of biometrics.

21 “(i) Facilities.—All facilities at which the biometric exit data system established under this
22 section is implemented shall provide and maintain space for Federal use that is adequate to
23 support biometric data collection and other inspection-related activity. For non-federally owned
24 facilities, such space shall be provided and maintained at no cost to the Government.

25 “(j) Northern Land Border.—In the case of the northern land border, the requirements under
26 subsections (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through the sharing of biometric
27 data provided to U.S. Customs and Border Protection by the Canadian Border Services Agency
28 pursuant to the 2011 Beyond the Border agreement.

29 “(k) Fair and Open Competition.—The Secretary shall procure goods and services to
30 implement this section via fair and open competition in accordance with the Federal Acquisition
31 Regulation.

32 “(l) Other Biometric Initiatives.—The Secretary may pursue biometric initiatives at air, land,
33 and sea ports of entry for the purposes of border security and trade facilitation distinct from the
34 biometric exit data system described in this section.

35 “(m) Congressional Review.—Not later than 90 days after the date of the enactment of this
36 section, the Secretary shall submit reports and recommendations to the Committee on Homeland
37 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate,
38 the Committee on Homeland Security of the House of Representatives, and the Committee on
39 the Judiciary of the House of Representatives regarding the Science and Technology
40 Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S.

1 Customs and Border Protection entry and exit mobility program demonstrations.

2 “(n) Savings Clause.—Nothing in this section may be construed to prohibit the collection of
3 user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of
4 1985 (19 U.S.C. 58c).”.

5 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
6 of 2002 is amended by inserting after the item relating to section 415 the following:

7 “Sec.416.Biometric entry-exit.”.

8 SEC. 1209. SENSE OF CONGRESS ON COOPERATION 9 BETWEEN AGENCIES.

10 (a) Finding.—Congress finds that personnel constraints exist at land ports of entry with regard
11 to sanitary and phytosanitary inspections for exported goods.

12 (b) Sense of Congress.—It is the sense of Congress that, in the best interest of cross-border
13 trade and the agricultural community—

14 (1) any lack of certified personnel for inspection purposes at ports of entry should be
15 addressed by seeking cooperation between agencies and departments of the United States,
16 whether in the form of a memorandum of understanding or through a certification process,
17 whereby additional existing agents are authorized for additional hours to facilitate the
18 crossing and trade of perishable goods in a manner consistent with rules of the Department
19 of Agriculture; and

20 (2) cross designation should be available for personnel who will assist more than 1
21 agency or department at land ports of entry to facilitate increased trade and commerce.

22 Subtitle C—Border Security Enforcement Fund

23 SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.

24 (a) Purpose.—It is the purpose of this section to establish a Border Security Enforcement Fund
25 (referred to in this section as the “Fund”), to be administered through the Department of
26 Homeland Security and, in fiscal year 2018 only, through the Department of State, to carry out
27 activities necessary to implement this Act and other Acts related to border security, including—

28 (1) the construction, installation, deployment, operation, and maintenance of tactical
29 infrastructure and technology in the vicinity of the United States border—

30 (A) to achieve situational awareness and operational control of such border;

31 (B) to deter, impede, and detect illegal activity in high traffic areas; and

32 (C) to implement other border security provisions under titles I and II;

33 (2) the implementation of port of entry provisions under titles I and II;

34 (3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such
35 craft; and

36 (4) hiring and recruitment.

1 (b) Funding.—There are appropriated to the Fund, out of any amounts in the Treasury not
2 otherwise appropriated, \$25,000,000,000, of which—

3 (1) \$2,947,000,000 is appropriated for fiscal year 2018, and shall remain available
4 through September 30, 2022;

5 (2) \$2,225,000,000 is appropriated for fiscal year 2019, and shall remain available
6 through September 30, 2023;

7 (3) \$2,467,000,000 is appropriated for fiscal year 2020, and shall remain available
8 through September 30, 2024;

9 (4) \$2,644,000,000 is appropriated for fiscal year 2021, and shall remain available
10 through September 30, 2025;

11 (5) \$2,862,000,000 is appropriated for fiscal year 2022, and shall remain available
12 through September 30, 2026;

13 (6) \$2,370,000,000 is appropriated for fiscal year 2023, and shall remain available
14 through September 30, 2027;

15 (7) \$2,371,000,000 is appropriated for fiscal year 2024, and shall remain available
16 through September 30, 2028;

17 (8) \$2,401,000,000 is appropriated for fiscal year 2025, and shall remain available
18 through September 30, 2029;

19 (9) \$2,371,000,000 is appropriated for fiscal year 2026, and shall remain available
20 through September 30, 2030; and

21 (10) \$2,342,000,000 is appropriated for fiscal year 2027, and shall remain available
22 through September 30, 2031.

23 (c) Physical Barriers.—

24 (1) TRANSFERS.—The Secretary shall transfer, from the Fund to the “U.S. Customs and
25 Border Protection—Procurement, Construction and Improvements” account, for the purpose
26 of constructing, replacing, or planning physical barriers along the United States land border,
27 \$18,000,000,000, of which—

28 (A) \$1,571,000,000 shall be transferred in fiscal year 2018;

29 (B) \$1,600,000,000 shall be transferred in fiscal year 2019;

30 (C) \$1,842,000,000 shall be transferred in fiscal year 2020;

31 (D) \$2,019,000,000 shall be transferred in fiscal year 2021;

32 (E) \$2,237,000,000 shall be transferred in fiscal year 2022;

33 (F) \$1,745,000,000 shall be transferred in fiscal year 2023;

34 (G) \$1,746,000,000 shall be transferred in fiscal year 2024;

35 (H) \$1,776,000,000 shall be transferred in fiscal year 2025;

36 (I) \$1,746,000,000 shall be transferred in fiscal year 2026; and

37 (J) \$1,718,000,000 shall be transferred in fiscal year 2027.

1 (2) AVAILABILITY OF FUNDS.—Notwithstanding section 1552(a) of title 31, United States
2 Code, any amounts transferred pursuant to paragraph (1) shall remain available for
3 disbursement until expended.

4 (d) Specified Technology.—During fiscal year 2018, the Secretary and the Secretary of State
5 shall transfer from the Fund to accounts within their respective Departments the following
6 amounts for the following purposes:

7 (1) \$10,000,000 for the Department of Homeland Security to implement Vehicle and
8 Dismount Exploitation Radars (VADER) in border security operations.

9 (2) \$3,000,000 for the Department of Homeland Security to implement southern border
10 tunneling detection technology, including 3-dimensional, seismic, acoustic detection and
11 ranging border tunneling detection technology.

12 (3) \$200,000,000 for the Department of State to implement section 1120.

13 (4) \$200,000,000 for the United States Coast Guard to implement section 1114(a)(18).

14 (5) \$2,000,000 for the Department of Homeland Security—

15 (A) to hire additional Uniform Management Center support personnel;

16 (B) to purchase uniforms for U.S. Customs and Border Protection officers and
17 agents;

18 (C) to acquire additional motor vehicles to support vehicle mounted surveillance
19 systems;

20 (D) to hire additional motor vehicle program support personnel; and

21 (E) to contract support for customer service, vendor management, and operations
22 management.

23 (6) \$250,000,000 for the implementation of the biometric exit data system described in
24 section 419 of the Homeland Security Act of 2002, as added by section 1208.

25 (7) \$200,000,000 for the Department of Homeland Security to purchase—

26 (A) AS350, UH-60L, and UAS-Native MQ-9 aircraft;

27 (B) required support equipment for such aircraft; and

28 (C) initial spare parts for southern and northern border security and maritime
29 operations.

30 (e) Transfer Authority.—In addition to the amounts transferred by the Secretary and the
31 Secretary of State pursuant to subsections (c) and (d), the Committee on Appropriations of the
32 Senate and the Committee on Appropriations of the House of Representatives may provide for
33 the transfer of amounts in the Fund for each fiscal year to eligible activities under this section,
34 including—

35 (1) constructing, replacing, or planning for physical barriers along the United States land
36 border; or

37 (2) acquiring any of the technologies described in subsection (d).

38 (f) Use of Fund.—If the Committee on Appropriations of the Senate and the Committee on

1 Appropriations of the House of Representatives does not provide for the transfer of funds in a
2 full-year appropriation in any given fiscal year pursuant to subsection (e), the Secretary of
3 Homeland Security may transfer amounts in the Fund to accounts within the Department of
4 Homeland Security for eligible activities under this section, including—

5 (1) not less than the amounts specified in subsection (c) for the purpose of constructing,
6 replacing, or planning for physical barriers along the United States land border; and

7 (2) not less than the amounts specified in subsection (d) for the purpose of the
8 technologies described in that subsection.

9 (g) Budget Request.—A request for the transfer of amounts from the Fund pursuant to this
10 section—

11 (1) shall be included in each budget for a fiscal year submitted by the President under
12 section 1105 of title 31, United States Code; and

13 (2) shall describe planned obligations by program, project, and activity in the receiving
14 account at the same level of detail provided for in the request for other appropriations in that
15 account.

16 Subtitle D—Stop the Importation and Trafficking of Synthetic 17 Analogues Act

18 SEC. 1401. SHORT TITLES.

19 This subtitle may be cited as the “Stop the Importation and Trafficking of Synthetic Analogues
20 Act of 2018” or the “SITSA Act”.

21 SEC. 1402. ESTABLISHMENT OF SCHEDULE A.

22 Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

23 (1) in subsection (a), by striking “five schedules of controlled substances, to be known as
24 schedules I, II, III, IV, and V” and inserting “six schedules of controlled substances, to be
25 known as schedules I, II, III, IV, V, and A”;

26 (2) in subsection (b), by adding at the end the following:

27 “(6) Schedule A.—

28 “(A) IN GENERAL.—The drug or substance—

29 “(i) has—

30 “(I) a chemical structure that is substantially similar to the chemical structure of
31 a controlled substance in schedule I, II, III, IV, or V; and

32 “(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on
33 the central nervous system that is substantially similar to or greater than the
34 stimulant, depressant, or hallucinogenic effect on the central nervous system of a
35 controlled substance in schedule I, II, III, IV, or V; and

36 “(ii) is not—

1 “(I) listed or otherwise included in any other schedule in this section or by
2 regulation of the Attorney General; and

3 “(II) with respect to a particular person, subject to an exemption that is in effect
4 for investigational use, for that person, under section 505 of the Federal Food,
5 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to
6 such substance is pursuant to such exemption.

7 “(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of
8 this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central
9 nervous system may be based on—

10 “(i) the chemical structure, structure activity relationships, binding receptor assays,
11 or other relevant scientific information about the substance;

12 “(ii)(I) the current or relative potential for abuse of the substance; and

13 “(II) the clandestine importation, manufacture, or distribution, or diversion from
14 legitimate channels, of the substance; or

15 “(iii) the capacity of the substance to cause a state of dependence, including physical
16 or psychological dependence that is similar to or greater than that of a controlled
17 substance in schedule I, II, III, IV, or V.”; and

18 (3) in subsection (c)—

19 (A) in the matter preceding schedule I, by striking “IV, and V” and inserting “IV, V,
20 and A”; and

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

22 “schedule a

23 “(a) Unless specifically excepted or unless listed in another schedule, any of the following
24 substances, as scheduled in accordance with section 201(k)(5):

25 “(1) 4-fluoroisobutyryl fentanyl.

26 “(2) Valeryl fentanyl.

27 “(3) 4-methoxybutyryl fentanyl.

28 “(4) 4-methylphenethyl acetyl fentanyl.

29 “(5) 3-furanyl fentanyl.

30 “(6) Ortho-fluorofentanyl.

31 “(7) Tetrahydrofuranyl fentanyl.

32 “(8) Ocfentanil.

33 “(9) 4-fluorobutyryl fentanyl.

34 “(10) Methoxyacetyl fentanyl.

35 “(11) Meta-fluorofentanyl.

36 “(12) Isobutyryl fentanyl.

1 “(13) Acryl fentanyl.”.

2 **SEC. 1403. TEMPORARY AND PERMANENT**
3 **SCHEDULING OF SCHEDULE A SUBSTANCES.**

4 Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end
5 the following:

6 “(k) Temporary and Permanent Scheduling of Schedule A Substances.—

7 “(1) The Attorney General may issue a temporary order adding a drug or substance to
8 schedule A if the Attorney General finds that—

9 “(A) the drug or other substance satisfies the criteria for being considered a schedule
10 A substance; and

11 “(B) adding such drug or substance to schedule A will assist in preventing abuse or
12 misuse of the drug or other substance.

13 “(2) (A) In General. – A temporary scheduling order issued under paragraph (1) shall not
14 take effect until 30 days after the date of the publication by the Attorney General of a notice
15 in the Federal Register of the intention to issue such order and the grounds upon which such
16 order is to be issued.

17 “(B) Amendments, Withdrawal, or Rescission. – The Attorney General may amend,
18 withdraw, or rescind a temporary scheduling order at any time by publication of a notice in
19 the Federal Register.

20 “(C) Expiration. – Subject to paragraph (B), the temporary scheduling order shall expire
21 not later than 5 years after the date it becomes effective, except that the Attorney General
22 may, during the pendency of proceedings under paragraph (5), extend the temporary
23 scheduling order for up to 180 days.

24 “(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the
25 issuance of a permanent order issued under paragraph (5) with regard to the same substance,
26 or upon the subsequent issuance of any scheduling order under this section.

27 “(4) A temporary scheduling order issued under paragraph (1) shall not be subject to
28 judicial review.

29 “(5) The Attorney General may, by rule, issue a permanent order adding a drug or other
30 substance to schedule A if such drug or substance satisfies the criteria for being considered
31 a schedule A substance. Such rulemaking may be commenced simultaneously with the
32 issuance of the temporary scheduling order issued under paragraph (1) with regard to the
33 same substance.

34 “(6) Before initiating proceedings under paragraph (1) or (5), the Attorney General shall
35 transmit notice of an order proposed to be issued to the Secretary of Health and Human
36 Services. In issuing an order under paragraph (1) or (5), the Attorney General shall take into
37 consideration any comments submitted by the Secretary of Health and Human Services in
38 response to a notice transmitted pursuant to this paragraph.”.

39 **SEC. 1404. PENALTIES.**

1 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
2 amended—

3 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

4 “(F)(i) In the case of any controlled substance in schedule A, such person shall be
5 sentenced to a term of imprisonment of not more than 10 years and if death or serious
6 bodily injury results from the use of such substance shall be sentenced to a term of
7 imprisonment of not more than 15 years, a fine not to exceed the greater of that
8 authorized in accordance with the provisions of title 18, United States Code, or
9 \$500,000 if the defendant is an individual or \$2,500,000 if the defendant is other than
10 an individual, or both.

11 “(ii) If any person commits such a violation after a prior conviction for a felony drug
12 offense has become final, such person shall be sentenced to a term of imprisonment of
13 not more than 20 years and if death or serious bodily injury results from the use of
14 such substance shall be sentenced to a term of imprisonment of not more than 30 years,
15 a fine not to exceed the greater of twice that authorized in accordance with the
16 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an
17 individual or \$5,000,000 if the defendant is other than an individual, or both.

18 “(iii) Any sentence imposing a term of imprisonment under this subparagraph shall,
19 in the absence of such a prior conviction, impose a term of supervised release of not
20 less than 2 years in addition to such term of imprisonment and shall, if there was such a
21 prior conviction, impose a term of supervised release of not less than 4 years in
22 addition to such term of imprisonment.”;

23 (2) in section 403(a) (21 U.S.C. 843(a))—

24 (A) in paragraph (8), by striking “or” at the end;

25 (B) in paragraph (9), by striking the period at the end and inserting “; or”; and

26 (C) by inserting after paragraph (9) the following:

27 “(10) to export a substance in violation of the controlled substance laws of the country to
28 which the substance is exported.”; and

29 (3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

30 “(b) A person shall not be subject to a criminal or civil penalty under this title or under any
31 other Federal law solely for possession of a schedule A controlled substance.”.

32 (b) Controlled Substances Import and Export Act.—Section 1010(b) of the Controlled
33 Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the
34 following:

35 “(8) In the case of a violation under subsection (a) involving a controlled substance in
36 schedule A, the person committing such violation shall be sentenced to a term of
37 imprisonment of not more than 20 years and if death or serious bodily injury results from
38 the use of such substance shall be sentenced to a term of imprisonment for any term of years
39 or for life, a fine not to exceed the greater of that authorized in accordance with the
40 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an individual or
41 \$5,000,000 if the defendant is other than an individual, or both. If any person commits such

1 a violation after a prior conviction for a felony drug offense has become final, such person
2 shall be sentenced to a term of imprisonment of not more than 30 years and if death or
3 serious bodily injury results from the use of such substance shall be sentenced to a term of
4 imprisonment for any term of years or for life, a fine not to exceed the greater of twice that
5 authorized in accordance with the provisions of title 18, United States Code, or \$2,000,000
6 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual,
7 or both. Notwithstanding section 3583 of title 18, United States Code, any sentence
8 imposing a term of imprisonment under this paragraph shall, in the absence of such a prior
9 conviction, impose a term of supervised release of not less than 3 years in addition to such
10 term of imprisonment and shall, if there was such a prior conviction, impose a term of
11 supervised release of not less than 6 years in addition to such term of imprisonment.
12 Notwithstanding the prior sentence, and notwithstanding any other provision of law, the
13 court shall not place on probation or suspend the sentence of any person sentenced under
14 the provisions of this paragraph which provide for a mandatory term of imprisonment if
15 death or serious bodily injury results.”.

16 SEC. 1405. FALSE LABELING OF SCHEDULE A 17 CONTROLLED SUBSTANCES.

18 (a) In General.—Section 305 of the Controlled Substances Act (21 U.S.C. 825) is amended by
19 adding at the end the following:

20 “(f) False Labeling of Schedule A Controlled Substances.—

21 “(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess
22 with intent to manufacture, distribute, or dispense, a schedule A substance or product
23 containing a schedule A substance, unless the substance or product bears a label clearly
24 identifying a schedule A substance or product containing a schedule A substance by the
25 nomenclature used by the International Union of Pure and Applied Chemistry.

26 “(2)(A) A product described in subparagraph (B) is exempt from the International Union
27 of Pure and Applied Chemistry nomenclature requirement of this subsection if such product
28 is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act.

29 “(B) A product is described in this subparagraph if the product—

30 “(i) is the subject of an approved application as described in section 505(b) or (j) of
31 the Federal Food, Drug, and Cosmetic Act; or

32 “(ii) is exempt from the provisions of section 505 of such Act relating to new drugs
33 because—

34 “(I) it is intended solely for investigational use as described in section 505(i) of
35 such Act; and

36 “(II) such product is being used exclusively for purposes of a clinical trial that
37 is the subject of an effective investigational new drug application.”.

38 (b) Penalties.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

39 (1) in subsection (a)(16), by inserting “or subsection (f)” after “subsection (e)”; and

40 (2) in subsection (c)(1)(D), by inserting “or a schedule A substance” after “anabolic

steroid”.

SEC. 1406. REGISTRATION REQUIREMENTS FOR HANDLERS OF SCHEDULE A SUBSTANCES.

(a) Controlled Substances Act.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended—

(1) in subsection (f), in the undesignated matter following paragraph (5)—

(A) by inserting “or A” after “schedule I” each place it appears; and

(B) by adding at the end the following: “A separate registration for engaging in research with a controlled substance in schedule A for practitioners already registered under this part to engage in research with controlled substances in schedule I shall not be required. The Secretary shall determine the merits of the research protocol submitted by the practitioner registering to engage in research with a controlled substance in schedule A, and the Attorney General may deny or revoke the registration only on a ground specified in section 304.”; and

(2) by adding at the end the following:

“(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances if—

“(A) the applicant demonstrates that the schedule A substances will be used for research, analytical, or industrial purposes approved by the Attorney General; and

“(B) the Attorney General determines that such registration is consistent with the public interest and with the United States obligations under international treaties, conventions, or protocols in effect on the date of enactment of this subsection.

“(2) In determining the public interest under paragraph (1)(B), the Attorney General shall consider—

“(A) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule A compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

“(B) compliance with applicable State and local law;

“(C) promotion of technical advances in the art of manufacturing substances described in subparagraph (A) and the development of new substances;

“(D) prior conviction record of applicant under Federal and State laws relating to the manufacture, distribution, or dispensing of substances described in paragraph (A);

“(E) past experience in the manufacture of controlled substances, and the existence in the establishment of effective control against diversion; and

“(F) such other factors as may be relevant to and consistent with the public health and

1 safety.

2 “(3) If an applicant is registered to manufacture controlled substances in schedule I or II under
3 subsection (a), the applicant shall not be required to apply for a separate registration under this
4 subsection.

5 “(1)(1) The Attorney General shall register an applicant to distribute schedule A substances—
6 “(A) if the applicant demonstrates that the schedule A substances will be used for
7 research, analytical, or industrial purposes approved by the Attorney General; and
8 “(B) unless the Attorney General determines that the issuance of such registration is
9 inconsistent with the public interest.

10 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
11 consider—
12 “(A) maintenance of effective control against diversion of particular controlled
13 substances into other than legitimate medical, scientific, and industrial channels;
14 “(B) compliance with applicable State and local law;
15 “(C) prior conviction record of applicant under Federal or State laws relating to the
16 manufacture, distribution, or dispensing of substances described in subparagraph (A);
17 “(D) past experience in the distribution of controlled substances; and
18 “(E) such other factors as may be relevant to and consistent with the public health and
19 safety.

20 “(3) If an applicant is registered to distribute a controlled substance in schedule I or II under
21 subsection (b), the applicant shall not be required to apply for a separate registration under this
22 subsection.

23 “(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any
24 practitioner who was engaged in research on the substance before the placement of the substance
25 in schedule A and any manufacturer or distributor who was handling the substance before the
26 placement of the substance in schedule A shall register with the Attorney General.

27 “(2)(A) Not later than 60 days after the date on which the Attorney General receives an
28 application for registration to conduct research on a schedule A substance, the Attorney General
29 shall—
30 “(i) grant, or initiate proceedings under section 304(c) to deny, the application; or
31 “(ii) request supplemental information from the applicant.

32 “(B) Not later than 30 days after the date on which the Attorney General receives
33 supplemental information requested under subparagraph (A)(ii) in connection with an application
34 described in subparagraph (A), the Attorney General shall grant or deny the application.”.

35 (b) Controlled Substances Import and Export Act.—Section 1008 of the Controlled Substances
36 Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:
37 “(j)(1) The Attorney General shall register an applicant to import or export a schedule A
38 substance if—

1 “(A) the applicant demonstrates that the schedule A substances will be used for research,
2 analytical, or industrial purposes approved by the Attorney General; and

3 “(B) the Attorney General determines that such registration is consistent with the public
4 interest and with the United States obligations under international treaties, conventions, or
5 protocols in effect on the date of enactment of this subsection.

6 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
7 consider the factors described in subparagraphs (A) through (F) of section 303(k)(2).

8 “(3) If an applicant is registered to import or export a controlled substance in schedule I or II
9 under subsection (a), the applicant shall not be required to apply for a separate registration under
10 this subsection.”.

11 SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

12 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
13 amended—

14 (1) in section 303(c) (21 U.S.C. 823(c))—

15 (A) by striking “subsections (a) and (b)” and inserting “subsection (a), (b), (k), or
16 (l)”; and

17 (B) by striking “schedule I or II” and inserting “schedule I, II, or A”;

18 (2) in section 306 (21 U.S.C. 826)—

19 (A) in subsection (a), in the first sentence, by striking “schedules I and II” and
20 inserting “schedules I, II, and A”;

21 (B) in subsection (b), in the second sentence, by striking “schedule I or II” and
22 inserting “schedule I, II, or A”;

23 (C) in subsection (c), in the first sentence, by striking “schedules I and II” and
24 inserting “schedules I, II, and A”;

25 (D) in subsection (d), in the first sentence, by striking “schedule I or II” and
26 inserting “schedule I, II, or A”;

27 (E) in subsection (e), in the first sentence, by striking “schedule I or II” and inserting
28 “schedule I, II, or A”; and

29 (F) in subsection (f), in the first sentence, by striking “schedules I and II” and
30 inserting “schedules I, II, and A”;

31 (3) in section 308(a) (21 U.S.C. 828(a)), by striking “schedule I or II” and inserting
32 “schedule I, II, or A”;

33 (4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by
34 striking “schedule I or II” and inserting “schedule I, II, or A”;

35 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking “schedule I or II” and inserting
36 “schedule I, II, or A”; and

37 (6) in section 511(f) (21 U.S.C. 881(f)), by striking “schedule I or II” each place it
38 appears and inserting “schedule I, II, or A”.

1 (b) Controlled Substances Import Export Act.—The Controlled Substances Import and Export
2 Act (21 U.S.C. 951 et seq.) is amended—

3 (1) in section 1002(a) (21 U.S.C. 952(a))—

4 (A) in the matter preceding paragraph (1), by striking “schedule I or II” and
5 inserting “schedule I, II, or A”; and

6 (B) in paragraph (2), by striking “schedule I or II” and inserting “schedule I, II, or
7 A”;

8 (2) in section 1003 (21 U.S.C. 953)—

9 (A) in subsection (c), in the matter preceding paragraph (1), by striking “schedule I
10 or II” and inserting “schedule I, II, or A”; and

11 (B) in subsection (d), by striking “schedule I or II” and inserting “schedule I, II, or
12 A”;

13 (3) in section 1004(1) (21 U.S.C. 954(1)), by striking “schedule I” and inserting
14 “schedule I or A”;

15 (4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule
16 I, II, or A”; and

17 (5) in section 1009(a) (21 U.S.C. 959(a)), by striking “schedule I or II” and inserting
18 “schedule I, II, or A”.

19 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF**
20 **CONTROLLED SUBSTANCE ANALOGUE UNDER THE**
21 **ANALOGUE ENFORCEMENT ACT.**

22 Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

23 (1) in paragraph (6), by striking “or V” and inserting “V, or A”;

24 (2) in paragraph (14)—

25 (A) by striking “schedule I(c) and” and inserting “schedule I(c), schedule A, and”;
26 and

27 (B) by striking “schedule I(c),” and inserting “schedule I(c) and schedule A,”; and

28 (3) in paragraph (32)(A), by striking “(32)(A)” and all that follows through clause (iii)
29 and inserting the following:

30 “(32)(A) Except as provided in subparagraph (C), the term ‘controlled substance
31 analogue’ means a substance whose chemical structure is substantially similar to the
32 chemical structure of a controlled substance in schedule I or II—

33 “(i) which has a stimulant, depressant, or hallucinogenic effect on the central
34 nervous system that is substantially similar to or greater than the stimulant, depressant,
35 or hallucinogenic effect on the central nervous system of a controlled substance in
36 schedule I or II; or

37 “(ii) with respect to a particular person, which such person represents or intends to

1 have a stimulant, depressant, or hallucinogenic effect on the central nervous system
2 that is substantially similar to or greater than the stimulant, depressant, or
3 hallucinogenic effect on the central nervous system of a controlled substance in
4 schedule I or II.”.

5 SEC. 1409. RULES OF CONSTRUCTION.

6 Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

7 (1) the prosecution of offenses involving controlled substance analogues under the
8 Controlled Substances Act (21 U.S.C. 801 et seq.); or

9 (2) the authority of the Attorney General to temporarily or permanently schedule,
10 reschedule, or decontrol controlled substances under provisions of section 201 of the
11 Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of
12 enactment of this Act.

13 Subtitle E—Domestic Security

14 CHAPTER 1—GENERAL MATTERS

15 SEC. 1501. ENDING CATCH AND RELEASE FOR REPEAT 16 IMMIGRATION VIOLATORS AND CRIMINALS ALIENS.

17 (a) In General.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is
18 amended by striking the section designation and heading and all that follows through the period
19 at the end of subsection (c) and inserting the following:

20 “SEC. 236. APPREHENSION AND DETENTION OF 21 ALIENS.

22 “(a) Arrest, Detention, and Release.—

23 “(1) IN GENERAL.—The Secretary, on a warrant issued by the Secretary, may arrest an
24 alien and detain the alien pending a decision on whether the alien is to be removed from the
25 United States until the date on which the alien has an administratively final order of
26 removal. Except as provided in subsection (c) and pending such decision, the Secretary—

27 “(A) may—

28 “(i) continue to detain the arrested alien;

29 “(ii) release the alien on bond of at least \$5,000, with security approved by, and
30 containing conditions prescribed by, the Secretary; or

31 “(iii) release the alien on his or her own recognizance, subject to appropriate
32 conditions set forth by the Secretary, if the Secretary determines that the alien will
33 not pose a danger to the safety of other persons or of property and is likely to
34 appear for any scheduled proceeding; and

35 “(B) may not provide the alien with work authorization (including an ‘employment
36 authorized’ endorsement or other appropriate work permit) or advance parole to travel

1 outside of the United States, unless the alien is lawfully admitted for permanent
2 residence or otherwise would (without regard to removal proceedings) be provided
3 such authorization.

4 “(b) Revocation of Bond or Parole.—The Secretary, at any time, may revoke bond or parole
5 authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

6 “(c) Mandatory Detention of Criminal Aliens.—

7 “(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any
8 alien at any time after the alien is released, without regard to whether the alien is released
9 on parole, supervised release, and without regard to whether the alien may be arrested or
10 imprisoned again for the same offense, if the alien—

11 “(A)(i) has not been admitted or paroled into the United States; and

12 “(ii) was apprehended anywhere within 100 miles of the international border of the
13 United States;

14 “(B) is inadmissible by reason of having committed any offense covered in section
15 212(a)(2);

16 “(C) is deportable by reason of having committed any offense covered in section
17 237(a)(2);

18 “(D) is convicted for an offense under section 275(a);

19 “(E) is convicted for an offense under section 276;

20 “(F) is convicted for any criminal offense; or

21 “(G) is inadmissible under section 212(a)(3)(B) or deportable under section
22 237(a)(4)(B).

23 “(2) RELEASE.—

24 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may
25 release an alien described in paragraph (1) only if the Secretary decides pursuant to
26 section ~~3255~~21 of title 18, United States Code, and in accordance with a procedure that
27 considers the severity of the offense committed by the alien, that—

28 “(i) release of the alien from custody is necessary to provide protection to—

29 “(I) a witness;

30 “(II) a potential witness;

31 “(III) a person cooperating with an investigation into major criminal
32 activity; or

33 “(IV) an immediate family member or close associate of a witness,
34 potential witness, or person cooperating with such an investigation; and

35 “(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

36 “(I) is not a flight risk;

37 “(II) poses no danger to the safety of other persons or of property;

1 “(III) is not a threat to national security or public safety; and

2 “(IV) is likely to appear at any scheduled proceeding.

3 “(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

4 “(i) RELEASE FOR PROCEEDINGS.—The Secretary may release any alien held
5 pursuant to paragraph (1) to the appropriate authority for any proceedings
6 subsequent to the arrest.

7 “(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i),
8 the Secretary shall—

9 “(I) resume custody of the alien during any period pending the final
10 disposition of any proceedings subsequent to arrest for which the alien is not
11 in the custody of the appropriate authority referred to in clause (i); and

12 “(II) if the alien is not convicted of the offense for which the alien was
13 arrested, the Secretary shall continue to detain the alien until the date on
14 which removal proceedings are completed.”.

15 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
16 Nationality Act is amended by striking the item relating to section 236 and inserting the
17 following:

18 “Sec.236.Apprehension and detention of aliens.”.

19 SEC. 1502. DETERRING VISA OVERSTAYS.

20 (a) Admission of Nonimmigrants.—Section 214 of the Immigration and Nationality Act (8
21 U.S.C. 1184) is amended by striking the section designation and heading and all that follows
22 through the end of subsection (a)(1) and inserting the following:

23 “SEC. 214. ADMISSION OF NONIMMIGRANTS.

24 “(a) In General.—

25 “(1) TERMS AND CONDITIONS OF ADMISSION.—

26 “(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the admission to the
27 United States of any alien as a nonimmigrant may be for such time and under such
28 conditions as the Secretary may prescribe, including when the Secretary deems
29 necessary the giving of a bond with sufficient surety in such sum and containing such
30 conditions as the Secretary shall prescribe, to ensure that at the expiration of such time
31 or upon failure to maintain the status under which the alien was admitted, or to
32 maintain any status subsequently acquired under section 248, such alien will depart
33 from the United States.

34 “(B) GUAM OR CNMI VISA WAIVER NONIMMIGRANTS.—No alien admitted to Guam or
35 the Commonwealth of the Northern Mariana Islands without a visa pursuant to section
36 212(l) may be authorized to enter or stay in the United States, other than in Guam or
37 the Commonwealth of the Northern Mariana Islands, or to remain in Guam or the
38 Commonwealth of the Northern Mariana Islands for a period exceeding 45 days after
39 the date on which the alien was admitted to Guam or the Commonwealth of the

1 Northern Mariana Islands.

2 “(C) VISA WAIVER PROGRAM NONIMMIGRANTS.—An alien admitted to the United
3 States without a visa pursuant to section 217 shall not be authorized to remain in the
4 United States as a nonimmigrant visitor for a period exceeding 90 days from the date
5 on which the alien was admitted.

6 “(D) BAR TO IMMIGRATION BENEFITS AND TO CONTESTING REMOVAL.—

7 “(i) DEFINITION OF GOOD CAUSE.—In this subparagraph, the term ‘good cause’
8 means extreme exigent humanitarian circumstances, determined on a case-by-case
9 basis only, such as a medical emergency or force majeure.

10 “(ii) CONSEQUENCE OF OVERSTAY.—Subject to clause (iii), except for an alien
11 admitted as a nonimmigrant under subparagraph (A)(i)-(ii) or (G)(i)-(iii) of
12 section 101(a)(15) or a NATO(1)-(6) nonimmigrant, any alien who remains in the
13 United States for a period of more than 30 days after the date on which the period
14 of stay authorized by the Secretary for the alien ends, without good cause, is
15 ineligible for all immigration benefits or relief available under the immigration
16 laws, including relief under sections 240B, 245, 248, and 249, other than—

17 “(I) asylum;

18 “(II) relief as a victim of trafficking under section 101(a)(15)(T);

19 “(III) relief as a victim of criminal activity under section 101(a)(15)(U);

20 “(IV) relief under a VAWA as a spouse or child who has been battered
21 or subjected to extreme crueltyself-petitioner;

22 “(V) relief as a battered spouse or child under section 240A(b)(2);

23 “(VI) withholding of removal under section 241(b)(3); or

24 “(VII) protection from removal based on a claim under the Convention
25 Against Torture and Other Cruel, Inhuman or Degrading Treatment or
26 Punishment, done at New York, December 10, 1984.

27 “(iii) EXCEPTION.—The Secretary may, in the Secretary’s sole and
28 unreviewable discretion, determine that a nonimmigrant is not subject to clause
29 (ii) if—

30 “(I) the alien was lawfully admitted to the United States as a
31 nonimmigrant;

32 “(II) the alien filed a nonfrivolous application for change of status to
33 another nonimmigrant category or for extension of stay before the date on
34 which the alien’s authorized period of stay as a nonimmigrant expired;

35 “(III) the alien has not been employed without authorization in the United
36 States, before or during pendency of the application referred to in subclause
37 (II);

38 “(IV) the alien has not otherwise violated the terms of the alien’s
39 nonimmigrant status; and

1 “(V) the Secretary, in the Secretary’s sole and unreviewable discretion,
2 determines that the alien is not a threat to national security or public safety.

3 “(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause (ii)
4 who remains in the United States more than 30 days after the date on which the
5 period of stay authorized by the Secretary ends, without good cause, shall be
6 detained and the Secretary shall expeditiously remove the alien from the United
7 States not later than 90 days after the date on which the alien is detained.

8 “(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision
9 of law (statutory or nonstatutory), including section 2241 of title 28, United States
10 Code, any other habeas corpus provision, or sections 1361 and 1651 of such title,
11 no court shall have jurisdiction to review any cause or claim, arising from, or
12 relating to, the detention and expedited removal of an alien pursuant to clause
13 (iv).”.

14 (b) Visa Waiver Program Waiver of Rights.—Section 217(b) of the Immigration and
15 Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

16 “(b) Waiver of Rights.—An alien may not be provided a waiver under the program unless the
17 alien has—

18 “(1) signed, under penalty of perjury, an acknowledgement confirming that the alien was
19 notified and understands that he or she will be—

20 “(A) ineligible for any form of relief or immigration benefit under the Act or any
21 other immigration laws, including sections 240B, 245, 248, and 249 (other than a
22 request for asylum), relief as a victim of trafficking under section 101(a)(15)(T), relief
23 as a victim of criminal activity under 101(A)(15)(U), relief ~~as a VAWA self-~~
24 petitioner under VAWA as a spouse or child who has been battered or subjected to
25 extreme cruelty, relief as a battered spouse or child under section 240A(b)(2),
26 withholding of removal under section 241(b)(3), or protection from removal based on a
27 claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading
28 Treatment or Punishment, done at New York, December 10, 1984; and

29 “(B) subject to detention and expedited removal from the United States, if the alien
30 fails to depart from the United States at the end of the 90-day period for admission;

31 “(2) waived any right to review or appeal under this Act of an immigration officer’s
32 determination as to the admissibility of the alien at the port of entry into the United States;
33 and

34 “(3) waived any right to contest any action for removal of the alien.”.

35 (c) Detention and Repatriation of Visa Waiver Violators.—Section 217(c)(2)(E) of the
36 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

37 “(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from
38 the United States at the end of the 90-day period for admission shall be detained
39 pending removal.”.

40 (d) Issuance of Nonimmigrant Visas.—Section 221(a) of the Immigration and Nationality Act
41 (8 U.S.C. 1201(a)) is amended by adding at the end the following:

1 “(3) The Secretary of State shall ensure that every application for a nonimmigrant visa
2 includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the
3 alien—

4 “(A) has been notified of the terms and conditions of the nonimmigrant visa, including
5 the waiver of rights under subsection (j); and

6 “(B) understands that he or she will be ineligible for all immigration benefits and any
7 form of relief or protection from removal, including relief under sections 240B, 245, 248,
8 and 249, other than a request for asylum, relief as a victim of trafficking under section
9 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief ~~as a~~
10 ~~VAWA self-petitioner~~ under VAWA as a spouse or child who has been battered or subjected
11 to extreme cruelty, relief as a battered spouse or child under section 240A(b)(2),
12 withholding of removal under section 241(b)(3), or protection from removal based on a
13 claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading
14 Treatment or Punishment, done at New York, December 10, 1984, and from contesting
15 removal if the alien violates any term or condition of his or her nonimmigrant visa or fails
16 to depart the United States not later than 30 days after the end of the alien’s authorized
17 period of stay.”.

18 (e) Bars to Immigration Relief.—Section 221 of the Immigration and Nationality Act is
19 amended by adding at the end the following:

20 “(j) Waiver of Rights.—The Secretary of State may not issue a nonimmigrant visa under
21 section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or
22 (G) of section 101(a)(15), who is eligible for relief under VAWA as a spouse or child who has
23 been battered or subjected to extreme cruelty ~~as a VAWA self-petitioner~~, or qualifies for a visa as
24 a NATO(1)-(6) nonimmigrant under the North Atlantic Treaty, signed at Washington April 4,
25 1949) until the alien has waived any right to relief under sections 240B, 245, 248, and 249 (other
26 than relief from removal under section 241(b)(3)), any form of relief established after the date on
27 which the nonimmigrant visa is issued, and from contesting removal if the alien—

28 “(1) violates a term or condition of his or her nonimmigrant status; or

29 “(2) fails to depart the United States not later than the date that is 30 days after last day of
30 the alien’s authorized period of stay (as described in section 214(a)(1)).”.

31 (f) Effective Date; Applicability.—

32 (1) IN GENERAL.—This section and the amendments made by this section shall—

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

34 (B) apply only to new visas, initial admissions of nonimmigrants, and initial requests
35 for change of status from a nonimmigrant category to another nonimmigrant category
36 under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

37 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the
38 United States on a nonimmigrant visa who is present in the United States before the date of
39 the enactment of this Act shall not be subject to this section or to the amendments made by
40 this section.

41 SEC. 1503. INCREASE IN IMMIGRATION DETENTION

1 CAPACITY.

2 Not later than September 30, 2018~~22~~, and subject to the availability of appropriations, the
3 Secretary of Homeland Security shall increase the immigration detention capacity to a daily
4 immigration detention capacity of not fewer than 48,879 detention beds.

5 SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND
6 DETAINED ALIENS.

7 Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is
8 amended—

9 (1) in subsection (a)(1), by adding at the end the following:

10 “(C) The Secretary of Homeland Security shall collect DNA samples from any alien
11 (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C.
12 1101(a)(3))) who—

13 “(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or
14 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

15 “(ii) is the subject of a final order of removal under section 240 of such Act (8
16 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8
17 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such
18 Act (8 U.S.C. 1227(a)(2)).”; and

19 (2) in subsection (b), by striking “or the probation office responsible (as applicable)” and
20 inserting “the probation office responsible, or the Secretary of Homeland Security”.

21 SEC. 1505. COLLECTION, USE, AND STORAGE OF
22 BIOMETRIC DATA.

23 (a) Collection and Use of Biometric Information for Immigration Purposes.—

24 (1) COLLECTION.—The Secretary of Homeland Security may require any individual filing
25 with the Department of Homeland Security an application, petition, or other request for an
26 immigration benefit or immigration status or seeking an immigration benefit or other
27 authorization, employment authorization, identity, or travel document, or requesting relief
28 or protection under any provision of the immigration laws to submit to the Secretary
29 biometric information, including fingerprints, photograph, signature, voice print, iris scan,
30 or DNA.

31 (2) USE.—The Secretary may use any biometric information submitted under paragraph
32 (1) to conduct background and security checks, verify an individual’s identity, adjudicate,
33 revoke, or terminate an immigration benefit or immigration status, and perform other
34 functions related to administering and enforcing the immigration laws.

35 (b) Biometric and Biographic Information Sharing.—

36 (1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—
37 The Secretary of Homeland Security, the Secretary of Defense, and the Director of the
38 Federal Bureau of Investigation—

1 (A) shall exchange appropriate biometric and biographic information to determine or
2 confirm the identity of an individual and to assess whether the individual is a threat to
3 national security or public safety; and

4 (B) may use information exchanged pursuant to subparagraph (A)—

5 (i) to compare biometric and biographic information contained in applicable
6 systems of the Department of Homeland Security, the Department of Defense, or
7 the Federal Bureau of Investigation to determine if there is a match between such
8 information; and

9 (ii) if there is a match between such information, to relay such information to
10 the requesting agency.

11 (2) USE OF BIOMETRIC DATA BY THE DEPARTMENT OF STATE.—The Secretary of State shall
12 use biometric information from applicable systems of the Department of Homeland
13 Security, the Department of Defense, and the Federal Bureau of Investigation to screen and
14 track visa applicants and other individuals who isare—

15 (A)(i) ~~a~~-known or suspected terrorists; or

16 (ii) identified as a potential threat to national security; and

17 (B) using an alias while traveling.

18 (3) REPORT ON BIOMETRIC INFORMATION SHARING WITH MEXICO AND OTHER COUNTRIES
19 FOR IDENTITY VERIFICATION.—Not later than 180 days after the date of enactment of this
20 Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint
21 report on the status of efforts to engage with the Government of Mexico and the
22 governments of other appropriate foreign countries located in Central America or South
23 America—

24 (A) to discuss coordination on biometric information sharing between the United
25 States and such countries; and

26 (B) to enter into bilateral agreements that provide for the sharing of such biometric
27 information with the Department of State, the Department of Defense, the Department
28 of Justice, the Federal Bureau of Investigation, and the Department of Homeland
29 Security to use in—

30 (i) identifying individuals who are known or suspected terrorists or potential
31 threats to national security; and

32 (ii) verifying the entry and exit of individuals to and from the United States.

33 (4) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph
34 (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric
35 information from any individual arriving to or departing from the United States.

36 SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD 37 PROCESSING.

38 (a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary
39 of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and

1 Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S.
2 Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers
3 to electronically—

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

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

6 (3) collect biometric data for the purpose of identifying an alien and establishing both
7 immigration status and criminal history while in the field;

8 (4) enter any required data, including personal information about an alien subject and the
9 reason for issuing a document;

10 (5) apply the electronic signature of the issuing U.S. Immigration and Customs
11 Enforcement officer or agent;

12 (6) apply or capture the electronic signature of the alien on any charging document or
13 notice, including any electronic signature captured to acknowledge service of such
14 documents or notices;

15 (7) set the date on which the alien is required to appear before an immigration judge, in
16 the case of a notice to appear;

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

19 (9) interface with the ENFORCE database so that all data is collected, stored, and
20 retrievable in real-time.

21 (b) Contract Support.—The Secretary of Homeland Security may contract with commercial
22 vendors to test prototypes for electronic handheld or vehicle-mounted computers capable of
23 meeting the requirements under subsection (a).

24 (c) Rule of Construction.—The pilot program described in subsection (a) shall be designed to
25 replace, to the extent possible, the current paperwork and data entry process used for issuing
26 charging documents and detainers referred to in that subsection.

27 (d) Report.—Not later than 1 year after the date on which the pilot program described in
28 subsection (a) commences, the Comptroller General of the United States shall submit to the
29 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on
30 the Judiciary of the Senate, the Committee on Homeland Security of the House of
31 Representatives, the Committee on the Judiciary of the House of Representatives a report that
32 includes—

33 (1) the results of the pilot program; and

34 (2) recommendations for using the technology described in subsection (a) on a
35 nationwide basis.

36 SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

37 (a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C.
38 1182(d)(5)) is amended to read as follows:

39 “(5) PAROLE AUTHORITY.—

1 “(A) DEFINITIONS.—In this paragraph:

2 “(i) PUBLIC INTEREST.—With respect to a reason for parole, the term ‘public
3 interest’ means the alien has assisted the United States Government in a matter,
4 such as a criminal investigation, espionage, or other similar law enforcement
5 activity, and either the alien’s presence in the United States is required by the
6 Government or the alien’s life would be threatened if the alien were not permitted
7 to come to the United States.

8 “(ii) URGENT HUMANITARIAN REASON DEFINED.—With respect to an alien, the
9 term ‘urgent humanitarian reason’ means—

10 “(I) the alien has a medical emergency and the alien cannot obtain
11 necessary treatment in the foreign state in which the alien is residing or the
12 medical emergency is life-threatening and there is insufficient time for the
13 alien to be admitted through the normal visa process;

14 “(II) the alien is needed in the United States in order to donate an organ or
15 other tissue for transplant into a close family member;

16 “(III) the alien has a close family member in the United States whose
17 death is imminent and the alien could not arrive in the United States in time
18 to see such family member alive if the alien were to be admitted through the
19 normal visa process;

20 “(IV) the alien is a lawful applicant for adjustment of status under section
21 245; or

22 “(V) the alien was lawfully granted status under section 208 or lawfully
23 admitted under section 207.

24 “(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section
25 214(f), the Secretary may temporarily parole into the United States any alien applying
26 for admission to the United States, under such conditions as the Secretary may
27 prescribe, including requiring the posting of a bond, and only on a case-by-case basis,
28 for an urgent humanitarian reason or a reason deemed strictly in the public interest.

29 “(C) PAROLE NOT AN ADMISSION.—In accordance with section 101(a)(13)(B), parole
30 of an alien under subparagraph (B) shall not be regarded as an admission of the alien to
31 the United States. When the purposes of the parole of an alien have been served, as
32 determined by the Secretary, the alien shall immediately return to his or her country of
33 citizenship, nationality, or origin. If the alien was paroled from custody, the alien shall
34 be returned to the custody from which the alien was paroled and the alien shall be
35 considered for admission to the United States on the same basis as other similarly
36 situated applicants for admission.

37 “(D) PROHIBITED USES OF PAROLE AUTHORITY.—

38 “(i) IN GENERAL.—The Secretary may not use the authority under subparagraph
39 (B) to parole in generalized categories of aliens or classes of aliens based solely
40 on nationality, presence, or residence in the United States, family relationships, or
41 any other criteria that would cover a broad group of foreign nationals either inside
42 or outside of the United States.

1 “(ii) ALIENS WHO ARE NATIONAL SECURITY OR PUBLIC SAFETY THREATS.—

2 “(I) DEFINITION OF EXTREME EXIGENT CIRCUMSTANCES.—In this clause,
3 the term ‘extreme exigent circumstances’ means circumstances under
4 which—

5 “(aa) the failure to parole the alien would result in the immediate
6 significant risk of loss of life or bodily function due to a medical
7 emergency;

8 “(bb) the failure to parole the alien would conflict with medical
9 advice as to the health or safety of the individual, detention facility
10 staff, or other detainees; or

11 “(cc) there is an urgent need for the alien’s presence for a law
12 enforcement purpose, including for a prosecution or securing the alien’s
13 presence to appear as a material witness, or a national security purpose.

14 “(II) PROHIBITION ON PAROLE.—The Secretary shall not parole in any alien
15 whom the Secretary, in the Secretary’s sole and unreviewable discretion,
16 determines to be a threat to national security or public safety, except in
17 extreme exigent circumstances.

18 “(E) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Secretary may not use
19 the parole authority under this paragraph to permit to come to the United States aliens
20 who have applied for and have been found to be ineligible for refugee status or any
21 alien to whom the provisions of this paragraph do not apply.

22 “(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of
23 parole of an alien has been served and, upon such determination—

24 “(i) the alien’s case shall continue to be dealt with in the same manner as that of
25 any other applicant for admission to the United States; and

26 “(ii) if the alien was previously detained, the alien shall be returned to the
27 custody from which the alien was paroled.

28 “(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

29 “(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term ‘advance
30 parole’ means advance approval for an alien applying for admission to the United
31 States to request at a port of entry in the United States, a pre-inspection station, or
32 a designated field office of the Department of Homeland Security, to be paroled
33 into the United States under subparagraph (B).

34 “(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary may, in the Secretary’s
35 discretion, grant an application for advance parole. Approval of an application for
36 advance parole shall not constitute a grant of parole under subparagraph (B). A
37 grant of parole into the United States based on an approved application for
38 advance parole shall not be considered a parole for purposes of qualifying for
39 adjustment of status to lawful permanent resident status in the United States under
40 section 245 or 245A.

41 “(iii) REVOCATION OF ADVANCE PAROLE.—The Secretary may revoke a grant of

1 advance parole to an alien at any time. Such revocation shall not be subject to
2 administrative appeal or judicial review.

3 “(iv) TEMPORARY DEPARTURE.—An alien who leaves the United States
4 temporarily pursuant to a grant of advance parole makes a departure from the
5 United States pursuant to the immigration laws.”.

6 (b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day
7 of the first month beginning more than 60 days after the date of enactment of this Act.

8 SEC. 1508. REPORTS TO CONGRESS ON PAROLE.

9 (a) Report on Number and Category of Aliens Paroled Into the United States.—Not later than
10 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the
11 Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of
12 Representatives a report that, with respect to the most recently completed fiscal year—

13 (1) describes the number and categories of aliens paroled into the United States under
14 section 212(d)(5) of the Immigration and Nationality Act; and

15 (2) contains information and data concerning—

16 (A) the number and categories of aliens paroled;

17 (B) the duration of parole granted to aliens referred to in subparagraph (A); and

18 (C) the current immigration status of the aliens referred to in subparagraph (A).

19 (b) Report on Parole Procedures.—Not later than 180 days after the date of enactment of this
20 Act, and annually thereafter, the Attorney General and the Secretary of Homeland Security shall
21 jointly—

22 (1) conduct a review regarding the effectiveness of parole and custody determination
23 procedures applicable to aliens who have established a credible fear of persecution and are
24 awaiting a final determination regarding their asylum claim by the immigration courts; and

25 (2) submit to the Committee on the Judiciary of the Senate and the Committee on the
26 Judiciary of the House of Representatives a report based on the results of such review, that
27 includes—

28 (A) an analysis of—

29 (i) the rate at which release from detention (including release on parole) is
30 granted to aliens who have established a credible fear of persecution and are
31 awaiting a final determination regarding their asylum claim by the immigration
32 courts throughout the United States; and

33 (ii) any disparity that exists between locations or geographical areas, including
34 an explanation of the reasons for this disparity and what actions are being taken to
35 have consistent and uniform application of the standards for granting parole;

36 (B) an analysis of the effect of the procedures and policies applied with respect to
37 parole and custody determinations by the Attorney General and by the Secretary of
38 Homeland Security on the alien’s pursuit of an asylum claim before an immigration
39 court;

1 (C) an analysis of the effectiveness of the procedures and policies applied with
2 respect to parole and custody determinations by the Attorney General and by the
3 Secretary of Homeland Security in securing the alien’s presence at the immigration
4 court proceedings;

5 (D) recommendations with respect to whether the existing parole and custody
6 determination procedures applicable to aliens who have established a credible fear of
7 persecution and are awaiting a final determination by the immigration courts with
8 respect to asylum claims—

9 (i) respect the interests of the aliens; and

10 (ii) ensure the presence of the aliens at the immigration court proceedings; and

11 (E) an assessment on corresponding failure to appear rates, in absentia orders, and
12 absconders.

13 SEC. 1509. LIMITS ON CONTINUANCES IN REMOVAL 14 PROCEEDINGS.

15 Section 240(c) of the Immigration and Nationality Act, 8 U.S.C. 1229a(c) is amended by
16 adding at the end the following:

17 “(8) MOTION FOR CONTINUANCE.—

18 “(A) IN GENERAL.—Subject to subparagraph (B), an immigration judge may grant a
19 motion for continuance in the case of a specific alien if the immigration judge
20 determines that there is an emergent or extraordinary circumstance that justifies the
21 continuance.

22 “(B) LIMITATIONS.—

23 “(i) NUMBER.—Not more than 2 continuances may be granted in the case of a
24 specific alien.

25 “(ii) DURATION.—A continuance issued under subparagraph (A) shall be
26 limited to a period of not more than 180 days.

27 “(iii) The limitations of clause (i) shall not apply to continuances for
28 completion of required background and security checks, law enforcement
29 investigations (civil or criminal), DNA tests, or forensic document examinations
30 needed to make a decision on a request for relief or an immigration benefit in a
31 specific case.”

32 “(C) EXCEPTION.—The Attorney General shall have the discretion to grant a
33 continuance for a period of more than 180 days in a case in which—

34 “(i) the alien is a parent of a minor child, under the age of 18 years, who has
35 been granted conditional permanent resident status under ~~the SUCCEED Act~~ ~~the~~
36 ~~SUCCEED Act~~; or

37 “(ii) the alien is the primary caretaker of a severely mentally impaired or
38 physically disabled minor child, under the age of 18 years, who is—

39 “(I) in the United States; and

1 “(II) requires continued care while in the United States.”.

2 **SEC. 1510. REINSTATEMENT OF THE SECURE**
3 **COMMUNITIES PROGRAM.**

4 (a) Reinstatement.—The Secretary shall reinstate and operate the Secure Communities
5 immigration enforcement program administered by U.S. Immigration and Customs Enforcement
6 between 2008 and 2014.

7 (b) Authorization of Appropriations.—There is authorized to be appropriated \$150,000,000 to
8 carry out this section.

9 **CHAPTER 2—PROTECTION AND DUE PROCESS FOR**
10 **UNACCOMPANIED ALIEN CHILDREN**

11 **SEC. 1520. SHORT TITLE.**

12 This chapter may be cited as the “Protecting Children and America’s Homeland Act of 2018”.

13 **SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN**
14 **CHILDREN.**

15 Section 235(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
16 of 2008 (8 U.S.C. 1232(a)) is amended—

17 (1) in paragraph (2)—

18 (A) by amending the paragraph heading to read as follows: “RULES FOR
19 UNACCOMPANIED ALIEN CHILDREN.—”;

20 (B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a
21 national or habitual resident of a country that is contiguous with the United States shall
22 be treated in accordance with subparagraph (B)” and inserting “shall be treated in
23 accordance with subparagraph (B) or subsection (b), as appropriate”; and

24 (C) in subparagraph (C)—

25 (i) by amending the subparagraph heading to read as follows: “AGREEMENTS
26 WITH FOREIGN COUNTRIES.—”; and

27 (ii) in the matter preceding clause (i), by striking “countries contiguous to the
28 United States” and inserting “Canada, El Salvador, Guatemala, Honduras,
29 Mexico, and any other foreign country that the Secretary determines to be
30 appropriate”;

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

33 (3) inserting after paragraph (2) the following:

34 “(3) MANDATORY EXPEDITED REMOVAL OF CRIMINALS AND GANG MEMBERS.—
35 Notwithstanding any other provision of law, the Secretary of Homeland Security shall place
36 an unaccompanied alien child in a proceeding in accordance with section 235 of the

1 Immigration and Nationality Act (8 U.S.C. 1225^a) if, the Secretary determines or has reason
2 to believe that the alien—

3 “(A) has been convicted of any offense carrying a maximum term of imprisonment
4 of more than 180 days;

5 “(B) has been convicted of, or found to be a juvenile offender based on, an offense
6 that involved—

7 “(i) the use or attempted use of physical force, or threatened use of a deadly
8 weapon;

9 “(ii) the purchase, sale, offering for sale, exchange, use, ownership, possession,
10 or carrying, or, of attempting or conspiring to purchase, sell, offer for sale,
11 exchange, use, own, possess, or carry, any weapon, part, or accessory which is a
12 firearm or destructive device (as defined in section 921(a) of title 18, United
13 States Code) in violation of any law;

14 “(iii) child abuse and neglect (as defined in section 40002(a)(3) of the Violence
15 Against Women Act of 1994 (34 U.S.C. 12291(a)(3)));

16 “(iv) assault resulting in bodily injury (as defined in section 2266 of title 18,
17 United States Code);

18 “(v) the violation of a protection order (as defined in section 2266 of title 18,
19 United States Code);

20 “(vi) driving while intoxicated or driving under the influence (as such terms are
21 defined in section 164 of title 23, United States Code); or

22 “(vii) any offense under foreign law (except a purely political offense) that, if
23 the offense had been committed in the United States, would render the alien
24 inadmissible under section 212(a) of the Immigration and Nationality Act (8
25 U.S.C. 1182(a));

26 “(C) has been convicted of, or found to be a juvenile offender based on, more than 1
27 criminal offense (other than minor traffic offenses);

28 “(D) has been convicted of, or found to be a juvenile offender based on a crime of
29 violence or an offense under Federal, State, or Tribal law, that has, as an element, the
30 use or attempted use of physical force or the threatened use of physical force or a
31 deadly weapon;

32 “(E) has engaged in, is engaged in, or is likely to engage after entry in any terrorist
33 activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act
34 (8 U.S.C. 1182(a)(3)(B)(iii))), or intends to participate or has participated in the
35 activities of a foreign terrorist organization (as designated under section 219 of the
36 Immigration and Nationality Act (8 U.S.C. 1189));

37 “(F) has engaged in, is engaged in, or any time after a prior admission engages in
38 activity described in section 237(a)(4) of the Immigration and Nationality Act (8
39 U.S.C. 1227(a)(4));

40 “(G) is or was a member of a criminal gang (as defined in section 101(a)(53) of the

1 Immigration and Nationality Act (8 U.S.C. 1101(a)(53));

2 “(H) provided materially false, fictitious, or fraudulent information regarding age or
3 identity to the United States Government with the intent to inaccurately classified as an
4 unaccompanied alien child; or

5 “(I) has entered the United States more than once in violation of section 275(a) of
6 the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was
7 unlawful.”; and

8 (4) in paragraph (4) (as redesignated by paragraph (2))—

9 (A) by striking “not described in paragraph (2)(A)”;

10 (B) by inserting “who choose not to withdraw their application for admission and
11 return to their country of nationality or country of last habitual residence” after “port of
12 entry”;

13 (5) in paragraph (6)(D) (as redesignated by paragraph (2))—

14 (A) by amending the subparagraph heading to read as follows: “EXPEDITED DUE
15 PROCESS AND SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—”;

16 (B) in the matter preceding clause (i), by striking “, except for an unaccompanied
17 alien child from a contiguous country subject to the exceptions under subsection (a)(2),
18 shall be—” and inserting “who meets the criteria under paragraph (2)(A) and chooses
19 not to withdraw his or her application for admission and return to the unaccompanied
20 alien child’s country of nationality or country of last habitual residence, as permitted
21 under section 235B(c)(5) of the Immigration and Nationality Act (8 U.S.C.
22 1225b(c)(5))—”;

23 (C) by amending clause (i) to read as follows:

24 “(i) shall be placed in a proceeding in accordance with section 235B of the
25 Immigration and Nationality Act (8 U.S.C. 1225b), which shall commence not
26 later than 7 days after the date on which the screening of an unaccompanied alien
27 child described in paragraph (5) is carried out;”;

28 (D) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively;

29 (E) by inserting after clause (i) the following:

30 “(ii) may not be placed in the custody of a nongovernmental sponsor or
31 otherwise released from the immediate custody of the United States Government
32 until the child is repatriated unless the child—

33 “(I) is the subject of an order under section 235B(e)(1) of the Immigration
34 and Nationality Act (8 U.S.C. 1225b(e)(1)); and

35 “(II) is placed or released in accordance with subsection (c)(2)(C).”;

36 (F) in clause (iii) (as redesignated) by inserting “is” before “eligible”;

37 (G) in clause (iv), as redesignated, by inserting “shall be” before “provided”.

38 **SEC. 1522. EXPEDITED DUE PROCESS AND SCREENING**

1 FOR UNACCOMPANIED ALIEN CHILDREN.

2 (a) Humane and Expedited Inspection and Screening for Unaccompanied Alien Children.—

3 (1) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C.
4 1221 et seq.) is amended by inserting after section 235A the following:

5 “SEC. 235B. HUMANE AND EXPEDITED INSPECTION
6 AND SCREENING FOR UNACCOMPANIED ALIEN
7 CHILDREN.

8 “(a) Definition of Asylum Officer.—In this section, the term ‘asylum officer’ means an
9 immigration officer who—

10 “(1) has had professional training in country conditions, asylum law, and interview
11 techniques comparable to that provided to full-time adjudicators of applications under
12 section 208; and

13 “(2) is supervised by an officer who—

14 “(A) meets the condition described in paragraph (1); and

15 “(B) has had substantial experience adjudicating asylum applications under section
16 208.

17 “(b) Proceeding.—

18 “(1) IN GENERAL.—Not later than 7 days after the date on which the screening of an
19 unaccompanied alien child under section 235(a)(5) of the William Wilberforce Trafficking
20 Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(5)) is carried out, an
21 immigration judge shall—

22 “(A) conduct and conclude a proceeding to inspect, screen, and determine the status
23 of the unaccompanied alien child who is an applicant for admission to the United
24 States; and

25 “(B) in the case of an unaccompanied alien child seeking asylum, conduct fact
26 finding to determine whether the unaccompanied alien child meets the definition of
27 unaccompanied alien child under section 235(g) of the William Wilberforce
28 Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(g)).

29 “(2) TIME LIMIT.—Not later than 72 hours after the conclusion of a proceeding with
30 respect to an unaccompanied alien child under this section, the immigration judge who
31 conducted such proceeding shall issue an order pursuant to subsection (e).

32 “(c) Conduct of Proceeding.—

33 “(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge conducting a
34 proceeding under this section—

35 “(A) shall administer oaths, receive evidence, and interrogate, examine, and cross-
36 examine the unaccompanied alien child and any witness;

37 “(B) is authorized to sanction by civil money penalty any action (or inaction) in

1 contempt of the judge’s proper exercise of authority under this Act; and
2 “(C) shall determine whether the unaccompanied alien child meets any of the criteria
3 described in subparagraphs (A) through (I) of section 235(a)(3) of the William
4 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C.
5 1232(a)(3)), and if so, order the alien removed under subsection (e)(2).
6 “(2) FORM OF PROCEEDING.—A proceeding under this section may take place—
7 “(A) in person;
8 “(B) at a location agreed to by the parties, in the absence of the unaccompanied alien
9 child;
10 “(C) by video conference; or
11 “(D) by telephone conference.
12 “(3) PRESENCE OF ALIEN.—If it is impracticable by reason of the mental incompetency of
13 the unaccompanied alien child for the alien to be present at the proceeding, the Attorney
14 General shall prescribe safeguards to protect the rights and privileges of the alien.
15 “(4) RIGHTS OF THE ALIEN.—In a proceeding under this section—
16 “(A) the unaccompanied alien child shall be provided access to counsel in
17 accordance with section 235(c)(5) of the William Wilberforce Trafficking Victims
18 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(5));
19 “(B) the alien shall be given a reasonable opportunity—
20 “(i) to examine the evidence against the alien;
21 “(ii) to present evidence on the alien’s own behalf; and
22 “(iii) to cross-examine witnesses presented by the Government;
23 “(C) the rights described in subparagraph (B) shall not entitle the alien—
24 “(i) to examine such national security information as the Government may
25 proffer in opposition to the alien’s admission to the United States; or
26 “(ii) to an application by the alien for discretionary relief under this Act; and
27 “(D) a complete record shall be kept of all testimony and evidence produced at the
28 proceeding.
29 “(5) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An unaccompanied alien child
30 applying for admission to the United States may, and at any time before the issuance of a
31 final order of removal, be permitted to withdraw the application and immediately be
32 returned to the alien’s country of nationality or country of last habitual residence.
33 “(6) CONSEQUENCES OF FAILURE TO APPEAR.—An unaccompanied alien child who does
34 not attend a proceeding under this section, shall be ordered removed, except under
35 exceptional circumstances in which the alien’s absence is the fault of the Government, a
36 medical emergency, or an act of nature.
37 “(d) Decision and Burden of Proof.—

1 “(1) DECISION.—
2 “(A) IN GENERAL.—Notwithstanding section 235(b), at the conclusion of a
3 proceeding under this section, the immigration judge shall determine whether an
4 unaccompanied alien child is likely—
5 “(i) to be admissible to the United States; or
6 “(ii) to be eligible for any form of relief from removal under this Act.
7 “(B) EVIDENCE.—The determination of the immigration judge under subparagraph
8 (A) shall be based only on the evidence produced at the hearing.
9 “(2) BURDEN OF PROOF.—
10 “(A) IN GENERAL.—In a proceeding under this section, an unaccompanied alien
11 child who is an applicant for admission has the burden of establishing, by clear and
12 convincing evidence, that the alien—
13 “(i) is likely to be entitled to be lawfully admitted to the United States or
14 eligible for any form of relief from removal under this Act; or
15 “(ii) is lawfully present in the United States pursuant to a prior admission.
16 “(B) ACCESS TO DOCUMENTS.—In meeting the burden of proof under subparagraph
17 (A)(ii), the alien shall be given access to—
18 “(i) the alien’s visa or other entry document, if any; and
19 “(ii) any other records and documents, not considered by the Attorney General
20 to be confidential, pertaining to the alien’s admission or presence in the United
21 States.
22 “(e) Orders.—
23 “(1) PLACEMENT IN FURTHER PROCEEDINGS.—If an immigration judge determines that the
24 unaccompanied alien child has met the burden of proof under subsection (d)(2), the
25 immigration judge shall order the alien to be placed in further proceedings in accordance
26 with section 240.
27 “(2) ORDERS OF REMOVAL.—If an immigration judge determines that the unaccompanied
28 alien child has not met the burden of proof required under subsection (d)(2), the judge shall
29 order the alien removed from the United States without further hearing or review unless the
30 alien claims—
31 “(A) an intention to apply for asylum under section 208;
32 “(B) a fear of persecution; or
33 “(C) a fear of torture.
34 “(3) CLAIMS FOR ASYLUM.—If an unaccompanied alien child described in paragraph (2)
35 claims an intention to apply for asylum under section 208, a fear of persecution, or a fear of
36 torture, the immigration judge shall order the alien referred for an interview by an asylum
37 officer under subsection (f).
38 “(f) Asylum Interviews.—

1 “(1) DEFINITION OF CREDIBLE FEAR OF PERSECUTION OR TORTURE.—In this subsection, the
2 term ‘credible fear of persecution or torture’ means that after taking into account the
3 credibility of the statements made by an unaccompanied alien child in support of the alien’s
4 claim and such other facts as are known to the asylum officer, there is a significant
5 possibility that the alien could establish eligibility for—

6 “(A) asylum under section 208; or

7 “(B) protection from removal based on Article 3 of the Convention Against Torture
8 and Other Cruel, Inhuman, or Degrading Treatment or Punishment, done at New York,
9 December 10, 1984.

10 “(2) CONDUCT BY ASYLUM OFFICER.—An asylum officer shall conduct the interviews of
11 an unaccompanied alien child referred under subsection (e)(3).

12 “(3) REFERRAL OF CERTAIN ALIENS.—If the asylum officer determines, at the time of the
13 interview, that an unaccompanied alien child has a credible fear of persecution or torture,
14 the alien shall be held in the custody of the Secretary of Health and Human Services
15 pursuant to section 235(b) of the William Wilberforce Trafficking Victims Protection
16 Reauthorization Act of 2008 (8 U.S.C. 1232(b)) during further consideration of the
17 application for asylum.

18 “(4) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

19 “(A) IN GENERAL.—Subject to subparagraph (C), if the asylum officer determines
20 that an unaccompanied alien child does not have a credible fear of persecution, the
21 asylum officer shall order the alien removed from the United States without further
22 hearing or review.

23 “(B) RECORD OF DETERMINATION.—The asylum officer shall prepare a written
24 record of a determination under subparagraph (A), which shall include—

25 “(i) a summary of the material facts as stated by the alien;

26 “(ii) such additional facts (if any) relied upon by the asylum officer;

27 “(iii) the asylum officer’s analysis of why, in light of such facts, the alien has
28 not established a credible fear of persecution; and

29 “(iv) a copy of the asylum officer’s interview notes.

30 “(C) REVIEW OF DETERMINATION.—

31 “(i) RULEMAKING.—The Attorney General shall establish, by regulation, a
32 process by which an immigration judge shall conduct a prompt review, upon the
33 alien’s request, of a determination under subparagraph (A) that the alien does not
34 have a credible fear of persecution or torture.

35 “(ii) MANDATORY COMPONENTS.—The review described in clause (i)—

36 “(I) shall include an opportunity for the alien to be heard and questioned
37 by the immigration judge, either in person or by telephonic or video
38 connection; and

39 “(II) shall be concluded as expeditiously as possible, to the maximum
40 extent practicable within 24 hours, but in no case later than 7 days after the

1 date on which a determination under subparagraph (A) is made.

2 “(D) MANDATORY PROTECTIVE CUSTODY.—Any alien subject to the procedures
3 under this paragraph shall be held in the custody of the Secretary of Health and Human
4 Services pursuant to section 235(b) of the William Wilberforce Trafficking Victims
5 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b))—

6 “(i) pending a final determination of an application for asylum under this
7 subsection; and

8 “(ii) after a determination under this subsection that the alien does not have a
9 credible fear of persecution, until the date on which the alien is removed.

10 “(g) Limitation on Administrative Review.—

11 “(1) IN GENERAL.—Except as provided in subsection (f)(4)(C) and paragraph (2), a
12 removal order entered in accordance with subsection (e)(2) or (f)(4)(A) is not subject to
13 administrative appeal.

14 “(2) RULEMAKING.—The Attorney General shall establish, by regulation, a process for
15 the prompt review of an order under subsection (e)(2) against an alien who claims under
16 oath, or as permitted under penalty of perjury under section 1746 of title 28, United States
17 Code, after having been warned of the penal ties for falsely making such claim under such
18 conditions to have been—

19 “(A) lawfully admitted for permanent residence;

20 “(B) admitted as a refugee under section 207; or

21 “(C) granted asylum under section 208.”.

22 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
23 and Nationality Act is amended by inserting after the item relating to section 235A the
24 following:

25 “Sec.235B.Humane and expedited inspection and screening for unaccompanied alien children.”.

26 (b) Judicial Review of Orders of Removal.—Section 242 of the Immigration and Nationality
27 Act (8 U.S.C. 1252) is amended—

28 (1) in subsection (a)—

29 (A) in paragraph (1), by striking “section 235(b)(1)” and inserting “section
30 235(b)(1) or an order of removal issued to an unaccompanied alien child after
31 proceedings under section 235B”; and

32 (B) in paragraph (2)—

33 (i) by inserting “or section 235B” after “section 235(b)(1)” each place such
34 term appears; and

35 (ii) in subparagraph (A)—

36 (I) in the subparagraph heading, by inserting “OR 235B” after “SECTION
37 235(B)(1)”; and

38 (II) in clause (iii), by striking “section 235(b)(1)(B),” and inserting

1 “section 235(b)(1)(B) or 235B(f);” and

2 (2) in subsection (e)—

3 (A) in the subsection heading, by inserting “or 235B” after “Section 235(b)(1)”;

4 (B) by inserting “or section 235B” after “section 235(b)(1)” each place such term
5 appears;

6 (C) in subparagraph (2)(C), by inserting “or section 235B(g)” after “section
7 235(b)(1)(C)”;

8 (D) in subparagraph (3)(A), by inserting “or section 235B” after “section 235(b)”.

9 **SEC. 1523. CHILD WELFARE AND LAW ENFORCEMENT**
10 **INFORMATION SHARING.**

11 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
12 of 2008 (8 U.S.C. 1232(b)) is amended by adding at the end the following:

13 “(5) INFORMATION SHARING.—

14 “(A) IMMIGRATION STATUS.—If the Secretary of Health and Human Services
15 considers placement of an unaccompanied alien child with a potential sponsor, the
16 Secretary of Homeland Security shall provide to the Secretary of Health and Human
17 Services the immigration status of such potential sponsor before the placement of the
18 unaccompanied alien child.

19 “(B) OTHER INFORMATION.—The Secretary of Health and Human Services shall
20 provide to the Secretary of Homeland Security and the Attorney General, upon request,
21 any relevant information related to an unaccompanied alien child who is or has been in
22 the custody of the Secretary of Health and Human Services, including the location of
23 the child and any person to whom custody of the child has been transferred, for any
24 legitimate law enforcement objective, including the enforcement of the immigration
25 laws.”.

26 **SEC. 1524. ACCOUNTABILITY FOR CHILDREN AND**
27 **TAXPAYERS.**

28 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
29 of 2008 (8 U.S.C. 1232(b)) (as amended by section 1523) is amended by adding at the end the
30 following:

31 “(6) INSPECTION OF FACILITIES.—The Inspector General of the Department of Health and
32 Human Services shall conduct regular inspections of facilities utilized by the Secretary of
33 Health and Human Services to provide care and custody of unaccompanied alien children
34 who are in the immediate custody of the Secretary to ensure that such facilities are operated
35 in the most efficient manner practicable.

36 “(7) FACILITY OPERATIONS COSTS.—The Secretary of Health and Human Services shall
37 ensure that facilities utilized to provide care and custody of unaccompanied alien children
38 are operated efficiently and at a rate of cost that is not greater than \$500 per day for each

1 child housed or detained at such facility, unless the Secretary certifies that compliance with
2 this requirement is temporarily impossible due to emergency circumstances.”.

3 SEC. 1525. CUSTODY OF UNACCOMPANIED ALIEN 4 CHILDREN IN FORMAL REMOVAL PROCEEDING.

5 (a) In General.—Section 235(c) of the William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amended—

7 (1) in paragraph (2) by adding at the end the following:

8 “(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—

9 “(i) LIMITATION ON PLACEMENT.—Notwithstanding any settlement or consent
10 decree previously issued before the date of the enactment of this subparagraph,
11 and section 236.3 of title 8, Code of Federal Regulations, or a similar successor
12 regulation, an unaccompanied alien child who has been placed in a proceeding
13 under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) may
14 not be placed in the custody of a nongovernmental sponsor or otherwise released
15 from the immediate custody of the United States Government unless—

16 “(I) the nongovernmental sponsor is a biological or adoptive parent or
17 legal guardian of the unaccompanied alien child;

18 “(II) the parent or legal guardian is legally present in the United States at
19 the time of the placement;

20 “(III) the parent or legal guardian has undergone a mandatory biometric
21 criminal history check;

22 “(IV) if the nongovernmental sponsor is the biological parent, the parent’s
23 relationship to the alien child has been verified through DNA testing
24 conducted by the Secretary of Health and Human Services;

25 “(V) if the nongovernmental sponsor is the adoptive parent, the parent’s
26 relationship to the alien child has been verified with the judicial court that
27 issued the final legal adoption decree by the Secretary of Health and Human
28 Services; and

29 “(VI) the Secretary of Health and Human Services has determined that the
30 alien child is not a danger to self, a danger to the community, or at risk of
31 flight.

32 “(ii) EXCEPTIONS.—If the Secretary of Health and Human Services determines
33 that an unaccompanied alien child is a victim of severe forms of trafficking in
34 persons (as defined in section 103 of the Trafficking Victims Protection Act of
35 2000 (22 U.S.C. 7102)), a special needs child with a disability (as defined in
36 section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), a
37 child who has been a victim of physical or sexual abuse under circumstances that
38 indicate that the child’s health or welfare has been significantly harmed or
39 threatened, or a child with mental health needs that require ongoing assistance
40 from a social welfare agency, the alien child may be placed with a grandparent or

1 adult sibling if the grandparent or adult sibling meets the requirements under
2 subclauses (II), (III), and (IV) of clause (i).

3 “(iii) MONITORING.—

4 “(I) IN GENERAL.—If an unaccompanied alien child who is 15, 16, or 17
5 years of age is placed with a nongovernmental sponsor or, if an
6 unaccompanied alien child who is younger than 15 years of age is placed
7 with a nongovernmental sponsor, such nongovernmental sponsor shall—

8 “(aa) enroll in the alternative to detention program of U.S.
9 Immigration and Customs Enforcement; and

10 “(bb) continuously wear an electronic ankle monitor while the
11 unaccompanied alien child is in removal proceedings.

12 “(II) PENALTY FOR MONITOR TAMPERING.—If an electronic ankle monitor
13 required by subclause (I) is tampered with, the sponsor of the
14 unaccompanied alien child shall be subject to a civil penalty of \$150 for each
15 day the monitor is not functioning due to the tampering, up to a maximum of
16 \$3,000.

17 “(iv) EFFECT OF VIOLATION OF CONDITIONS.—The Secretary of Health and
18 Human Services shall remove an unaccompanied alien child from a sponsor if the
19 sponsor violates the terms of the agreement specifying the conditions under which
20 the alien was placed with the sponsor.

21 “(v) FAILURE TO APPEAR.—

22 “(I) CIVIL PENALTY.—If an unaccompanied alien child is placed with a
23 sponsor and fails to appear in a mandatory court appearance, the sponsor
24 shall be subject to a civil penalty of \$250 for each day until the alien appears
25 in court, up to a maximum of \$5,000.

26 “(II) BURDEN OF PROOF.—The sponsor is not subject to the penalty
27 imposed under subclause (I) if the sponsor—

28 “(aa) appears in person and proves to the immigration court that the
29 failure to appear by the unaccompanied alien child was not the fault of
30 the sponsor; and

31 “(bb) supplies the immigration court with documentary evidence that
32 supports the assertion described in item (aa).

33 “(vi) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN
34 TRAFFICKERS.—The Secretary of Health and Human Services may not place an
35 unaccompanied alien child under this subparagraph in the custody of an
36 individual who has been convicted of, or the Secretary has reason to believe was
37 otherwise involved in the commission of—

38 “(I) a sex offense (as defined in section 111 of the Sex Offender
39 Registration and Notification Act (34 U.S.C. 20911));

40 “(II) a crime involving severe forms of trafficking in persons (as defined

1 in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.
2 7102)); or

3 “(III) an offense under Federal, State, or Tribal law that has, as an element
4 of the offense, the use or attempted use of physical force or the threatened
5 use of physical force or a deadly weapon.

6 “(vii) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—A biometric
7 criminal history check required under clause (i)(III) shall be conducted using a set
8 of fingerprints or other biometric identifier through—

9 “(I) the Federal Bureau of Investigation;

10 “(II) criminal history repositories of all States that the individual lists as
11 current or former residences; and

12 “(III) any other State or Federal database or repository that the Secretary
13 of Health and Human Services determines to be appropriate.”.

14 (b) Home Studies and Follow-up Services for Unaccompanied Alien Children.—Section
15 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of
16 2008 (8 U.S.C. 1232(c)(3)) is amended—

17 (1) by redesignating subparagraph (C) as (D); and

18 (2) by amending subparagraph (B) to read as follows:

19 “(B) HOME STUDIES.—

20 “(i) IN GENERAL.—[Except as required under clause \(ii\), b](#)Before placing a child
21 with an individual, the Secretary of Health and Human Services shall determine
22 whether a home study is necessary.

23 “(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

24 “(I) who is a victim of a severe form of trafficking in persons or is a
25 special needs child with a disability (as defined in section 3 of the Americans
26 with Disabilities Act of 1990 (42 U.S.C. 12102);

27 “(II) who has been a victim of physical or sexual abuse under
28 circumstances that indicate that the child’s health or welfare has been
29 significantly harmed or threatened; or

30 “(III) whose proposed sponsor clearly presents a risk of abuse,
31 maltreatment, exploitation, or trafficking to the child based on all available
32 objective evidence.

33 “(C) FOLLOW-UP SERVICES AND ADDITIONAL HOME STUDIES.—

34 “(i) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every
35 180 days until the date on which initial removal proceedings are completed and
36 the immigration judge issues an order of removal, [grantsee](#) voluntary departure
37 under section 240B, or [grantede](#)s the alien relief from removal, the Secretary of
38 Health and Human Services shall conduct follow-up services for any child for
39 whom a home study was conducted and who was placed with a nongovernmental
40 sponsor.

1 “(ii) CHILDREN WITH MENTAL HEALTH OR OTHER NEEDS.—Not less frequently
2 than every 180 days, until the date that is 2 years after the date on which a child is
3 placed with a nongovernmental sponsor, the Secretary of Health and Human
4 Services shall conduct follow-up services for any child with mental health needs
5 or other needs who could benefit from ongoing assistance from a social welfare
6 agency.

7 “(iii) CHILDREN AT RISK.—Not less frequently than every 90 days until the date
8 that is 2 years after the date on which a child is placed with a nongovernmental
9 sponsor, the Secretary of Health and Human Services shall conduct home studies
10 and follow-up services, including partnering with local community programs that
11 focus on early morning and after school programs for at-risk children who—

12 “(I) need a secure environment to engage in studying, training, and skills-
13 building programs; and

14 “(II) are at risk for recruitment by criminal gangs or other transnational
15 criminal organizations in the United States.”.

16 (c) Detention of Accompanied Minors.—

17 (1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection
18 Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

19 (A) by redesignating subsections (d) through (i) as subsections (e) through (j)
20 respectively; and

21 (B) by inserting after subsection (c) the following:

22 “(d) Detention of Accompanied Minors.—

23 “(1) IN GENERAL.—Notwithstanding any other provision of law—

24 “(A) judicial determination, consent decree, or settlement agreement, the detention
25 of any alien minor who is not described in section 462(g)(2) of the Homeland Security
26 Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections 217, 235, 236, and 241
27 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231); and

28 “(B) the decision whether to detain or release the alien minor shall be in the sole and
29 unreviewable discretion of the Secretary of Homeland Security.

30 “(2) LIMITATIONS ON RELEASE.—The release of an alien minor who is not described in
31 section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) may not be
32 presumed and an alien minor not described in such section may not be released by the
33 Secretary to anyone other than a parent or legal guardian.

34 “(3) CONDITIONS OF CONFINEMENT.—The conditions of confinement applicable to alien
35 minors who are not described in section 462(g) of the Homeland Security Act of 2002 (6
36 U.S.C. 279(g)(2)) shall be determined in the sole and unreviewable discretion of the
37 Secretary of Homeland Security, and specific licensing requirements may not be imposed
38 other than requirements determined appropriate by the Secretary.”.

39 (2) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this subsection shall—

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

1 (B) apply regardless of the date on which the actions giving rise to removability or
2 detention take place.

3 **SEC. 1526. FRAUD IN CONNECTION WITH THE**
4 **TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN**
5 **CHILDREN.**

6 (a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end
7 the following:

8 **“1041. Fraud in connection with the transfer of custody of**
9 **unaccompanied alien children**

10 “(a) In General.—It shall be unlawful for a person to obtain custody of an unaccompanied
11 alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C.
12 279(g))) by—

13 “(1) making any materially false, fictitious, or fraudulent statement or representation; or

14 “(2) making or using any false writing or document knowing the same to contain any
15 materially false, fictitious, or fraudulent statement or entry.

16 “(b) Penalties.—

17 “(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, this
18 section shall be fined under this title and imprisoned for not less than 1 year.

19 “(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of the violation,
20 attempted violation, or conspiracy to violate this section was to subject the child to sexually
21 explicit activity or any other form of exploitation, the offender shall be fined under this title
22 and imprisoned for not less than 15 years.”.

23 (b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code,
24 is amended by inserting after the item relating to section 1040 the following:

25 “1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

26 **SEC. 1527. NOTIFICATION OF STATES AND FOREIGN**
27 **GOVERNMENTS, REPORTING, AND MONITORING.**

28 (a) Notification.—Section 235 of the William Wilberforce Trafficking Victims Protection
29 Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1525(c)(1)(A)) is amended
30 by adding at the end the following:

31 “(k) Notification to States.—

32 “(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of
33 Health and Human Services shall notify the Governor of a State not later than 48 hours
34 before the placement of an unaccompanied alien child in the custody of such Secretary into
35 the care of a facility or sponsor in such State.

36 “(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this

1 subsection, the Secretary of Health and Human Services shall submit a report to the
2 Governor of each State in which an unaccompanied alien child was discharged to a sponsor
3 or placed in a facility while remaining in the legal custody of the Secretary during the
4 period beginning October 1, 2013 and ending on the date of enactment of this subsection.

5 “(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a
6 monthly report to the Governor of each State in which, during the reporting period, an
7 unaccompanied alien child was discharged to a sponsor or placed in a facility while
8 remaining in the legal custody of the Secretary of Health and Human Services.

9 “(4) CONTENTS.—Each report required to be submitted to the Governor of a State under
10 paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the
11 State during the reporting period, disaggregated by—

12 “(A) the locality in which the aliens were placed; and

13 “(B) the age of such aliens.

14 “(l) Notification of Foreign Country.—The Secretary of Homeland Security shall provide
15 information regarding each unaccompanied alien child to the government of the country of
16 which the child is a national to assist such government with the identification and reunification
17 of such child with their parent or other qualifying relative.

18 “(m) Monitoring Requirement.—The Secretary of Health and Human Services shall—

19 “(1) require all sponsors to agree—

20 “(A) to receive approval from the Secretary of Health and Human Services before
21 changing the location in which the sponsor is housing an unaccompanied alien child
22 placed in the sponsor’s custody; and

23 “(B) to provide a current address for the child and the reason for the change of
24 address;

25 “(2) provide regular and frequent monitoring of the physical and emotional well-being of
26 each unaccompanied alien child who has been discharged to a sponsor or remained in the
27 legal custody of the Secretary until the child’s immigration case is resolved; and

28 “(3) not later than 60 days after the date of enactment of this subsection, submit a plan to
29 Congress for implementing the requirements under paragraphs (1) and (2).”.

30 SEC. 1528. EMERGENCY IMMIGRATION JUDGE 31 RESOURCES.

32 (a) Designation.—Not later than 14 days after the date of enactment of this Act, the Attorney
33 General shall designate not more than 100 immigration judges, including through the hiring of
34 retired immigration judges, magistrate judges, or administrative law judges, or the reassignment
35 of current immigration judges, who shall be dedicated—

36 (1) to conducting humane and expedited inspection and screening for unaccompanied
37 alien children under section 235B of the Immigration and Nationality Act; or

38 (2) to reducing existing backlogs in immigration court proceedings initiated under section
39 239 of the Immigration and Nationality Act (8 U.S.C. 1229).

1 (b) Requirement.—The Attorney General shall ensure that sufficient immigration judge
2 resources [including required legal support staff and full-time interpreters](#), are dedicated to the
3 purpose described in subsection (a)(1) and the Secretary of Homeland Security shall ensure that
4 sufficient immigration attorneys are dedicated to such purpose to comply with the requirement
5 under section 235B(b)(1) of the Immigration and Nationality Act.

6 (c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this
7 section \$10,000,000, for each of fiscal years 2018 through 2022.

8 SEC. 1529. REPORTS TO CONGRESS.

9 (a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019,
10 the Secretary of Health and Human Services shall submit to Congress and make publicly
11 available a report that includes—

12 (1) a detailed summary of the contracts in effect to care for and house unaccompanied
13 alien children, including the names and locations of contractors and the facilities being
14 used;

15 (2) the cost per day to care for and house an unaccompanied alien child, including an
16 explanation of such cost;

17 (3) the number of unaccompanied alien children who have been released to a sponsor, if
18 any;

19 (4) a list of the States to which unaccompanied alien children have been released from the
20 custody of the Secretary of Health and Human Services to the care of a sponsor or
21 placement in a facility;

22 (5) the number of unaccompanied alien children who have been released to a sponsor
23 who is not lawfully present in the United States, including the country of nationality or last
24 habitual residence and age of such children;

25 (6) a determination of whether more than 1 unaccompanied alien child has been released
26 to the same sponsor, including the number of children who were released to such sponsor;

27 (7) an assessment of the extent to which the Secretary of Health and Human Services is
28 monitoring the release of unaccompanied alien children, including home studies done and
29 electronic monitoring devices used;

30 (8) an assessment of the extent to which the Secretary of Health and Human Services is
31 making efforts—

32 (A) to educate unaccompanied alien children about their legal rights; and

33 (B) to provide unaccompanied alien children with access to pro bono counsel; and

34 (9) the extent of the public health issues of unaccompanied alien children, including
35 contagious diseases, the benefits or medical services provided, and the outreach to States
36 and localities about public health issues, that could affect the public.

37 (b) Reports on Repatriation Agreements.—Not later than ~~September 30, 2018~~⁹, the Secretary
38 of State shall submit to Congress and make publicly available a report that—

39 (1) includes a copy of any repatriation agreement in effect for unaccompanied alien

- 1 children;
- 2 (2) describes any such repatriation agreement that is being considered or negotiated; and
- 3 (3) describes the funding provided to the 20 countries that have the highest number of
4 nationals entering the United States as unaccompanied alien children, including amounts
5 provided—
- 6 (A) to deter the nationals of each country from illegally entering the United States;
7 and
- 8 (B) to care for or reintegrate repatriated unaccompanied alien children in the country
9 of nationality or last habitual residence.
- 10 (c) Reports on Returns to Country of Nationality.—Not later than September 30, 2019, the
11 Secretary of Homeland Security shall submit to Congress and make publicly available a report
12 that describes—
- 13 (1) the number of unaccompanied alien children who have voluntarily returned to their
14 country of nationality or habitual residence, disaggregated by—
- 15 (A) country of nationality or habitual residence; and
- 16 (B) age of the unaccompanied alien children;
- 17 (2) the number of unaccompanied alien children who have been returned to their country
18 of nationality or habitual residence, including the length of time such children were present
19 in the United States;
- 20 (3) the number of unaccompanied alien children who have not been returned to their
21 country of nationality or habitual residence pending travel documents or other requirements
22 from such country, including how long they have been waiting to return; and
- 23 (4) the number of unaccompanied alien children who were granted relief in the United
24 States, whether through asylum, any other immigration benefit or status, or deferred action.
- 25 (d) Reports on Immigration Proceedings.—Not later than September 30, 2019, and not less
26 frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination
27 with the Director of the Executive Office for Immigration Review, shall submit to Congress and
28 make publicly available a report that describes—
- 29 (1) the number of unaccompanied alien children who, after proceedings under section
30 235B of the Immigration and Nationality Act were returned to their country of nationality or
31 habitual residence, disaggregated by—
- 32 (A) country of nationality or residence; and
- 33 (B) age and gender of such aliens;
- 34 (2) the number of unaccompanied alien children who, after proceedings under section
35 235B of the Immigration and Nationality Act, prove a claim of admissibility and are placed
36 in proceedings under section 240 of that Act (8 U.S.C. 1229a);
- 37 (3) the number of unaccompanied alien children who fail to appear at a removal hearing
38 that such alien was required to attend;
- 39 (4) the number of sponsors who were levied a penalty, including the amount and whether

1 the penalty was collected, for the failure of an unaccompanied alien child to appear at a
2 removal hearing; and

3 (5) the number of aliens that are classified as unaccompanied alien children, the ages and
4 countries of nationality of such children, and the orders issued by the immigration judge at
5 the conclusion of proceedings under section 235B of the Immigration and Nationality Act
6 for such children.

7 CHAPTER 3—COOPERATION WITH MEXICO AND
8 OTHER COUNTRIES ON ASYLUM AND REFUGEE
9 ISSUES

10 SEC. 1540. STRENGTHENING INTERNAL ASYLUM
11 SYSTEMS IN MEXICO AND OTHER COUNTRIES.

12 (a) In General- The Secretary of State, in consultation with the Secretary of Homeland
13 Security, shall work with international partners, including the United Nations High
14 Commissioner for Refugees, to support and provide technical assistance to strengthen the
15 domestic capacity of Mexico and other countries in the region to provide asylum to eligible
16 children and families by--

17 (1) establishing and expanding temporary and long-term in-country reception centers and
18 shelter capacity to meet the humanitarian needs of those seeking asylum or other forms of
19 international protection;

20 (2) improving the asylum registration system to ensure that all individuals seeking asylum or
21 other humanitarian protection--

22 (A) are properly screened for security, including biographic and biometric capture;

23 (B) receive due process and meaningful access to existing legal protections; and

24 (C) receive proper documents in order to prevent fraud and ensure freedom of movement
25 and access to basic social services;

26 (3) creating or expanding a corps of trained asylum officers capable of evaluating and
27 deciding individual asylum claims consistent with international law and obligations; and

28 (4) developing the capacity to conduct best interest determinations for unaccompanied alien
29 children to ensure that their needs are properly met, which may include family reunification
30 or resettlement based on international protection needs.

31 (b) Report- Not later than 660 days after the date of the enactment of this Act, the Secretary
32 of State, in consultation with the Secretary of Homeland Security, shall submit a report that
33 describes the plans of the Secretary of State to assist in developing the asylum processing
34 capabilities described in subsection (a) to--

35 (1) the Committee on Foreign Relations of the Senate;

36 (2) the Committee on Homeland Security and Governmental Affairs of the Senate;

37 (3) the Committee on the Judiciary of the Senate;

- 1 (4) the Committee on Foreign Affairs of the House of Representatives;
2 (5) the Committee on Homeland Security of the House of Representatives; and
3 (6) the Committee on the Judiciary of the House of Representatives.

4 (c) Authorization of Appropriations- There are authorized to be appropriated such sums as may
5 be necessary to carry out subsection (a).

6 SEC. 1541. EXPANDING REFUGEE PROCESSING IN
7 MEXICO AND CENTRAL AMERICA FOR THIRD
8 COUNTRY RESETTLEMENT.

9 (a) In General- The Secretary of State, in consultation with the Secretary of Homeland
10 Security, shall coordinate with the United Nations High Commissioner for Refugees to support
11 and provide technical assistance to the Government of Mexico and the governments of other
12 countries in the region to increase access to global resettlement for eligible children and families
13 with protection needs by--

14 (1) establishing and expanding in-country refugee reception centers to meet the humanitarian
15 needs of those seeking international protection;

16 (2) improving the refugee registration system to ensure that all refugees--

17 (A) are properly screened for security, including biographic and biometric capture;

18 (B) receive due process and meaningful access to existing legal protections; and

19 (C) receive proper documents in order to prevent fraud and ensure freedom of movement
20 and access to basic social services;

21 (3) creating or expanding a corps of trained refugee officers capable of evaluating and
22 deciding individual claims for protection, consistent with international law and obligations;
23 and

24 (4) developing the capacity to conduct best interest determinations for unaccompanied alien
25 children to ensure that--

26 (A) such children with international protection needs are properly registered; and

27 (B) their needs are properly met, which may include family reunification or resettlement
28 based on international protection needs.

29 (b) Report- Not later than 660 days after the date of the enactment of this Act, the Secretary
30 of State, in consultation with the Secretary of Homeland Security, shall submit a report to the
31 committees listed in section 1540(b) that describes the plans of the Secretary of State to assist in
32 developing the refugee processing capabilities described in subsection (a).

33 (c) Authorization of Appropriations- There are authorized to be appropriated such sums as
34 may be necessary to carry out subsection (a).

35 **Subtitle F—Penalties for Smuggling, Drug Trafficking, Human**
36 **Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to**

1 Readmission of Removed Aliens

2 SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN
3 TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.

4 (a) Criminal Penalties for Human Smuggling and Trafficking.—Section 274(a) of the
5 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (A), by amending clause (ii) to read as follows:

8 “(ii) knowing, or in reckless disregard of the fact, that an alien has come to,
9 entered into, or remains in the United States in violation of law—

10 “(I) transports, moves, or attempts to transport or move such alien within
11 the United States by means of transportation or otherwise, in furtherance of
12 such violation of law; or

13 “(II) transports or moves the alien with the purpose of facilitating the
14 illegal entry of the alien into Canada or Mexico;” and

15 (B) in subparagraph (B)—

16 (i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

17 (ii) in clause (vi) (as so redesignated) by inserting “for not less than 10 years
18 and” before “not more than 20 years;” and

19 (iii) by inserting after clause (ii) the following:

20 “(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
21 subparagraph (A) that is the third or subsequent violation committed by such
22 person under this section, shall be fined under title 18, imprisoned for not less
23 than 5 years and not more than 25 years, or both;

24 “(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
25 subparagraph (A) that recklessly, knowingly, or intentionally results in a victim
26 being involuntarily forced into labor or prostitution, shall be fined under title 18,
27 imprisoned for not less than 5 years and not more than 25 years, or both;

28 “(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph
29 (A) during and in relation to which any person is subjected to an involuntary
30 sexual act (as defined in section 2246 of title 18), be fined under title 18,
31 imprisoned for not less than 5 years and not more than 25 years, or both;” and

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

33 “(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to
34 another or on the high seas, transports, moves, harbors, conceals, or shields from detection such
35 alien outside of the United States for profit or gain when the alien is seeking to enter the United
36 States without official permission or legal authority, shall for, each alien in respect to whom a
37 violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not
38 more than 10 years, or both.”.

1 (b) Seizure and Forfeiture.—Section 274(b)(1) of the Immigration and Nationality Act (8
2 U.S.C. 1324(b)(1)) is amended to read as follows:

3 “(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the
4 commission of a violation or attempted violation of subsection (a), the gross proceeds of
5 such violation or attempted violation, and any property traceable to such property or
6 proceeds, shall be seized and subject to forfeiture.”.

7 SEC. 1602. PUTTING THE BRAKES ON HUMAN 8 SMUGGLING ACT.

9 (a) Short Title.—This section may be cited as the “Putting the Brakes on Human Smuggling
10 Act”.

11 (b) First Violation.—Section 31310(b)(1) of title 49, United States Code, is amended—

12 (1) in subparagraph (D), by striking the “or” at the end;

13 (2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

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

15 “(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal
16 entry into the United States by transporting, guiding, directing, or attempting to assist the
17 alien with the alien’s entry in violation of section 275 of the Immigration and Nationality
18 Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an
19 act in violation of such section; or

20 “(G) using a commercial motor vehicle in willfully aiding or abetting the transport of
21 controlled substances, monetary instruments, bulk cash, or weapons by any individual
22 departing the United States.”.

23 (c) Second or Multiple Violations.—Section 31310(c)(1) of title 49, United States Code, is
24 amended—

25 (1) in subparagraph (E), by striking the “or” at the end;

26 (2) by redesignating subparagraph (F) as subparagraph (H);

27 (3) in subparagraph (H), as redesignated, by striking “(E)” and inserting “(G)”; and

28 (4) by inserting after subparagraph (E) the following:

29 “(F) using a commercial motor vehicle more than once in willfully aiding or abetting an
30 alien’s illegal entry into the United States by transporting, guiding, directing and attempting
31 to assist the alien with the alien’s entry in violation of section 275 of the Immigration and
32 Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or
33 imprisoned for an act in violation of such section;

34 “(G) using a commercial motor vehicle more than once in willfully aiding or abetting the
35 transport of controlled substances, monetary instruments, bulk cash, or weapons by any
36 individual departing the United States; or”.

37 (d) Lifetime Disqualification.—Section 31310(d) of title 49, United States Code, is amended
38 to read as follows:

1 “(d) Lifetime Disqualification.—The Secretary shall permanently disqualify an individual
2 from operating a commercial motor if the individual uses a commercial motor vehicle—

3 “(1) in committing a felony involving manufacturing, distributing, or dispensing a
4 controlled substance, or possession with intent to manufacture, distribute, or dispense a
5 controlled substance;

6 “(2) in committing an act for which the individual is convicted under—

7 “(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

8 “(B) section 277 of such Act (8 U.S.C. 1327); or

9 “(3) in willfully aiding or abetting the transport of controlled substances, monetary
10 instruments, bulk cash, and weapons by any individual departing the United States.”.

11 (e) Reporting Requirements.—

12 (1) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title
13 49, United States Code, is amended—

14 (A) in subparagraph (E), by striking “and” at the end;

15 (B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

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

17 “(G) whether the operator was disqualified, either temporarily or permanently, from
18 operating a commercial motor vehicle under section 31310, including under subsection
19 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

20 (2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is
21 amended by inserting “including such a disqualification, revocation, suspension, or
22 cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d)
23 of section 31310,” after “60 days,”.

24 SEC. 1603. DRUG TRAFFICKING AND CRIMES OF 25 VIOLENCE COMMITTED BY ILLEGAL ALIENS.

26 (a) In General.—Title 18, United States Code, is amended by inserting after chapter 27 the
27 following:

28 “CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF 29 VIOLENCE COMMITTED BY ILLEGAL ALIENS

30 “581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

31 “581. Enhanced penalties for drug trafficking and crimes 32 committed by illegal aliens

33 “(a) Offense.—Any alien unlawfully present in the United States, who commits, conspires to
34 commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of
35 which involves the use or attempted use of physical force or the threatened use of physical force
36 or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under

1 this title, imprisoned for not less than 5 years, or both.

2 “(b) Enhanced Penalties for Aliens Ordered Removed.—Any alien unlawfully present in the
3 United States who violates subsection (a) and was ordered removed under the Immigration and
4 Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the
5 violation of subsection (a), shall be fined under this title, imprisoned for not less than 15 years, or
6 both.

7 “(c) Requirement for Consecutive Sentences.—Any term of imprisonment imposed under this
8 section shall be consecutive to any term imposed for any other offense.”.

9 (b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United
10 States Code, is amended by inserting after the item relating to chapter 27 the following:

11 “28. Drug trafficking and crimes of violence committed by illegal aliens
12581”.

13 SEC. 1604. ESTABLISHING INADMISSIBILITY AND 14 DEPORTABILITY.

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

17 “(iii) CONSIDERATION OF OTHER EVIDENCE.—If the statute of conviction or
18 conviction records do not conclusively establish whether a crime does or does not
19 constitute a crime involving moral turpitude, the Secretary, the Attorney General,
20 or the consular officer, as applicable, may consider other evidence related to the
21 conviction, including charging documents, plea agreements, plea colloquies, jury
22 instructions, and police reports, to determine whether the other evidence clearly
23 establishes that the conduct in which the alien was engaged constitutes a crime
24 involving moral turpitude.”.

25 (b) Deportable Aliens.—

26 (1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8
27 U.S.C. 1227(a)(2)(A)) is amended by—

28 (A) redesignating clause (vi) and clause (vii); and

29 (B) inserting after clause (v) the following:

30 “(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not
31 conclusively establish whether a crime constitutes a crime involving moral
32 turpitude, the Secretary or the Attorney General may consider other evidence
33 related to the conviction, including charging documents, plea agreements, plea
34 colloquies, jury instructions, and police reports, to determine whether that the
35 other evidence clearly establishes that the conduct in which the alien was engaged
36 constitutes a crime involving moral turpitude.”.

37 (2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of Immigration and Nationality Act (8
38 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

39 “(iii) CRIME OF VIOLENCE.—If the statute of conviction or conviction records

1 do not conclusively establish whether a crime of domestic violence constitutes a
2 crime of violence or an offense under Federal, State, or Tribal law that has, as an
3 element of the crime, the use or attempted use of physical force or the threatened
4 use of physical force or a deadly weapon, the Secretary or the Attorney General
5 may consider other evidence related to the conviction, including charging
6 documents, plea agreements, plea colloquies, jury instructions, and police reports,
7 to determine whether the other evidence~~that~~ clearly establishes that the conduct in
8 which the alien was engaged constitutes a crime of violence or an offense under
9 Federal, State, or Tribal law that has, as an element of the crime, the use or
10 attempted use of physical force or the threatened use of physical force or a deadly
11 weapon.”.

12 (c) Effective Date; Applicability.—The amendments made by this section shall—

13 (1) take effect on the date of enactment of this Act; and

14 (2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

15 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY;**
16 **ENHANCED PENALTIES FOR ENTERING WITH INTENT**
17 **TO AID, ABET, OR COMMIT TERRORISM.**

18 (a) In General.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is
19 amended by striking the section designation and heading and all that follows through “may be
20 imposed.” in the undesignated matter following subsection (b)(2) and inserting the following:

21 **“SEC. 275. ILLEGAL ENTRY.**

22 “(a) In General.—

23 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all
24 immigration benefits or relief available under the immigration laws, including relief under
25 section 240B, 245, 248, and 249, other than asylum, relief as a victim of trafficking under
26 section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U),
27 relief ~~as a VAWA self-petitioner under VAWA as a spouse or child who has been battered~~
28 or subjected to extreme cruelty, relief as a battered spouse or child under section
29 240A(b)(2), withholding of removal under section 241(b)(3), or protection from removal
30 based on a claim under the Convention Against Torture and Other Cruel, Inhuman or
31 Degrading Treatment or Punishment, done at New York, December 10, 1984, if the alien—

32 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
33 any time or place other than as designated by immigration officers;

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

37 “(C) enters or crosses the border to the United States and, upon examination or
38 inspection, makes a false or misleading representation or conceals a material fact,
39 including such representation or willful concealment in the context of arrival,
40 reporting, entry, or clearance, requirements of the customs laws, immigration laws,

1 agriculture laws, or shipping laws.

2 “(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3)
3 if the alien—

4 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
5 any time or place other than as designated by immigration officers;

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

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

14 “(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by
15 engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—

16 “(A) shall, for the first violation, be fined under title 18, United States Code,
17 imprisoned not more than 6 months, or both;

18 “(B) shall, for a second or subsequent violation, or following an order of voluntary
19 departure, be fined under such title, imprisoned not more than 2 years, or both;

20 “(C) if the violation occurs after the alien has been convicted of 3 or more
21 misdemeanors (at least 1 of which involves controlled substances, abuse of a minor,
22 trafficking or smuggling, or any offense that may result in serious bodily harm or
23 injury to another person), a significant misdemeanor, or a felony, shall be fined under
24 such title, imprisoned not more than 10 years, or both;

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

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

31 “(4) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through
32 (E) of paragraph (3) are elements of the offenses described in that paragraph and the
33 penalties described in such subparagraphs shall apply only in cases in which the 1 or more
34 convictions that form the basis for the additional penalty are—

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

36 “(B) proven beyond a reasonable doubt at trial; or

37 “(C) admitted by the defendant.

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

40 “(6) ATTEMPT.—Any person who attempts to commit any offense under this section shall

1 be punished in the same manner as for a completion of such offense.

2 “(b) Improper Time or Place; Civil Penalties.—

3 “(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or
4 crossing or attempting to cross the border to the United States at a time or place other than
5 as designated by an immigration officer shall be subject to a civil penalty, in addition to any
6 criminal or other civil penalties that may be imposed under any other provision of law, in an
7 amount equal to—

8 “(A) not less than \$50 but not more than \$250 for each such entry, crossing,
9 attempted entry, or attempted crossing; or

10 “(B) twice the amount described in subparagraph (A) if the alien had previously
11 been subject to a civil penalty under this subsection.

12 “(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in
13 place of, any criminal or other civil penalties that may be imposed.”.

14 (b) Enhanced Penalties.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325)
15 is amended by adding at the end the following:

16 “(e) Enhanced Penalty for Terrorist Aliens.—Any alien who commits an offense described in
17 subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime
18 of terrorism (as defined in section 2332b(g) of title 18, United States Code) shall be imprisoned
19 for not less than 10 years and not more than 30 years.”.

20 (c) Clerical Amendment.—The table of contents in the first section of the Immigration and
21 Nationality Act is amended by striking the item relating to section 275 and inserting the
22 following:

23 “Sec.275.Illegal entry.”.

24 (d) Application.—

25 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act shall
26 apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on
27 or after the date of enactment of this Act.

28 (2) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Section 275(a)(1) of the Immigration
29 and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this
30 Act and apply to any alien who, on or after that date of enactment—

31 (A) enters or crosses, or attempts to enter or cross, the border into the United States
32 at any time or place other than as designated by immigration officers;

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

36 (C) enters or crosses the border to the United States and, upon examination or
37 inspection, makes a false or misleading representation or conceals a material fact,
38 including such representation or concealment in the context of arrival, reporting, entry,
39 or clearance, requirements of the customs laws, immigration laws, agriculture laws, or
40 shipping laws.

1 SEC. 1606. PENALTIES FOR REENTRY OF REMOVED
2 ALIENS.

3 (a) Short Titles.—This section may be cited as the “Stop Illegal Reentry Act” or “Kate’s
4 Law”.

5 (b) Increased Penalties for Reentry of Removed Alien.—

6 (1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is
7 amended to read as follows:

8 “SEC. 276. REENTRY OF REMOVED ALIEN.

9 “(a) In General.—

10 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied
11 admission, excluded, deported, or removed or has departed the United States while an order
12 of exclusion, deportation, or removal is outstanding shall be ineligible for all immigration
13 benefits or relief available under the immigration laws, including relief under section 240B,
14 245, 248, and 249, other than asylum, relief as a victim of trafficking under section
15 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U), relief ~~as a~~
16 ~~VAWA self-petitioner under VAWA as a spouse or child who has been battered or subjected~~
17 ~~to extreme cruelty~~, relief as a battered spouse or child under section 240A(b)(2),
18 withholding of removal under section 241(b)(3), or protection from removal based on a
19 claim under the Convention Against Torture and Other Cruel, Inhuman or Degrading
20 Treatment or Punishment, done at New York, December 10, 1984, if, after such denial,
21 exclusion, deportation, removal, or departure, the alien enters, attempts to enter, crosses the
22 border into, attempts to cross the border into, or is at any time found in, the United States,
23 unless—

24 “(A) if the alien is seeking admission more than 10 years after the date of the alien’s
25 last departure from the United States, the Secretary, before the alien’s reembarkation at
26 a place outside of the United States or the alien’s application for admission from a
27 foreign contiguous territory, has expressly consented to such alien’s reapplying for
28 admission; or

29 “(B) with respect to an alien previously denied admission and removed, such alien
30 establishes that the alien was not required to obtain such advance consent under this
31 Act or any other Act.

32 “(2) CRIMINAL OFFENSES.—Any alien who—

33 “(A) has been denied admission, deported, or removed or has departed the United
34 States while an order of deportation, or removal is outstanding; and

35 “(B) after such denial, removal or departure, enters, attempts to enter, crosses the
36 border into, attempts to cross the border into, or is at any time found in, the United
37 States, unless—

38 “(i) if the alien is seeking admission more than 10 years after the date of the
39 alien’s last departure from the United States, the Secretary, before the alien’s
40 reembarkation at a place outside the United States or the alien’s application for

1 admission from a foreign contiguous territory, has expressly consented to such
2 alien's reapplying for admission; or

3 "(ii) with respect to an alien previously denied admission and removed, such
4 alien establishes that the alien was not required to obtain such advance consent
5 under this Act or any other Act,

6 "shall be fined under title 18, United States Code, imprisoned not more than 5 years, or
7 both.

8 "(b) Criminal Penalties for Reentry of Certain Removed Aliens.—

9 "(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2),
10 and except as provided in subsection (c)—

11 "(A) an alien described in subsection (a) who has been excluded from the United
12 States pursuant to section 235(c) because the alien was excludable under section
13 212(a)(3)(B) or who has been removed from the United States pursuant to the
14 provisions of title V, and thereafter, without the permission of the Secretary, enters the
15 United States, or attempts to enter the United States, shall be fined under title 18,
16 United States Code, and imprisoned for a period of 15 years, which sentence shall not
17 run concurrently with any other sentence;

18 "(B) an alien described in subsection (a) who was removed from the United States
19 pursuant to section 237(a)(4)(B) and thereafter, without the permission of the
20 Secretary, enters, attempts to enter, or is at any time found in, the United States (unless
21 the Secretary has expressly consented to such alien's reentry) shall be fined under title
22 18, United States Code, imprisoned for not more than 15 years, or both; and

23 "(C) an alien described in subsection (a) who has been denied admission, excluded,
24 deported, or removed 2 or more times for any reason and thereafter enters, attempts to
25 enter, crosses the border into, attempts to cross the border into, or is at any time found
26 in, the United States, shall be fined under title 18, United States Code, imprisoned not
27 more than 15 years, or both.

28 "(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties
29 under subsection (a)(2), and except as provided in subsection (c)—

30 "(A) an alien described in subsection (a) who was convicted, on a date that is before
31 the date on which the alien was subject to removal or departure, of a significant
32 misdemeanor shall be fined under title 18, United States Code, imprisoned not more
33 than 10 years, or both;

34 "(B) an alien described in subsection (a) who was convicted, on a date that is before
35 the date on which the alien was subject to removal or departure, of 2 or more
36 misdemeanors involving drugs, crimes against the person, or both, shall be fined under
37 title 18, United States Code, imprisoned not more than 10 years, or both;

38 "(C) an alien described in subsection (a) who was convicted, on a date that is before
39 the date on which the alien was subject to removal or departure, of 3 or more
40 misdemeanors for which the alien was sentenced to a term of imprisonment of not less
41 than 90 days for each offense, or 12 months in the aggregate, shall be fined under title
42 18, United States Code, imprisoned not more than 10 years, or both;

1 “(D) an alien described in subsection (a) who was convicted, on a date that is before
2 the date on which the alien was subject to removal or departure, of a felony for which
3 the alien was sentenced to a term of imprisonment of not less than 30 months shall be
4 fined under such title, imprisoned not more than 15 years, or both;

5 “(E) an alien described in subsection (a) who was convicted, on a date that is before
6 the date on which the alien was subject to removal or departure, of a felony for which
7 the alien was sentenced to a term of imprisonment of not less than 5 years shall be
8 fined under such title, imprisoned not more than 20 years, or both;

9 “(F) an alien described in subsection (a) who was convicted of 3 or more felonies of
10 any kind shall be fined under such title, imprisoned not more than 25 years, or both;
11 and

12 “(G) an alien described in subsection (a) who was convicted, on a date that is before
13 the date on which the alien was subject to removal or departure or after such removal
14 or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77
15 (relating to peonage and slavery) or 113B (relating to terrorism) of such title shall be
16 fined under such title, imprisoned not more than 25 years, or both.

17 “(c) Mandatory Minimum Criminal Penalty for Reentry of Certain Removed Aliens.—
18 Notwithstanding the penalties under subsections (a) and (b), an alien described in subsection (a)
19 shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be
20 fined under title 18, United States Code, if the alien—

21 “(1) was convicted, on a date that is before the date on which the alien was subject to
22 removal or departure, of an aggravated felony; or

23 “(2) was convicted at least twice of illegal reentry under this section on 1 or more dates
24 that are before the date on which such removal or departure.

25 “(d) Proof of Prior Convictions.—The prior convictions described in subsection (b)(2) are
26 elements of the crimes described in that subsection, and the penalties in that subsection shall
27 apply only in cases in which the 1 or more convictions that form the basis for the additional
28 penalty are—

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

30 “(2)(A) proven beyond a reasonable doubt at trial; or

31 “(B) admitted by the defendant.

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

34 “(1) on a date that is before the date of the alleged violation, the alien sought and received
35 the express consent of the Secretary to reapply for admission into the United States; or

36 “(2) with respect to an alien previously denied admission and removed, the alien—

37 “(A) was not required to obtain such advance consent under this Act or any other
38 Act; and

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

1 “(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding
2 under this section, an alien may not challenge the validity of a removal order described in
3 subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

4 “(1) the alien exhausted any administrative remedies that may have been available to seek
5 relief against the order;

6 “(2) the removal or deportation proceedings at which the order was issued improperly
7 deprived the alien of the opportunity for judicial review; and

8 “(3) the entry of the order was fundamentally unfair.

9 “(g) Reentry of Alien Removed Before the Completion of the Term of Imprisonment.—Any
10 alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border
11 into, attempts to cross the border into, or is at any time found in, the United States—

12 “(1) shall be incarcerated for the remainder of the sentence of imprisonment that was
13 pending at the time of deportation or removal without any reduction for parole or supervised
14 release unless the alien affirmatively demonstrates that the Secretary has expressly
15 consented to the alien’s reentry (if a request for consent to reapply is authorized under this
16 section); and

17 “(2) shall be subject to such other penalties relating to the reentry of removed aliens as
18 may be available under this section or any other provision of law.

19 “(h) Definitions.—In this section:

20 “(1) CROSS THE BORDER.—The term ‘cross the border’ refers to the physical act of
21 crossing the border, regardless of whether the alien is free from official restraint.

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

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

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

30 “(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a
31 misdemeanor crime that—

32 “(A) involves the use or attempted use of physical force, or threatened use of a
33 deadly weapon, committed by a current or former spouse, parent, or guardian of the
34 victim, by a person with whom the victim shares a child in common, by a person who
35 is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or
36 by a person similarly situated to a spouse, parent, or guardian of the victim;

37 “(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control
38 and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

39 “(C) involved the unlawful possession of a firearm (as defined in section 921 of title
40 18, United States Code);

1 “(D) is a crime of violence (as defined in section 16 of title 18, United States Code);
2 or

3 “(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use
4 or attempted use of physical force or the threatened use of physical force or a deadly
5 weapon.

6 “(6) STATE.—The term ‘State’ means a State of the United States, the District of
7 Columbia, and any commonwealth, territory, or possession of the United States.”.

8 (c) Effective Date; Applicability.—Section 276(a)(1) of the Immigration and Nationality Act
9 (8 U.S.C. 1326(a)(1)) shall take effect on the date of enactment of this Act and shall apply to any
10 alien who, on or after that date of enactment—

11 (1) has been denied admission, excluded, deported, or removed or has departed the
12 United States while an order of exclusion, deportation, or removal is outstanding; and

13 (2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses
14 the border into, attempts to cross the border into, or is at any time found in, the United
15 States, unless—

16 (A) if the alien is seeking admission more than 10 years after the date of the alien’s
17 last departure from the United States, the Secretary of Homeland Security, before the
18 alien’s reembarkation at a place outside the United States or the alien’s application for
19 admission from a foreign contiguous territory, has expressly consented to such alien’s
20 reapplying for admission; or

21 (B) with respect to an alien previously denied admission and removed, such alien
22 establishes that the alien was not required to obtain such advance consent under the
23 Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

24 SEC. 1607. LAUNDERING OF MONETARY 25 INSTRUMENTS.

26 Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 1590
27 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),”
28 after “section 1363 (relating to destruction of property within the special maritime and territorial
29 jurisdiction),”.

30 SEC. 1608. FREEZING BANK ACCOUNTS OF 31 INTERNATIONAL CRIMINAL ORGANIZATIONS AND 32 MONEY LAUNDERERS.

33 Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

34 “(5)(A) If a person is arrested or charged in connection with an offense described in
35 subparagraph (C) involving the movement of funds into or out of the United States, the Attorney
36 General may apply to any Federal judge or magistrate judge in the district in which the arrest is
37 made or where the charges are filed for an ex parte order restraining any account held by the
38 person arrested or charged for not more than 30 days. Such 30-day period may be extended for
39 good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal

1 Rules of Civil Procedure. The court may receive and consider evidence and information
2 submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

3 “(B) The application for a restraining order under subparagraph (A) shall—

4 “(i) identify the offense for which the person has been arrested or charged;

5 “(ii) identify the location and description of the accounts to be restrained; and

6 “(iii) state that the restraining order is needed to prevent the removal of the funds in the
7 account by the person arrested or charged, or by others associated with such person, during
8 the time needed by the Government to conduct such investigation as may be necessary to
9 establish whether there is probable cause to believe that the funds in the accounts are
10 subject to forfeiture in connection with the commission of any criminal offense.

11 “(C) An offense described in this subparagraph is any offense for which forfeiture is
12 authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

13 “(D) For purposes of this section—

14 “(i) the term ‘account’ includes any safe deposit box and any account (as defined in
15 paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial
16 institution; and

17 “(ii) the term ‘account held by the person arrested or charged’ includes an account held in
18 the name of such person, and any account over which such person has effective control as a
19 signatory or otherwise.

20 “(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for
21 purposes of section 983(a).

22 “(F) A restraining order issued under this paragraph may be executed in any district in which
23 the subject account is found, or transmitted to the central authority of any foreign State for
24 service in accordance with any treaty or other international agreement.”.

25 SEC. 1609. CRIMINAL PROCEEDS LAUNDERED 26 THROUGH PREPAID ACCESS DEVICES, DIGITAL 27 CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.

28 (a) In General.—

29 (1) DEFINITIONS.—

30 (A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES
31 AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section
32 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:

33 “(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders,
34 prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital
35 currency;”.

36 (B) ADDITION OF PREPAID ACCESS DEVICES TO THE DEFINITION OF MONETARY
37 INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by
38 inserting “prepaid access devices,” after “delivery.”.

1 (C) DEFINITION OF PREPAID ACCESS DEVICE.—Section 5312 of such title is
2 amended—

3 (i) by redesignating paragraph (6) as paragraph (7); and

4 (ii) by inserting after paragraph (5) the following:

5 “(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate,
6 code, number, electronic serial number, mobile identification number, personal
7 identification number, or other instrument that provides a portal to funds or the value of
8 funds that have been paid in advance and can be retrievable and transferable at some point
9 in the future.”.

10 (2) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the
11 Comptroller General of the United States shall submit a report to Congress that describes—

12 (A) the impact of amendments made by paragraph (1) on law enforcement, the
13 prepaid access device industry, and consumers; and

14 (B) the implementation and enforcement by the Department of the Treasury of the
15 final rule relating to “Bank Secrecy Act Regulations—Definitions and Other
16 Regulations Relating to Prepaid Access” (76 Fed. Reg. 45403 (July 29, 2011)).

17 (b) U.S. Customs and Border Protection Strategy for Prepaid Access Devices.—Not later than
18 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in
19 consultation with the Commissioner of U.S. Customs and Border Protection, shall submit to
20 Congress a report that—

21 (1) details a strategy to interdict and detect prepaid access devices, digital currencies, or
22 other similar instruments, at border crossings and other ports of entry for the United States;
23 and

24 (2) includes an assessment of the infrastructure needed to carry out the strategy detailed
25 pursuant to paragraph (1).

26 (c) Money Smuggling Through Blank Checks in Bearer Form.—Section 5316 of title 31,
27 United States Code, is amended by adding at the end the following:

28 “(e) Monetary Instruments With Amount Left Blank.—For purposes of this section, a
29 monetary instrument in bearer form that has the amount left blank, such that the amount could be
30 filled in by the bearer, shall be considered to have a value of more than \$10,000 if the monetary
31 instrument was drawn on an account that contained or was intended to contain more than
32 \$10,000 at the time the monetary instrument was—

33 “(1) transported; or

34 “(2) negotiated.”.

35 SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL 36 ASSOCIATES ENGAGED IN MONEY LAUNDERING.

37 (a) Intent to Conceal or Disguise.—Section 1956(a) of title 18, United States Code, is
38 amended—

39 (1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through

1 “Federal law,” in clause (ii) and inserting the following:

2 “(B) knowing that the transaction—

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

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

7 (2) in paragraph (2)(B), by striking “(B) knowing that” and all that follows through
8 “Federal law,” in clause (ii) and inserting the following:

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

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

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

16 (b) Proceeds of a Felony.—Section 1956(c)(1) of title 18, United States Code, is amended by
17 inserting “, and regardless of whether the person knew that the activity constituted a felony”
18 before the semicolon at the end.

19 Subtitle G—Protecting National Security and Public Safety

20 CHAPTER 1—GENERAL MATTERS

21 **SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY,** 22 **[AG1] ENGAGE IN TERRORIST ACTIVITY, AND TERRORIST** 23 **ORGANIZATION.**

24 (a) Definition of Engage in Terrorist Activity.—Section 212(a)(3)(B)(iv)(I) of the Immigration
25 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

26 “(I) to commit a terrorist activity or, under circumstances indicating an
27 intention to cause death, serious bodily harm, or substantial damage to
28 property, to incite another person to commit a terrorist activity;”.

29 (b) Definition of Terrorist Organization.—Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
30 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

31 “(III) that is a group of 2 or more individuals, whether organized or not,
32 which engages in, or has a subgroup that engages in, the activities described
33 in subclauses (I) through (VI) of clause (iv), if the group or subgroup
34 presents a threat to the national security of the United States.”.

35 **SEC. 1702. TERRORIST AND SECURITY-RELATED** 36 **GROUND OF INADMISSIBILITY.**

1 (a) Security and Related Grounds.—Section 212(a)(3)(A) of the Immigration and Nationality
2 Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

3 “(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the
4 Secretary knows, or has reasonable ground to believe, seeks to enter the United States
5 to engage solely, principally, or incidentally, in, or who is engaged in—

6 “(i) any activity—

7 “(I) to violate any law of the United States relating to espionage or
8 sabotage; or

9 “(II) to violate or evade any law prohibiting the export from the United
10 States of goods, technology, or sensitive information;

11 “(ii) any other activity which would be unlawful if committed in the United
12 States; or

13 “(iii) any activity a purpose of which is the opposition to, or the control or
14 overthrow of, the Government of the United States by force, violence, or other
15 unlawful means,

16 is inadmissible.”.

17 (b) Terrorist Activities.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8
18 U.S.C. 1182(a)(3)(B)(i)) is amended—

19 (1) in subclause (III), by inserting “or substantial damage to property” before “,incited
20 terrorist activity”;

21 (2) in subclause (IV), by inserting “or has been” before “a representative”;

22 (23) in subclause (V), by inserting “or has been” before “a member”;

23 (34) in subclause (VI), by inserting “or has been” before “a member”;

24 (45) by amending subclause (VII) to read as follows:

25 “(VII) endorses or espouses, or has endorsed or espoused, terrorist activity
26 or persuades or has persuaded others to endorse or espouse terrorist activity
27 or support a terrorist organization;”;

28 (5) by amending subclause (IX) to read as follows:

29 “(IX) is the spouse or child of an alien who is inadmissible under this
30 subparagraph if—

31 “(aa) the activity causing the alien to be found inadmissible occurred
32 within the last 510 years; and

33 “(bb)(AA) the spouse or child knew, or should reasonably have
34 known, of the activity causing the alien to be found inadmissible under
35 this section; and

36 “(BB) the consular officer or Attorney General does not have
37 reasonable grounds to believe that the spouse or child has renounced the
38 activity causing the alien to be found inadmissible under this section.”;

1 and

2 (6) by striking the undesignated matter following subclause (IX).

3 (c) Palestine Liberation Organization.—Section 212(a)(3)(B) of the Immigration and
4 Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

5 “(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer,
6 official, representative, or spokesman of the Palestine Liberation Organization is
7 considered, for purposes of this Act, to be engaged in terrorist activity.”.

8 **SEC. 1703. EXPEDITED REMOVAL FOR ALIENS**
9 **INADMISSIBLE ON CRIMINAL OR SECURITY**
10 **GROUND.**

11 (a) In General.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is
12 amended—

13 (1) in the section heading, by adding at the end the following: “or who are subject to
14 terrorism-related grounds for removal”;

15 (2) in subsection (b)—

16 (A) in paragraph (1)—

17 (i) by striking “Attorney General” and inserting “Secretary, in the exercise of
18 discretion,”; and

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

21 (B) in paragraphs (3) and (4), by striking “Attorney General” each place that term
22 appears and inserting “Secretary”;

23 (C) in paragraph (5)—

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

26 (ii) by striking “the Attorney General may grant in the Attorney General’s
27 discretion.” and inserting “the Secretary or the Attorney General may grant, in the
28 discretion of the Secretary or the Attorney General, in any proceeding.”;

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

31 (E) by inserting after paragraph (2) the following:

32 “(3) The Secretary, in the exercise of discretion, may determine inadmissibility under
33 section 212(a)(2) and issue an order of removal pursuant to the procedures set forth in this
34 subsection, in lieu of removal proceedings under section 240, with respect to an alien
35 who—

36 “(A) has not been admitted or paroled;

37 “(B) has not been found to have a credible fear of persecution pursuant to the

1 procedures set forth in 235(b)(1)(B); and

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

3 (3) by redesignating the first subsection (c) as subsection (d);

4 (4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of
5 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of
6 Public Law 104–208; 110 Stat. 3009–720)), as subsection (e); and

7 (5) by inserting after subsection (b) the following:

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

9 “(1) IN GENERAL.—The Secretary—

10 “(A) notwithstanding section 240, shall—

11 “(i) determine the inadmissibility of every alien under subclause (I), (II), or
12 (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section
13 237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

14 “(ii) issue an order of removal pursuant to the procedures set forth in this
15 subsection to every alien determined to be inadmissible or deportable on a ground
16 described in clause (i); and

17 “(B) may—

18 “(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of
19 section 212(a)(3) (other than subclauses (I), (II), and (III) of section
20 212(a)(3)(B)(i)), or the deportability of the alien under subparagraph (A) or (B) of
21 section 237(a)(4) (as a consequence of being described in subclause (I), (II), or
22 (III) of section 212(a)(3)(B)(i)); [AG2]and

23 “(ii) issue an order of removal pursuant to the procedures set forth in this
24 subsection to every alien determined to be inadmissible or deportable on a ground
25 described in clause (i).

26 “(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1)
27 until 30 days after the date on which such order was issued, unless waived by the alien, to
28 give the alien an opportunity to petition for judicial review under section 242.

29 “(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings
30 under this subsection, which shall require that—

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

33 “(B) the alien has the privilege of being represented (at no expense to the
34 Government) by such counsel, authorized to practice in such proceedings, as the alien
35 shall choose;

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

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

1 the alien named in such notice;

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

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

5 “(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall
6 be eligible for any relief from removal that the Secretary may grant in the Secretary’s
7 discretion.”.

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

11 “Sec.238.Expedited removal of aliens convicted of aggravated felonies or who are subject to
12 terrorism-related grounds for removal.”.

13 (c) Effective Date and Application.—The amendments made by this section shall take effect
14 on the date of the enactment of this Act ~~but~~ shall not apply to aliens who are in removal
15 proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such
16 date of enactment.

17 SEC. 1704. DETENTION OF REMOVABLE ALIENS.

18 (a) Criminal Alien Enforcement Partnerships.—Section 287 of the Immigration and
19 Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end
20 the following:

21 “(j) Criminal Alien Enforcement Partnerships.—

22 “(1) IN GENERAL.—The Secretary may enter into a written agreement with a State, or
23 with any political subdivision of a State, to authorize the temporary placement of 1 or more
24 U.S. Customs and Border Protection agents or officers or U.S. Immigration and Customs
25 Enforcement agents or investigators at a local police department or precinct—

26 “(A) to determine the immigration status of any individual arrested by a State,
27 county, or local police, enforcement, or peace officer for any criminal offense;

28 “(B) to issue charging documents and notices related to the initiation of removal
29 proceedings or reinstatement of prior removal orders under section 241(a)(5);

30 “(C) to enter information directly into the National Crime Information Center
31 (NCIC) database, Immigration Violator File, including—

32 “(i) the alien’s address;

33 “(ii) the reason for the arrest;

34 “(iii) the legal cite of the State law violated or for which the alien is charged;

35 “(iv) the alien’s driver’s license number and State of issuance, if the alien has a
36 driver’s license;

37 “(v) any other identification document held by the alien and issuing entity for
38 such identification documents; and

1 “(vi) any identifying marks, such as tattoos, birthmarks, and scars;

2 “(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of
3 the alien and to enter such information into the Automated Biometric Identification
4 System (IDENT) and any other Department of Homeland Security or law enforcement
5 database authorized for storage of biometric information for aliens; and

6 “(E) to make advance arrangements for the immediate transfer from State to Federal
7 custody of any criminal alien when the alien is released, without regard to whether the
8 alien is released on parole, supervised release, or probation, and without regard to
9 whether the alien may be arrested and imprisoned again for the same offense.

10 “(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary
11 duty assignment authorized under this subsection shall be 1 year. The temporary duty
12 assignment may be extended for additional periods of time as agreed to by the Secretary and
13 the State or political subdivision of the State to ensure continuity of operations, cooperation,
14 and coverage.

15 “(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border
16 Protection and U.S. Immigration and Customs Enforcement agents, officers, and
17 investigators on a temporary duty assignment under this subsection mobile access to Federal
18 databases containing alien information, live scan technology for collection of biometrics,
19 and video-conferencing capability for use at local police departments or precincts in remote
20 locations.

21 “(4) REPORT.—Not later than 1 year after the date of the enactment of the SECURE Act
22 of IRCTA 2018, the Secretary shall submit a report to the Committee on the Judiciary of the
23 Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the
24 Committee on the Judiciary of the House of Representatives, and the Committee on
25 Homeland Security of the House of Representatives that identifies—

26 “(A) the number of States that have entered into an agreement under this subsection;

27 “(B) the number of criminal aliens processed by the U.S. Customs and Border
28 Protection agent or officer or U.S. Immigration and Customs Enforcement agent or
29 investigator during the temporary duty assignment; and

30 “(C) the number of criminal aliens transferred from State to Federal custody during
31 the agreement period.”.

32 (b) Detention, Release, and Removal of Aliens Ordered Removed.—

33 (1) REMOVAL PERIOD.—

34 (A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8
35 U.S.C. 1231(a)(1)(A)) is amended by striking “Attorney General” and inserting
36 “Secretary”.

37 (B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C.
38 1231(a)(1)(B)) is amended to read as follows:

39 “(B) BEGINNING OF PERIOD.—

40 “(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date

1 that is the latest of the following:

2 “(I) If a court, the Board of Immigration Appeals, or an immigration judge
3 orders a stay of the removal of the alien, the date on which the stay of
4 removal ends.

5 “(II) If the alien is ordered removed, the date pursuant to an
6 administratively final removal order and the Secretary takes the alien into
7 custody for removal.

8 “(III) If the alien is detained or confined (except under an immigration
9 process), the date on which the alien is released from detention or
10 confinement.

11 “(ii) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If
12 the Secretary transfers custody of the alien pursuant to law to another Federal
13 agency or to an agency of a State or local government in connection with the
14 official duties of such agency, the removal period for the alien—

15 “(I) shall be tolled; and

16 “(II) shall resume on the date on which the alien is returned to the custody
17 of the Secretary.”.

18 (C) SUSPENSION OF PERIOD.—Section 241(a)(1)(C) of such Act (8 U.S.C.
19 1231(a)(1)(C)) is amended to read as follows:

20 “(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a
21 period of 90 days and the alien may remain in detention during such extended period if
22 the alien—

23 “(i) fails or refuses to make all reasonable efforts to comply with the order of
24 removal or to fully cooperate with the efforts of the Secretary to establish the
25 alien’s identity and carry out the order of removal, including making timely
26 application in good faith for travel or other documents necessary to the alien’s
27 departure; or

28 “(ii) conspires or acts to prevent the alien’s removal subject to an order of
29 removal.”.

30 (2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C.
31 1231(a)(2)) is amended—

32 (A) by inserting “(A) IN GENERAL.—” before “During”;

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

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

35 “(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration
36 Appeals, or an immigration judge orders a stay of removal of an alien who is subject to
37 an order of removal, the Secretary, in the Secretary’s sole and unreviewable exercise of
38 discretion, and notwithstanding any provision of law, including section 2241 of title
39 28, United States Code, may detain the alien during the pendency of such stay of
40 removal.”.

1 (3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and
2 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

3 (A) in the matter preceding subparagraph (A), by striking “Attorney General” and
4 inserting “Secretary”;

5 (B) in subparagraph (C), by striking “Attorney General” and inserting “Secretary”;
6 and

7 (C) by amending subparagraph (D) to read as follows:

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

12 (4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR
13 PROBATION.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C.
14 1231(a)(4)) is amended—

15 (A) in subparagraph (A), by striking “Attorney General” and inserting “Secretary”;
16 and

17 (B) in subparagraph (B)—

18 (i) in the matter preceding clause (i), by striking “Attorney General” and
19 inserting “Secretary”;

20 (ii) in clause (i), by striking “if the Attorney General” and inserting “if the
21 Secretary”; and

22 (iii) in clause (ii)(III), by striking “Attorney General” and inserting “Secretary”.

23 (5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

24 (A) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8
25 U.S.C. 1231(a)(5)) is amended to read as follows:

26 “(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If
27 the Secretary determines that an alien has entered the United States illegally after having
28 been removed, deported, or excluded, or having departed voluntarily, under an order of
29 removal, deportation, or exclusion, regardless of the date of the original order or the date of
30 the illegal entry—

31 “(A) the order of removal, deportation, or exclusion is reinstated from its original
32 date and is not subject to being reopened or reviewed notwithstanding section
33 242(a)(2)(D);

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

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

39 “(D) reinstatement under subparagraph (A) shall not require proceedings under

1 section 240 or other proceedings before an immigration judge.”.

2 (B) JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended by—

3 (i) in subsection (g), by inserting “grant, rescind, or deny any form of
4 discretionary relief under this title ~~and title I~~, or to” before “commence”; and

5 (ii) by adding at the end the following:

6 “(h) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION
7 241(A)(5).—

8 “(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—Judicial review of
9 determinations under section 241(a)(5) is available in an action under subsection (a).

10 “(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law
11 (statutory or nonstatutory), including section 2241 of title 28, United States Code, any
12 other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall
13 have jurisdiction to review any cause or claim, arising from, or relating to, any
14 challenge to the original order.”.

15 (C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs
16 (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders
17 reinstated or after that date by the Secretary of Homeland Security (or by the Attorney
18 General before March 1, 2003), regardless of the date of the original order.

19 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and
20 Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

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

22 (B) by striking “removal period and, if released,” and inserting “removal period, in
23 the discretion of the Secretary, without any limitations other than those specified in this
24 section, until the alien is removed,”.

25 (7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration
26 and Nationality Act (8 U.S.C. 1231(a)) is amended—

27 (A) in paragraph (7), by striking “Attorney General” and inserting “Secretary”;

28 (B) by redesignating paragraph (7) as paragraph (15); and

29 (C) by inserting after paragraph (6) the following:

30 “(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens
31 subject to detention under section 236(c), 236A, or 238, if an alien who is detained is an
32 applicant for admission, the Secretary, in the Secretary’s discretion, may parole the alien
33 under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien
34 shall not be returned to custody unless the alien violates the conditions of such parole or the
35 alien’s removal becomes reasonably foreseeable, provided that in no circumstance shall
36 such alien be considered admitted.

37 “(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE
38 PREVIOUSLY ADMITTED TO THE UNITED STATES.—

39 “(A) APPLICATION.—The procedures set out under this paragraph—

1 “(i) apply only to an alien who was previously admitted to the United States;
2 and

3 “(ii) do not apply to any other alien, including an alien detained pursuant to
4 paragraph (6).

5 “(B) ESTABLISHMENT OF DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY
6 COOPERATE WITH REMOVAL.—

7 “(i) REQUIREMENT TO ESTABLISH.—If an alien has made all reasonable efforts
8 to comply with a removal order and to cooperate fully with the efforts of the
9 Secretary to establish the alien’s identity and carry out the removal order,
10 including making timely application in good faith for travel or other documents
11 necessary to the alien’s departure, and has not conspired or acted to prevent
12 removal, the Secretary shall establish an administrative review process to
13 determine whether the alien should be detained or released on conditions.

14 “(ii) DETERMINATIONS.—The Secretary shall—

15 “(I) make a determination whether to release an alien described in clause
16 (i) after the end of the alien’s removal period; and

17 “(II) in making a determination under subclause (I), consider any evidence
18 submitted by the alien, and may consider any other evidence, including any
19 information or assistance provided by the Department of State or other
20 Federal agency and any other information available to the Secretary
21 pertaining to the ability to remove the alien.

22 “(9) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—The Secretary, in the
23 exercise of discretion, without any limitations other than those specified in this section, may
24 continue to detain an alien for 90 days beyond the removal period (including any extension
25 of the removal period as provided in paragraph (1)(C))—

26 “(A) until the alien is removed, if the Secretary determines that—

27 “(i) there is a significant likelihood that the alien will be removed in the
28 reasonably foreseeable future;

29 “(ii) the alien would be removed in the reasonably foreseeable future, or would
30 have been removed, but for the alien’s failure or refusal to make all reasonable
31 efforts to comply with the removal order, or to cooperate fully with the
32 Secretary’s efforts to establish the alien’s identity and carry out the removal order,
33 including making timely application in good faith for travel or other documents
34 necessary to the alien’s departure, or conspiracies or acts to prevent removal;

35 “(iii) the government of the foreign country of which the alien is a citizen,
36 subject, national, or resident is denying or unreasonably delaying accepting the
37 return of the alien after the Secretary asks whether the government will accept an
38 alien under section 243(d); or

39 “(iv) the government of the foreign country of which the alien is a citizen,
40 subject, national, or resident is refusing to issue any required travel or identity
41 documents to allow the alien to return to that country;

1 “(B) until the alien is removed, if the Secretary certifies in writing—

2 “(i) in consultation with the Secretary of Health and Human Services, that the
3 alien has a highly contagious disease that poses a threat to public safety;

4 “(ii) after receipt of a written recommendation from the Secretary of State, that
5 release of the alien is likely to have serious adverse foreign policy consequences
6 for the United States;

7 “(iii) based on information available to the Secretary (including classified,
8 sensitive, or other information, and without regard to the grounds upon which the
9 alien was ordered removed), that there is reason to believe that the release of the
10 alien would threaten the national security of the United States;

11 “(iv) that the release of the alien will threaten the safety of the community or
12 any person, conditions of release cannot reasonably be expected to ensure the
13 safety of the community or any person, and either—

14 “(I) the alien has been convicted of 1 or more aggravated felonies (as
15 defined in section 101(a)(43)), 1 or more crimes identified by the Secretary
16 by regulation, or 1 or more attempts or conspiracies to commit any such
17 aggravated felonies or such identified crimes, provided that the aggregate
18 term of imprisonment for such attempts or conspiracies is at least 5 years; or

19 “(II) the alien has committed 1 or more violent offenses (but not including
20 a purely political offense) and, because of a mental condition or personality
21 disorder and behavior associated with that condition or disorder, the alien is
22 likely to engage in acts of violence in the future; or

23 “(v) that the release of the alien will threaten the safety of the community or
24 any person, conditions of release cannot reasonably be expected to ensure the
25 safety of the community or any person, and the alien has been convicted of at
26 least one aggravated felony (as defined in section 101(a)(43)); and

27 “(C) pending a determination under subparagraph (B), if the Secretary has initiated
28 the administrative review process not later than 30 days after the expiration of the
29 removal period (including any extension of the removal period as provided in
30 paragraph (1)(C)).

31 “(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

32 “(A) RENEWAL.—The Secretary may renew a certification under paragraph
33 (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the
34 alien to request reconsideration of the certification and to submit documents or other
35 evidence in support of that request. If the Secretary does not renew a certification, the
36 Secretary may not continue to detain the alien under paragraph (9)(B).

37 “(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate
38 the authority to make or renew a certification described in clause (ii), (iii), or (iv) of
39 paragraph (9)(B) to an official below the level of the Director of U.S. Immigration and
40 Customs Enforcement.

41 “(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be

1 released from detention, the Secretary, in the exercise of discretion, may impose conditions
2 on release as provided in paragraph (3).

3 “(12) REDETENTION.—The Secretary, in the exercise of discretion, without any
4 limitations other than those specified in this section, may again detain any alien subject to a
5 final removal order who is released from custody if the alien fails to comply with the
6 conditions of release or to continue to satisfy the conditions described in paragraph (8), or
7 if, upon reconsideration, the Secretary determines that the alien can be detained under
8 paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody
9 pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

10 “(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States,
11 but has not been lawfully admitted nor physically present in the United States continuously
12 for the 2-year period immediately preceding the commencement of removal proceedings
13 under this Act against the alien, the Secretary, in the exercise of discretion, may decide not
14 to apply paragraph (8) and detain the alien without any limitations except those which the
15 Secretary shall adopt by regulation.

16 “(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of
17 any action or decision pursuant to paragraph (6) through (14) shall be available exclusively
18 in habeas corpus proceedings instituted in the United States District Court for the District of
19 Columbia, and only if the alien has exhausted all administrative remedies (statutory and
20 regulatory) available to the alien as of right.”

21 (c) Detention of Aliens During Removal Proceedings.—

22 (1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is
23 amended by adding at the end the following:

24 “(e) Length of Detention.—

25 “(1) IN GENERAL.—An alien may be detained under this section while proceedings are
26 pending, without limitation, until the alien is subject to an administratively final order of
27 removal.

28 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
29 section shall not affect the validity of any detention under section 241.

30 “(f) Judicial Review.—Without regard to the place of confinement, judicial review of any
31 action or decision made pursuant to subsection (e) shall be available exclusively in a habeas
32 corpus proceeding instituted in the United States District Court for the District of Columbia and
33 only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available
34 to the alien as of right.”

35 (2) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8
36 U.S.C. 1226) is amended—

37 (A) by redesignating subsection (e) as subsection (f);

38 (B) by inserting after subsection (d) the following new subsection (e):

39 “(e) Length of Detention.—

40 “(1) IN GENERAL.—An alien may be detained under this section, without limitation, until

1 the alien is subject to an administratively final order of removal.

2 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
3 section shall not affect the validity of any detention under section 241.”; and

4 (C) in subsection (f), as so redesignated, by adding at the end the following:
5 “Without regard to the place of confinement, judicial review of any action or decision
6 made pursuant to subsection (e) shall be available exclusively in a habeas corpus
7 proceeding instituted in the United States District Court for the District of Columbia,
8 and only if the alien has exhausted all administrative remedies (statutory and
9 nonstatutory) available to the alien as of right.”.

10 (d) Attorney General’s Discretion in Determining Countries of Removal.—Section 241(b) of
11 the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

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

15 (2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing
16 the alien to 1 or more of such countries is prejudicial to the interests of the United States,”
17 after “this subparagraph,”.

18 (e) Effective Dates and Application.—

19 (1) AMENDMENTS MADE BY SUBSECTION (B).—The amendments made by subsection (b)
20 shall take effect on the date of the enactment of this Act. Section 241 of the Immigration
21 and Nationality Act, as amended by subsection (b), shall apply to—

22 (A) all aliens subject to a final administrative removal, deportation, or exclusion
23 order that was issued before, on, or after the date of the enactment of this Act; and

24 (B) acts and conditions occurring or existing before, on, or after the date of the
25 enactment of this Act.

26 (2) AMENDMENTS MADE BY SUBSECTION (C).—The amendments made by subsection (c)
27 shall take effect upon the date of the enactment of this Act. Sections 235 and 236 of the
28 Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in
29 detention under provisions of such sections on or after the date of the enactment of this Act.

30 SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

31 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
32 United States shall submit a report to Congress on the deaths in custody of detainees held by the
33 Department of Homeland Security, which shall include, with respect to any such deaths—

34 (1) whether such death could have been prevented by the delivery of medical treatment
35 administered while the detainee was in the custody of the Department of Homeland
36 Security;

37 (2) whether Department practices and procedures were properly followed and obeyed;

38 (3) whether such practices and procedures are sufficient to protect the health and safety of
39 such detainees; and

1 (4) whether reports of such deaths were made to the Deaths in Custody Reporting
2 Program.

3 SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

4 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
5 United States shall submit to the Committee on the Judiciary of the Senate, the Committee on
6 Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
7 the House of Representatives, and the Committee on Homeland Security of the House of
8 Representatives a report that describes—

9 (1) the total number of migrant deaths along the southern border during the previous 7
10 years;

11 (2) the total number of unidentified deceased migrants found along the southern border in
12 the previous 7 years;

13 (3) the level of cooperation between U.S. Customs and Border Protection, State and local
14 law enforcement agencies, foreign diplomatic and consular posts, nongovernmental
15 organizations, and family members to accurately identify deceased individuals;

16 (4) the use of DNA testing and sharing of such data between U.S. Customs and Border
17 Protection, State and local law enforcement agencies, foreign diplomatic and consular posts,
18 and nongovernmental organizations to accurately identify deceased individuals;

19 (5) the comparison of DNA data with information on Federal, State, and local missing
20 person registries; and

21 (6) the procedures and processes U.S. Customs and Border Protection has in place for
22 notification of relevant authorities or family members after missing persons are identified
23 through DNA testing.

24 SEC. 1707. STATUTE OF LIMITATIONS FOR VISA, 25 NATURALIZATION, AND OTHER FRAUD OFFENSES 26 INVOLVING WAR CRIMES, CRIMES AGAINST 27 HUMANITY, OR HUMAN RIGHTS VIOLATIONS.

28 (a) Statute of Limitations for Visa Fraud and Other Offenses.—Chapter 213 of title 18, United
29 States Code, is amended by adding at the end the following:

30 “3302. Fraud in connection with certain human rights violations, 31 crimes against humanity, or war crimes

32 “(a) In General.—No person shall be prosecuted, tried, or punished for violation of any
33 provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to
34 violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment,
35 or fraudulent, fictitious, or false statement concerns the alleged offender’s—

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

1 crime; or

2 “(2) membership in, service in, or authority over a military, paramilitary, or law
3 enforcement organization that participated in such conduct during any part of any period in
4 which the alleged offender was a member of, served in, or had authority over the
5 organization, unless the indictment is found or the information is instituted within 20 years
6 after the commission of the offense.

7 “(b) Definitions.—In this section—

8 “(1) the term ‘extrajudicial killing under color of ~~foreign~~ law’ means conduct described
9 in section 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C.
10 1182(a)(3)(E)(iii));

11 “(2) the term ‘female genital mutilation’ means conduct described in section 116;

12 “(3) the term ‘genocide’ means conduct described in section 1091(a);

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

18 “(5) the term ‘incitement to genocide’ means conduct described in section 1091(c);

19 “(6) the term ‘particularly severe violation of religious freedom’ means conduct
20 described in section 3(3) of the International Religious Freedom Act of 1998 (22 U.S.C.
21 6402(13));

22 “(7) the term ‘persecution’ means conduct that is a bar to relief under section
23 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));

24 “(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2340;

25 “(9) the term ‘use or recruitment of child soldiers’ means conduct described in
26 subsections (a) and (d) of section 2442;

27 “(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section
28 2441; and

29 “(11) the term ‘crimes against humanity’ means conduct described in section
30 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(iii)).”.

31 (b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States
32 Code, is amended by adding at the end the following:

33 “3302. Fraud in connection with certain human rights violations, crimes against humanity, or war
34 crimes.”.

35 (c) Application.—The amendments made by this section shall apply to fraudulent conduct,
36 misrepresentations, concealments, and fraudulent, fictitious, or false statements made or
37 committed before, on, or after the date of enactment of this Act.

38 SEC. 1708. CRIMINAL DETENTION OF ALIENS TO

1 PROTECT PUBLIC SAFETY.

2 (a) In General.—Section 3142(e) of title 18, United States Code, is amended to read as
3 follows:

4 “(e) Detention.—

5 “(1) IN GENERAL.—If, after a hearing pursuant to the provisions of subsection (f), the
6 judicial officer finds that no condition or combination of conditions will reasonably assure
7 the appearance of the person as required and the safety of any other person and the
8 community, such judicial officer shall order the detention of the person before trial.

9 “(2) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case
10 described in subsection (f)(1), a rebuttable presumption arises that no condition or
11 combination of conditions will reasonably assure the safety of any other person and the
12 community if the judicial officer finds that—

13 “(A) the person has been convicted of a Federal offense that is described in
14 subsection (f)(1), or of a State or local offense that would have been an offense
15 described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had
16 existed;

17 “(B) the offense described in subparagraph (A) was committed while the person was
18 on release pending trial for a Federal, State, or local offense; and

19 “(C) not more than 5 years has elapsed since the later of the date of conviction or the
20 date of the release of the person from imprisonment for the offense described in
21 subparagraph (A).

22 “(3) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES,
23 FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed
24 that no condition or combination of conditions will reasonably assure the appearance of the
25 person as required and the safety of the community if the judicial officer finds that there is
26 probable cause to believe that the person committed—

27 “(A) an offense for which a maximum term of imprisonment of 10 years or more is
28 prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled
29 Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

30 “(B) an offense under section 924(c), 956(a), or 2332b;

31 “(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of
32 imprisonment of 10 years or more is prescribed; or

33 “(D) an offense involving a minor victim under section 1201, 1591, 2241, 2242,
34 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
35 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

36 “(4) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to
37 rebuttal by the person, it shall be presumed that no condition or combination of conditions
38 will reasonably assure the appearance of the person as required if the judicial officer finds
39 that there is probable cause to believe that the person is an alien and that the person—

40 “(A) has no lawful immigration status in the United States;

1 “(B) is the subject of a final order of removal; or

2 “(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015,
3 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or
4 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327,
5 1328).”.

6 (b) Immigration Status as Factor in Determining Conditions of Release.—Section 3142(g)(3)
7 of title 18, United States Code, is amended—

8 (1) in subparagraph (A), by striking “and” at the end; and

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

10 “(C) whether the person is in a lawful immigration status, has previously entered the
11 United States illegally, has previously been removed from the United States, or has
12 otherwise violated the conditions of his or her lawful immigration status; and”.

13 SEC. 1709. RECRUITMENT OF PERSONS TO 14 PARTICIPATE IN TERRORISM.

15 (a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after
16 section 2332b the following:

17 “2332c. Recruitment of persons to participate in terrorism

18 “(a) Offenses.—

19 “(1) IN GENERAL.—It shall be unlawful for any person to employ, solicit, induce,
20 command, or cause another person to commit an act of domestic terrorism or international
21 terrorism or a Federal crime of terrorism, with the intent that the other person commit such
22 act or crime of terrorism.

23 “(2) ATTEMPT AND CONSPIRACY.—It shall be unlawful for any person to attempt or
24 conspire to commit an offense under paragraph (1).

25 “(b) Penalties.—Any person who violates subsection (a)—

26 “(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not
27 more than 10 years, or both;

28 “(2) if death of an individual results, shall be fined under this title, punished by death or
29 imprisoned for any term of years or for life, or both;

30 “(3) if serious bodily injury to any individual results, shall be fined under this title,
31 imprisoned not less than 10 years nor more than 25 years, or both; and

32 “(4) in any other case, shall be fined under this title, imprisoned not more than 10 years,
33 or both.

34 “(c) Rule of Construction.—Nothing in this section may be construed or applied to abridge the
35 exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

36 “(d) Lack of Consummated Terrorist Act Not a Defense.—It is not a defense under this section
37 that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is

1 the object of the employment, solicitation, inducement, commanding, or causing has not been
2 carried out.

3 “(e) Definitions.—In this section—

4 “(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section
5 2332b; and

6 “(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h).”.

7 (b) Clerical Amendment.—The table of sections for chapter 113B of title 18, United States
8 Code, is amended by inserting after the item relating to section 2332b the following:

9 “2332c. Recruitment of persons to participate in terrorism.”.

10 **SEC. 1710. BARRING AND REMOVING PERSECUTORS,**
11 **WAR CRIMINALS, AND PARTICIPANTS IN CRIMES**
12 **AGAINST HUMANITY FROM THE UNITED STATES.**

13 (a) Inadmissibility of Persecutors, War Criminals, and Participants in Crimes Against
14 Humanity.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(3)(E)) is amended—

16 (1) by striking the subparagraph heading and inserting “PARTICIPANTS IN PERSECUTION
17 (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR
18 THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—”;

19 (2) in clause (iii)(II)—

20 (A) by striking “of any foreign nation” and inserting “(including acts taken as part of
21 an armed group exercising de facto authority)”; and

22 (3) by adding after clause (iii) the following:

23 “(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST
24 HUMANITY.—Any alien, including an alien who ~~has or had~~ is a superior
25 responsibility commander, who committed, ordered, incited, assisted, or otherwise
26 participated in a war crime (as defined in section 2441(c) of title 18, United States
27 Code) or a crime against humanity, or in the persecution of any person on account
28 of race, religion, nationality, membership in a particular social group, or political
29 opinion, is inadmissible.

30 “(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term
31 ‘crime against humanity’ means conduct that is part of a widespread ~~and~~
32 systematic attack targeting any civilian population, with knowledge that the
33 conduct was part of the attack or with the intent that the conduct be part of the
34 attack—

35 “(I) that, if such conduct occurred in the United States or in the special
36 maritime and territorial jurisdiction of the United States, would violate—

37 “(aa) section 1111 of title 18, United States Code (relating to
38 murder);

- 1 “(bb) section 1201(a) of such title (relating to kidnapping);
- 2 “(cc) section 1203(a) of such title (relating to hostage taking),
3 notwithstanding any exception under subsection (b) of such section
4 1203;
- 5 “(dd) section 1581(a) of such title (relating to peonage);
- 6 “(ee) section 1583(a)(1) of such title (relating to kidnapping or
7 carrying away individuals for involuntary servitude or slavery);
- 8 “(ff) section 1584(a) of such title (relating to sale into involuntary
9 servitude);
- 10 “(gg) section 1589(a) of such title (relating to forced labor);
- 11 “(hh) section 1590(a) of such title (relating to trafficking with respect
12 to peonage, slavery, involuntary servitude, or forced labor);
- 13 “(ii) section 1591(a) of such title (relating to sex trafficking of
14 children or by force, fraud, or coercion);
- 15 “(jj) section 2241(a) of such title (relating to aggravated sexual abuse
16 by force or threat); or
- 17 “(kk) section 2242 of such title (relating to sexual abuse);
- 18 “(II) that would constitute torture (as defined in section 2340(1) of such
19 title);
- 20 “(III) that would constitute cruel or inhuman treatment, as described in
21 section 2441(d)(1)(B) of such title;
- 22 “(IV) that would constitute performing biological experiments, as
23 described in section 2441(d)(1)(C) of such title;
- 24 “(V) that would constitute mutilation or maiming, as described in section
25 2441(d)(1)(E) of such title; or
- 26 “(VI) that would constitute intentionally causing serious bodily injury, as
27 described in section 2441(d)(1)(F) of such title.
- 28 “(vi) SUPERIOR ~~COMMANDER~~RESPONSIBILITY; SYSTEMATIC; WIDESPREAD.—In
29 this subparagraph—
- 30 “(I) the term ‘superior ~~commander~~’responsibility’ means—
- 31 “(aa) a ~~leader, a member of a military, military commander~~ or a
32 person with effective control of military forces, or a person with de
33 facto or de jure control of ~~or~~ an armed group;
- 34 “(bb) who knew or should have known that a subordinate or someone
35 under his or her ~~effective de facto or de jure~~ control is committing acts
36 described in subsection (a), is about to commit such acts, or had
37 committed such acts; and
- 38 “(cc) who fails to take the necessary and reasonable measures to

1 prevent such acts or, for acts that have been committed, to punish the
2 perpetrators of such acts;

3 “(II) the term ‘systematic’ means the commission of a series of acts
4 following a regular pattern and occurring in an organized, non-random
5 manner; and

6 “(III) the term ‘widespread’ means a single, large scale act or a series of
7 acts directed against a substantial number of victims.”.

8 (b) Removal of Persecutors.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8
9 U.S.C. 1227(a)(4)(D)) is amended—

10 (1) in the subparagraph heading, by striking “NAZI”; and

11 (2) by striking “or (iii)” and inserting “(iii), or (iv)”.

12 (c) Severe Violations of Religious Freedom.—Section 212(a)(2)(G) of the Immigration and
13 Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended—

14 (1) in the subparagraph heading, by striking “FOREIGN GOVERNMENT OFFICIALS” and
15 inserting “ANY PERSONS”; and

16 (2) by striking “, while serving as a foreign government official,”.

17 (d) Barring Persecutors From Establishing Good Moral Character.—Section 101(f) of the
18 Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

19 (1) in paragraph (8), by striking “or” at the end;

20 (2) in paragraph (9), by striking “killings) or 212(a)(2)(G) (relating to severe violations of
21 religious freedom).” and inserting “killings), 212(a)(2)(G) (relating to severe violations of
22 religious freedom), or 212(a)(3)(G) (relating to recruitment and use of child soldiers); or”;
23 and

24 (3) by inserting after paragraph (9) the following:

25 “(10) one who at any time committed, ordered, incited, assisted, or otherwise participated
26 in the persecution of any person on account of race, religion, nationality, membership in a
27 particular social group, or political opinion.”.

28 (e) Increasing Criminal Penalties for Anyone Who Aids and Abets the Entry of a
29 Persecutor.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by
30 striking “(other than subparagraph (E) thereof)”.

31 (f) Increasing Criminal Penalties for Female Genital Mutilation.—Section 116 of title 18,
32 United States Code, is amended—

33 (1) in subsection (a), by striking “shall be fined under this title or imprisoned not more
34 than 5 years, or both” and inserting “has engaged in a violent crime against children under
35 section 3559(f)(3), shall be imprisoned for life or for 10 years or longer”; and

36 (2) in subsection (d), by striking “shall be fined under this title or imprisoned not more
37 than 5 years, or both.” and inserting “shall be imprisoned for life or for 10 years or longer.”.

38 (g) Technical Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is
39 amended—

1 (1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting “committed,” before
2 “ordered”;

3 (2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting “committed,”
4 before “ordered”; and

5 (3) in section 241(b)(3)(B)(i) (8 U.S.C. 1231(b)(3)(B)(i)), by inserting “committed,”
6 before “ordered”.

7 (h) Application.—The amendments made by this section shall apply to any offense committed
8 before, on, or after the date of the enactment of this Act.

9 SEC. 1711. CHILD SOLDIER RECRUITMENT 10 INELIGIBILITY TECHNICAL CORRECTION.

11 Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is
12 amended by striking “section 2442” and inserting “section 2442(a)”.

13 SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND 14 INCREASED CRIMINAL PENALTIES RELATED TO GANG 15 VIOLENCE.

16 (a) Definition of Criminal Gang.—Section 101(a) of the Immigration and Nationality Act (8
17 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

18 “(53)(A) The term ‘criminal gang’ means any ongoing group, club, organization, or
19 association, inside or outside the United States, of 2 or more persons that—

20 “(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal
21 offenses described in subparagraph (B) and the members of which engage, or have engaged
22 within the past 5 years, in a continuing series of such offenses; or

23 “(ii) has been designated as a criminal gang by the Secretary, in consultation with the
24 Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

25 “(B) The offenses described in this subparagraph, whether in violation of Federal or State law
26 or the law of a foreign country and regardless of whether the offenses occurred before, on, or
27 after the date of the enactment of the [SECURE Act of IRCTA](#) 2018, are the following:

28 “(i) Any aggravated felony.

29 “(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act
30 (21 U.S.C. 802)).

31 “(iii) Any criminal offense described in section 212 or 237.

32 “(iv) An offense involving illicit trafficking in a controlled substance (as defined in
33 section 102 of the Controlled Substances Act ([21 U.S.C. 802](#))), including a drug trafficking
34 crime (as defined in section 924(c) of title 18, United States Code).

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

1 “(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the
2 offense, the use or attempted use of physical force or the threatened use of physical force or
3 a deadly weapon.

4 “(vii) Any offense that has, as an element of the offense, the use, attempted use, or
5 threatened use of any physical object to inflict or cause (either directly or indirectly) serious
6 bodily injury, including an injury that may ultimately result in the death of a person.

7 “(viii) An offense involving obstruction of justice or tampering with or retaliating against
8 a witness, victim, or informant.

9 “(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code
10 (relating to fraud and related activity in connection with identification documents or access
11 devices), sections 1581 through 1594 of such title (relating to peonage, slavery and
12 trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or
13 transportation in aid of racketeering enterprises), section 1956 of such title (relating to the
14 laundering of monetary instruments), section 1957 of such title (relating to engaging in
15 monetary transactions in property derived from specified unlawful activity), or sections
16 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles
17 or stolen property).

18 “(x) A conspiracy to commit an offense described in clauses (i) through (v).

19 “(C) Notwithstanding any other provision of law (including any effective date), a group, club,
20 organization, or association shall be considered a criminal gang regardless of whether the
21 conduct occurred before, on, or after the date of the enactment of the [SECURE Act of IRCTA](#)
22 2018.”.

23 (b) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
24 1182(a)(2)) is amended by adding at the end the following:

25 “(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

26 “(i) IN GENERAL.—Any alien who a consular officer, the Secretary, or the
27 Attorney General knows or has reasonable ground to believe—

28 “(I) to be or to have been a member of a criminal gang; or

29 “(II) to have participated in the activities of a criminal gang, knowing or
30 having reason to know that such activities promoted or will promote, further,
31 aid, or support the illegal activity of the criminal gang,

32 is inadmissible.

33 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

34 “(I) who did not know, or should not reasonably have known, of the
35 activity causing the alien to be found inadmissible under this section; or

36 “(II) whom the consular officer, the Secretary, or the Attorney General has
37 reasonable grounds to believe has renounced the activity causing the alien to
38 be found inadmissible under this section.”.

39 (c) Designation of Criminal Gangs.—

40 (1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C.

1 1181 et seq.) is amended by adding at the end the following:

2 “SEC. 220. DESIGNATION OF CRIMINAL GANGS.

3 “(a) In General.—The Secretary, in consultation with the Attorney General, and the Secretary
4 of State, may designate a group or association as a criminal gang if their conduct is described in
5 section 101(a)(53) or if the group’s or association’s conduct poses a significant risk that threatens
6 the security and the public safety of United States nationals or the national security, homeland
7 security, or economy of the United States.

8 “(b) Effective Date.—A designation under subsection (a) shall remain in effect until the
9 designation is revoked, after consultation between the Secretary, the Attorney General, and the
10 Secretary of State, or is terminated in accordance with Federal law.”.

11 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
12 and Nationality Act is amended by inserting after the item relating to section 219 the
13 following:

14 “220. Designation of criminal gangs.”

15 (d) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
16 1227(a)(2)) is amended by adding at the end the following:

17 “(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

18 “(i) IN GENERAL.—Any alien who the Secretary or the Attorney General knows
19 or has reason to believe—

20 “(I) is or has been a member of a criminal gang; or

21 “(II) has participated in the activities of a criminal gang, knowing or
22 having reason to know that such activities will promote, further, aid, or
23 support the illegal activity of the criminal gang,

24 is deportable.

25 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

26 “(I) who did not know, or should not reasonably have known, of the
27 activity causing the alien to be found deportable under this section; or

28 “(II) whom the Secretary or the Attorney General has reasonable grounds
29 to believe has renounced the activity causing the alien to be found deportable
30 under this section.”.

31 (e) Cancellation of Removal.—Section 240A(c) of the Immigration and Nationality Act (8
32 U.S.C. 1229b(c)) is amended by adding at the end the following:

33 “(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
34 (relating to participation in criminal gangs).”.

35 (f) Voluntary Departure.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C.
36 1229c(c)) is amended to read as follows:

37 “(c) Limitation on Voluntary Departure.—The Attorney General shall not permit an alien to
38 depart voluntarily under this section if the alien—

1 “(1) was previously permitted to depart voluntarily after having been found inadmissible
2 under section 212(a)(6)(A); or

3 “(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in
4 criminal gangs).”.

5 (g) Asylum Claims Based on Gang Affiliation.—

6 (1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section
7 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended
8 in the matter preceding clause (i) by inserting “who is described in section 212(a)(2)(J)(i) or
9 section 237(a)(2)(G)(i) or who is” after “to an alien”.

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

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

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

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

15 “(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
16 (relating to participation in criminal gangs); or”; and

17 (D) by amending clause (vii), as redesignated, to read as follows:

18 “(vii) the alien was firmly resettled in another country before arriving in the
19 United States, which shall be considered evidence that the alien can live in such
20 country (in any legal status) without fear of persecution.”.

21 (h) Good Moral Character Bar for Criminal Gang Members. – Section 101(f) of the
22 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d),
23 and 1822(a) of this Act, is further amended by inserting after paragraph (11) the following:

24 “(12) is a member of one or more classes of persons described in section 212(a)(2)(J) or
25 237(a)(2)(G) and has been convicted of any offense included under section 212(a)(2) or
26 237(a)(2).”

27 (ih) Annual Report on Detention of Criminal Gang Members.—Not later than March 1 of the
28 first calendar year beginning at least 1 year after the date of the enactment of this Act, and
29 annually thereafter, the Secretary of Homeland Security, after consultation with the heads of
30 appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and
31 Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
32 Committee on Homeland Security of the House of Representatives, and the Committee on the
33 Judiciary of the House of Representatives that identifies the number of aliens detained described
34 in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as
35 added by subsections (b) and (d).

36 (ji) Effective Date and Application.—The amendments made by this section shall take effect
37 on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the
38 date of the enactment of this Act.

39 **SEC. 1713. BARRING ALIENS WITH CONVICTIONS FOR**

1 DRIVING UNDER THE INFLUENCE OR WHILE
2 INTOXICATED.

3 (a) Aggravated Felony Driving While Intoxicated.—

4 (1) DEFINITIONS.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C.
5 1101(a)(43)) is amended—

6 (A) in subparagraph (T), by striking “and” at the end;

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

8 (C) by inserting after subparagraph (U) the following:

9 “(V) a single conviction for driving while intoxicated (including a conviction for
10 driving while under the influence of or impaired by alcohol or illicit drugs), when such
11 impaired driving was the cause of the serious bodily injury or death of another person
12 or a second or subsequent conviction for driving while intoxicated (including a
13 conviction for driving under the influence of or impaired by alcohol or illicit drugs),
14 without regard to whether the conviction is classified as a misdemeanor or felony
15 under State law. For purposes of this paragraph, the Secretary or the Attorney General
16 are not required to prove the first conviction for driving while intoxicated (including a
17 conviction for driving while under the influence of or impaired by alcohol or illicit
18 drugs) as a predicate offense and need only make a factual determination that the alien
19 was previously convicted for driving while intoxicated (including a conviction for
20 driving while under the influence of or impaired by alcohol or illicit drugs).”.

21 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by this subsection shall
22 take effect on the date of the enactment of this Act and shall apply to any conviction entered
23 on or after such date.

24 (b) Inadmissibility for Driving While Intoxicated or Under the Influence.—

25 (1) IN GENERAL.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
26 1182(a)(2)), as amended by section 1712(b) of this Act, is further amended by adding at the
27 end the following:

28 “(K) DRIVING WHILE INTOXICATED AND UNLAWFULLY PRESENT IN THE UNITED
29 STATES.—An alien who is convicted of driving while intoxicated, driving under the
30 influence, or a similar violation of State law is inadmissible.”.

31 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
32 take effect on the date of the enactment of this Act and shall apply to any conviction entered
33 on or after such date.

34 (c) Deportation for Driving While Intoxicated or Under the Influence.—

35 (1) IN GENERAL.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
36 1227(a)), as amended by section 1712(c) of this Act, is further amended by adding at the
37 end the following:

38 “(H) DRIVING WHILE INTOXICATED AND WHILE UNLAWFULLY PRESENT IN THE UNITED
39 STATES.—An alien who is convicted of driving while intoxicated, driving under the

1 influence, or a similar violation of State law is deportable.”.

2 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
3 take effect on the date of the enactment of this Act and shall apply to any conviction entered
4 on or after such date.

5 (d) Good Moral Character Bar for DUI or DWI Convictions.—Section 101(f) of the
6 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d) of this Act,
7 is further amended by inserting after paragraph (1) the following:

8 “(2) inadmissible under section 212(a)(2)(K) or deportable under section 237(a)(2)(H);”.

9 (e) Technical and Conforming Amendments.—

10 (1) IN GENERAL.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C.
11 1182(h)) is amended—

12 (A) by inserting “or the Secretary” after “the Attorney General” each place it
13 appears; and

14 (B) in the matter preceding paragraph (1), by striking “and (E)” and inserting “(E),
15 and (K)”.

16 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraph (1) shall
17 take effect on the date of the enactment of this Act and apply to any conviction entered on
18 or after such date.

19 **SEC. 1714. BARRING AGGRAVATED FELONS, BORDER**
20 **CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM**
21 **ADMISSION TO THE UNITED STATES.**

22 (a) Inadmissibility on Criminal and Related Grounds; Waivers.—Section 212 of the
23 Immigration and Nationality Act (8 U.S.C. 1182) is amended—

24 (1) in subsection (a)(2)—

25 (A) in subparagraph (A)(i)—

26 (i) in subclause (I), by striking “, or” at the end and inserting a semicolon;

27 (ii) in subclause (II), by striking the comma at the end and inserting “; or”; and

28 (iii) by inserting after subclause (II) the following:

29 “(III) a violation of (or a conspiracy or attempt to violate) any statute
30 relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to
31 social security account numbers or social security cards) or section 1028 of
32 title 18, United States Code (relating to fraud and related activity in
33 connection with identification documents, authentication features, and
34 information)”;

35 (B) by inserting after subparagraph (K), as added by section 1713(b) of this Act, the
36 following:

37 “(L) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having

1 committed, or who admits committing acts which constitute the essential elements of, a
2 violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section
3 1425 of title 18, United States Code (relating to the procurement of citizenship or
4 naturalization unlawfully), is inadmissible.

5 “(M) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted
6 under any law of, admits having committed, or admits committing acts which
7 constitute the essential elements of, any law relating to, purchasing, selling, offering
8 for sale, exchanging, using, owning, possessing, or carrying, or of attempting or
9 conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any
10 weapon, part, or accessory which is a firearm or destructive device (as defined in
11 section 921(a) of title 18, United States Code) in violation of any law, is inadmissible.

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

14 “(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of
15 section 758 of title 18, United States Code (relating to high speed flight from an
16 immigration checkpoint) is inadmissible.

17 “(P) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted under section
18 2250 of title 18, United States Code, is inadmissible.

19 “(Q) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION
20 ORDERS; CRIMES AGAINST CHILDREN.—

21 “(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—

22 “(I) IN GENERAL.—Except as provided in [subsection 212\(v\)](#), any alien who
23 at any time is or has been convicted of a crime involving the use or
24 attempted use of physical force, or threatened use of a deadly weapon, a
25 crime of domestic violence, a crime of stalking, or a crime of child abuse,
26 child neglect, or child abandonment is inadmissible.

27 “(II) CRIME OF DOMESTIC VIOLENCE DEFINED.—For purposes of this
28 clause, the term ‘crime of domestic violence’ means any crime of violence or
29 any offense under Federal, State, or Tribal law that has, as an element, the
30 use or attempted use of physical force or the threatened use of physical force
31 or a deadly weapon against a person committed by a current or former
32 spouse of the person, by an individual with whom the person shares a child
33 in common, by an individual who is cohabiting with or has cohabited with
34 the person as a spouse, by an individual similarly situated to a spouse of the
35 person under the domestic or family violence laws of the jurisdiction where
36 the offense occurs, or by any other individual against a person who is
37 protected from that individual’s acts under the domestic or family violence
38 laws of the United States or any State, Indian tribal government, or unit of
39 local government.

40 “(ii) VIOLATORS OF PROTECTION ORDERS.—

41 “(I) IN GENERAL.—Except as provided in [subsection 212\(v\)](#), any alien who
42 at any time is or has been enjoined under a protection order issued by a court

1 and whom the court determines has engaged in conduct that violates the
2 portion of a protection order that involves protection against credible threats
3 of violence, repeated harassment, or bodily injury to the person or persons
4 for whom the protection order was issued is inadmissible.

5 “(II) PROTECTIVE ORDER DEFINED.—In this clause, the term ‘protection
6 order’ means any injunction issued for the purpose of preventing violent or
7 threatening acts of violence that involve the use or attempted use of physical
8 force, or threatened use of a deadly weapon, committed by a current or
9 former spouse, parent, or guardian of the victim, by a person with whom the
10 victim shares a child in common, by a person who is cohabiting with or has
11 cohabited with the victim as a spouse, parent, or guardian, or by a person
12 similarly situated to a spouse, parent, or guardian of the victim, including
13 temporary or final orders issued by civil or criminal courts (other than
14 support or child custody orders or provisions) whether obtained by filing an
15 independent action or as an independent order in another proceeding.”;

16 (2) in subsection (h)—

17 (A) in the matter preceding paragraph (1), as amended by section 1713(e) of this
18 Act, by striking “, and (K)”, and inserting “(K), and (M)”;

19 (B) in the undesignated matter following paragraph (2)—

20 (i) by striking “torture.” and inserting “torture, or has been convicted of an
21 aggravated felony.”; and

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

25 (3) by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–
26 449, as subsection (u); and

27 (4) by adding at the end the following:

28 “(v) Waiver for Victims of Domestic Violence.—

29 “(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal
30 court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to
31 crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case
32 of an alien who has been battered or subjected to extreme cruelty and who is not and was
33 not the primary perpetrator of violence in the relationship, upon a determination that—

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

35 “(B) the alien was found to have violated a protection order intended to protect the
36 alien; or

37 “(C) the alien committed, was arrested for, was convicted of, or pled guilty to
38 committing a crime—

39 “(i) that did not result in serious bodily injury; and

40 “(ii) where there was a connection between the crime and the alien’s having

1 been battered or subjected to extreme cruelty.

2 “(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this
3 subsection, the Secretary or the Attorney General shall consider any credible evidence
4 relevant to the application. The determination of what evidence is credible and the weight to
5 be given that evidence shall be within the sole discretion of the Secretary or the Attorney
6 General.”.

7 (b) Deportability; Criminal Offenses.—Section 237(a)(2) of the Immigration and Nationality
8 Act (8 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and 1713(c) of this Act, is further
9 amended by adding at the end the following:

10 “(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a
11 conspiracy or attempt to violate) an offense relating to section 208 of the Social
12 Security Act (42 U.S.C. 408) (relating to social security account numbers or social
13 security cards) or section 1028 of title 18, United States Code (relating to fraud and
14 related activity in connection with identification) is deportable.”.

15 (c) Deportability; Criminal Offenses.—Section 237(a)(3)(B) of the Immigration and
16 Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

17 (1) in clause (i), by striking the comma at the end and inserting a semicolon;

18 (2) in clause (ii), by striking “, or” at the end and inserting a semicolon;

19 (3) in clause (iii), by striking the comma at the end and inserting “; or”; and

20 (4) by inserting after clause (iii) the following:

21 “(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or
22 (b) of section 1425 of title 18, United States Code (relating to the unlawful
23 procurement of citizenship or naturalization),”.

24 (d) Applicability.—The amendments made by this section shall apply to—

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

26 (2) all aliens who are required to establish admissibility on or after such date of
27 enactment; and

28 (3) all removal, deportation, or exclusion proceedings that are filed, pending, or
29 reopened, on or after such date of enactment.

30 (e) Rule of Construction.—The amendments made by this section may not be construed to
31 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
32 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
33 such eligibility did not exist before such date of enactment.

34 SEC. 1715. PROTECTING IMMIGRANTS FROM 35 CONVICTED SEX OFFENDERS.

36 (a) Immigrants.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C.
37 1154(a)(1)) is amended—

38 (1) in subparagraph (A), by amending clause (viii) to read as follows:

1 “(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an
2 offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense
3 against a minor as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act
4 of 2006 (4234 U.S.C. 1620911(7)) unless the Secretary, in the Secretary’s sole and unreviewable
5 discretion, determines that the citizen poses no risk to the alien with respect to whom a petition
6 described in clause (i) is filed.”; and

7 (2) in subparagraph (B)(i)—

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

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

10 “(II) Subclause (I) shall not apply to an alien lawfully admitted for permanent residence who
11 has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43)
12 or a specified offense against a minor as defined in section 111(7) of the Adam Walsh Child
13 Protection and Safety Act of 2006 (4234 U.S.C. 1620911(7)) unless the Secretary, in the
14 Secretary’s sole and unreviewable discretion, determines that the alien lawfully admitted for
15 permanent residence poses no risk to the alien with respect to whom a petition described in
16 subclause (I) is filed.”.

17 (b) Nonimmigrants.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C.
18 1101(a)(15)(K)) is amended by striking “204(a)(1)(A)(viii)(I)” each place it appears and
19 inserting “204(a)(1)(A)(viii)”.

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

22 SEC. 1716. ENHANCED CRIMINAL PENALTIES FOR 23 HIGH SPEED FLIGHT.

24 (a) In General.—Section 758 of title 18, United States Code, is amended to read as follows:

25 “758. Unlawful flight from immigration or customs controls

26 “(a) Evading a Checkpoint.—Any person who, while operating a motor vehicle or vessel,
27 knowingly flees or evades a checkpoint operated by the Department of Homeland Security or
28 any other Federal law enforcement agency, and then knowingly or recklessly disregards or
29 disobeys the lawful command of any law enforcement agent, shall be fined under this title,
30 imprisoned not more than 5 years, or both.

31 “(b) Failure to Stop.—Any person who, while operating a motor vehicle, aircraft, or vessel,
32 knowingly or recklessly disregards or disobeys the lawful command of an officer of the
33 Department of Homeland Security engaged in the enforcement of the immigration, customs, or
34 maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall
35 be fined under this title, imprisoned not more than 2 years, or both.

36 “(c) Alternative Penalties.—Notwithstanding the penalties provided in subsection (a) or (b),
37 any person who violates such subsection—

38 “(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the
39 violation involved the operation of a motor vehicle, aircraft, or vessel—

- 1 “(A) in excess of the applicable or posted speed limit;
- 2 “(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel; or
- 3 “(C) in an otherwise dangerous or reckless manner;
- 4 “(2) shall be fined under this title, imprisoned not more than 20 years, or both, if the
- 5 violation created a substantial and foreseeable risk of serious bodily injury or death to any
- 6 person;
- 7 “(3) shall be fined under this title, imprisoned not more than 30 years, or both, if the
- 8 violation caused serious bodily injury to any person; or
- 9 “(4) shall be fined under this title, imprisoned for any term of years or life, or both, if the
- 10 violation resulted in the death of any person.
- 11 “(d) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense
- 12 under this section shall be punished in the same manner as a person who completes the offense.
- 13 “(e) Forfeiture.—Any property, real or personal, constituting or traceable to the gross proceeds
- 14 of the offense and any property, real or personal, used or intended to be used to commit or
- 15 facilitate the commission of the offense shall be subject to forfeiture.
- 16 “(f) Forfeiture Procedures.—Seizures and forfeitures under this section shall be governed by
- 17 the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that
- 18 such duties as are imposed upon the Secretary of the Treasury under the customs laws described
- 19 in that section shall be performed by such officers, agents, and other persons as may be
- 20 designated for that purpose by the Secretary of Homeland Security or the Attorney General.
- 21 Nothing in this section may be construed to limit the authority of the Secretary of Homeland
- 22 Security to seize and forfeit motor vehicles, aircraft, or vessels under the customs laws or any
- 23 other laws of the United States.
- 24 “(g) Definitions.—For purposes of this section—
- 25 “(1) the term ‘checkpoint’ includes any customs or immigration inspection at a port of
- 26 entry or immigration inspection at a U.S. Border Patrol checkpoint;
- 27 “(2) the term ‘law enforcement agent’ means—
- 28 “(A) any Federal, State, local or tribal official authorized to enforce criminal law;
- 29 and
- 30 “(B) when conveying a command described in subsection (b), an air traffic
- 31 controller;
- 32 “(3) the term ‘lawful command’ includes a command to stop, decrease speed, alter
- 33 course, or land, whether communicated orally, visually, by means of lights or sirens, or by
- 34 radio, telephone, or other communication;
- 35 “(4) the term ‘motor vehicle’ means any motorized or self-propelled means of terrestrial
- 36 transportation; and
- 37 “(5) the term ‘serious bodily injury’ has the meaning given in section 2119(2).”.
- 38 (b) Clerical Amendment.—The table of sections for chapter 35 of title 18, United States Code,
- 39 is amended by striking the item relating to section 758 and inserting the following:

1 “758. Unlawful flight from immigration or customs controls.”.

2 (c) Rule of Construction.—The amendments made by subsection (a) may not be construed to
3 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
5 such eligibility did not exist before such date of enactment.

6 SEC. 1717. PROHIBITION ON ASYLUM AND 7 CANCELLATION OF REMOVAL FOR TERRORISTS.

8 (a) Asylum.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C.
9 1158(b)(2)(A)), as amended by 1712(f) of this Act, is further amended—

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

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

12 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),
13 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
14 Secretary or the Attorney General determines, in his or her sole and unreviewable
15 discretion, that there are not reasonable grounds for regarding the alien as a
16 danger to the security of the United States;”.

17 (b) Cancellation of Removal.—Section 240A(c)(4) of the Immigration and Nationality Act (8
18 U.S.C. 1229b(c)(4)) is amended—

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

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

21 (c) Restriction on Removal.—

22 (1) IN GENERAL.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C.
23 1231(b)(3)(A)) is amended—

24 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

25 (B) by striking “Notwithstanding” and inserting the following:

26 “(i) IN GENERAL.—Notwithstanding”; and

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

28 “(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the
29 alien’s life or freedom would be threatened in such country, and that race,
30 religion, nationality, membership in a particular social group, or political opinion
31 would be at least 1 central reason for such threat.”.

32 (2) EXCEPTION.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
33 amended—

34 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

35 (B) in clause (iii), striking “or” at the end;

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

1 (D) inserting after clause (iv) the following:

2 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B),
3 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
4 Secretary or the Attorney General determines, in his or her sole and unreviewable
5 discretion, that there are not reasonable grounds for regarding the alien as a
6 danger to the security of the United States; or

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

8 (E) by striking the undesignated matter at the end.

9 (3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C)
10 of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking “In determining whether an
11 alien has demonstrated that the alien’s life or freedom would be threatened for a reason
12 described in subparagraph (A),” and inserting “For purposes of this paragraph,”.

13 (4) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraphs (1) and
14 (2) shall take effect as if enacted on May 11, 2005, and shall apply to applications for
15 withholding of removal made on or after such date.

16 (d) Effective Dates; Applications.—Except as provided in subsection (c)(4), the amendments
17 made by this section shall take effect on the date of the enactment of this Act and sections
18 208(b)(2)(A), 240A(c), and 241(b)(3) of the Immigration and Nationality Act, as amended by
19 this section, shall apply to—

20 (1) all aliens in removal, deportation, or exclusion proceedings;

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

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

25 SEC. 1718. AGGRAVATED FELONIES.

26 (a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality
27 Act (8 U.S.C. 1101(a)(43)), as amended by section 1713(a) of this Act, is further amended—

28 (1) in subparagraph (A), by striking “sexual abuse of a minor;” and inserting “any
29 conviction for a sex offense, including an offense described in sections 2241 and 2243 of
30 title 18, United States Code, or an offense in which the alien abused or was involved in the
31 abuse of any individual younger than 18 years of age, or in which the victim was, at the
32 time the offense was committed, younger than 18 years of age, regardless of the reason and
33 extent of the act, the sentence imposed, or the elements in the offense that are required for
34 conviction;”;

35 (2) in subparagraph (F), by striking “at least one year” and inserting “is at least 1 year,
36 except that if the conviction records do not conclusively establish whether a crime
37 constitutes a crime of violence or an offense under Federal, State, or Tribal law, that has, as
38 an element, the use or attempted use of physical force or the threatened use of physical
39 force or a deadly weapon, the Attorney General or the Secretary may consider other
40 evidence related to the conviction, including police reports and witness statements, that

1 clearly establishes that the conduct leading to the alien’s conviction constitutes a crime of
2 violence or an offense under Federal, State, or Tribal law, that has, as an element, the use or
3 attempted use of physical force or the threatened use of physical force or a deadly
4 weapon;”;

5 (3) by amending subparagraph (G) to read as follows:

6 “(G) a theft offense under State or Federal law (including theft by deceit, theft by
7 fraud, and receipt of stolen property) or burglary offense under State or Federal law for
8 which the term of imprisonment is at least 1 year, except that if the conviction records
9 do not conclusively establish whether a crime constitutes a theft or burglary offense,
10 the Attorney General or Secretary may consider other evidence related to the
11 conviction, including police reports and witness statements, that clearly establishes that
12 the conduct for which the alien was engaged constitutes a theft or burglary offense;”;

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

14 (5) in subparagraph (N)—

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

16 (B) by adding a semicolon at the end;

17 (6) by amending subparagraph (O) to read as follows:

18 “(O) an offense described in section 275 or 276 for which the term of imprisonment
19 is at least 1 year;”;

20 (7) in subparagraph (P) by striking “(i) which either is falsely making, forging,
21 counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543
22 of title 18, United States Code, or is described in section 1546(a) of such title (relating to
23 document fraud) and (ii)” and inserting “which is described in the first paragraph of section
24 1541, 1542, 1543, 1544, 1546(a), or 1547 of title 18, United States Code, and”;

25 (8) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense
26 described in this paragraph” and inserting “an attempt to commit, conspiracy to commit, or
27 facilitation of an offense described in this paragraph, or aiding, abetting, procuring,
28 commanding, inducing, or soliciting the commission of such an offense”; and

29 (9) by striking the undesignated material at end and inserting the following:

30 “The term applies to an offense described in this paragraph, whether in violation of Federal or
31 State law, or a law of a foreign country, for which the term of imprisonment was completed
32 within the previous 20 years, and even if the length of the term of imprisonment for the offense
33 is based on recidivist or other enhancements. Notwithstanding any other provision of law
34 (including any effective date), the term applies regardless of whether the conviction was entered
35 before, on, or after September 30, 1996.”.

36 (b) Definition of Conviction.—Section 101(a)(48) of the Immigration and Nationality Act (8
37 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

38 “(C)(i) Any reversal, vacatur, expungement, or modification of a conviction, sentence, or
39 conviction that was granted to ameliorate the consequences of the conviction, sentence, or
40 conviction, or was granted for rehabilitative purposes, shall have no effect on the immigration

1 consequences resulting from the original conviction.

2 “(ii) The alien shall have the burden of demonstrating that any reversal, vacatur, expungement,
3 or modification, including modification to any sentence for an offense, was not granted to
4 ameliorate the consequences of the conviction, sentence, or conviction record, or for
5 rehabilitative purposes.”.

6 (c) Effective Date and Application.—The amendments made by this section shall take effect
7 on the date of the enactment of this Act and apply to any act that occurred before, on, or after
8 such date of enactment.

9 SEC. 1719. CONVICTIONS.

10 (a) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
11 1182(a)(2)), as amended by sections 1712(b), 1713(b), and 1714(a) of this Act, is further
12 amended by adding at the end the following:

13 “(R) CONVICTIONS.—

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

18 “(ii) OTHER EVIDENCE.—If the conviction records, such as charging documents,
19 plea agreements, plea colloquies, and jury instructions, do not conclusively
20 establish whether a crime constitutes a ground of inadmissibility, the Attorney
21 General, the Secretary of State, or the Secretary may consider other evidence
22 related to the conviction, including police reports and witness statements, that
23 clearly establishes that the conduct leading to the alien’s conviction constitutes a
24 ground of inadmissibility.”.

25 (b) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
26 1227(a)(2)), as amended by sections 1712(c), 1713(c), and 1714(c) of this Act, is further
27 amended by adding at the end the following:

28 “(J) CRIMINAL OFFENSES.—

29 “(i) IN GENERAL.—For purposes of determining whether an underlying criminal
30 offense constitutes a ground of deportability under this subsection, all statutes or
31 common law offenses are divisible if any of the conduct encompassed by the
32 statute constitutes an offense that is a ground of deportability.

33 “(ii) OTHER EVIDENCE.—If the conviction records, such as charging documents,
34 plea agreements, plea colloquies, and jury instructions, do not conclusively
35 establish whether a crime constitutes a ground of deportability, the Attorney
36 General or the Secretary may consider other evidence related to the conviction,
37 including police reports and witness statements, that clearly establishes that the
38 conduct leading to the alien’s conviction constitutes a ground of deportability.”.

39 SEC. 1720. FAILURE TO OBEY REMOVAL ORDERS.

40 (a) In General.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is

1 amended—

2 (1) in subsection (a)—

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

5 (B) by striking paragraph (3);

6 (2) by striking subsection (b); and

7 (3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

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

12 SEC. 1721. SANCTIONS FOR COUNTRIES THAT DELAY 13 OR PREVENT REPATRIATION OF THEIR NATIONALS.

14 Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) (as amended by section
15 1720(a)(3)) is amended by striking subsection (c) and inserting the following:

16 “(c) Listing of Countries Who Delay Repatriation of Removed Aliens.—

17 “(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the
18 enactment of the [SECURE Act of IRCTA](#) 2018, and every 6 months thereafter, the Secretary
19 shall publish a report in the Federal Register that includes a list of—

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

23 “(B) countries that have an excessive repatriation failure rate; and

24 “(C) each country that was reported as noncompliant in the most recent reporting
25 period.

26 “(2) EXEMPTION.—The Secretary, in the Secretary’s sole and unreviewable discretion,
27 and in consultation with the Secretary of State, may exempt a country from inclusion on the
28 list under paragraph (1) if there are significant foreign policy or security concerns that
29 warrant such an exemption.

30 “(d) Discontinuing Granting of Visas to Nationals of Countries Denying or Delaying
31 Accepting Alien.—

32 “(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action
33 described in paragraph (2)(A), and may take an action described in paragraph (2)(B), if the
34 Secretary determines that—

35 “(A) an alien who is a national of a foreign country is inadmissible under section
36 212 or deportable under section 237, or has been ordered removed from the United
37 States; and

38 “(B) the government of the foreign country referred to in subparagraph (A) is—

1 “(i) denying or unreasonably delaying accepting aliens who are citizens,
2 subjects, nationals, or residents of that country after the Secretary asks whether
3 the government will accept an alien under this section; or

4 “(ii) refusing to issue any required travel or identity documents to allow the
5 alien who is citizen, subject, national, or resident of that country to return to that
6 country.

7 “(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

8 “(A) ~~DirectAn order from~~ the Secretary of State to authorize consular officers in the
9 foreign country referred to in paragraph (1) to ~~discontinue granting~~deny visas under
10 section 101(a)(15)(A)(iii) to attendants, servants, personal employees, and members of
11 their immediate families, of the officials and employees of that country who receive
12 nonimmigrant status under clause (i) or (ii) of section 101(a)(15)(A).

13 “(B) In consultation with the Secretary of State, dDenyial of admission to any
14 citizens, subjects, nationals, and residents from the foreign country referred to in
15 paragraph (1), consistent with other international obligations, and the imposition of any
16 limitations, conditions, or additional fees on the issuance of visas or travel from that
17 country, or the imposition of any other sanctions against that country that are
18 authorized by law.

19 “(3) RESUMPTION OF VISA ISSUANCE.—Consular officers in the foreign country that
20 refused or unreasonably delayed repatriation or refused to issue required identity or travel
21 documents may resume visa issuance after the Secretary notifies the Secretary of State that
22 the country has accepted the aliens.”.

23 SEC. 1722. ENHANCED PENALTIES FOR 24 CONSTRUCTION AND USE OF BORDER TUNNELS.

25 Section 555 of title 18, United States Code, is amended—

26 (1) in subsection (a), by striking “not more than 20 years.” and inserting “not less than 7
27 years and not more than 20 years.”; and

28 (2) in subsection (b), by striking “not more than 10 years.” and inserting “not less than 3
29 years and not more than 10 years.”.

30 SEC. 1723. ENHANCED PENALTIES FOR FRAUD AND 31 MISUSE OF VISAS, PERMITS, AND OTHER 32 DOCUMENTS.

33 Section 1546(a) of title 18, United States Code, is amended—

34 (1) by striking “Commissioner of the Immigration and Naturalization Service” each place
35 it appears and inserting “Secretary of Homeland Security”; and

36 (2) by striking “Shall be fined” and all that follows and inserting “Shall be fined under
37 this title or imprisoned for not less than 12 years and not more than 25 years (if the offense
38 was committed to facilitate an act of international terrorism (as defined in section 2331)),

1 not less than 10 years and not more than 20 years (if the offense was committed to facilitate
2 a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more
3 than 10 years (for the first or second such offense, if the offense was not committed to
4 facilitate such an act of international terrorism or a drug trafficking crime), or not less than
5 7 years and not more than 15 years (for any other offense), or both.”.

6 SEC. 1724. EXPANSION OF CRIMINAL ALIEN 7 REPATRIATION PROGRAMS.

8 (a) Expansion of Criminal Alien Repatriation Flights.—Not later than 90 days after the date of
9 the enactment of this Act, the Secretary of Homeland Security shall increase the number of
10 criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs
11 and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not
12 less than 15 percent compared to the number of such flights operated, and authorized to be
13 operated, under existing appropriations and funding on the date of the enactment of this Act.

14 (b) U.S. Immigration and Customs Enforcement Air Operations.—Not later than 90 days after
15 the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive
16 to expand U.S. Immigration and Customs Enforcement Air Operations (referred to in this
17 subsection as “ICE Air Ops”) so that ICE Air Ops provides additional services with respect to
18 aliens who are illegally present in the United States. Such expansion shall include—

19 (1) increasing the daily operations of ICE Air Ops with buses and air hubs in the top 5
20 geographic regions along the southern border;

21 (2) allocating a set number of seats for such aliens for each metropolitan area; and

22 (3) allowing a metropolitan area to trade or give some of seats allocated to such area
23 under paragraph (2) for such aliens to other areas in the region of such area based on the
24 transportation needs of each area.

25 (c) Authorization of Appropriations.—In addition to the amounts otherwise authorized to be
26 appropriated, there is authorized to be appropriated \$10,000,000 for each of fiscal years 2018
27 through 2022 to carry out this section.

28 CHAPTER 2—STRONG VISA INTEGRITY SECURES 29 AMERICA ACT

30 SEC. 1731. SHORT TITLE.

31 This chapter may be cited as the “Strong Visa Integrity Secures America Act”.

32 SEC. 1732. VISA SECURITY.

33 (a) Visa Security Units at High Risk Posts.—Section 428(e)(1) of the Homeland Security Act
34 of 2002 (6 U.S.C. 236(e)(1)) is amended—

35 (1) by striking “The Secretary” and inserting the following:

36 “(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph
37 (B), the Secretary”; and

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

2 “(B) RISK-BASED ASSIGNMENTS.—

3 “(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign,
4 in a risk-based manner, and considering the criteria described in clause (ii),
5 employees of the Department to not fewer than 50 diplomatic and consular posts
6 at which visas are issued.

7 “(ii) CRITERIA DESCRIBED.—The criteria described in this clause are the
8 following:

9 “(I) The number of nationals of a country in which any of the diplomatic
10 and consular posts referred to in clause (i) are located who were identified in
11 United States Government databases ~~related to the identities of~~as known or
12 suspected terrorists during the previous year.

13 “(II) Information on cooperation of the country referred to in subclause (I)
14 with the counterterrorism efforts of the United States.

15 “(III) Information analyzing the presence, activity, or movement of
16 terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi)
17 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or
18 through the country referred to in subclause (I).

19 “(IV) The number of formal objections based on derogatory information
20 issued by the Visa Security Advisory Opinion Unit pursuant to paragraph
21 (10) regarding nationals of a country in which any of the diplomatic and
22 consular posts referred to in clause (i) are located.

23 “(V) The adequacy of the border and immigration control of the country
24 referred to in subclause (I).

25 “(VI) Any other criteria the Secretary determines appropriate.

26 “(iii) RULE OF CONSTRUCTION.—The Secretary has the final authority to
27 assignment of employees of the Department pursuant to this subparagraph. The
28 Secretary may consult with the Chief of Mission about placement and locations
29 for assigned personnel at relevant diplomatic or consular posts but is solely the
30 authority of the Secretary and the Secretary’s decision on assignment may not be
31 altered or rejected by the Secretary of State.”

32 (b) Counterterrorism Vetting and Screening.—Section 428(e)(2) of the Homeland Security
33 Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

34 (1) by redesignating subparagraph (C) as subparagraph (D); and

35 (2) by inserting after subparagraph (B) the following:

36 “(C) Screen any such applications against the appropriate criminal, national security,
37 and terrorism databases maintained by the Federal Government.”

38 (c) Training and Hiring.—Section 428(e)(6)(A) of the Homeland Security Act of 2002 (6
39 U.S.C. 236(e)(6)(A)) is amended—

40 (1) by striking “The Secretary shall ensure, to the extent possible, that any employees”

1 and inserting “The Secretary, acting through the Commissioner of U.S. Customs and Border
2 Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide
3 training to any employees”; and

4 (2) by striking “shall be provided the necessary training”.

5 (d) Pre-adjudicated Visa Security Assistance and Visa Security Advisory Opinion Unit.—
6 Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended by adding at
7 the end the following:

8 “(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at
9 which employees of the Department are not assigned pursuant to paragraph (1), the
10 Secretary shall, in a risk-based manner, assign employees of the Department to remotely
11 perform the functions required under paragraph (2) at not fewer than 50 of such posts.

12 “(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S.
13 Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond
14 to requests from the Secretary of State to conduct a visa security review using information
15 maintained by the Department on visa applicants, including terrorism association, criminal
16 history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

17 (e) Schedule of Implementation.—The requirements established under paragraphs (1) and (10)
18 of section 428(e) of the Homeland Security Act of 2002, as amended and added by this section,
19 shall be implemented not later than 3 years after the date of the enactment of this Act.

20 (f) Authorization of Appropriations.—There are authorized to be appropriated \$30,000,000 to
21 implement this section and the amendments made by this section.

22 SEC. 1733. ELECTRONIC PASSPORT SCREENING AND 23 BIOMETRIC MATCHING.

24 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
25 seq.) is amended by adding at the end the following:

26 “SEC. 420. ELECTRONIC PASSPORT SCREENING AND 27 BIOMETRIC MATCHING.

28 “(a) In General.—Not later than 1 year after the date of the enactment of the Strong Visa
29 Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection
30 shall—

31 “(1) screen electronic passports at airports of entry by reading each such passport’s
32 embedded chip; and

33 “(2) to the greatest extent practicable, utilize facial recognition technology or other
34 biometric technology, as determined by the Commissioner, to inspect travelers at United
35 States airports of entry.

36 “(b) Applicability.—

37 “(1) ELECTRONIC PASSPORT SCREENING.—Subsection (a)(1) shall apply to passports
38 belonging to individuals who are United States citizens, individuals who are nationals of a

1 program country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C.
2 1187), and individuals who are nationals of any other foreign country that issues electronic
3 passports.

4 “(2) FACIAL RECOGNITION MATCHING.—Subsection (a)(2) shall apply, at a minimum, to
5 individuals who are nationals of a program country pursuant to section 217 of such Act.

6 “(c) Annual Report.—

7 “(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in
8 collaboration with the Chief Privacy Officer of the Department, shall submit an annual
9 report, through fiscal year 2022, to the Committee on Homeland Security and Governmental
10 Affairs of the Senate and the Committee on Homeland Security of the House of
11 Representatives that describes the utilization of facial recognition technology and other
12 biometric technology pursuant to subsection (a)(2).

13 “(2) REPORT CONTENTS.—Each report submitted pursuant to paragraph (1) shall
14 include—

15 “(A) information on the type of technology used at each airport of entry;

16 “(B) the number of individuals who were subject to inspection using either of such
17 technologies at each airport of entry;

18 “(C) within the group of individuals subject to such inspection, the number of those
19 individuals who were United States citizens and lawful permanent residents;

20 “(D) information on the disposition of data collected during the year covered by
21 such report; and

22 “(E) information on protocols for the management of collected biometric data,
23 including time frames and criteria for storing, erasing, destroying, or otherwise
24 removing such data from databases utilized by the Department.

25 “SEC. 420A. CONTINUOUS SCREENING BY U.S. 26 CUSTOMS AND BORDER PROTECTION.

27 “The Commissioner of U.S. Customs and Border Protection shall, in a risk-based manner,
28 continuously screen individuals issued any visa, and individuals who are nationals of a program
29 country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are
30 present, or expected to arrive within 30 days, in the United States, against the appropriate
31 criminal, national security, and terrorism databases maintained by the Federal Government.”.

32 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
33 of 2002 is amended by inserting after the item relating to section 419 the following:

34 “Sec.420.Electronic passport screening and biometric matching.

35 “Sec.420A.Continuous screening by U.S. Customs and Border Protection.”.

36 SEC. 1734. REPORTING VISA OVERSTAYS.

37 Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

38 (1) in subsection (a)—

1 (A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
2 and

3 (B) by inserting before the period at the end the following: “, and any additional
4 information that the Secretary determines necessary for purposes of the report under
5 subsection (b)”;

6 (2) by amending subsection (b) to read as follows:

7 “(b) Annual Report.—Not later than ~~June~~September 30, 2018, and annually thereafter, the
8 Secretary of Homeland Security shall submit a report to the Committee on Homeland Security
9 and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
10 Committee on Homeland Security of the House of Representatives, and the Committee on the
11 Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical
12 estimates (including information on the methodology utilized to develop such numerical
13 estimates) of—

14 “(1) for each country, the number of aliens from the country who are described in
15 subsection (a), including—

16 “(A) the total number of such aliens within all classes of nonimmigrant aliens
17 described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
18 1101(a)(15)); and

19 “(B) the number of such aliens within each of the classes of nonimmigrant aliens, as
20 well as the number of such aliens within each of the subclasses of such classes of
21 nonimmigrant aliens, as applicable;

22 “(2) for each country, the percentage of the total number of aliens from the country who
23 were present in the United States and were admitted to the United States as nonimmigrants
24 who are described in subsection (a);

25 “(3) the number of aliens described in subsection (a) who arrived by land at a port of
26 entry into the United States;

27 “(4) the number of aliens described in subsection (a) who entered the United States using
28 a border crossing identification card (as defined in section 101(a)(6) of the Immigration and
29 Nationality Act (8 U.S.C. 1101(a)(6)); and

30 “(5) the number of Canadian nationals who entered the United States without a visa and
31 whose authorized period of stay in the United States terminated during the previous fiscal
32 year, but who remained in the United States.”.

33 SEC. 1735. STUDENT AND EXCHANGE VISITOR 34 INFORMATION SYSTEM VERIFICATION.

35 Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland
36 Security shall ensure that the information collected under the program established under section
37 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
38 1372) is available to officers of U.S. Customs and Border Protection conducting primary
39 inspections of aliens seeking admission to the United States at each port of entry of the United
40 States.

1 SEC. 1736. SOCIAL MEDIA REVIEW OF VISA
2 APPLICANTS.

3 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et.
4 seq.), as amended by sections 1117 and 1730 of this Act, is further amended by adding at the end
5 the following:

6 “SEC. 436. SOCIAL MEDIA SCREENING.

7 “(a) In General.—Not later than 180 days after the date of the enactment of the Strong Visa
8 Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk
9 based manner and on an individualized basis, review the social media accounts of visa applicants
10 who are citizens of, or who reside in, high risk countries, as determined by the Secretary based
11 on the criteria described in subsection (b).

12 “(b) High-risk Criteria Described.—In determining whether a country is high-risk pursuant to
13 subsection (a), the Secretary shall consider the following criteria:

14 “(1) The number of nationals of the country who were identified in United States
15 Government databases related to the identities of known or suspected terrorists during the
16 previous year.

17 “(2) The level of cooperation of the country with the counter-terrorism efforts of the
18 United States.

19 “(3) Any other criteria the Secretary determines appropriate.

20 “(c) Collaboration.—To develop the technology [and procedures](#) required to carry out the
21 requirements under subsection (a), the Secretary shall collaborate with—

22 “(1) the head of a national laboratory within the Department’s laboratory network with
23 relevant expertise;

24 “(2) the head of a relevant university-based center within the Department’s centers of
25 excellence network; and

26 “(3) the heads of other appropriate Federal agencies, [including the Secretary of State,](#)
27 [Director of National Intelligence, and Attorney General.](#)

28 “SEC. 437. OPEN SOURCE SCREENING.

29 “The Secretary shall, to the greatest extent practicable, and in a risk-based manner, review
30 open source information of visa applicants.”.

31 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
32 of 2002, as amended by this Act, is further amended by inserting after the item relating to section
33 435 the following:

34 “Sec.436.Social media screening.

35 “Sec.437.Open source screening.”.

36 CHAPTER 3—VISA CANCELLATION AND REVOCATION

1 SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

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

4 (1) in paragraph (1)—

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

6 (B) by inserting “and any other nonimmigrant visa issued by the United States that is
7 in the possession of the alien” after “such visa”; and

8 (2) in paragraph (2)(A), by adding “or foreign residence” after striking “(other than the
9 visa described in paragraph (1)) issued in a consular office located in the country of the
10 alien’s nationality” and inserting “(other than a visa described in paragraph (1)) issued in a
11 consular office located in the country of “the alien’s nationality”_or foreign residence”.

12 (b) Effective Date and Application.—The amendments made by subsection (a) shall take
13 effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after
14 such date.

15 SEC. 1742. VISA INFORMATION SHARING.

16 (a) In General.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is
17 amended—

18 (1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting
19 “issuance, refusal, or revocation”; and

20 (2) in paragraph (2)—

21 (A) in the matter preceding subparagraph (A), by striking “and on the basis of
22 reciprocity” and all that follows and inserting “may provide to a foreign government
23 information in a Department of State computerized visa database and, when necessary
24 and appropriate, other records covered by this section related to information in such
25 database”;

26 (B) by amending subparagraph (A) to read as follows:

27 “(A) on the basis of reciprocity, with regard to individual aliens, at any time on a
28 case-by-case basis for the purpose of—

29 “(i) preventing, investigating, or punishing acts that would constitute a crime in
30 the United States, including, but not limited to, terrorism or trafficking in
31 controlled substances, persons, or illicit weapons; or

32 “(ii) determining a person’s removability or eligibility for a visa, admission, or
33 other immigration benefit;”;

34 (C) in subparagraph (B)—

35 (i) by inserting “on basis of reciprocity,” before “with regard to”;

36 (ii) by striking “in the database” and inserting “such database”;

37 (iii) by striking “for the purposes” and inserting “for 1 of the purposes”; and

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

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

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

8 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that
9 is 60 days after the date of the enactment of the Act.

10 SEC. 1743. VISA INTERVIEWS.

11 (a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is
12 amended—

13 (1) in paragraph (1)—

14 (A) in subparagraph (B), by striking “or” at the end;

15 (B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

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

17 “(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable
18 discretion, determines that an interview is unnecessary because the alien is ineligible
19 for a visa; and”.

20 (2) in paragraph (2)—

21 (A) in subparagraph (E), by striking “or” at the end;

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

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

24 “(G) is an individual within a class of aliens that the Secretary, in his or her sole and
25 unreviewable discretion, has determined may pose a threat to national security or
26 public safety.”.

27 SEC. 1744. JUDICIAL REVIEW OF VISA REVOCATION.

28 Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended—

29 (1) by inserting “(1)” after “(i)”; and

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

31 “(2) A revocation under this subsection of a visa or other documentation from an alien shall
32 automatically cancel any other valid visa that is in the alien’s possession.”.

33 CHAPTER 4—SECURE VISAS ACT

34 SEC. 1751. SHORT TITLE.

1 This chapter may be cited as the “Secure Visas Act”.

2 **SEC. 1752. AUTHORITY OF THE SECRETARY OF**
3 **HOMELAND SECURITY AND THE SECRETARY OF**
4 **STATE.**

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

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

8 “(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1104(a)) and any other provision of law, and except for the authority of the
10 Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the
11 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

12 “(A) shall have exclusive authority to issue regulations, establish policy, and
13 administer and enforce the provisions of the Immigration and Nationality Act (8
14 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the
15 functions of consular officers of the United States in connection with the granting and
16 refusal of a visa; and

17 “(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or
18 his or her designee, determines that such refusal or revocation is necessary or advisable
19 in the security interests of the United States.

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

21 “(A) shall take effect immediately; and

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

23 “(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section
24 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361
25 and 1651 of such title, no United States court has jurisdiction to review a decision by the
26 Secretary or a consular officer to refuse or revoke a visa.

27 “(c) ~~Effect of Visa Approval by~~ Visa Refusal Authority of the Secretary of State.—

28 “(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse or
29 revoke a visa to an alien if the Secretary determines that such refusal or revocation is
30 necessary or advisable in the foreign policy interests of the United States.

31 “(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override
32 a decision by the Secretary under subsection (b).”

33 (b) Visa Revocation.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended
34 by adding at the end the following:

35 “(j) Visa Revocation Information.—If the Secretary or the Secretary of State revokes a visa—

36 “(1) the relevant consular, law enforcement, and terrorist screening databases shall be
37 immediately updated on the date of the revocation; and

38 “(2) look-out notices shall be posted to all Department port inspectors and Department of

1 State consular officers.”.

2 (c) Conforming Amendment.—Section 104(a)(1) of the Immigration and Nationality Act (8
3 U.S.C. 1104(a)(1)) is amended by inserting “and the power authorized under section 428(c) of
4 the Homeland Security Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

5 CHAPTER 5—VISA FRAUD AND SECURITY 6 IMPROVEMENT ACT OF 2017

7 SEC. 1761. SHORT TITLE.

8 This chapter may be cited as the “Visa Fraud and Security Improvement Act of 2018”.

9 SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION 10 AND DETECTION FEES.

11 Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is
12 amended—

13 (1) in the matter preceding clause (i), by striking “at United States embassies and
14 consulates abroad”;

15 (2) by amending clause (i) to read as follows:

16 “(i) to increase the number of diplomatic security personnel assigned
17 exclusively or primarily to the function of preventing and detecting visa fraud;”;
18 and

19 (3) in clause (ii), by striking “, including primarily fraud by applicants for visas described
20 in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)”.

21 SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS 22 AND DAUGHTERS OF TRAFFICKERS.

23 Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

24 (1) in subparagraph (C)(ii), by inserting “, or has been,” after “is”; and

25 (2) in subparagraph (H)(ii), by inserting “, or has been,” after “is”.

26 SEC. 1764. DNA TESTING.

27 Section 222(b) of the Immigration and Nationality Act (8 U.S.C. 1202(b)) is amended by
28 inserting after the second sentence the following: “Where considered necessary by the consular
29 officer or immigration official [of the Department of Homeland Security](#) to establish the bona
30 fides of a family relationship, the immigrant shall provide DNA evidence of such relationship in
31 accordance with procedures established for submitting such evidence. The Secretary and the
32 Secretary of State may, in consultation, issue regulations to require the submission of DNA
33 evidence to establish family relationship from applicants for certain visa classifications.”.

34 SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY

1 DATABASE FOR DIPLOMATIC VISAS.

2 Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy
3 Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting “, except for diplomatic
4 visa applications for which only full biographical information is required” before the period at
5 the end.

6 SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH
7 REQUIREMENT FOR VISA APPLICATIONS.

8 Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by
9 striking the first sentence and insert the following: “Each alien who applies for a visa shall be
10 registered in connection with his or her application and shall furnish copies of his or her
11 photograph for such use as may be required by regulation.”.

12 CHAPTER 6—OTHER MATTERS

13 SEC. 1771. REQUIREMENT FOR COMPLETION OF
14 BACKGROUND CHECKS.

15 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103) is amended
16 by adding at the end the following:

17 “(h) Completion of Background and Security Checks.—

18 “(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law
19 (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa
20 Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
21 States Code, and section 706(1) of title 5, United States Code, the Secretary and the
22 Attorney General may not approve or grant to an alien any status, relief, protection from
23 removal, employment authorization, or any other benefit under the immigration laws,
24 including an adjustment of status to lawful permanent residence or a grant of United States
25 citizenship or issue to the alien any documentation evidencing a status or grant of any
26 status, relief, protection from removal, employment authorization, or other benefit under the
27 immigration laws until—

28 “(A) all background and security checks required by statute or regulation or deemed
29 necessary by the Secretary or the Attorney General, in his or her sole and unreviewable
30 discretion, for the alien have been completed; and

31 “(B) the Secretary or the Attorney General has determined that the results of such
32 checks do not preclude the approval or grant of any status, relief, protection from
33 removal, employment authorization, or any other benefit under the immigration laws
34 or approval, grant, or the issuance of any documentation evidencing such status, relief,
35 protection, authorization, or benefit.

36 “(2) PROHIBITION ON JUDICIAL ACTION.—No court shall have authority to order the
37 approval of, grant, mandate, or require any action in a certain time period, or award any
38 relief for the Secretary’s or Attorney General’s failure to complete or delay in completing
39 any action to provide any status, relief, protection from removal, employment authorization,

1 or any other benefit under the immigration laws, including an adjustment of status to lawful
2 permanent residence, naturalization, or a grant of United States citizenship for an alien
3 until—

4 “(A) all background and security checks for the alien have been completed; and

5 “(B) the Secretary or the Attorney General has determined that the results of such
6 checks do not preclude the approval or grant of such status, relief, protection,
7 authorization, or benefit, or issuance of any documentation evidencing such status,
8 relief, protection, authorization, or benefit.”.

9 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
10 on the date of the enactment of this Act and shall apply to any application, petition, or request for
11 any benefit or relief or any other case or matter under the immigration laws pending with on or
12 filed with the Secretary of Homeland Security, the Attorney General, the Secretary of State, the
13 Secretary of Labor, or a consular officer on or after such date of enactment.

14 SEC. 1772. WITHHOLDING OF ADJUDICATION.

15 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103), as amended
16 by section 1771 of this Act, is further amended by adding at the end the following:

17 “(i) Withholding of Adjudication.—

18 “(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any
19 other law, including sections 1361 and 1651 of title 28, United States Code, may be
20 construed to require, and no court can order, the Secretary, the Attorney General, the
21 Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other
22 application, approve any petition, or grant or continue any relief, protection from removal,
23 employment authorization, or any other status or benefit under the immigration laws by, to,
24 or on behalf of any alien with respect to whom a criminal proceeding or investigation is
25 open or pending (including the issuance of an arrest warrant or indictment), if such
26 proceeding or investigation is deemed by such official to be material to the alien’s eligibility
27 for the status, relief, protection, or benefit sought.

28 “(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the
29 Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold
30 adjudication any application, petition, request for relief, request for protection from
31 removal, employment authorization, status or benefit under the immigration laws pending
32 final resolution of the criminal or other proceeding or investigation.

33 “(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or
34 nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry
35 Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States
36 Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to
37 review a decision to withhold adjudication pursuant to this subsection.

38 “(4) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This subsection does not
39 limit or modify the applicability of section 241(b)(3) or the United Nations Convention
40 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject
41 to any reservations, understandings, declarations and provisos contained in the United
42 States Senate resolution of ratification of the Convention, as implemented by section 2242

1 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with
2 respect to an alien otherwise eligible for protection under such provisions.”.

3 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
4 on the date of the enactment of this Act and shall apply to any application, petition, or request for
5 any benefit or relief or any other case or matter under the immigration laws pending with or filed
6 with the Secretary of Homeland Security on or after such date of enactment.

7 **SEC. 1773. ACCESS TO THE NATIONAL CRIME**
8 **INFORMATION CENTER INTERSTATE IDENTIFICATION**
9 **INDEX.**

10 (a) Criminal Justice Activities.—Section 104 of the Immigration and Nationality Act (8 U.S.C.
11 1104) is amended by adding at the end the following:

12 “(f) Notwithstanding any other provision of law, any Department of State personnel with
13 authority to grant or refuse visas or passports may carry out activities that have a criminal justice
14 purpose.”.

15 (b) Liaison With Internal Security Officers; Data Exchange.—Section 105 of the Immigration
16 and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting
17 the following:

18 “(b) Access to NCIC-III.—

19 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General
20 and the Director of the Federal Bureau of Investigation shall provide to the Department of
21 Homeland Security and the Department of State access to the criminal history record
22 information contained in the National Crime Information Center’s Interstate Identification
23 Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the
24 National Crime Information Center for the purpose of determining whether an applicant or
25 petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws,
26 or any beneficiary of an application, petition, relief, or status under the immigration laws,
27 has a criminal history record indexed in the file.

28 “(2) AUTHORIZED ACTIVITIES.—

29 “(A) IN GENERAL.—The Secretary and the Secretary of State—

30 “(i) shall have direct access, without any fee or charge, to the information
31 described in paragraph (1) to conduct name-based searches, file number searches,
32 and any other searches that any criminal justice or other law enforcement officials
33 are entitled to conduct; and

34 “(ii) may contribute to the records maintained by the National Crime
35 Information Center.

36 “(B) SECRETARY OF HOMELAND SECURITY.—The Secretary shall receive, upon
37 request, access to the information described in paragraph (1) by means of extracts of
38 the records for placement in the appropriate database without any fee or charge.

39 “(c) Criminal Justice and Law Enforcement Purposes.—Notwithstanding any other provision

1 of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and
2 other purposes relating to citizenship and immigration services, shall be considered to be
3 criminal justice or law enforcement purposes with respect to access to or use of any information
4 maintained by the National Crime Information Center or other criminal history information or
5 records.”.

6 SEC. 1774. APPROPRIATE REMEDIES FOR 7 IMMIGRATION LITIGATION.

8 (a) Limitation on Class Actions.—

9 (1) IN GENERAL.—Except as provided in paragraph (2), no court may certify a class under
10 Rule 23 of the Federal Rules of Civil Procedure in any civil action that—

11 (A) is filed after the date of the enactment of this Act; and

12 (B) pertains to the administration or enforcement of the immigration laws.

13 (2) EXCEPTION.—A court may certify a class upon a motion by the Government if the
14 Government is requesting such a certification to ensure efficiency in case management or
15 uniformity in application of precedent decisions or interpretations of laws when there is a
16 nationwide class.

17 (b) Requirements for an Order Granting Prospective Relief Against the Government.—

18 (1) IN GENERAL.—If a court determines that prospective relief should be ordered against
19 the Government in any civil action pertaining to the administration or enforcement of the
20 immigration laws, the court shall—

21 (A) limit the relief to the minimum necessary to correct the violation of law;

22 (B) adopt the least intrusive means to correct the violation of law;

23 (C) minimize, to the greatest extent practicable, the adverse impact on national
24 security, border security, immigration administration and enforcement, and public
25 safety; and

26 (D) provide for the expiration of the relief on a specific date, which is not later than
27 the earliest date necessary for the Government to remedy the violation.

28 (2) WRITTEN EXPLANATION.—The requirements described in paragraph (1) shall be
29 discussed and explained in writing in the order granting prospective relief and shall be
30 sufficiently detailed to allow review by another court.

31 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief
32 granted under paragraph (1) shall automatically expire on the date that is 90 days after the
33 date on which such relief is entered, unless the court—

34 (A) finds that such relief meets the requirements described in subparagraphs (A)
35 through (D) of paragraph (1) for the entry of permanent prospective relief; and

36 (B) orders the preliminary relief to become a final order granting prospective relief
37 before the expiration of such 90-day period.

38 (c) Procedure for Motion Affecting Order Granting Prospective Relief Against the

1 Government.—

2 (1) IN GENERAL.—A court shall promptly rule on a motion made by the United States
3 Government to vacate, modify, dissolve, or otherwise terminate an order granting
4 prospective relief in any civil action pertaining to the administration or enforcement of the
5 immigration laws.

6 (2) AUTOMATIC STAYS.—

7 (A) IN GENERAL.—A motion to vacate, modify, dissolve, or otherwise terminate an
8 order granting prospective relief made by the United States Government in any civil
9 action pertaining to the administration or enforcement of the immigration laws shall
10 automatically, and without further order of the court, stay the order granting
11 prospective relief on the date that is 15 days after the date on which such motion is
12 filed unless the court previously has granted or denied the Government’s motion.

13 (B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A)
14 shall continue until the court enters an order granting or denying the Government’s
15 motion.

16 (C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay
17 under subparagraph (A) for not longer than 15 days.

18 (D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending,
19 delaying, or otherwise barring the effective date of the automatic stay described in
20 subparagraph (A), other than an order to postpone the effective date of the automatic
21 stay for not longer than 15 days under subparagraph (C)—

22 (i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise
23 terminate an injunction; and

24 (ii) shall be immediately appealable under section 1292(a)(1) of title 28, United
25 States Code.

26 (d) Settlements.—

27 (1) CONSENT DECREES.—In any civil action pertaining to the administration or
28 enforcement of the immigration laws of the United States, the court may not enter, approve,
29 or continue a consent decree that does not comply with the requirements under subsection
30 (b)(1).

31 (2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection may be construed to
32 preclude parties from entering into a private settlement agreement that does not comply
33 with subsection (b)(1).

34 (e) Expedited Proceedings.—It shall be the duty of every court to advance on the docket and
35 to expedite the disposition of any civil action or motion considered under this section.

36 (f) Consent Decree Defined.—In this section, the term “consent decree”—

37 (1) means any relief entered by the court that is based in whole or in part on the consent
38 or acquiescence of the parties; and

39 (2) does not include private settlements.

1 SEC. 1775. USE OF 1986 IRCA LEGALIZATION
2 INFORMATION FOR NATIONAL SECURITY PURPOSES.

3 (a) Special Agricultural Workers.—Section 210(b)(6) of the Immigration and Nationality Act
4 (8 U.S.C. 1160(b)(6)) is amended—

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

6 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
7 inserting “Homeland Security”;

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

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

11 “(C) AUTHORIZED DISCLOSURES.—

12 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
13 discretion, for the furnishing of information furnished under this section in the
14 same manner and circumstances as census information may be disclosed under
15 section 8 of title 13, United States Code.”.

16 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
17 Secretary’s discretion, for the furnishing, use, publication, or release of
18 information furnished under this section in any investigation, case, or matter, or
19 for any purpose, relating to terrorism, national intelligence or the national
20 security.

21 “(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary
22 may use the information furnished under this section to adjudicate subsequent
23 applications, petitions, or requests for immigration benefits filed by the alien.

24 “(iv) ALIEN CONSENT.—The Secretary may use the information furnished under
25 this section for any purpose when the alien consents to its disclosure or use by the
26 Secretary.

27 “(v) OTHER CIRCUMSTANCES.—The Secretary may use the information
28 furnished under this section for other purposes and in other circumstances in
29 which disclosure of the information is not related to removal of the alien from the
30 United States.”; and

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

33 (b) Adjustment of Status.—Section 245A(c)(5) of the Immigration and Nationality Act (8
34 U.S.C. 1255a(c)(5)) is amended—

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

36 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
37 inserting “Homeland Security”; and

38 (3) by amending subparagraph (C) to read as follows:

1 “(C) AUTHORIZED DISCLOSURES.—

2 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
3 discretion, for the furnishing of information furnished under this section in the
4 same manner and circumstances as census information may be disclosed under
5 section 8 of title 13, United States Code.

6 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
7 Secretary’s discretion, for the furnishing, use, publication, or release of
8 information furnished under this section in any investigation, case, or matter, or
9 for any purpose, relating to terrorism, national intelligence or the national
10 security.”.

11 **SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR**
12 **CERTAIN IMMIGRATION, NATURALIZATION, AND**
13 **PEONAGE OFFENSES.**

14 Section 3291 of title 18, United States Code, is amended to read as follows:

15 **“3291. Nationality, citizenship and passports**

16 “No person shall be prosecuted, tried, or punished for a violation of any section of chapter 69
17 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration
18 offenses), for a violation of any criminal provision of section 243, 274, 275, 276, 277, or 278 of
19 the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
20 attempt or conspiracy to violate any such section, unless the indictment is returned or the
21 information is filed within 10 years after the commission of the offense.”.

22 **SEC. 1777. CONFORMING AMENDMENT TO THE**
23 **DEFINITION OF RACKETEERING ACTIVITY.**

24 Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all
25 that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other
26 documents)” and inserting “sections 1541 through 1547 (relating to passports and visas)”.

27 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

28 (a) Civil Cases.—

29 (1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C.
30 1351 et seq.), as amended by section 1126(a) of this Act, is further amended by adding at
31 the end the following:

32 **“SEC. 296. VALIDITY OF SIGNATURES.**

33 “(a) In General.—In any proceeding, adjudication, or any other matter arising under the
34 immigration laws, an individual’s hand written or electronic signature on any petition,
35 application, or any other document executed or provided for any purpose under the immigration
36 laws establishes a rebuttable presumption that the signature executed is that of the individual
37 signing, that the individual is aware of the contents of the document, and intends to sign it.”.

1 “(b) Record Integrity.—The Secretary shall establish procedures to ensure that when any
2 electronic signature is captured for any petition, application, or other document submitted for
3 purposes of obtaining an immigration benefit, the identity of the person is verified and
4 authenticated, and the record of such identification and verification is preserved for litigation
5 purposes.”.

6 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
7 and Nationality Act is amended by inserting after the item relating to section 295, as added
8 by section 1126(a)(2) of this Act, the following:

9 “Sec.296.Validity of signatures.”.

10 (b) Criminal Cases.—

11 (1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at
12 the end the following:

13 “3513. Signatures relating to immigration matters

14 “In a criminal proceeding in a court of the United States, if an individual’s handwritten or
15 electronic signature appears on a petition, application, or other document executed or provided
16 for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration
17 and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was
18 signed by that individual, and that the individual knew the contents of the document and intended
19 to sign the document.”.

20 (2) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United
21 States Code, is amended by inserting after the item relating to section 3512 the following:

22 “3513. Signatures relating to immigration matters.”.

23 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status 24 in the United States

25 CHAPTER 1—PROHIBITION ON ADJUSTMENT TO 26 LAWFUL PERMANENT RESIDENT STATUS

27 SEC. 1801. LAWFUL PERMANENT RESIDENTS AS 28 APPLICANTS FOR ADMISSION.

29 Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is
30 amended—

31 (1) in clauses (i), (ii), (iii), and (iv), by striking the comma at the end of each clause and
32 inserting a semicolon;

33 (2) in clause (v), by striking the “, or” and inserting a semicolon;

34 (3) in clause (vi), by striking the period at the end and inserting “; or” and

35 (4) by adding at the end the following:

36 “(vii) is described in section 212(a)(3) or 237(a)(4).”.

1 SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF
2 ADJUSTMENT OF STATUS.

3 (a) Applicants for Admission.—Section 101(a)(13) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(13)), as amended by section 1801, is further amended by adding at the end the
5 following:

6 “(D) Notwithstanding subparagraph (A), adjustment of status of an alien to that of an alien
7 lawfully admitted for permanent residence under section 245 or under any other provision of law
8 is an admission of the alien.”.

9 (b) Eligibility to Be Removed for a Crime Involving Moral Turpitude.—Section
10 237(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking “date of
11 admission,” inserting “alien’s most recent date of admission;”.

12 SEC. 1803. PRECLUDING ASYLEE AND REFUGEE
13 ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF
14 INADMISSIBILITY AND DEPORTABILITY.

15 (a) Grounds of Inadmissibility.—Section 209(c) of the Immigration and Nationality Act (8
16 U.S.C. 1159(c)) is amended by striking “(other than paragraph (2)(C) or subparagraph (A), (B),
17 (C), or (E) of paragraph (3))”, and inserting “(other than subparagraph (C) or (G) of paragraph
18 (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3))”.

19 (b) Grounds of Deportability.—Section 209 of such Act, as amended by subsection (a), is
20 further amended by adding at the end the following:

21 “(d) An alien’s status may not be adjusted under this section if the alien is in removal
22 proceedings under section 238 or 240 and is charged with deportability under any
23 subparagraph(s) of section 237(a)(2), (a)(3), (a)(4), or (a)(6)deportable under any provision of
24 section 237 (except subsection (a)(5) of such section).”.

25 (c) Effective Date.—The amendments made by this section shall apply to—

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

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

30 SEC. 1804. REVOCATION OF LAWFUL PERMANENT
31 RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

32 Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)) is amended
33 by adding at the end the following:

34 “(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES
35 WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through
36 (E) shall apply to any alien placed in proceedings under this section who—

37 “(i) is outside of the United States;

1 “(ii) ~~has received notice of proceedings under section 240(a) (either within or~~
2 ~~outside of the United States)~~has been provided written notice as described in
3 section 2399a)(whether the alien is within or outside the United States); and

4 “(iii) is described in section 212(a)(2)(G) (~~officials~~ persons who have
5 committed particularly severe violations of religious freedom), 212(a)(3)(E) (Nazi
6 and other persecution, genocide, war crimes, crimes against humanity,
7 extrajudicial killing, torture, or specified human rights violations), or 212(a)(3)(G)
8 (recruitment or use of child soldiers).”.

9 **SEC. 1805. REMOVAL OF CONDITION ON LAWFUL**
10 **PERMANENT RESIDENT STATUS PRIOR TO**
11 **NATURALIZATION.**

12 Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is
13 amended—

14 (1) in section 216(e) (8 U.S.C. 1186a(e)), by inserting “, if the alien has had the
15 conditional basis removed pursuant to this section” before the period at the end; and

16 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by inserting “, if the alien has had the
17 conditional basis removed pursuant to this section” before the period at the end.

18 **SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS**
19 **WHO POSE A THREAT TO NATIONAL SECURITY OR**
20 **PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT**
21 **OF STATUS.**

22 (a) Application for Adjustment of Status in the United States.—

23 (1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is
24 amended by striking the section heading and subsection (a) and inserting the following:

25 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A**
26 **PERSON ADMITTED FOR PERMANENT RESIDENCE.**

27 “(a) In General.—

28 “(1) ELIGIBILITY FOR ADJUSTMENT.—The status of an alien who was inspected and
29 admitted or paroled into the United States or the status of any other alien having an
30 approved petition for classification ~~as a VAWA self-petitioner under VAWA as a spouse or~~
31 ~~child who has been battered or subjected to extreme cruelty~~ may be adjusted by the
32 Secretary or by the Attorney General, in the discretion of the Secretary or the Attorney
33 General, and under such regulations as the Secretary or the Attorney General may prescribe,
34 to that of an alien lawfully admitted for permanent residence if—

35 “(A) the alien files an application for such adjustment;

36 “(B) the alien is eligible to receive an immigrant visa, is admissible to the United

1 States for permanent residence, and is not subject to exclusion, deportation, or removal
2 from the United States; and

3 “(C) an immigrant visa is immediately available to the alien at the time the alien’s
4 application is filed.

5 “(2) IMMEDIATELY AVAILABLE.—For purposes of this section, the term ‘immediately
6 available’ means that on the date on which the application for adjustment of status is filed,
7 the visa category under which the alien is seeking permanent residence is current, as
8 determined by the Secretary of State and reflected in the Department of State’s visa bulletin
9 for the month in which the application for adjustment of status is filed.

10 “(3) REQUIREMENT TO OBTAIN AN IMMIGRANT VISA OUTSIDE OF THE UNITED STATES.—
11 Notwithstanding any other provision of this section, if the Secretary determines that an alien
12 may be a threat to national security or public safety or if the Secretary determines that a
13 favorable exercise of discretion to allow an alien to seek to adjust his or her status in the
14 United States rather than to obtain an immigrant visa outside of the United States is not
15 warranted, the Secretary, in the Secretary’s sole and unreviewable discretion, may—

16 “(A) prohibit the alien from seeking an adjustment of status under paragraph (1) while the
17 alien is present in the United States; and

18 “(B) require the alien to seek permanent residence by applying for an immigrant visa at a
19 United States embassy or consulate in the alien’s home country or other foreign country, as
20 designated by the Secretary of State.”.

21 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
22 and Nationality Act is amended by striking the item relating to section 245 and inserting the
23 following:

24 “Sec.245.Adjustment of status to that of a person admitted for permanent residence.”.

25 (b) Prohibition on Terrorists and Aliens Who Pose a Threat to National Security or Public
26 Safety on Adjustment to Lawful Permanent Resident Status.—Section 245(c) of the Immigration
27 and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

28 “(c) Except for an alien who has an approved petition for classification as a VAWA self-
29 petitioner, subsection (a) shall not apply to—

30 “(1) an alien crewman;

31 “(2) subject to subsection (k), any alien (other than an immediate relative (as defined in
32 section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of
33 section 101(a)(27))) who—

34 “(A) continues in or accepts unauthorized employment before filing an application
35 for adjustment of status;

36 “(B) is in unlawful immigration status on the date he or she files an application for
37 adjustment of status; or

38 “(C) has failed (other than through no fault of his or her own or for technical
39 reasons) to maintain continuously a lawful status since entry into the United States;

40 “(3) any alien admitted in transit without a visa under section 212(d)(4)(C);

1 “(4) an alien (other than an immediate relative (as defined in section 201(b))) who was
2 admitted as a nonimmigrant visitor without a visa under section 212(l) or 217;

3 “(5) an alien who was admitted as a nonimmigrant under section 101(a)(15)(S);

4 “(6) an alien described in subparagraph (B), (F), or (G) of section 237(a)(4);

5 “(7) any alien who seeks adjustment of status to that of an immigrant under section
6 203(b) and is not in a lawful nonimmigrant status;

7 “(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in
8 the persecution of any person on account of race, religion, nationality, membership in a
9 particular social group, or political opinion; or

10 “(9) any alien who—

11 “(A) was employed while the alien was an unauthorized alien (as defined in section
12 274A(h)(3)); or

13 “(B) has otherwise violated the terms of a nonimmigrant visa.”

14 **SEC. 1807. TREATMENT OF APPLICATIONS FOR**
15 **ADJUSTMENT OF STATUS DURING PENDING**
16 **DENATURALIZATION PROCEEDINGS.**

17 [\(a\)](#) Section 245 of the Immigration and Nationality Act (8 U.S.C. 1451), as amended by
18 section 1806, is further amended by adding at the end the following:

19 “(n) An application for adjustment of status may not be considered or approved by the
20 Secretary or the Attorney General, and no court may order the approval of an application
21 for adjustment of status if the approved petition for classification under section 204 that is
22 the underlying basis for the application for adjustment of status was filed by an individual
23 who has a judicial proceeding pending against him or her that would result in the
24 revocation of the individual’s naturalization under section 340.”

25 [\(b\) Section 221\(g\) of the Immigration and Nationality Act \(8 U.S.C. 1201\(g\)\) is amended by –](#)

26 [\(1\) striking the “or” at the end of subparagraph \(2\);](#)

27 [\(2\) striking the period at the end of subparagraph \(3\); and](#)

28 [\(3\) inserting a new subparagraph \(4\) to read as follows:](#)

29 [“\(4\) the approved petition for classification under section 203 or 204 that is the](#)
30 [underlying basis for the application for a visa was filed by an individual who has a](#)
31 [judicial proceeding pending against him or her that would result in the individual’s](#)
32 [denaturalization under section 340.”.](#)

33 **SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT**
34 **RESCISSION OF PERMANENT RESIDENT STATUS.**

35 Section 246 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—

36 (1) in subsection (a)—

- 1 (A) by inserting “(1)” after “(a)”;
- 2 (B) by striking “within five years” and inserting “within 10 years”;
- 3 (C) by striking “Attorney General” each place that term appears and inserting
4 “Secretary”; and
- 5 (D) by adding at the end the following:

6 “(2) In any removal proceeding involving an alien whose status has been rescinded under this
7 subsection, the determination by the Secretary that the alien was not eligible for adjustment of
8 status is not subject to review or reconsideration during such proceedings.”.

9 (2) by redesignating subsection (b) as subsection (c); and

10 (3) by inserting after subsection (a) the following:

11 “(b) Nothing in subsection (a) may be construed to require the Secretary to rescind the alien’s
12 status before the commencement of removal proceedings under section 240. The Secretary may
13 commence removal proceedings at any time against any alien who is removable, including aliens
14 whose status was adjusted to that of an alien lawfully admitted for permanent residence under
15 section 245 or 249 or under any other provision of law. There is no statute of limitations with
16 respect to the commencement of removal proceedings under section 240. An order of removal
17 issued by an immigration judge shall be sufficient to rescind the alien’s status.”.

18 SEC. 1809. BARRING PERSECUTORS AND TERRORISTS 19 FROM REGISTRY.

20 Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as
21 follows:

22 “SEC. 249. RECORD OF ADMISSION FOR PERMANENT 23 RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO 24 ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 25 1972.

26 “(a) In General.—The Secretary, in the discretion of the Secretary and under such regulations
27 as the Secretary may prescribe, may enter a record of lawful admission for permanent residence
28 in the case of any alien, if no such record is otherwise available and the alien—

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

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

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

32 “(4) is not ineligible for citizenship;

33 “(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), (8), or (9)(C) of
34 section 212(a);

35 “(6) is not described in paragraph (1)(E), (1)(G), (2), (4) of section 237(a); and

36 “(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in

1 attendance at a proceeding to determine the alien’s inadmissibility or deportability.

2 “(b) Recordation Date of Permanent Residence.—The record of an alien’s lawful admission
3 for permanence residence shall be the date on which the Secretary approves the application for
4 such status under this section.”.

5 CHAPTER 2—PROHIBITION ON NATURALIZATION AND 6 UNITED STATES CITIZENSHIP

7 SEC. 1821. BARRING TERRORISTS FROM BECOMING 8 NATURALIZED UNITED STATES CITIZENS.

9 (a) In General.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is
10 amended by adding at the end the following:

11 “(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the
12 Secretary determines, in the discretion of the Secretary, that the alien is described in section
13 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an
14 application for naturalization.

15 “(B) Subparagraph (A) shall not apply to an alien described in section 212(a)(3) if—

16 “(i) the alien received an exemption under section 212(d)(3)(B)(i); and

17 “(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and
18 would bar the alien from naturalization under this paragraph) are specifically covered by the
19 exemption referred to in clause (i).

20 “(2) A determination under paragraph (1) may be based upon any relevant information or
21 evidence, including classified, sensitive, or national security information.”.

22 (b) Applicability to Citizenship Through Naturalization of Parent or Spouse.—Section 340(d)
23 of such Act (8 U.S.C. 1451(d)) is amended—

24 (1) by striking the first sentence and inserting the following:

25 “(1) A person who claims United States citizenship through the naturalization
26 of a parent or spouse shall be deemed to have lost his or her citizenship, and any
27 right or privilege of citizenship which he or she may have acquired, or may
28 hereafter acquire by virtue of the naturalization of such parent or spouse, if the
29 order granting citizenship to such parent or spouse is revoked and set aside under
30 the provisions of—

31 “(A) subsection (a) on the ground that the order and certificate of
32 naturalization were procured by concealment of a material fact or by willful
33 misrepresentation; or

34 “(B) subsection (e) pursuant to a conviction under section 1425 of title 18,
35 United States Code.”.

36 (2) [in the second sentence](#), by striking “Any person” and inserting the following:

37 “(2) Any person”.

1 SEC. 1822. TERRORIST BAR TO GOOD MORAL
2 CHARACTER.

3 (a) Definition of Good Moral Character.—Section 101(f) of the Immigration and Nationality
4 Act (8 U.S.C. 1101(f)), as amended by sections 1710(d) and 1712, is further amended—

5 (1) in paragraph (8), by inserting “, regardless of whether the crime was classified as an
6 aggravated felony at the time of conviction” before the semicolon at the end;

7 (2) by inserting after paragraph (10), as added by section 1710(d)(3), the following:

8 “(11) one who the Secretary or the Attorney General determines, in the unreviewable
9 discretion of the Secretary or the Attorney General, to have been an alien described in
10 section 212(a)(3) or 237(a)(4), which determination—

11 “(A) may be based upon any relevant information or evidence, including classified,
12 sensitive, or national security information; and

13 “(B) shall be binding upon any court regardless of the applicable standard of
14 review.”; and

15 (3) in the undesignated matter at the end, by striking the first sentence and inserting
16 following:

17 “The fact that a person is not within any of the foregoing classes shall not preclude a
18 discretionary finding for other reasons that such a person is or was not of good moral character.
19 The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the
20 period for which good moral character is required, but may take into consideration as a basis for
21 determination the applicant’s conduct and acts at any time. The Secretary or the Attorney
22 General, in the unreviewable discretion of the Secretary or the Attorney General, may determine
23 that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder,
24 manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a
25 minor) for which completion of the term of imprisonment or the sentence (whichever is later)
26 occurred 15 years or longer before the date on which the person filed an application under this
27 Act.”

28 (b) Aggravated Felons.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note;
29 Public Law 101–649) is amended by striking “convictions” and all that follows and inserting
30 “convictions occurring before, on, or after such date.”

31 (c) Effective Dates; Application.—

32 (1) SUBSECTION (A).—The amendments made by subsection (a) shall take effect on the
33 date of the enactment of this Act, shall apply to any act that occurred before, on, or after
34 such date of enactment, and shall apply to any application for naturalization or any other
35 benefit or relief, or any other case or matter under the immigration laws pending on or filed
36 after such date of enactment.

37 (2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect as if
38 included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004
39 (Public Law 108–458).

1 SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF
2 NATURALIZATION APPLICATIONS FOR ALIENS IN
3 REMOVAL PROCEEDINGS.

4 Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read as
5 follows:

6 “SEC. 318. PREREQUISITE TO NATURALIZATION;
7 BURDEN OF PROOF.

8 “(a) In General.—Except as otherwise provided in this chapter, no person may be naturalized
9 unless he or she has been lawfully admitted to the United States for permanent residence in
10 accordance with all applicable provisions of this chapter.

11 “(b) Burden of Proof.—A person described in subsection (a) shall have the burden of proof to
12 show that he or she entered the United States lawfully, and the time, place, and manner of such
13 entry into the United States. In presenting such proof, the person is entitled to the production of
14 his or her immigrant visa, if any, or of other entry document, if any, and of any other documents
15 and records, not considered by the Secretary to be confidential, pertaining to such entry, in the
16 custody of the Department.

17 “(c) Limitations on Review.—Notwithstanding section 405(b), and except as provided in
18 sections 328 and 329—

19 “(1) a person may not be naturalized against whom there is outstanding a final finding of
20 removal, exclusion, or deportation;

21 “(2) an application for naturalization may not be considered by the Secretary or by any
22 court if there is pending against the applicant any removal proceeding or other proceeding
23 to determine whether the applicant’s lawful permanent resident status should be rescinded,
24 regardless of when such proceeding was commenced; and

25 “(3) the findings of the Attorney General in terminating removal proceedings or in
26 cancelling the removal of an alien pursuant to this Act may not be deemed binding in any
27 way upon the Secretary with respect to the question of whether such person has established
28 his or her eligibility for naturalization under this Act.”.

29 SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN
30 AGENCY HAS NOT MADE DECISION ON
31 NATURALIZATION APPLICATION AND ON DENIALS.

32 (a) Limitation on Review of Pending Naturalization Applications.—Section 336 of the
33 Immigration and Nationality Act (8 U.S.C. 1447) is amended—

34 (1) in subsection (a), by striking “If,” and inserting the following:

35 “(b) In General.—If,”; and

36 (2) by amending subsection (b) to read as follows:

1 “(b) Request for Hearing Before District Court.—If a final administrative determination is not
2 made on an application for naturalization under section 335 before the end of the 180-day period
3 beginning on the date on which the Secretary completes all examinations and interviews under
4 such section (as such terms are defined by the Secretary, by regulation), the applicant may apply
5 to the district court for the district in which the applicant resides for a hearing on the matter.
6 Such court shall only have jurisdiction to review the basis for delay and remand the matter to the
7 Secretary for the Secretary’s determination on the application.”.

8 (b) Limitations on Review of Denial.—Section 310 of the Immigration and Nationality Act (8
9 U.S.C. 1421) is amended—

10 (1) by amending subsection (c) to read as follows:

11 “(c) Judicial Review.—

12 “(1) JUDICIAL REVIEW OF DENIAL.—A person whose application for naturalization under
13 this title is denied may, not later than 120 days after the date of the Secretary’s
14 administratively final determination on the application and after a hearing before an
15 immigration officer under section 336(a), seek review of such denial before the United
16 States district court for the district in which such person resides in accordance with chapter
17 7 of title 5, United States Code.

18 “(2) BURDEN OF PROOF.—The petitioner shall have burden of proof to show that the
19 Secretary’s denial of the application for naturalization was not supported by facially
20 legitimate and bona fide reasons.

21 “(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and
22 notwithstanding any other provision of law, including section 2241 of title 28, United States
23 Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court
24 shall have jurisdiction to determine, or to review a determination of the Secretary made at
25 any time regarding, whether, for purposes of an application for naturalization, an alien—

26 “(A) is a person of good moral character;

27 “(B) understands and is attached to the principles of the Constitution of the United
28 States; or

29 “(C) is well disposed to the good order and happiness of the United States.”;

30 (2) in subsection (d)—

31 (A) by inserting “subpoenas.—” before “The immigration officer”;

32 (B) by striking “subpena” and inserting “subpoena”; and

33 (C) by striking “subpenas” each place such term appears and inserting “subpoenas”;
34 and

35 (3) in subsection (e), by inserting “Name Change.—” before “It shall”.

36 (c) Effective Date; Application.—The amendments made by this section—

37 (1) shall take effect on the date of the enactment of this Act;

38 (2) shall apply to any act that occurred before, on, or after such date of enactment; and

39 (3) shall apply to any application for naturalization or any other case or matter under the

1 immigration laws that is pending on, or filed after, such date of enactment.

2 SEC. 1825. CLARIFICATION OF DENATURALIZATION 3 AUTHORITY.

4 Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451) is amended—

5 (1) in subsection (a), by striking “United States attorneys for the respective districts” and
6 inserting “Attorney General”; and

7 (2) by amending subsection (c) to read as follows:

8 “(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and
9 convincing evidence, that an order granting citizenship to an alien should be revoked and a
10 certificate of naturalization cancelled because such order and certificate were illegally procured
11 or were procured by concealment of a material fact or by willful misrepresentation.”.

12 SEC. 1826. DENATURALIZATION OF TERRORISTS.

13 (a) Denaturalization for Terrorists Activities.—Section 340 of the Immigration and Nationality
14 Act, as amended by section 1825, is further amended—

15 (1) by redesignating subsections (d) through (h) as subsections (f) through (j),
16 respectively; and

17 (2) by inserting after subsection (c) the following:

18 “(d)(1) If a person who has been naturalized, during the 15-year period after such
19 naturalization, participates in any act described in paragraph (2)—

20 “(A) such act shall be considered prima facie evidence that such person was not attached
21 to the principles of the Constitution of the United States and was not well disposed to the
22 good order and happiness of the United States at the time of naturalization; and

23 “(B) in the absence of countervailing evidence, such act shall be sufficient in the proper
24 proceeding to authorize the revocation and setting aside of the order admitting such person
25 to citizenship and the cancellation of the certificate of naturalization as having been
26 obtained by concealment of a material fact or by willful misrepresentation; and

27 “(C) such revocation and setting aside of the order admitting such person to citizenship
28 and such canceling of certificate of naturalization shall be effective as of the original date of
29 the order and certificate, respectively.

30 “(2) The acts described in this paragraph that shall subject a person to a revocation and setting
31 aside of his or her naturalization under paragraph (1)(B) are—

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

34 “(B) engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section
35 212(a)(3)(B));

36 “(C) incitement of terrorist activity under circumstances indicating an intention to cause
37 death, ~~or~~ serious bodily harm, or substantial damages to property; and

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

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

6 SEC. 1827. TREATMENT OF PENDING APPLICATIONS 7 DURING DENATURALIZATION PROCEEDINGS.

8 (a) In General.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is
9 amended—

10 (1) by striking “After” and inserting “(1) Except as provided in paragraph (2), after”; and

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

12 “(2) The Secretary may not adjudicate or approve any petition filed under this section by an
13 individual who has a judicial proceeding pending against him or her that would result in the
14 individual’s denaturalization under section 340 until—

15 “(A) such proceedings have concluded; and

16 “(B) the period for appeal has expired or any appeals have been finally decided, if
17 applicable.”.

18 (b) Withholding of Immigration Benefits.—Section 340 of such Act (8 U.S.C. 1451), as
19 amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as
20 added by section 1826(a)(2), the following:

21 “(e) The Secretary may not approve any application, petition, or request for any immigration
22 benefit from an individual against whom there is a judicial proceeding pending that would result
23 in the individual’s denaturalization under this section until—

24 “(1) such proceedings have concluded; and

25 “(2) the period for appeal has expired or any appeals have been finally decided, if
26 applicable.”.

27 SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

28 (a) In General.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421
29 et seq.) is amended by inserting after section 344 the following:

30 “SEC. 345. NATURALIZATION DOCUMENT RETENTION.

31 “(a) In General.—The Secretary shall retain all documents described in subsection (b) for a
32 minimum of 7 years for law enforcement and national security investigations and for litigation
33 purposes, regardless of whether such documents are scanned into U.S. Citizenship and
34 Immigration Services’ electronic immigration system or stored in any electronic format.

35 “(b) Documents to Be Retained.—The documents described in this subsection are—

36 “(1) the original paper naturalization application and all supporting paper documents
37 submitted with the application at the time of filing, subsequent to filing, and during the

1 course of the naturalization interview; and

2 “(2) any paper documents submitted in connection with an application for naturalization
3 that is filed electronically.”.

4 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
5 Nationality Act is amended by inserting after the item relating to section 344 the following:

6 “Sec.345.Naturalization document retention.”.

7 **CHAPTER 3—FORFEITURE OF PROCEEDS FROM**
8 **PASSPORT AND VISA OFFENSES, AND PASSPORT**
9 **REVOCAION.**

10 **SEC. 1831. FORFEITURE OF PROCEEDS FROM**
11 **PASSPORT AND VISA OFFENSES.**

12 Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the
13 following:

14 “(J) Any real or personal property that has been used to commit, or to facilitate the
15 commission of, a violation of chapter 75, the gross proceeds of such violation, and any
16 property traceable to any such property or proceeds.”.

17 **SEC. 1832. PASSPORT REVOCATION ACT.**

18 (a) Short Title.—This section may be cited as the “Passport Revocation Act”.

19 (b) Revocation or Denial of Passports and Passport Cards to Individuals Who Are Affiliated
20 With Foreign Terrorist Organizations.—The Act entitled “An Act to regulate the issue and
21 validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.),
22 which is commonly known as the “Passport Act of 1926”, is amended by adding at the end the
23 following:

24 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT**
25 **AND PASSPORT CARD.**

26 “(a) Ineligibility.—

27 “(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall
28 refuse to issue a passport or a passport card to any individual—

29 “(A) who has been convicted of a violation of chapter 113B of title 18, United States
30 Code; or

31 “(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated
32 with an organization the Secretary has designated as a foreign terrorist organization
33 pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

34 “(ii) has aided, abetted, or provided material support to an organization described in
35 clause (i).

1 “(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to
2 any individual described in paragraph (1).

3 “(b) Exceptions.—

4 “(1) EMERGENCY CIRCUMSTANCES, HUMANITARIAN REASONS, AND LAW ENFORCEMENT
5 PURPOSES.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to
6 revoke, a passport of an individual described in such subsection in emergency
7 circumstances, for humanitarian reasons, or for law enforcement purposes.

8 “(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the
9 Secretary of State, before revocation, may—

10 “(A) limit a previously issued passport for use only for return travel to the United
11 States; or

12 “(B) issue a limited passport that only permits return travel to the United States.

13 “(c) Right of Review.—Any individual who, in accordance with this section, is denied
14 issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise
15 limited by the Secretary of State, may request a hearing before the Secretary of State not later
16 than 60 days after receiving notice of such denial, revocation, or limitation.

17 “(d) Report.—If the Secretary of State denies, issues, limits, or declines to revoke a passport
18 or passport card under subsection (b), the Secretary, not later than 30 days after such denial,
19 issuance, limitation, or revocation, shall submit a report to Congress that describes such denial,
20 issuance, limitation, or revocation, as appropriate.”.

21 TITLE II—PERMANENT REAUTHORIZATION OF 22 VOLUNTARY E-VERIFY

23 SEC. 2001. PERMANENT REAUTHORIZATION.

24 Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
25 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking “Unless the
26 Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program
27 on September 30, 2015.”.

28 SEC. 2002. PREEMPTION; LIABILITY.

29 Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
30 U.S.C. 1324a note) is amended by adding at the end the following:

31 “(g) Limitation on State Authority.—

32 “(1) PREEMPTION.—A State or local government may not prohibit a person or other entity
33 from verifying the employment authorization of new hires or current employees through E-
34 Verify.

35 “(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held
36 liable under any Federal, State, or local law for any employment-related action taken with
37 respect to the wrongful termination of an individual in good faith reliance on information
38 provided through E-Verify.”.

1 **SEC. 2003. INFORMATION SHARING.**

2 The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary
3 of the Treasury shall jointly establish a program to share information among their respective
4 agencies that could lead to the identification of unauthorized aliens (as defined in section
5 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match
6 letters and any information in the earnings suspense file.

7 **SEC. 2004. SMALL BUSINESS DEMONSTRATION**
8 **PROGRAM.**

9 Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
10 U.S.C. 1324a note) is amended—

11 (1) by redesignating subsection (d) as subsection (e); and

12 (2) by inserting after subsection (c) the following:

13 “(d) Small Business Demonstration Program.—Not later than 9 months after the date of
14 enactment of the ~~SECURE Act of IRCTA~~ 2018, the Director of U.S. Citizenship and Immigration
15 Services shall establish a demonstration program that assists small businesses in rural areas or
16 areas without internet capabilities to verify the employment eligibility of newly hired employees
17 solely through the use of publicly accessible internet terminals.”.

18 **SEC. 2005. FRAUD PREVENTION.**

19 (a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland
20 Security, in consultation with the Commissioner of Social Security, shall establish a program in
21 which Social Security account numbers that have been identified to be subject to unusual
22 multiple use in the employment eligibility verification system established under section 274A(d)
23 of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or
24 determined to have been compromised by identity fraud or other misuse, shall be blocked from
25 use for such system purposes unless the individual using such number is able to establish,
26 through secure and fair additional security procedures, that the individual is the legitimate holder
27 of the number.

28 (b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary
29 of Homeland Security, in consultation with the Commissioner of Social Security, shall establish
30 a program that provides a reliable, secure method by which victims of identity fraud and other
31 individuals may suspend or limit the use of their Social Security account number or other
32 identifying information for purposes of the employment eligibility verification system
33 established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)).
34 The Secretary may implement the program on a limited pilot program basis before making it
35 fully available to all individuals.

36 (c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland
37 Security, in consultation with the Commissioner of Social Security, shall establish a program that
38 provides a reliable, secure method by which parents or legal guardians may suspend or limit the
39 use of the Social Security account number or other identifying information of a minor under their
40 care for the purposes of the employment eligibility verification system established under

1 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may
2 implement the program on a limited pilot program basis before making it fully available to all
3 individuals.

4 SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT 5 ELIGIBILITY VERIFICATION PILOT PROGRAMS.

6 (a) In General.—Not later than 2 years after the date of the enactment of this Act, the
7 Secretary of Homeland Security, after consultation with the Commissioner of Social Security
8 and the Director of the National Institute of Standards and Technology, shall establish, by
9 regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot
10 programs (referred to in this section as the “Authentication Pilots”), each of which shall use a
11 separate and distinct technology.

12 (b) Purpose.—The purpose of the Authentication Pilots shall be to provide for identity
13 authentication and employment eligibility verification with respect to enrolled new employees to
14 any employer that elects to participate in an Authentication Pilot.

15 (c) Cancellation.—Any participating employer may cancel the employer’s participation in an
16 Authentication Pilot after 1 year after electing to participate without prejudice to future
17 participation.

18 (d) Report.—Not later than 12 months after commencement of the Authentication Pilots, the
19 Secretary shall submit a report to the Committee on the Judiciary of the Senate and the
20 Committee on the Judiciary of the House of Representatives that includes the Secretary’s
21 findings on the Authentication Pilots and the authentication technologies chosen.

22 TITLE III—SUCCEED ACT

23 SEC. 3001. SHORT TITLES.

24 This title may be cited as the “Solution for Undocumented Children through Careers,
25 Employment, Education, and Defending our Nation Act” or the “SUCCEED Act”.

26 SEC. 3002. DEFINITIONS.

27 In this title:

28 (1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title
29 that is also used in the immigration laws shall have the meaning given such term in the
30 immigration laws.

31 (2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional permanent resident
32 that seeks to maintain or extend such status by complying with the requirements under this
33 title relating to enlistment and service in the Armed Forces of the United States.

34 (3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a
35 conditional permanent resident that seeks to maintain or extend such status by complying
36 with the requirements under this title relating to enrollment in, and graduation from, an
37 institution of higher education in the United States.

38 (4) CONDITIONAL PERMANENT RESIDENT.—

1 (A) DEFINITION.—The term “conditional permanent resident” means an alien
2 described in subparagraph (B) who is granted conditional permanent resident status
3 under this title.

4 (B) DESCRIPTION.—An alien granted conditional permanent resident status under
5 this title—

6 (i) shall not be considered to be an alien who is unlawfully present in the
7 United States for purposes of the immigration laws, including section 505 of the
8 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
9 1623);

10 (ii) shall not be considered a lawful permanent resident for the purpose of—

11 (I) petitioning for relatives under section 204(a) of the Immigration and
12 Nationality Act (8 U.S.C. 1154(a)); or

13 (II) seeking adjustment of status under section 245(a) of such Act (8
14 U.S.C. 1255(a));

15 (iii) has the intention to permanently reside in the United States;

16 (iv) is not required to have a foreign residence which the alien has no intention
17 of abandoning; and

18 (v) shall be considered to have been inspected and admitted for the purposes of
19 section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) after the
20 condition on the alien’s permanent resident status has been removed pursuant to
21 section 3005.

22 (5) FEDERAL PUBLIC BENEFIT.—The term “Federal public benefit” means—

23 (A) the American Opportunity Tax Credit authorized under section 25A(i) of the
24 Internal Revenue Code of 1986;

25 (B) the Earned Income Tax Credit authorized under section 32 of the Internal
26 Revenue Code of 1986;

27 (C) the Health Coverage Tax Credit authorized under section 35 of the Internal
28 Revenue Code of 1986;

29 (D) Social Security benefits authorized under title II of the Social Security Act (42
30 U.S.C. 401 et seq.);

31 (E) Medicare benefits authorized under title XVIII of the Social Security Act (42
32 U.S.C. 1395 et seq.); and

33 (F) benefits received under the Federal-State Unemployment Compensation Act of
34 1970 (26 U.S.C. 3304 note).

35 (6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term
36 in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

37 (7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has
38 the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C.
39 1002), except that the term does not include an institution of higher education outside of the

1 United States.

2 (8) MILITARY-RELATED TERMS.—The terms “active duty”, “active service”, “active
3 status”, and “armed forces” have the meanings given those terms in section 101 of title 10,
4 United States Code.

5 (9) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability”
6 means liability for Federal taxes imposed under the Internal Revenue Code of 1986,
7 including any penalties and interest on such taxes.

8 (10) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

9 (11) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means—

10 (A) a criminal offense involving—

11 (i) domestic violence;

12 (ii) sexual abuse or exploitation, including sexually explicit conduct involving
13 minors (as such terms are defined in section 2256 of title 18, United States Code);

14 (iii) burglary;

15 (iv) unlawful possession or use of a firearm;

16 (v) drug distribution or trafficking; or

17 (vi) driving under the influence or driving while intoxicated; or

18 (B) any other misdemeanor for which the individual was sentenced to a term of
19 imprisonment of not less than 90 days (excluding a suspended sentence).

20 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**
21 **LONG-TERM RESIDENTS WHO ENTERED THE UNITED**
22 **STATES AS CHILDREN.**

23 (a) Special Rule for Certain Long-term Residents Who Entered the United States as
24 Children.—

25 (1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise
26 provided in this title, the Secretary may cancel the removal of an alien who is inadmissible
27 or deportable from the United States and grant the alien conditional permanent resident
28 status under this title, if—

29 (A) the alien has been physically present in the United States for a continuous period
30 since June 15, 2012;

31 (B) the alien was younger than 16 years of age on the date on which the alien
32 initially entered the United States;

33 (C) on June 15, 2012, the alien—

34 (i) was younger than 31 years of age; and

35 (ii) had no lawful status in the United States;

36 (D) in the case of an alien who is 18 years of age or older on the date of enactment

1 of this Act, the alien—

2 (i) meets the other requirements of this section; and

3 (ii)(I) has, while in the United States, earned a high school diploma, obtained a
4 general education development certificate recognized under State law, or received
5 a high school equivalency diploma;

6 (II) has been admitted to an institution of higher education in the United States;
7 or

8 (III) has served, is serving, or has enlisted in the Armed Forces of the United
9 States;

10 (E) in the case of an alien who is younger than 18 years of age on the date of
11 enactment of this Act, the alien—

12 (i) meets the other requirements of this section; and

13 (ii)(I) is attending, or has enrolled in, a primary or secondary school; or

14 (II) is attending, or has enrolled in, a postsecondary school;

15 (F) the alien has been a person of good moral character (as defined in section 101(f)
16 of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date on which the
17 alien initially entered the United States;

18 (G) the alien has paid any applicable Federal tax liability or has agreed to cure such
19 liability through a payment installment plan that has been approved by the Internal
20 Revenue Service; and

21 (H) the alien, subject to paragraph (2)—

22 (i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8),
23 (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C.
24 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of
25 such Act (unless the Secretary determines that the sole basis for the alien's
26 removal under such subparagraph was unlawful presence under subparagraph (B)
27 or (C) of such section 212(a)(9));

28 (ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or
29 (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

30 (iii) has not ordered, incited, assisted, or otherwise participated in the
31 persecution of any person on account of race, religion, nationality, membership in
32 a particular social group, or political opinion; and

33 (iv) has not been convicted of—

34 (I) a felony under Federal or State law, regardless of the sentence
35 imposed;

36 (II) any combination of offenses under Federal or State law for which the
37 alien was sentenced to imprisonment for at least 1 year;

38 (III) a significant misdemeanor; and

1 (I) the alien has never been under a final administrative or judicial order of
2 exclusion, deportation, or removal, unless the alien—

3 (i) has remained in the United States under color of law after such final order
4 was issued; or

5 (ii) received the final order before attaining 18 years of age.

6 (2) WAIVER.—

7 (A) IN GENERAL.—The Secretary may waive, on a case-by-case basis, a ground of
8 inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of section 212(a) of the
9 Immigration and Nationality Act (8 U.S.C. 1182(a)), and a ground of deportability
10 under paragraph (A), (B), (C), or (E) of section 237(a)(1) of such Act (8 U.S.C.
11 1227(a)(1)) for humanitarian purposes or if such waiver is otherwise in the public
12 interest.

13 (B) QUARTERLY REPORT.—Not later than 180 days after the date of the enactment of
14 this Act, and quarterly thereafter, the Secretary shall submit a report to Congress that
15 identifies—

16 (i) the number of waivers under this paragraph that were requested by aliens
17 during the preceding quarter;

18 (ii) the number of such requests that were granted; and

19 (iii) the number of such requests that were denied.

20 (3) PROCEDURES.—

21 (A) APPLICATION FOR AFFIRMATIVE RELIEF.—

22 (i) IN GENERAL.—The Secretary shall issue regulations that provide a procedure
23 for eligible individuals to affirmatively apply for the relief available under this
24 subsection without being placed in removal proceedings.

25 (ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an
26 application for relief under this title that includes all supporting documentation, in
27 accordance with the regulations issued under clause (i).

28 (B) ACKNOWLEDGMENT TO BARS TO RELIEF.—

29 (i) ACKNOWLEDGMENT OF NOTIFICATION.—The regulations issued pursuant to
30 subparagraph (A) shall include a requirement that each alien applying for
31 conditional permanent resident status under this title who is at least 18 years of
32 age sign, under penalty of perjury, an acknowledgment confirming that the alien
33 was notified and understands that he or she will be ineligible for any form of
34 relief or immigration benefit under this title or other immigration laws other than
35 withholding of removal under section 241(b)(3), or relief from removal based on
36 a claim under the Convention Against Torture and Other Cruel, Inhuman or
37 Degrading Treatment or Punishment, done at New York, December 10, 1984, if
38 the alien violates a term for conditional permanent resident status under this title.

39 (ii) EXCEPTION.—Notwithstanding an acknowledgment under clause (i), the
40 Secretary may allow an alien who violated the terms of conditional permanent

1 resident status (other than a criminal alien or an alien deemed to be a national
2 security or public safety risk) to seek relief from removal if the Secretary
3 determines that such relief is warranted for humanitarian purposes or if otherwise
4 in the public interest.

5 (iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory
6 or nonstatutory), including section 2241 of title 28, United States Code, any other
7 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall
8 have jurisdiction to review a determination by the Secretary under clause (ii).

9 (4) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

10 (A) IN GENERAL.—The Secretary may not cancel the removal of, or grant
11 conditional permanent resident status to, an alien under this title before the date on
12 which—

13 (i) the alien submits biometric and biographic data, in accordance with
14 procedures established by the Secretary; and

15 (ii) the Secretary receives and reviews the results of the background and
16 security checks of the alien under paragraph (5).

17 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
18 procedure for any applicant who is unable to provide the biometric or biographic data
19 referred to in subparagraph (A) due to a physical disability or impairment.

20 (5) BACKGROUND CHECKS.—

21 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize
22 biometric, biographic, and other data that the Secretary determines to be appropriate,
23 including information obtained pursuant to subparagraph (C)—

24 (i) to conduct security and law enforcement background checks of an alien
25 seeking relief under this subsection; and

26 (ii) to determine whether there is any criminal, national security, or other factor
27 that would render the alien ineligible for such relief.

28 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
29 background checks required under subparagraph (A) shall be completed, to the
30 satisfaction of the Secretary, before the date on which the Secretary cancels the
31 removal of an alien under this title.

32 (C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary
33 of State, shall seek to obtain information about any criminal activity the alien engaged
34 in, or for which the alien was convicted in his or her country of nationality, country of
35 citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any
36 other international or national law enforcement agency of the alien's country of
37 nationality, country of citizenship, or country of last habitual residence.

38 (6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection
39 shall undergo a medical examination conducted by a designated civil surgeon pursuant to
40 procedures established by the Secretary.

1 (7) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this
2 subsection shall establish that the alien has registered for the Selective Service under the
3 Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such
4 registration requirement under such Act.

5 (8) TREATMENT OF EXPUNGED CONVICTIONS.—

6 (A) IN GENERAL.—The Secretary shall evaluate expunged convictions on a case-by-
7 case basis according to the nature and severity of the offense to determine whether,
8 under the particular circumstances, an alien may be eligible for—

9 (i) conditional permanent resident status under this title;

10 (ii) removal of the conditional basis of the permanent resident status under
11 section 3005; or

12 (iii) adjustment to permanent resident status under this title.

13 (B) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or
14 nonstatutory), including section 2241 of title 28, United States Code, any other habeas
15 corpus provision, and sections 1361 and 1651 of such title, no court shall have
16 jurisdiction to review a determination by the Secretary under subparagraph (A).

17 (b) Termination of Continuous Period.—For purposes of this section, any period of continuous
18 residence or continuous physical presence in the United States of an alien who applies for
19 cancellation of removal under subsection (a) shall not terminate when the alien is served a notice
20 to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

21 (c) Treatment of Certain Breaks in Presence.—

22 (1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to
23 have failed to maintain continuous physical presence in the United States under subsection
24 (a)(1)(A) if the alien has departed from the United States for—

25 (A) any period exceeding 90 days; or

26 (B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

27 (2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the
28 periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to
29 timely return to the United States was due to exceptional circumstances. The exceptional
30 circumstances determined sufficient to justify an extension should be not less compelling
31 than the serious illness of the alien, or the death or serious illness of the alien's parent,
32 grandparent, sibling, or child.

33 (3) EXCEPTION FOR MILITARY SERVICE.—Any time spent outside of the United States that
34 is due to the alien's active service in the Armed Forces of the United States shall not be
35 counted towards the time limits set forth in paragraph (1).

36 (d) Rulemaking.—

37 (1) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this
38 Act, the Secretary shall publish regulations implementing this section.

39 (2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
40 the regulations required under paragraph (1) shall be effective, on an interim basis,

1 immediately upon publication but may be subject to change and revision after public notice
2 and opportunity for a period of public comment.

3 (3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim
4 regulations under paragraph (1), the Secretary shall publish final regulations implementing
5 this section.

6 (e) Removal of Alien.—The Secretary may not seek to remove an alien who establishes prima
7 facie eligibility for cancellation of removal and conditional permanent resident status under this
8 title until the alien has been provided with a reasonable opportunity to file an application for
9 conditional permanent resident status under this title.

10 SEC. 3004. CONDITIONAL PERMANENT RESIDENT 11 STATUS.

12 (a) Initial Length of Status.—Conditional permanent resident status granted to an alien under
13 this title shall be valid—

14 (1) for an initial period of 7 years, subject to termination under subsection (c), if
15 applicable; and

16 (2) if the alien will not reach 18 years of age before the end of the period described in
17 paragraph (1), until the alien reaches 18 years of age.

18 (b) Terms of Conditional Permanent Resident Status.—

19 (1) EMPLOYMENT.—A conditional permanent resident may—

20 (A) be employed in the United States incident to conditional permanent resident
21 status under this title; and

22 (B) enlist in the Armed Forces of the United States in accordance with section
23 504(b)(1)(D) of title 10, United States Code.

24 (2) TRAVEL.—A conditional permanent resident may travel outside the United States and
25 may be admitted (if otherwise admissible) upon returning to the United States without
26 having to obtain a visa if—

27 (A) the alien is the bearer of valid, unexpired documentary evidence of conditional
28 permanent resident status under this title; and

29 (B) the alien's absence from the United States—

30 (i) was not for a period of 180 days or longer, or for multiple periods exceeding
31 180 days in the aggregate; or

32 (ii) was due to active service in the Armed Forces of the United States.

33 (c) Termination of Status.—The Secretary shall immediately terminate the conditional
34 permanent resident status of an alien under this title—

35 (1) in the case of an alien who is 18 years of age or older, if the Secretary determines that
36 the alien is a postsecondary student who was admitted to an accredited institution of higher
37 education in the United States, but failed to enroll in such institution within 1 year after the
38 date on which the alien was granted conditional permanent resident status under this title or

1 to remain so enrolled;

2 (2) in the case of an alien who is younger than 18 years of age, if the Secretary
3 determines that the alien enrolled in a primary or secondary school as a full-time student,
4 but has failed to attend such school for a period exceeding 1 year during the 7-year period
5 beginning on the date on which the alien was granted conditional permanent resident status
6 under this title;

7 (3) in the case of an alien who was granted conditional permanent resident status under
8 this title as an enlistee, if the alien—

9 (A) failed to complete basic training and begin active duty service or service in
10 Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United
11 States within 1 year after the date on which the alien was granted conditional
12 permanent resident status under this title; or

13 (B) has received a dishonorable or other than honorable discharge from the Armed
14 Forces of the United States;

15 (4) if the alien was granted conditional permanent resident status under this title as a
16 result of fraud or misrepresentation;

17 (5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of
18 section 3003(a)(1);

19 (6) if the alien violated a term or condition of his or her conditional resident status;

20 (7) if the alien has become a public charge;

21 (8) if the alien has not maintained employment in the United States for a period of at least
22 1 year since the alien was granted conditional permanent resident status under this title and
23 while the alien was not enrolled as a student in a postsecondary school or institution of
24 higher education or serving in the Armed Forces of the United States; or

25 (9) if the alien has not completed a combination of employment, military service, or
26 postsecondary school totaling 48 months during the 7-year period beginning on the date on
27 which the alien was granted conditional permanent resident status under this title.

28 (d) Return to Previous Immigration Status.—The immigration status of an alien the
29 conditional permanent resident status of whom is terminated under subsection (c) shall return to
30 the immigration status of the alien on the day before the date on which the alien received
31 conditional permanent resident status under this title.

32 (e) Extension of Conditional Permanent Resident Status.—The Secretary shall extend the
33 conditional permanent resident status of an alien granted such status under this title for an
34 additional 5 years beyond the period specified in subsection (a) if the alien—

35 (1) has demonstrated good moral character during the entire period the alien has been a
36 conditional permanent resident under this title;

37 (2) is in compliance with section 3003(a)(1);

38 (3) has not abandoned the alien's residence in the United States by being absent from the
39 United States for a period of 180 days, or multiple periods of at least 180 days, in the
40 aggregate, during the period of conditional permanent resident status under this title;

- 1 (4) does not have any delinquent tax liabilities;
2 (5) has not received any Federal public benefit; and
3 (6) while the alien has been a conditional permanent resident under this title—
4 (A) has graduated from an accredited institution of higher education in the United
5 States;
6 (B) has attended a postsecondary school for not less than 8 semesters;
7 (C)(i) has served as a member of a regular or reserve component of the Armed
8 Forces of the United States in an active duty status for at least 3 years; and
9 (ii) if discharged from such service, received an honorable discharge; or
10 (D) has attended a postsecondary school, served in the Armed Forces of the United
11 States, or maintained employment in the United States for a cumulative total of not less
12 than 48 months.

13 **SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR**
14 **PERMANENT RESIDENCE.**

15 (a) In General.—An alien who has been a conditional permanent resident under this title for at
16 least 7 years may file an application with the Secretary, in accordance with subsection (c), to
17 remove the conditional basis on permanent residence and to have the alien’s status adjusted to
18 that of an alien lawfully admitted for permanent residence. The application shall include the
19 required fee and shall be filed in accordance with the procedures established by the Secretary.

20 (b) Adjudication of Application for Adjustment of Status.—

21 (1) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines
22 that an alien who filed an application under subsection (a) meets the requirements described
23 in subsection (d), the Secretary shall—

24 (A) notify the alien of such determination; and

25 (B) adjust the alien’s status to that of an alien lawfully admitted for permanent
26 residence.

27 (2) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that an alien
28 who files an application under subsection (a) does not meet the requirements described in
29 subsection (d), the Secretary shall—

30 (A) notify the alien of such determination; and

31 (B) terminate the conditional permanent resident status of the alien.

32 (c) Time to File Application.—

33 (1) IN GENERAL.—Applications for adjustment of status described in subsection (a) shall
34 be filed during the period—

35 (A) beginning 180 days before the expiration of the 7-year period of conditional
36 permanent resident status under this title; and

37 (B) ending—

1 (i) 7 years after the date on which conditional permanent resident status was
2 initially granted to the alien under this title; or

3 (ii) after the conditional basis on such status has been removed.

4 (2) STATUS DURING PENDENCY.—An alien shall be deemed to be in conditional
5 permanent resident status in the United States during the period in which an application
6 filed by the alien under subsection (a) is pending.

7 (d) Contents of Application.—

8 (1) IN GENERAL.—Each application filed by an alien under subsection (a) shall contain
9 information to permit the Secretary to determine whether the alien—

10 (A) has been a conditional permanent resident under this title for at least 7 years;

11 (B) has demonstrated good moral character during the entire period the alien has
12 been a conditional permanent resident under this title;

13 (C) is in compliance with section 3003(a)(1); and

14 (D) has not abandoned the alien's residence in the United States.

15 (2) PRESUMPTIONS.—For purposes of paragraph (1)—

16 (A) the Secretary shall presume that an alien has abandoned the alien's residence in
17 the United States if the alien is absent from the United States for more than 365 days,
18 in the aggregate, during the period of conditional permanent resident status under this
19 title, unless the alien demonstrates that the alien has not abandoned the alien's
20 residence; and

21 (B) an alien who is absent from the United States due to active service in the Armed
22 Forces of the United States has not abandoned the alien's residence in the United
23 States during the period of such service.

24 (e) Citizenship Requirement.—

25 (1) IN GENERAL.—Except as provided in paragraph (2), an alien granted conditional
26 permanent resident status under this title may not have the conditional basis for permanent
27 residency removed or be adjusted to permanent resident status unless the alien demonstrates
28 to the satisfaction of the Secretary that the alien satisfies the requirements under section
29 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

30 (2) EXCEPTION.—Paragraph (1) shall not apply to an alien whom the Secretary
31 determines is unable because of a physical or developmental disability or mental
32 impairment to meet the requirements of such paragraph. The Secretary, in coordination with
33 the Secretary of Health and Human Services and the Surgeon General, shall establish
34 procedures for making determinations under this subsection.

35 (f) Payment of Federal Taxes.—Not later than the date on which an application for adjustment
36 of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability
37 due and owing on such date.

38 (g) Submission of Biometric and Biographic Data.—

39 (1) IN GENERAL.—The Secretary may not adjust the status of an alien under this section

1 unless the alien submits biometric and biographic data, in accordance with procedures
2 established by the Secretary.

3 (2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for
4 an applicant who is unable to provide the biometric or biographic data referred to in
5 paragraph (1) due to a physical disability or impairment.

6 (h) Background Checks.—

7 (1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric,
8 biographic, and other data that the Secretary determines to be appropriate—

9 (A) to conduct security and law enforcement background checks of an alien
10 applying for adjustment of status under this section; and

11 (B) to determine whether there is any criminal, national security, or other factor that
12 would render the alien ineligible for such adjustment of status.

13 (2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
14 background checks required under paragraph (1) shall be completed with respect to an alien,
15 to the satisfaction of the Secretary, before the date on which the Secretary makes a decision
16 on the application for adjustment of status of the alien.

17 (i) Exemption From Numerical Limitations.—Nothing in this section or in any other law may
18 be construed to apply a numerical limitation on the number of aliens who may be eligible for
19 adjustment of status under this section.

20 (j) Treatment of Aliens Meeting Requirements for Extension of Conditional Permanent
21 Resident Status.—If an alien has satisfied all of the requirements under section 3003(a)(1) as of
22 the date of enactment of this Act, the Secretary may cancel the removal of the alien and permit
23 the alien to apply for conditional permanent resident status under this title. After the initial period
24 of conditional permanent resident status described in section 3004(a), the Secretary shall extend
25 such alien's conditional permanent resident status and permit the alien to apply for adjustment of
26 status in accordance with subsection (a) if the alien has met the requirements under section
27 3004(e) during the entire period of conditional permanent resident status under this title.

28 SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS 29 GRANTED CONDITIONAL PERMANENT RESIDENT 30 STATUS.

31 Notwithstanding any other provision of law, nothing in this title may be construed to provide a
32 spouse, parent, child, or other family member of an alien granted conditional permanent resident
33 status or lawful permanent resident status under this title with any immigration benefit or special
34 consideration for such relatives to be admitted into or remain in the United States.

35 SEC. 3007. EXCLUSIVE JURISDICTION.

36 (a) Secretary of Homeland Security.—Except as provided in subsection (b), the Secretary shall
37 have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of
38 deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties
39 delegated to the Secretary under this title. If a final order is entered before relief is granted under

1 this title, the Attorney General shall terminate such order only after the alien has been granted
2 conditional permanent resident status under this title.

3 (b) Attorney General.—The Attorney General shall have exclusive jurisdiction to determine
4 eligibility for relief under this title for any alien who has been placed into deportation, exclusion,
5 or removal proceedings, whether such placement occurred before or after the alien filed an
6 application for cancellation of removal and conditional permanent resident status or adjustment
7 of status under this title. Such exclusive jurisdiction shall continue until such proceedings are
8 terminated.

9 SEC. 3008. CONFIDENTIALITY OF INFORMATION.

10 (a) Prohibition.—Except as provided in subsection (b), an officer or employee of the United
11 States may not—

12 (1) use the information provided by an individual pursuant to an application filed under
13 this title to initiate removal proceedings against any person identified in the application;

14 (2) make any publication whereby the information provided by any particular individual
15 pursuant to an application under this title can be identified; or

16 (3) permit anyone other than an officer or employee of the United States Government to
17 examine such application filed under this title.

18 (b) Required Disclosure.—The Attorney General or the Secretary shall disclose the
19 information provided by an individual under this title and any other information derived from
20 such information to—

21 (1) a Federal, State, Tribal, or local law enforcement agency, intelligence agency,
22 national security agency, component of the Department of Homeland Security, court, or
23 grand jury in connection with an administrative, civil, or criminal investigation or
24 prosecution, a background check conducted pursuant to the Brady Handgun Violence
25 Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act,
26 or for homeland security or national security purposes, if such information is requested by
27 such entity or consistent with an information sharing agreement or mechanism;

28 (2) an official coroner for purposes of affirmatively identifying a deceased individual
29 (whether or not such individual is deceased as a result of a crime); or

30 (3) the Bureau of the Census in the same manner and circumstances as the information
31 may be disclosed under section 8 of title 13, United States Code.

32 (c) Fraud in Application Process or Criminal Conduct.—Nothing in this section may be
33 construed to prevent the disclosure and use of information provided by an alien under this title to
34 determine whether an alien seeking relief under this title has engaged in fraud in an application
35 for such relief or at any time committed a crime from being used or released for immigration
36 enforcement, law enforcement, or national security purposes.

37 (d) Subsequent Applications for Immigration Benefits.—The Secretary may use the
38 information provided by an individual pursuant to an application filed under this title to
39 adjudicate an application, petition, or other request for an immigration benefit made by the
40 individual on a date after the date on which the individual filed the application under this title.

1 (e) Penalty.—Any person who knowingly uses, publishes, or permits information to be
2 examined in violation of this section shall be fined not more than \$10,000.

3 SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR 4 CONDITIONAL PERMANENT RESIDENTS.

5 An individual who has met the requirements under section 3005 for adjustment from
6 conditional permanent resident status to lawful permanent resident status shall be considered, as
7 of the date of such adjustment, to have completed the 5-year eligibility waiting period under
8 section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8
9 U.S.C. 1613).

10 SEC. 3010. GAO REPORT.

11 Not later than 7 years after the date of the enactment of this Act, the Comptroller General of
12 the United States shall submit a report to the Committee on the Judiciary of the Senate and the
13 Committee on the Judiciary of the House of Representatives that sets forth—

14 (1) the number of aliens who were eligible for cancellation of removal and grant of
15 conditional permanent resident status under section 3003(a);

16 (2) the number of aliens who applied for cancellation of removal and grant of conditional
17 permanent resident status under section 3003(a);

18 (3) the number of aliens who were granted conditional permanent resident status under
19 section 3003(a); and

20 (4) the number of aliens whose status was adjusted to that of an alien lawfully admitted
21 for permanent residence pursuant to section 3005.

22 SEC. 3011. MILITARY ENLISTMENT.

23 Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the
24 following:

25 “(D) An alien who is a conditional permanent resident (as defined in section 3002 of
26 the SUCCEED Act).”.

27 SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

28 Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8
29 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of
30 an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2
31 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years
32 after such adjustment of status.

33 SEC. 3013. FUNDING.

34 (a) Department of Homeland Security Immigration Reform Implementation Account.—

35 (1) IN GENERAL.—There is established in the Treasury a separate account, which shall be
36 known as the “Department of Homeland Security Immigration Reform Implementation
37 Account” (referred to in this section as the “Implementation Account”).

1 (2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the
2 Implementation Account, out of any funds in the Treasury not otherwise appropriated,
3 \$400,000,000, which shall remain available until September 30, 2022.

4 (3) USE OF APPROPRIATIONS.—The Secretary is authorized to use funds appropriated to
5 the Implementation Account to pay for one-time and startup costs necessary to implement
6 this title, including, but not limited to—

7 (A) personnel required to process applications and petitions;

8 (B) equipment, information technology systems, infrastructure, and human
9 resources;

10 (C) outreach to the public, including development and promulgation of any
11 regulations, rules, or other public notice; and

12 (D) anti-fraud programs and actions related to implementation of this title.

13 (4) REPORTING.—Not later than 180 days after the date of the enactment of this Act, the
14 Secretary shall submit a plan to the Committee on Appropriations of the Senate, the
15 Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of
16 Representatives, and the Committee on the Judiciary of the House of Representatives for
17 spending the funds appropriated under paragraph (2) that describes how such funds will be
18 obligated in each fiscal year, by program.

19 (b) Deposit and Use of Processing Fees.—

20 (1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration
21 and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be
22 deposited monthly in the general fund of the Treasury until the funding provided by
23 subsection (a)(2) has been repaid.

24 (2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected under
25 this title in excess of the amount referenced in paragraph (1) shall be deposited in the
26 Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and
27 Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to
28 section 286(n) of such Act (8 U.S.C. 1356(n)).

29 TITLE IV—ENSURING FAMILY REUNIFICATION

30 SEC. 4001. SHORT TITLE.

31 This title may be cited as the “Ensuring Family Reunification Act of 2018”.

32 SEC. 4002. FAMILY-SPONSORED IMMIGRATION 33 PRIORITIES.

34 (a) Redefinition of Immediate Relative.—The Immigration and Nationality Act (8 U.S.C.
35 1101 et seq.) is amended—

36 (1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking “under
37 twenty-one years of age who” and inserting “who is younger than 18 years of age and”; and

38 (2) in section 201 (8 U.S.C. 1151)—

1 (A) in subsection (b)(2)(A)—

2 (i) in clause (i), by striking “children, spouses, and parents of a citizen of the
3 United States, except that, in the case of parents, such citizens shall be at least 21
4 years of age.” and inserting “children and spouse of a citizen of the United
5 States.”; and

6 (ii) in clause (ii), by striking “such an immediate relative” and inserting “the
7 immediate relative spouse of a United States citizen”;

8 (B) by amending subsection (c) to read as follows:

9 “(c) Worldwide Level of Family-Sponsored Immigrants.—(1) The worldwide level of family-
10 sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000
11 minus the number computed under paragraph (2).

12 “(2) The number computed under this paragraph for a fiscal year is the number of aliens who
13 were paroled into the United States under section 212(d)(5) in the second preceding fiscal year
14 who—

15 “(A) did not depart from the United States (without advance parole) within 1 year; and

16 “(B)(i) did not acquire the status of an alien lawfully admitted to the United States for
17 permanent residence during the 2 preceding fiscal years; or

18 “(ii) acquired such status during such period under a provision of law (other than
19 subsection (b)) that exempts adjustment to such status from the numerical limitation on the
20 worldwide level of immigration under this section.”; and

21 (C) in subsection (f)—

22 (i) in paragraph (2), by striking “section 203(a)(2)(A)” and inserting “section
23 203(a)”;

24 (ii) by striking paragraph (3);

25 (iii) by redesignating paragraph (4) as paragraph (3); and

26 (iv) in paragraph (3), as redesignated, by striking “(1) through (3)” and
27 inserting “(1) and (2)”.

28 (b) Family-Based Visa Preferences.—Section 203(a) of the Immigration and Nationality Act
29 (8 U.S.C. 1153(a)) is amended to read as follows:

30 “(a) Spouses and Minor Children of Permanent Resident Aliens.—Family-sponsored
31 immigrants described in this subsection are qualified immigrants who are the spouse or a child of
32 an alien lawfully admitted for permanent residence.”.

33 (c) Conforming Amendments.—

34 (1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and
35 Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking “section 203(a)(2)(A)”
36 each place such term appears and inserting “section 203(a)”.

37 (2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8
38 U.S.C. 1152) is amended—

1 (A) in subsection (a)(4)—

2 (i) by striking subparagraphs (A) and (B) and inserting the following:

3 “(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY
4 LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal
5 year, 75 percent shall be issued without regard to the numerical limitation under
6 paragraph (2).

7 “(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO
8 SUBSECTION (e).—

9 “(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in
10 any fiscal year, 25 percent shall be available, in the case of a foreign state or
11 dependent area that is subject to subsection (e) only to the extent that the total
12 number of visas issued in accordance with subparagraph (A) to natives of the
13 foreign state or dependent area is less than the subsection (e) ceiling.

14 “(ii) SUBSECTION (e) CEILING DEFINED.—In clause (i), the term ‘subsection (e)
15 ceiling’ means, for a foreign state or dependent area, 77 percent of the maximum
16 number of visas that may be made available under section 203(a) to immigrants
17 who are natives of the state or area, consistent with subsection (e).”; and

18 (ii) by striking subparagraphs (C) and (D); and

19 (B) in subsection (e)—

20 (i) in paragraph (1), by adding “and” at the end;

21 (ii) by striking paragraph (2);

22 (iii) by redesignating paragraph (3) as paragraph (2); and

23 (iv) in the undesignated matter after paragraph (2), as redesignated, by striking
24 “, respectively,” and all that follows and inserting a period.

25 (3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 203(h)
26 of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by striking
27 “(a)(2)(A)” each place such term appears and inserting “(a)(2)”.

28 (4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C.
29 1154) is amended—

30 (A) in subsection (a)(1)—

31 (i) in subparagraph (A)(i), by striking “to classification by reason of a
32 relationship described in paragraph (1), (3), or (4) of section 203(a) or”;

33 (ii) in subparagraph (B), by striking “203(a)(2)(A)” each place such term
34 appears and inserting “203(a)”; and

35 (iii) in subparagraph (D)(i)(I), by striking “a petitioner” and all that follows
36 through “(a)(1)(B)(iii).” and inserting “an individual younger than 21 years of age
37 for purposes of adjudicating such petition and for purposes of admission as an
38 immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant
39 under section 203(a), as appropriate, notwithstanding the actual age of the

1 individual.”;[AG3]

2 (B) in subsection (f)(1), by striking “, 203(a)(1), or 203(a)(3), as appropriate”; and

3 (C) by striking subsection (k).

4 (5) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act
5 (8 U.S.C. 1182) is amended—

6 (A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section
7 203(a)”; and

8 (B) in subsection (d)(11), by striking “(other than paragraph (4) thereof)”.

9 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C.
10 1184(q)(1)(B)(i)) is amended by striking “section 203(a)(2)(A)” each place such term
11 appears and inserting “section 203(a)”.

12 (7) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C.
13 1186a(h)(1)(C)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

14 (8) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C.
15 1227(a)(1)(E)(ii)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

16 (d) Creation of Nonimmigrant Classification for Alien Parents of Adult United States
17 Citizens.—

18 (1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(15)) is amended—

20 (A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a
21 semicolon;

22 (B) in subparagraph (U)(iii), by striking “or” at the end;

23 (C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”;
24 and

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

26 “(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States,
27 if the citizen is at least 21 years of age.”.

28 (2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8
29 U.S.C. 1184) is amended by adding at the end the following:

30 “(s)(1) The initial period of authorized admission for a nonimmigrant described in section
31 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for
32 additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still
33 residing in the United States.

34 “(2) A nonimmigrant described in section 101(a)(15)(W)—

35 “(A) is not authorized to be employed in the United States; and

36 “(B) is not eligible for any Federal, State, or local public benefit.

37 “(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the

1 United States citizen son or daughter who sponsored the nonimmigrant parent shall be
2 responsible for the nonimmigrant's support while the nonimmigrant resides in the United States.

3 “(4) An alien is ineligible to receive a visa or to be admitted into the United States as a
4 nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof
5 that the United States citizen son or daughter has arranged for health insurance coverage for the
6 alien, at no cost to the alien, during the anticipated period of the alien's residence in the United
7 States.”.

8 (e) Effective Date; Applicability.—

9 (1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date
10 of enactment of this Act.

11 (2) NEW PETITIONS.—

12 (A) IN GENERAL.—The Director of U. S. Citizenship and Immigration Services shall
13 only accept new family-based petitions for spouses and minor children of United States
14 citizens and lawful permanent residents under—

15 (i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C.
16 1151(b)(1)(A));

17 [\(ii\) section 203\(a\) of such Act \(8 U.S.C. 1153\(a\)\); ~~or~~](#)

18 [\(ii\) section 203\(b\) of such Act \(8 U.S.C. 1153\(b\)\).](#)

19 (B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services shall
20 not accept any new family-based petition other than a petition described in
21 subparagraph (A).

22 (3) GRANDFATHERED PETITIONS [AND VISAS](#).—Notwithstanding the termination by this
23 title of the family-sponsored immigrant visa categories under section 203(a) of the
24 Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of
25 enactment of this Act), the amendments made by this section shall not apply, and visas shall
26 remain available to, any alien who has—

27 (A) an approved family-based petition that has not been terminated or revoked, or

28 (B) a properly-filed family-based petition that is—

29 (i) pending with U.S. Citizenship and Immigration Services; and

30 (ii) based on subsection (a) of section 203 of the Immigration and Nationality
31 Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this
32 Act).

33 (4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall
34 continue to allocate a sufficient number of visas in family-sponsored immigrant visa
35 categories until the date on which a visa has been made available, in conformance with the
36 numeric and per country limitations in effect on the day before the date of enactment of this
37 Act, to each beneficiary of an approved [or pending](#) petition described in subparagraph (A)
38 or (B) of paragraph (3), if the beneficiary—

39 (A) indicates an intent to pursue the immigrant visa not later than [180 days 1 year](#)
40 after the date on which the Secretary of State notifies the beneficiary of the availability

1 of the visa; and

2 (B) is otherwise qualified to receive a visa under this Act.

3 (f) Termination of Registration.—Section 203(g) of the Immigration and Nationality Act (8
4 U.S.C. 1153(g)) is amended—

5 (1) by striking the second sentence;

6 (2) by striking the subsection designation and heading and all that follows through “For
7 purposes” in the first sentence and inserting the following:

8 “(g) Lists.—

9 “(1) IN GENERAL.—For purposes”; and

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

11 “(2) TERMINATION OF REGISTRATION.—

12 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State
13 shall terminate the registration of any alien who fails to apply for an immigrant visa
14 within the ~~180-day~~ 1 year period beginning on the date on which the Secretary of State
15 notifies the alien of the availability of the immigrant visa.

16 “(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an
17 alien under subparagraph (A) if the alien demonstrates that the failure of the alien to
18 apply for an immigrant visa during the period described in that subparagraph was due
19 to an extenuating circumstance beyond the control of the alien.”.

20 SEC. 4003. ELIMINATION OF DIVERSITY VISA 21 PROGRAM.

22 (a) In General.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is
23 amended—

24 (1) by striking subsection (c);

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

27 (3) in subsection (c), as redesignated, by striking “subsection (a), (b), or (c)” and inserting
28 “subsection (a) or (b)”;

29 (4) in subsection (d), as redesignated—

30 (A) by striking paragraph (2); and

31 (B) by redesignating paragraph (3) as paragraph (2);

32 (5) in subsection (e), as redesignated, by striking “subsection (a), (b), or (c) of this
33 section” and inserting “subsection (a) or (b)”;

34 (6) in subsection (f), as redesignated, by striking “subsections (a), (b), and (c)” and
35 inserting “subsections (a) and (b)”;

36 (7) in subsection (g), as redesignated—

- 1 (A) by striking “(d)” each place it appears and inserting “(c)”; and
2 (B) in paragraph (2)(B), by striking “subsection (a), (b), or (c)” and inserting
3 “subsection (a) or (b)”.
- 4 (b) Technical and Conforming Amendments.—
- 5 (1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8
6 U.S.C. 1101 et seq.) is amended—
- 7 (A) in section 101(a)(15)(V), by striking “section 203(d)” and inserting “section
8 203(c)”;
- 9 (B) in section 201—
- 10 (i) in subsection (a)—
- 11 (I) in paragraph (1), by adding “and” at the end;
12 (II) in paragraph (2), by striking “; and” and inserting a period; and
13 (III) by striking paragraph (3);
- 14 (ii) by striking subsection (e); and
15 (iii) by redesignating subsection (f) as subsection (e);
- 16 (C) in section 203(b)(2)(B)(ii)(IV), by striking “section 203(b)(2)(B)” each place
17 such term appears and inserting “clause (i)”;
- 18 (D) in section 204—
- 19 (i) in subsection (a)(1)—
- 20 (I) by striking subparagraph (I); and
21 (II) by redesignating subparagraphs (J) through (L) as subparagraphs (I)
22 through (K), respectively;
- 23 (ii) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and
24 inserting “subsection (a) or (b) of section 203”; and
- 25 (iii) in subsection (I)(2)—
- 26 (I) in subparagraph (B), by striking “section 203 (a) or (d)” and inserting
27 “subsection (a) or (c) of section 203”; and
- 28 (II) in subparagraph (C), by striking “section 203(d)” and inserting
29 “section 203(c)”;
- 30 (E) in section 214(q)(1)(B)(i), by striking “section 203(d)” and inserting “section
31 203(c)”;
- 32 (F) in section 216(h)(1), in the undesignated matter following subparagraph (C), by
33 striking “section 203(d)” and inserting “section 203(c)”;
- 34 (G) in section 245(i)(1)(B), by striking “section 203(d)” and inserting “section
35 203(c)”.
- 36 (2) IMMIGRANT INVESTOR PILOT PROGRAM.—Section 610(d) of the Departments of

1 Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act,
2 1993 (Public Law 102–395) is amended by striking “section 203(e) of such Act (8 U.S.C.
3 1153(e))” and inserting “section 203(d) of such Act (8 U.S.C. 1153(d))”.

4 (c) Effective Date.—The amendments made by this section shall take effect on the first day of
5 the first fiscal year beginning on or after the date of the enactment of this Act.

6 (d) Reallocation of Visas; Grandfathered Petitions.—

7 (1) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this
8 section of the diversity visa program described in sections 201(e) and 203(c) of the
9 Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before
10 the date of enactment of this Act), the amendments made by this section shall not apply, and
11 visas shall remain available, to any alien whom the Secretary of State has selected to
12 participate in the diversity visa lottery for fiscal year 2018.

13 (2) REALLOCATION OF VISAS.—

14 (A) REALLOCATION.—

15 (i) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on
16 which the number of visas allocated for aliens who qualify for visas under the
17 Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8
18 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make
19 available the annual allocation of diversity visas as follows:

20 (I) 25,000 visas shall be made available to aliens who have an approved
21 family-based petition based on section 203(a) of the Immigration and
22 Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or revoked
23 as of the date of enactment of this Act.

24 (II) 25,000 visas shall be made available to qualified aliens who have an
25 approved employment-based petition based on paragraphs (1), (2), or (3) of
26 section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b))
27 that has not been terminated or revoked as of the date of enactment of this
28 Act.

29 (ii) NACARA VISAS.—On the exhaustion of 5,000 visas made available under
30 the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–
31 100; 8 U.S.C. 1153 note), the remainder of the visas made available under that
32 Act shall be equally divided and added to the visas provided under subclauses (I)
33 and (II) of clause (i).

34 (B) NOTIFICATION.—

35 (i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation
36 with the Secretary of State, shall publish a notice in the Federal Register to notify
37 affected aliens with respect to—

38 (I) the availability of visas under subparagraph (A);

39 (II) the manner in which the visas shall be allocated.

40 (ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the

1 monthly visa bulletin of the Department of State with respect to—

2 (I) the availability of visas under subparagraph (A);

3 (II) the manner in which the visas shall be allocated.

4 TITLE V—OTHER MATTERS

5 SEC. 5001. OTHER IMMIGRATION AND NATIONALITY 6 ACT AMENDMENTS.

7 (a) Notice of Address Change.—Section 265(a) of the Immigration and Nationality Act (8
8 U.S.C. 1305(a)) is amended to read as follows:

9 “(a) Each alien required to be registered under this Act who is physically present in the United
10 States shall notify the Secretary of Homeland Security of each change of address and new
11 address not later than 10 days after the date of such change and shall furnish such notice in the
12 manner prescribed by the Secretary.”.

13 (b) Photographs for Naturalization Certificates.—Section 333 of the Immigration and
14 Nationality Act (8 U.S.C. 1444) is amended—

15 (1) in subsection (b)—

16 (A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

17 (B) by inserting “(1)” after “(b)”; and

18 (C) by striking the undesignated matter at the end and inserting the following:

19 “(2) Of the photographs furnished pursuant to paragraph (1)—

20 “(A) 1 shall be affixed to each certificate issued by the Attorney General; and

21 “(B) 1 shall be affixed to the copy of such certificate retained by the Department.”; and

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

23 “(c) The Secretary may modify the technical requirements under this section in the Secretary’s
24 discretion and as the Secretary may consider necessary to provide for photographs to be
25 furnished and used in a manner that is efficient, secure, and consistent with the latest
26 developments in technology.”.

27 SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE 28 PROCEDURE ACT.

29 Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States
30 Code (commonly known as the “Freedom of Information Act” (5 U.S.C. 522)), and section 552a
31 of such title (commonly known as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title 5, United
32 States Code (commonly known as the “Administrative Procedures Act”), and any other law
33 relating to rulemaking, information collection, or publication in the Federal Register, shall not
34 apply to any action to implement this Act or the amendments made by this Act, to the extent the
35 Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that
36 compliance with any such law would impede the expeditious implementation of this Act or the

1 amendments made by this Act.

2 **SEC. 5003. EXEMPTION FROM THE PAPERWORK**
3 **REDUCTION ACT.**

4 Chapter 35 of title 44, United States Code, shall not apply to any action to implement this Act
5 or the amendments made by this Act to the extent the Secretary of Homeland Security, the
6 Secretary of State, or the Attorney General determines that compliance with such law would
7 impede the expeditious implementation of this Act or the amendments made by this Act.

8 **SEC. 5004. ABILITY TO FILL AND RETAIN**
9 **DEPARTMENT OF HOMELAND SECURITY POSITIONS**
10 **IN UNITED STATES TERRITORIES.**

11 (a) In General.—Section 530C of title 28, United States Code, is amended—

12 (1) in subsection (a), in the matter preceding paragraph (1)—

13 (A) by inserting “or the Department of Homeland Security” after “Department of
14 Justice”; and

15 (B) by inserting “or the Secretary of Homeland Security” after “Attorney General”;

16 (2) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) in the matter preceding subparagraph (A), by inserting “or to the Secretary
19 of Homeland Security” after “Attorney General”; and

20 (ii) in subparagraph (K)—

21 (I) in clause (i)—

22 (aa) by inserting “or within United States territories or
23 commonwealths” after “outside United States”; and

24 (bb) by inserting “or the Secretary of Homeland Security” after
25 “Attorney General”;

26 (II) in clause (ii), by inserting “or the Secretary of Homeland Security”
27 after “Attorney General”;

28 (B) in paragraph (2)—

29 (i) in subparagraph (A), by striking “for the Drug Enforcement Administration,
30 and for the Immigration and Naturalization Service” and inserting “and for the
31 Drug Enforcement Administration”; and

32 (ii) in subparagraph (B), in the matter preceding clause (i), by striking “the
33 Immigration and Naturalization Service” and inserting “the Department of
34 Homeland Security”;

35 (C) in paragraph (5), by striking “IMMIGRATION AND NATURALIZATION SERVICE.—
36 Funds available to the Attorney General” and replacing with “DEPARTMENT OF

1 HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security”; and

2 (D) in paragraph (7)—

3 (i) by inserting “or the Secretary of Homeland Security” after “Attorney
4 General”; and

5 (ii) by striking “the Immigration and Naturalization Service” and inserting
6 “U.S. Immigration and Customs Enforcement”; and

7 (3) in subsection (d), by inserting “or the Department of Homeland Security” after
8 “Department of Justice”.

9 SEC. 5005. SEVERABILITY.

10 If any provision of this Act or any amendment made by this Act, or any application of such
11 provision or amendment to any person or circumstance, is held to be unconstitutional, the
12 remainder of the provisions of this Act and the amendments made by this Act and the application
13 of the provision or amendment to any other person or circumstance shall not be affected.

14 SEC. 5006. FUNDING.

15 (a) Implementation.—The Director of the Office of Management and Budget shall determine
16 and identify—

17 (1) the appropriation accounts which have unobligated funds that could be rescinded and
18 used to fund the provisions of this Act; and

19 (2) the amount of the rescission that shall be applied to each such account.

20 (b) Report.—Not later than 60 days after the date of enactment of this Act, the Director of the
21 Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury
22 a report that describes the accounts and amounts determined and identified for rescission
23 pursuant to subsection (a).

24 (c) Exceptions.—This section shall not apply to unobligated funds of—

25 (1) the Department of Homeland Security;

26 (2) the Department of Defense; or

27 (3) the Department of Veterans Affairs.

28 TITLE VI—TECHNICAL AMENDMENTS

29 SEC. 6001. REFERENCES TO THE IMMIGRATION AND 30 NATIONALITY ACT.

31 Except as otherwise expressly provided, whenever in this title an amendment or repeal is
32 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
33 shall be considered to be made to a section or other provision of the Immigration and Nationality
34 Act (8 U.S.C. 1101 et seq.).

35 SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF

1 THE IMMIGRATION AND NATIONALITY ACT.

2 (a) Section 101.—

3 (1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as
4 follows:

5 “(8) The term ‘Department’ means the Department of Homeland Security.”.

6 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

7 (A) in subparagraph (F)(i)—

8 (i) by striking the term “Attorney General” each place that term appears and
9 inserting “Secretary”; and

10 (ii) by striking “214(l)” and inserting “214(m)”;

11 (B) in subparagraph (H)(i)—

12 (i) in subclause (b), by striking “certifies to the Attorney General that the
13 intending employer has filed with the Secretary” and inserting “certifies to the
14 Secretary of Homeland Security that the intending employer has filed with the
15 Secretary of Labor”; and

16 (ii) in subclause (c), by striking “certifies to the Attorney General” and
17 inserting “certifies to the Secretary of Homeland Security”; and

18 (C) in subparagraph (M)(i), by striking the term “Attorney General” each place that
19 term appears and inserting “Secretary”.

20 (3) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
21 striking “Service or of the United States designated by the Attorney General,” and inserting
22 “Department or of the United States designated by the Secretary,”.

23 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as
24 follows:

25 “(34) The term ‘Secretary’ means the Secretary of Homeland Security, except as provided in
26 section 219(d)(4).”.

27 (5) SPECIAL IMMIGRANT.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
28 amended by adding “; or” at the end.

29 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPACITY.—Section 101(a)(44)(C) (8 U.S.C.
30 1101(a)(44)(C)) is amended by striking “Attorney General” and inserting “Secretary”.

31 (7) ORDER OF REMOVAL.—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended
32 to read as follows:

33 “(A) The term ‘order of removal’ means the order of the immigration judge, or other such
34 administrative officer to whom the Attorney General or the Secretary has delegated the
35 responsibility for determining whether an alien is removable, concluding that the alien is
36 removable or ordering removal.”.

37 (8) TITLE I AND II DEFINITIONS.—Section 101(b) (8 U.S.C. 1101(b)) is amended—

1 (A) in paragraph (1)(F)(i), by striking “Attorney General” and inserting “Secretary”;
2 and

3 (B) in paragraph (4), by striking “Immigration and Naturalization Service.” and
4 inserting “Department.”.

5 (b) Section 103.—

6 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by striking the section
7 heading and subsection (a)(1) and inserting the following:

8 **“SEC. 103. POWERS AND DUTIES.**

9 “(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and
10 all other laws relating to the immigration and naturalization of aliens, except insofar as this Act
11 or such laws relate to the powers, functions, and duties conferred upon the President, the
12 Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health
13 and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of
14 the Department of State, or diplomatic or consular officers. A determination and ruling by the
15 Attorney General with respect to all questions of law shall be controlling.”.

16 (2) TECHNICAL AND CONFORMING CORRECTIONS.—Section 103 (8 U.S.C. 1103), as
17 amended by paragraph (1), is further amended—

18 (A) in subsection (a)—

19 (i) in paragraph (2), by striking “He” and inserting “The Secretary”;

20 (ii) in paragraph (3)—

21 (I) by striking “He” and inserting “The Secretary”;

22 (II) by striking “he” and inserting “the Secretary”; and

23 (III) by striking “his authority” and inserting “the authority of the
24 Secretary”;

25 (iii) in paragraph (4)—

26 (I) by striking “He” and inserting “The Secretary”; and

27 (II) by striking “Service or the Department of Justice” and insert the
28 “Department”;

29 (iv) in paragraph (5)—

30 (I) by striking “He” and inserting “The Secretary”;

31 (II) by striking “his discretion,” and inserting “the discretion of the
32 Secretary,” and

33 (III) by striking “him” and inserting “the Secretary”;

34 (v) in paragraph (6)—

35 (I) by striking “He” and inserting “The Secretary”;

36 (II) by striking “Department” and inserting “agency, department,”; and

1 (III) by striking “Service.” and inserting “Department or upon consular
2 officers with respect to the granting or refusal of visas”;

3 (vi) in paragraph (7)—

4 (I) by striking “He” and inserting “The Secretary”;

5 (II) by striking “countries;” and inserting “countries”;

6 (III) by striking “he” and inserting “the Secretary”; and

7 (IV) by striking “his judgment” and inserting “the judgment of the
8 Secretary”;

9 (vii) in paragraph (8), by striking “Attorney General” and inserting “Secretary”;

10 (viii) in paragraph (10), by striking “Attorney General” each place that term
11 appears and inserting “Secretary”; and

12 (ix) in paragraph (11), by striking “Attorney General,” and inserting
13 “Secretary.”;

14 (B) by amending subsection (c) to read as follows:

15 “(c) Secretary; Appointment.—The Secretary shall be a citizen of the United States and shall
16 be appointed by the President, by and with the advice and consent of the Senate. The Secretary
17 shall be charged with any and all responsibilities and authority in the administration of the
18 Department and of this Act. The Secretary may enter into cooperative agreements with State and
19 local law enforcement agencies for the purpose of assisting in the enforcement of the
20 immigration laws.”;

21 (C) in subsection (e)—

22 (i) in paragraph (1), by striking “Commissioner” and inserting “Secretary”; and

23 (ii) in paragraph (2), by striking “Service” and inserting “U.S. Citizenship and
24 Immigration Services”;

25 (D) in subsection (f)—

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

27 (ii) by striking “Immigration and Naturalization Service” and inserting
28 “Department”; and

29 (iii) by striking “Service,” and inserting “Department.”; and

30 (E) in subsection (g)(1), by striking “Immigration Reform, Accountability and
31 Security Enhancement Act of 2002” and inserting “Homeland Security Act of 2002
32 (Public Law 107–296; 116 Stat. 2135)”.

33 (3) CLERICAL AMENDMENT.—The table of contents in the first section is amended by
34 striking the item relating to section 103 and inserting the following:

35 “Sec.103.Powers and duties.”.

36 (c) Section 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking “Commissioner”
37 each place that term appears and inserting “Secretary”.

1 SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF
2 THE IMMIGRATION AND NATIONALITY ACT.

3 (a) Section 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting “the
4 Secretary or” after “the authority of”.

5 (b) Section 203.—Section 203 (8 U.S.C. 1153) is amended—

6 (1) in subsection (b)(2)(B)(ii)—

7 (A) in subclause (II)—

8 (i) by inserting “the Secretary or” before “the Attorney General”; and

9 (ii) by moving such subclause 4 ems to the left; and

10 (B) by moving subclauses (III) and (IV) 4 ems to the left; and

11 (2) in subsection (f) (as redesignated by section 4003(a)(2))—

12 (A) by striking “Secretary’s” and inserting “Secretary of State’s”; and

13 (B) by inserting “of State” after “but the Secretary”.

14 (c) Section 204.—Section 204 (8 U.S.C. 1154) is amended—

15 (1) in subsection (a)(1)(G)(ii), by inserting “of State” after “by the Secretary”;

16 (2) in subsection (c), by inserting “the Secretary or” before “the Attorney General” each
17 place that term appears; and

18 (3) in subsection (e), by inserting “to” after “admitted”.

19 (d) Section 208.—Section 208 (8 U.S.C. 1158) is amended—

20 (1) in subsection (a)(2)—

21 (A) by inserting “the Secretary or” before “Attorney General” in subparagraph (A);

22 (B) by inserting “the Secretary or” before “Attorney General” in subparagraph (D);

23 (2) in subsection (b)(2)—

24 (A) in subparagraph (B)(ii), by inserting “the Secretary or” before “Attorney
25 General”;

26 (B) in subparagraph (C), by inserting “the Secretary or” before “Attorney General”;
27 and

28 (C) in subparagraph (D), by inserting “the Secretary or” before “Attorney General”.

29 (3) in subsection (c)—

30 (A) in paragraph (1), by striking “the Attorney General” and inserting “the
31 Secretary”;

32 (B) in paragraphs (2) and (3), by inserting “the Secretary or” before “Attorney
33 General” each place that term appears; and

34 (4) in subsection (d)—

- 1 (A) in paragraph (1), by inserting “the Secretary or” before “the Attorney General”,
2 (B) in paragraph (2), by striking “Attorney General” and inserting “Secretary”;
3 (C) in paragraph (3)—
4 (i) by striking “Attorney General” each place that term appears and inserting
5 “Secretary”; and
6 (ii) by striking “Attorney General’s” and inserting “Secretary’s”; and
7 (D) in paragraphs (4) through (6), by inserting “the Secretary or” before “the
8 Attorney General”; and
9 (e) Section 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking
10 “Secretary of Homeland Security or the Attorney General” each place that term appears and
11 inserting “Secretary”.
12 (f) Section 212.—Section 212 (8 U.S.C. 1182) is amended—
13 (1) in subsection (a)—
14 (A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting “, the
15 Secretary,” before “or the Attorney General” each place that term appears;
16 (B) in paragraph (3)—
17 (i) in subparagraph (B)(ii)(II), by inserting “, the Secretary,” before “or the
18 Attorney General” each place that term appears; and
19 (ii) in subparagraph (D), by inserting “the Secretary or” before “the Attorney
20 General” each place that term appears;
21 (C) in paragraph (4)—
22 (i) in subparagraph (A), by inserting “the Secretary or” before “the Attorney
23 General”; and
24 (ii) in subparagraph (B), by inserting “, the Secretary,” before “or the Attorney
25 General” each place that term appears;
26 (D) in paragraph (5)(C), by striking “or, in the case of an adjustment of status, the
27 Attorney General, a certificate from the Commission on Graduates of Foreign Nursing
28 Schools, or a certificate from an equivalent independent credentialing organization
29 approved by the Attorney General” and inserting “or, in the case of an adjustment of
30 status, the Secretary or the Attorney General, a certificate from the Commission on
31 Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent
32 credentialing organization approved by the Secretary”;
33 (E) in paragraph (9)—
34 (i) in subparagraph (B)(v)—
35 (I) by inserting “or the Secretary” after “Attorney General” each place that
36 term appears; and
37 (II) by striking “has sole discretion” and inserting “have discretion”; and

1 (ii) in subparagraph (C)(iii), by inserting “or the Attorney General” after
2 “Secretary of Homeland Security”; and

3 (F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking “Secretary’s”
4 and inserting “Secretary of State’s”;

5 (2) in subsection (d), in paragraphs (11) and (12), by inserting “or the Secretary” after
6 “Attorney General” each place that term appears;

7 (3) in subsection (e), by striking the first proviso and inserting the following: “Provided,
8 That upon the favorable recommendation of the Director, pursuant to the request of an
9 interested United States Government agency (or, in the case of an alien described in clause
10 (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of
11 the Secretary after the Secretary has determined that departure from the United States would
12 impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a
13 citizen of the United States or a lawfully resident alien), or that the alien cannot return to the
14 country of his or her nationality or last residence because the alien would be subject to
15 persecution on account of race, religion, or political opinion, the Secretary may waive the
16 requirement of such two-year foreign residence abroad in the case of any alien whose
17 admission to the United States is found by the Secretary to be in the public interest except
18 that in the case of a waiver requested by a State Department of Public Health, or its
19 equivalent, or in the case of a waiver requested by an interested United States Government
20 agency on behalf of an alien described in clause (iii), the waiver shall be subject to the
21 requirements under section 214(l).”;

22 (4) in subsections (g), (h), (i), and (k), by inserting “or the Secretary” after “Attorney
23 General” each place that term appears;

24 (5) in subsection (m)(2)(E)(iv), by inserting “of Labor” after “Secretary” the second and
25 third place that term appears;

26 (6) in subsection (n), by inserting “of Labor” after “Secretary” each place that term
27 appears, except that this amendment shall not apply to references to the “Secretary of
28 Labor”; and

29 (7) in subsection (s), by inserting “, the Secretary,” before “or the Attorney General”.

30 (g) Section 213A.—Section 213A (8 U.S.C. 1183a) is amended—

31 (1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting “, the
32 Secretary,” after “the Attorney General”; and

33 (2) in subsection (f)(6)(B), by inserting “the Secretary,” after “The Secretary of State.”.

34 (h) Section 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter
35 preceding clause (i), by striking “before”.

36 (i) Section 217.—Section 217 (8 U.S.C. 1187) is amended—

37 (1) in subsection (e)(3)(A), by inserting a comma after “Regulations”;

38 (2) in subsection (f)(2)(A), by striking “section (c)(2)(C),” and inserting “subsection
39 (c)(2)(C).”; and

40 (3) in subsection (h)(3)(A), by striking “the alien” and inserting “an alien”.

- 1 (j) Section 218.—Section 218 (8 U.S.C. 1188) is amended—
2 (1) by inserting “of Labor” after “Secretary” each place that term appears, except that this
3 amendment shall not apply to references to the “Secretary of Labor” or to the “Secretary of
4 Agriculture”;
5 (2) in subsection (c)(3)(B)(iii), by striking “Secretary’s” and inserting “Secretary of
6 Labor’s”; and
7 (3) in subsection (g)(4), by striking “Secretary’s” and inserting “Secretary of
8 Agriculture’s”.
- 9 (k) Section 219.—Section 219 (8 U.S.C. 1189) is amended—
10 (1) in subsection (a)(1)(B)—
11 (A) by inserting a close parenthesis after “section 212(a)(3)(B)”;
12 (B) by striking the close parenthesis before the semicolon;
13 (2) in subsection (c)(3)(D), by striking “(2),” and inserting “(2),”; and
14 (3) in subsection (d)(4), by striking “the Secretary of the Treasury” and inserting “the
15 Secretary of Homeland Security, the Secretary of the Treasury,”.
- 16 (l) Section 222.—Section 222 (8 U.S.C. 1202)—
17 (1) by inserting “or the Secretary” after “Secretary of State” each place that term appears;
18 and
19 (2) in subsection (f)—
20 (A) in the matter preceding paragraph (1), by inserting “, the Department,” after
21 “Department of State”; and
22 (B) in paragraph (2), by striking “Secretary’s” and inserting “their”.
- 23 (m) Section 231.—Section 231 (8 U.S.C. 1221) is amended—
24 (1) in subsection (c)(10), by striking “Attorney General,” and inserting “Secretary,”;
25 (2) in subsection (f), by striking “Attorney General” each place that term appears and
26 inserting “Secretary”;
27 (3) in subsection (g)—
28 (A) by striking “Attorney General” each places that term appears and inserting
29 “Secretary”;
30 (B) by striking “Commissioner” each place that term appears and inserting
31 “Secretary”; and
32 (4) in subsection (h), by striking “Attorney General” each place that term appears and
33 inserting “Secretary”.
- 34 (n) Section 236.—Section 236(e) (8 U.S.C. 1226(e)) is amended—
35 (1) by striking “review.” and inserting “review, other than administrative review by the
36 Attorney General pursuant to the authority granted under section 103(g).”; and

- 1 (2) by inserting “the Secretary or” before “the Attorney General under”.
- 2 (o) Section 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking
3 “Deputy Attorney General” both places that term appears and inserting “Deputy Secretary of
4 Homeland Security”.
- 5 (p) Section 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—
- 6 (1) in the matter preceding paragraph (1), by inserting “following the initiation by the
7 Secretary of removal proceedings” after “upon the order of the Attorney General”; and
- 8 (2) in paragraph (2)(E), in the subparagraph heading, by striking “, CRIMES AGAINST
9 CHILDREN AND” and inserting “; CRIMES AGAINST CHILDREN”.
- 10 (q) Section 238.—Section 238 (8 U.S.C. 1228) is amended—
- 11 (1) in subsection (a)—
- 12 (A) in paragraph (2), by striking “Attorney General” each place that term appears
13 and inserting “Secretary”; and
- 14 (B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney
15 General” each place that term appears; and
- 16 (2) in subsection (e) (as redesignated by section 1703(a)(4))—
- 17 (A) by striking “Commissioner” each place that term appears and inserting
18 “Secretary”;
- 19 (B) by striking “Attorney General” each place that term appears and inserting
20 “Secretary”; and
- 21 (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United
22 States Attorney”.
- 23 (r) Section 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting “and the
24 Secretary” after “Attorney General” each place that term appears.
- 25 (s) Section 240.—Section 240 (8 U.S.C. 1229a) is amended—
- 26 (1) in subsection (b)—
- 27 (A) in paragraph (1), by inserting “, with the concurrence of the Secretary with
28 respect to employees of the Department” after “Attorney General”; and
- 29 (B) in paragraph (5)(A), by inserting “the Secretary or” before “the Attorney
30 General”; and
- 31 (2) in subsection (c)—
- 32 (A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before
33 “to be confidential”; and
- 34 (B) in paragraph (7)(C)(iv)(I), by striking “240A(b)(2)” and inserting “section
35 240A(b)(2)”.
- 36 (t) Section 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—
- 37 (1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”;

- 1 and
- 2 (2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”.
- 3 (u) Section 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3),
4 by inserting “or the Secretary” after “Attorney General” each place that term appears.
- 5 (v) Section 241.—Section 241 (8 U.S.C. 1231) is amended—
- 6 (1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after “(L)”;
- 7 (2) in subsection (g)(2)—
- 8 (A) by striking the paragraph heading and inserting “DETENTION FACILITIES OF THE
9 DEPARTMENT OF HOMELAND SECURITY.—”; and
- 10 (B) by striking “Service, the Commissioner” and inserting “Department, the
11 Secretary”.
- 12 (w) Section 242.—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting “the Secretary
13 or” before “the Attorney General”.
- 14 (x) Section 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in
15 subsection (b)(1)—
- 16 (1) by striking “Attorney General” each place that term appears and inserting
17 “Secretary”; and
- 18 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 19 (y) Section 244.—Section 244 (8 U.S.C. 1254a) is amended—
- 20 (1) in subsection (c)(2), by inserting “or the Secretary” after “Attorney General” each
21 place the term appears; and
- 22 (2) in subsection (g), by inserting “or the Secretary” after “Attorney General”.
- 23 (z) Section 245.—Section 245 (8 U.S.C. 1255) is amended—
- 24 (1) by inserting “or the Secretary” after “Attorney General” each place that term appears
25 except in subsections (j) (other than the first reference), (l), and (m);
- 26 (2) in subsection (k)(1), adding an “and” at the end; and
- 27 (3) in subsection (l)—
- 28 (A) in paragraph (1), by inserting a comma after “appropriate”; and
- 29 (B) in paragraph (2)—
- 30 (i) in the matter preceding paragraph (1), by striking “Attorney General’s” and
31 inserting “Secretary’s”; and
- 32 (ii) in subparagraph (B), by striking “(10(E))” and inserting “(10)(E))”.
- 33 (aa) Section 245A.—Section 245A (8 U.S.C. 1255a) is amended—
- 34 (1) in subsection (c)(7), by striking subparagraph (C); and
- 35 (2) in subsection (h)—

- 1 (A) in paragraph (4)(C), by striking “The The” and inserting “The”; and
2 (B) in paragraph (5), by striking “(Public Law 96–122),” and inserting “(8 U.S.C.
3 1522 note),”.
- 4 (bb) Section 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—
5 (1) by striking “Attorney General” each place that term appears and inserting
6 “Secretary”; and
7 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 8 (cc) Section 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking “Commissioner”
9 each place that term appears and inserting “Secretary”.
- 10 (dd) Section 255.—Section 255 (8 U.S.C. 1285) is amended by striking “Commissioner” each
11 place that term appears and inserting “Secretary”.
- 12 (ee) Section 256.—Section 256 (8 U.S.C. 1286) is amended—
13 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
14 (2) in the first and second sentences, by striking “Attorney General” each place that term
15 appears and inserting “Secretary”.
- 16 (ff) Section 258.—Section 258 (8 U.S.C. 1288) is amended—
17 (1) by inserting “of Labor” after “Secretary” each place that term appears (except for in
18 subsection (e)(2)), except that this amendment shall not apply to references to the
19 “Secretary of Labor”, “the Secretary of State”;
20 (2) in subsection (d)(2)(A), by striking “at” after “while”; and
21 (3) in subsection (e)(2), by striking “the Secretary shall” and inserting “the Secretary of
22 State shall”.
- 23 (gg) Section 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking “Attorney
24 General is” and inserting “Attorney General and the Secretary are”.
- 25 (hh) Section 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each
26 place that term appears and inserting “Secretary”.
- 27 (ii) Section 273.—Section 273 (8 U.S.C. 1323) is amended—
28 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
29 and
30 (2) by striking “Attorney General” each place that term appears (except in subsection (e),
31 in the matter preceding paragraph (1)) and inserting “Secretary”.
- 32 (jj) Section 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking “Secretary
33 of the Treasury” and inserting “Secretary”.
- 34 (kk) Section 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking
35 “subsection” and inserting “section”.
- 36 (ll) Section 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting
37 “or the Secretary” after “subsection (a), the Attorney General”.

1 (mm) Section 274D.—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking
2 “Commissioner” and inserting “Secretary”.

3 (nn) Section 286.—Section 286 (8 U.S.C. 1356) is amended—

4 (1) in subsection (q)(1)(B), by striking “, in consultation with the Secretary of the
5 Treasury,”;

6 (2) in subsection (r)(2), by striking “section 245(i)(3)(b)” and inserting “section
7 245(i)(3)(B)”;

8 (3) in subsection (s)(5)—

9 (A) by striking “5 percent” and inserting “USE OF FEES FOR DUTIES RELATING TO
10 PETITIONS.—Five percent”;

11 (B) by striking “paragraph (1) (C) or (D) of section 204” and inserting
12 “subparagraph (C) or (D) of section 204(a)(1)”.

13 (oo) Section 294.—Section 294 (8 U.S.C. 1363a) is amended—

14 (1) in subsection (a), in the undesignated matter following paragraph (4), by striking
15 “Commissioner, in consultation with the Deputy Attorney General,” and inserting
16 “Secretary”; and

17 (2) in subsection (d), by striking “Deputy Attorney General” and inserting “Secretary”.

18 SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF 19 THE IMMIGRATION AND NATIONALITY ACT.

20 (a) Section 316.—Section 316 (8 U.S.C. 1427) is amended—

21 (1) in subsection (d), by inserting “or by the Secretary” after “Attorney General”; and

22 (2) in subsection (f)(1), by striking “Intelligence, the Attorney General and the
23 Commissioner of Immigration” and inserting “Intelligence and the Secretary”.

24 (b) Section 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

25 (1) by inserting “is” before “(or,”; and

26 (2) by striking “is” before “a citizen”.

27 (c) Section 342.—

28 (1) SECTION HEADING.—

29 (A) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended by striking the section
30 heading and inserting “cancellation of certificates; action not to affect citizenship
31 status”.

32 (B) CLERICAL AMENDMENT.—The table of contents in the first section is amended
33 by striking the item relating to section 342 and inserting the following:

34 “Sec.342.Cancellation of certificates; action not to affect citizenship status.”.

35 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended—

1 (A) by striking “heretofore issued or made by the Commissioner or a Deputy
2 Commissioner or hereafter made by the Attorney General”; and

3 (B) by striking “practiced upon, him or the Commissioner or a Deputy
4 Commissioner;”.

5 **SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF**
6 **THE IMMIGRATION AND NATIONALITY ACT.**

7 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i)) is amended by striking “insure” and
8 inserting “ensure”.

9 **SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF**
10 **THE IMMIGRATION AND NATIONALITY ACT.**

11 (a) Section 504.—Section 504 (8 U.S.C. 1534) is amended—

12 (1) in subsection (a)(1)(A), by striking “a” before “removal proceedings”;

13 (2) in subsection (i), by striking “Attorney General” inserting “Government”; and

14 (3) in subsection (k)(2), by striking “by”.

15 (b) Section 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting “and the
16 Secretary” after “Attorney General”.

17 **SEC. 6007. OTHER AMENDMENTS.**

18 (a) Correction of Commissioner of Immigration and Naturalization.—

19 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as
20 amended by this Act, is further amended by striking “Commissioner” and “Commissioner
21 of Immigration and Naturalization” each place those terms appear and inserting “Secretary”.

22 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by
23 paragraph (1) shall not apply to any reference to the “Commissioner of Social Security”.

24 (b) Correction of Immigration and Naturalization Service.—The Immigration and Nationality
25 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Service”
26 and “Immigration and Naturalization Service” each place those terms appear and inserting
27 “Department”.

28 (c) Correction of Department of Justice.—

29 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as
30 amended by this Act, is further amended by striking “Department of Justice” each place that
31 term appears and inserting “Department”.

32 (2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

33 (A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

34 (B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

35 (C) title V (8 U.S.C. 1531 et seq.).

1 (d) Correction of Attorney General.—The Immigration and Nationality Act (8 U.S.C. 1101 et
2 seq.) as amended by this Act, is further amended by striking “Attorney General” each place that
3 term appears and inserting “Secretary”, except for in the following:

4 (1) Any joint references to the “Attorney General and the Secretary of Homeland
5 Security” or “the Secretary of Homeland Security and the Attorney General”.

6 (2) Section 101(a)(5).

7 (3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

8 (4) Section 101(a)(47)(A).

9 (5) Section 101(b)(4).

10 (6) Subsections (a)(1) and (g) of section 103.

11 (7) Subsections (b)(1) and (c) of section 105.

12 (8) Section 204(c).

13 (9) Section 208.

14 (10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

15 (11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

16 (12) Section 212(a)(9)(C)(iii).

17 (13) Paragraphs (11) and (12) of section 212(d).

18 (14) Subsections (g), (h), (i), (k), and (s) of section 212.

19 (15) Subsections (a)(1) and (f)(6)(B) of section 213A.

20 (16) Section 216(d)(2)(c).

21 (17) Section 219(d)(4).

22 (18) Section 235(b)(1)(B)(iii)(III).

23 (19) The second sentence of section 236(e).

24 (20) Section 237.

25 (21) Paragraphs (1), (3), and (4)(A) of section 238(a).

26 (22) Paragraphs (1) and (5) of section 238(b).

27 (23) Section 238(c)(2)(D)(iv).

28 (24) Subsections (a) and (b) of section 239.

29 (25) Section 240.

30 (26) Section 240A.

31 (27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.

32 (28) The first reference in section 241(a)(4)(B)(i).

33 (29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the
34 amendment shall apply).

- 1 (30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).
2 (31) Section 242(a)(2)(B).
3 (32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).
4 (33) Section 242(g).
5 (34) Subsections (a)(3)(C), (c)(2), (e), and (g) of section 244.
6 (35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first
7 reference to the Attorney General in subsection 245(j)).
8 (36) Section 245A(a)(1)(A).
9 (37) Section 246(a).
10 (38) Section 249.
11 (39) Section 264(f).
12 (40) Section 274(e).
13 (41) Section 274A.
14 (42) Section 274B.
15 (43) Section 274C.
16 (44) Section 292.
17 (45) Subsections (d) and (f)(1) of section 316.
18 (46) Section 342.
19 (47) Section 412(f)(1)(A).
20 (48) Title V (except for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to
21 which the amendment shall apply).

22 SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

23 (a) Repeals.—

24 (1) IMMIGRATION AND NATURALIZATION SERVICE.—

25 (A) IN GENERAL.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter
26 552; 8 U.S.C. 1551) is repealed.

27 (B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8
28 of the United States Code shall be removed from the compilation of such title 8.

29 (2) COMMISSIONER OF IMMIGRATION AND NATURALIZATION; OFFICE.—

30 (A) IN GENERAL.—Section 7 of the Act of March 3, 1891 (26 Stat. 1085, chapter
31 551; 8 U.S.C. 1552) is repealed.

32 (B) 8 U.S.C. 1552.—The language of the compilers set out in section 1552 of title 8
33 of the United States Code shall be removed from the compilation of such title 8.

34 (3) ASSISTANT COMMISSIONERS AND DISTRICT DIRECTOR; COMPENSATION AND SALARY

1 GRADE.—Title II of the Department of Justice Appropriation Act, 1957 (70 Stat. 307,
2 chapter 414; 8 U.S.C. 1553) is amended, in the matter under the heading “Immigration and
3 Naturalization Service” and under the subheading “SALARIES AND EXPENSES”, by
4 striking “That the compensation of the five assistant commissioners and one district director
5 shall be at the rate of grade GS–16: Provided further”.

6 (4) SPECIAL IMMIGRANT INSPECTORS AT WASHINGTON.—The Act of March 2, 1895 (28
7 Stat. 780, chapter 177; 8 U.S.C. 1554) is amended in the matter following the heading
8 “Bureau of Immigration:” by striking “That hereafter special immigrant inspectors, not to
9 exceed three, may be detailed for duty in the Bureau at Washington: And provided further.”.

10 (b) Rule of Construction.—Nothing in this title may be construed to repeal or limit the
11 applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and
12 552) with respect to any provision of law or matter not specifically addressed by the amendments
13 made by this title.

14 SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.

15 Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by
16 striking “Commissioner of Immigration” and inserting “Secretary of Homeland Security”.

1 Title: To improve border security, improve the immigration system, and for other purposes.
2
3

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

6 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

7 (a) Short Title.—This Act may be cited as the “Immigration Reform Act of 2018”.

8 (b) Table of Contents.—The table of contents for this Act is as follows:

9 Sec.1.Short title; table of contents.

10 TITLE I—BORDER SECURITY

11 Subtitle A—Appropriations for U.S. Customs and Border 12 Protection

13 Sec.101.Operations and support.

14 Sec.102.Procurement, construction, and improvements.

15 Sec.103.Administrative provisions.

16 Subtitle B—Improving Border Safety and Security

17 Sec.111.Border access roads.

18 Sec.112.Flexibility in employment authorities.

19 Sec.113.Distress beacons.

20 Sec.114.Southern border region emergency communications grants.

21 Sec.115.Office of Professional Responsibility.

22 Subtitle C—Body-Worn Cameras With Privacy Protections

23 Sec.121.Short title.

24 Sec.122.Pilot program on use of body-worn cameras.

25 Sec.123.Development of policies with respect to body-worn cameras.

26 Sec.124.Consultations; public comment.

27 Sec.125.Implementation plan.

28 Sec.126.Deployment.

29 Subtitle D—GAO Studies

30 Sec.131.GAO study on the use of visa fees.

31 Sec.132.GAO study on deaths in custody.

1 Sec.133.GAO studies on migrant deaths.

2 **TITLE II—DREAM ACT AND PROVISIONAL PROTECTED**
3 **PRESENCE**

4 **Subtitle A—Dream Act**

5 Sec.201.Short title.

6 Sec.202.Definitions.

7 Sec.203.Permanent resident status on a conditional basis for certain long-term residents who
8 entered the United States as children.

9 Sec.204.Terms of permanent resident status on a conditional basis.

10 Sec.205.Removal of conditional basis of permanent resident status.

11 Sec.206.Documentation requirements.

12 Sec.207.Rulemaking.

13 Sec.208.Confidentiality of information.

14 Sec.209.Restoration of State option to determine residency for purposes of higher education
15 benefits.

16 Sec.210.Limitation on parents of certain long-term residents who entered the United States as
17 children.

18 **Subtitle B—Provisional Protected Presence for Certain Aliens**

19 Sec.211.Provisional protected presence.

20 **TITLE III—FAMILY-SPONSORED IMMIGRATION**

21 Sec.301.Allocation of family-sponsored immigrant visas.

22 **TITLE IV—ELIMINATION OF DIVERSITY VISA**
23 **LOTTERY AND REALLOCATION OF VISAS**

24 Sec.401.Definition of Secretary.

25 Sec.402.Global opportunity program.

26 Sec.403.Permanent resident status for certain long-term residents.

27 **TITLE I—BORDER SECURITY**

28 **Subtitle A—Appropriations for U.S. Customs and Border**
29 **Protection**

30 **SEC. 101. OPERATIONS AND SUPPORT.**

31 There is appropriated, out of any money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in
2 such fiscal year, \$675,000,000 to U.S. Customs and Border Protection for “Operations and
3 Support”, to remain available until September 30, 2019, which shall be available as follows:

4 (1) \$531,000,000 for—

5 (A) border security technologies;

6 (B) facilities;

7 (C) equipment; and

8 (D) the purchase, maintenance, or operation of marine vessels, aircraft, and
9 unmanned aerial systems.

10 (2) \$48,000,000 for retention, recruitment, and relocation of Border Patrol Agents,
11 Customs Officers, and Air and Marine personnel.

12 (3) \$75,000,000 to hire 615 additional U.S. Customs and Border Protection Officers for
13 deployment to ports of entry.

14 (4) \$21,000,000 for data circuits and network bandwidth surveillance and associated
15 personnel.

16 SEC. 102. PROCUREMENT, CONSTRUCTION, AND 17 IMPROVEMENTS.

18 There is appropriated, out of any money in the Treasury not otherwise appropriated, for the
19 fiscal year ending September 30, 2018, and in addition to any amounts otherwise provided in
20 such fiscal year, \$2,030,239,000 for “Procurement, Construction, and Improvements”, to remain
21 available until September 30, 2022, which shall be available as follows:

22 (1) \$784,000,000 for 32 miles of border bollard fencing in the Rio Grande Valley Sector,
23 Texas.

24 (2) \$498,000,000 for 28 miles of a bollard levee fencing in the Rio Grande Valley Sector,
25 Texas.

26 (3) \$251,000,000 for 14 miles of secondary fencing in the San Diego Sector, California.

27 (4) \$444,000,000 for border security technologies, marine vessels, aircraft unmanned
28 aerial systems, facilities, and equipment.

29 (5) \$38,239,000 to prepare the reports required under subsections (b) and (c) of section
30 103.

31 (6) \$15,000,000 for chemical screening devices (as defined in section 2 of the
32 INTERDICT Act (Public Law 115–112)).

33 SEC. 103. ADMINISTRATIVE PROVISIONS.

34 (a) Limitation.—Amounts appropriated under paragraphs (1) through (3) of section 102 shall
35 only be available for operationally effective designs deployed as of the date of the enactment of
36 the Consolidated Appropriations Act, 2017 (Public Law 115–31), such as currently deployed
37 steel bollard designs, that prioritize agent safety.

1 (b) Interim Report.—Not later than 90 days after the date of the enactment of this Act, the
2 Secretary of Homeland Security shall submit an interim report to the Committee on
3 Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs
4 of the Senate, the Committee on Appropriations of the House of Representatives, and the
5 Comptroller General of the United States that—

6 (1) identifies, with respect to the physical barriers described in paragraphs (1) through (3)
7 of section 102—

8 (A) all necessary land acquisitions;

9 (B) the total number of necessary condemnation actions; and

10 (C) the precise number of landowners that will be impacted by the construction of
11 such physical barriers;

12 (2) contains a comprehensive plan to consult State and local elected officials on the
13 eminent domain and construction process relating to such physical barriers;

14 (3) provides, after consultation with the Secretary of the Interior and the Administrator of
15 the Environmental Protection Agency, a comprehensive analysis of the environmental
16 impacts of the construction and placement of such physical barriers along the Southwest
17 border, including barriers in the Santa Ana National Wildlife Refuge; and

18 (4) includes, for each barrier segment described in paragraphs (1) through (3) of section
19 102, a thorough analysis and comparison of alternatives to a physical barrier to determine
20 the most cost effective security solution, including—

21 (A) underground sensors;

22 (B) infrared or other day/night cameras;

23 (C) tethered or mobile aerostats;

24 (D) drones or other airborne assets;

25 (E) integrated fixed towers; and

26 (F) the deployment of additional border personnel.

27 (c) Annual Reports.—Not later than 180 days after the date of the enactment of this Act, and
28 annually thereafter, the Secretary of Homeland Security shall submit a report containing all of
29 the information required under paragraphs (1) through (4) of subsection (b) to the Committee on
30 Appropriations of the Senate, the Committee on Homeland Security and Governmental Affairs
31 of the Senate, the Committee on Appropriations of the House of Representatives, and the
32 Comptroller General of the United States.

33 (d) GAO Evaluation.—Not later than 180 days after the date on which the Secretary of
34 Homeland Security submits each report described in subsections (b) and (c), the Comptroller
35 General of the United States shall submit an evaluation of the strengths and weaknesses of the
36 report to the Committee on Appropriations of the Senate, the Committee on Homeland Security
37 and Governmental Affairs of the Senate, and the Committee on Appropriations of the House of
38 Representatives.

39 (e) Rescission.—Notwithstanding any other provision of law, any amounts appropriated under
40 paragraphs (1) through (3) of section 102 that remain available after the completion of the

1 construction projects described in such paragraphs shall be rescinded and returned to the general
2 fund of the Treasury.

3 (f) Prohibition.—Notwithstanding any other provision of law, none of the amounts
4 appropriated under this subtitle may be reprogrammed or transferred for any other activity within
5 the Department of Homeland Security.

6 Subtitle B—Improving Border Safety and Security

7 SEC. 111. BORDER ACCESS ROADS.

8 (a) Construction.—

9 (1) IN GENERAL.—The Secretary of Homeland Security shall construct roads along the
10 Southern land border of the United States to facilitate safe and swift access for U.S.
11 Customs and Border Protection personnel to access the border for purposes of patrol and
12 apprehension.

13 (2) TYPES OF ROADS.—The roads constructed under paragraph (1) shall include—

14 (A) access roads;

15 (B) border roads;

16 (C) patrol roads; and

17 (D) Federal, State, local, and privately-owned roads.

18 (b) Maintenance.—The Secretary of Homeland Security, in partnership with local
19 stakeholders, shall maintain roads used for patrol and apprehension.

20 (c) Policy Guidance.—The Secretary of Homeland Security shall—

21 (1) develop such policies and guidance for documenting agreements with landowners
22 relating to the construction of roads under subsection (a) as the Secretary determines to be
23 necessary;

24 (2) share the policies and guidance developed under paragraph (1) with each Border
25 Patrol Sector of U.S. Customs and Border Protection;

26 (3) document and communicate the process and criteria for prioritizing funding for
27 operational roads not owned by the Federal Government; and

28 (4) assess the feasibility of options for addressing the maintenance of non-Federal public
29 roads, including any data needs relating to such maintenance.

30 SEC. 112. FLEXIBILITY IN EMPLOYMENT

31 AUTHORITIES.

32 (a) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the
33 following:

34 “9702. U.S. Customs and Border Protection employment
35 authorities

1 “(a) Definitions.—In this section—

2 “(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border
3 Protection;

4 “(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border
5 Protection;

6 “(3) the term ‘Director’ means the Director of the Office of Personnel Management;

7 “(4) the term ‘rural or remote area’ means an area within the United States that is not
8 within an area defined and designated as an urbanized area by the Bureau of the Census
9 during the most recently completed decennial census; and

10 “(5) the term ‘Secretary’ means the Secretary of Homeland Security.

11 “(b) Demonstration of Recruitment and Retention Difficulties in Rural or Remote Areas.—

12 “(1) IN GENERAL.—For purposes of subsections (c) and (d), the Secretary shall determine,
13 for a rural or remote area, whether there is—

14 “(A) a critical hiring need in the area; and

15 “(B) a direct relationship between—

16 “(i) the rural or remote nature of the area; and

17 “(ii) difficulty in the recruitment and retention of CBP employees in the area.

18 “(2) FACTORS.—To inform the determination of a direct relationship under paragraph
19 (1)(B), the Secretary may consider evidence—

20 “(A) that the Secretary—

21 “(i) is unable to efficiently and effectively recruit individuals for positions as
22 CBP employees, which may be demonstrated with various types of evidence,
23 including—

24 “(I) evidence that multiple positions have been continuously vacant for
25 significantly longer than the national average period for which similar
26 positions in U.S. Customs and Border Protection are vacant; or

27 “(II) recruitment studies that demonstrate the inability of the Secretary to
28 efficiently and effectively recruit CBP employees for positions in the area; or

29 “(ii) experiences a consistent inability to retain CBP employees that negatively
30 impacts agency operations at a local or regional level; or

31 “(B) of any other inability, directly related to recruitment or retention difficulties,
32 that the Secretary determines sufficient.

33 “(c) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

34 “(1) DIRECT HIRE AUTHORITY.—

35 “(A) IN GENERAL.—The Secretary may appoint, without regard to any provision of
36 sections 3309 through 3319, candidates to positions in the competitive service as CBP
37 employees, in a rural or remote area, if the Secretary—

1 “(i) determines that—
2 “(I) there is a critical hiring need; and
3 “(II) there exists a severe shortage of qualified candidates because of the
4 direct relationship identified by the Secretary under subsection (b)(1)(B) of
5 this section between—
6 “(aa) the rural or remote nature of the area; and
7 “(bb) difficulty in the recruitment and retention of CBP employees in
8 the area; and
9 “(ii) has given public notice for the positions.
10 “(B) PRIORITIZATION OF HIRING VETERANS.—If the Secretary uses the direct hiring
11 authority under subparagraph (A), the Secretary shall apply the principles of preference
12 for the hiring of veterans established under subchapter I of chapter 33.
13 “(2) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a bonus to an
14 individual (other than an individual described in subsection (a)(2) of section 5753) if—
15 “(A) the Secretary determines that—
16 “(i) conditions consistent with the conditions described in paragraphs (1) and
17 (2) of subsection (b) of such section 5753 are satisfied with respect to the
18 individual (without regard to any other provision of that section); and
19 “(ii) the position to which the individual is appointed or to which the individual
20 moves or must relocate—
21 “(I) is a position as a CBP employee; and
22 “(II) is in a rural or remote area for which the Secretary has identified a
23 direct relationship under subsection (b)(1)(B) of this section between—
24 “(aa) the rural or remote nature of the area; and
25 “(bb) difficulty in the recruitment and retention of CBP employees in
26 the area; and
27 “(B) the individual enters into a written service agreement with the Secretary—
28 “(i) under which the individual is required to complete a period of employment
29 as a CBP employee of not less than 2 years; and
30 “(ii) that includes—
31 “(I) the commencement and termination dates of the required service
32 period (or provisions for the determination thereof);
33 “(II) the amount of the bonus; and
34 “(III) other terms and conditions under which the bonus is payable, subject
35 to the requirements of this subsection, including—
36 “(aa) the conditions under which the agreement may be terminated
37 before the agreed-upon service period has been completed; and

1 “(bb) the effect of a termination described in item (aa).

2 “(3) RETENTION BONUSES.—The Secretary may pay a retention bonus to a CBP employee
3 (other than an individual described in subsection (a)(2) of section 5754) if—

4 “(A) the Secretary determines that—

5 “(i) a condition consistent with the condition described in subsection (b)(1) of
6 such section 5754 is satisfied with respect to the CBP employee (without regard
7 to any other provision of that section);

8 “(ii) the CBP employee is employed in a rural or remote area for which the
9 Secretary has identified a direct relationship under subsection (b)(1)(B) of this
10 section between—

11 “(I) the rural or remote nature of the area; and

12 “(II) difficulty in the recruitment and retention of CBP employees in the
13 area; and

14 “(iii) in the absence of a retention bonus, the CBP employee would be likely to
15 leave—

16 “(I) the Federal service; or

17 “(II) for a different position in the Federal service, including a position in
18 another agency or component of the Department of Homeland Security; and

19 “(B) the individual enters into a written service agreement with the Secretary—

20 “(i) under which the individual is required to complete a period of employment
21 as a CBP employee of not less than 2 years; and

22 “(ii) that includes—

23 “(I) the commencement and termination dates of the required service
24 period (or provisions for the determination thereof);

25 “(II) the amount of the bonus; and

26 “(III) other terms and conditions under which the bonus is payable, subject
27 to the requirements of this subsection, including—

28 “(aa) the conditions under which the agreement may be terminated
29 before the agreed-upon service period has been completed; and

30 “(bb) the effect of a termination described in item (aa).

31 “(4) RULES FOR BONUSES.—

32 “(A) MAXIMUM BONUS.—A bonus paid to an employee under—

33 “(i) paragraph (2) may not exceed 100 percent of the annual rate of basic pay of
34 the employee as of the commencement date of the applicable service period; and

35 “(ii) paragraph (3) may not exceed 50 percent of the annual rate of basic pay of
36 the employee as of the commencement date of the applicable service period.

37 “(B) RELATION TO BASIC PAY.—A bonus paid to an employee under paragraph (2) or

1 (3) shall not be considered part of the basic pay of the employee for any purpose.

2 “(5) OPM OVERSIGHT.—The Director shall, to the extent practicable—

3 “(A) set aside a determination of the Secretary under this subsection if the Director
4 finds substantial evidence that the Secretary abused the discretion of the Secretary in
5 making the determination; and

6 “(B) oversee the compliance of the Secretary with this subsection.

7 “(d) Special Pay Authority.—In addition to the circumstances described in subsection (b) of
8 section 5305, the Director may establish special rates of pay in accordance with that section if
9 the Director finds that the recruitment or retention efforts of the Secretary with respect to
10 positions for CBP employees in 1 or more areas or locations are, or are likely to become,
11 significantly handicapped because the positions are located in a rural or remote area for which
12 the Secretary has identified a direct relationship under subsection (b)(1)(B) of this section
13 between—

14 “(1) the rural or remote nature of the area; and

15 “(2) difficulty in the recruitment and retention of CBP employees in the area.

16 “(e) Regular CBP Review.—

17 “(1) ENSURING FLEXIBILITIES MEET CBP NEEDS.—Each year, the Secretary shall review the
18 use of hiring flexibilities under subsections (c) and (d) to fill positions at a location in a
19 rural or remote area to determine—

20 “(A) the impact of the use of those flexibilities on solving hiring and retention
21 challenges at the location;

22 “(B) whether hiring and retention challenges still exist at the location; and

23 “(C) whether the Secretary needs to continue to use those flexibilities at the location.

24 “(2) CONSIDERATION.—In conducting the review under paragraph (1), the Secretary shall
25 consider—

26 “(A) whether any CBP employee accepted an employment incentive under
27 subsection (c) or (d) and then transferred to a new location or left U.S. Customs and
28 Border Protection; and

29 “(B) the length of time that each employee identified under subparagraph (A) stayed
30 at the original location before transferring to a new location or leaving U.S. Customs
31 and Border Protection.

32 “(3) DISTRIBUTION.—The Secretary shall submit to Congress a report on each review
33 required under paragraph (1).

34 “(f) Improving CBP Hiring and Retention.—

35 “(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the
36 enactment of the Immigration Reform Act of 2018, and in conjunction with the Chief
37 Human Capital Officer of the Department of Homeland Security, the Secretary shall
38 develop and implement a strategy to improve education regarding hiring and human
39 resources flexibilities (including hiring and human resources flexibilities for locations in

1 rural or remote areas) for all employees, serving in agency headquarters or field offices,
2 who are involved in the recruitment, hiring, assessment, or selection of candidates for
3 locations in a rural or remote area, as well as the retention of current employees.

4 “(2) ELEMENTS.—Elements of the strategy under paragraph (1) shall include the
5 following:

6 “(A) Developing or updating training and educational materials on hiring and human
7 resources flexibilities for employees who are involved in the recruitment, hiring,
8 assessment, or selection of candidates, as well as the retention of current employees.

9 “(B) Regular training sessions for personnel who are critical to filling open positions
10 in rural or remote areas.

11 “(C) The development of pilot programs or other programs, as appropriate, to
12 address identified hiring challenges in rural or remote areas.

13 “(D) Developing and enhancing strategic recruiting efforts through relationships
14 with institutions of higher education, as defined in section 102 of the Higher Education
15 Act of 1965 (20 U.S.C. 1002), veterans transition and employment centers, and job
16 placement program in regions that could assist in filling positions in rural or remote
17 areas.

18 “(E) Examination of existing agency programs on how to most effectively aid
19 spouses and families of individuals who are candidates or new hires in a rural or
20 remote area.

21 “(F) Feedback from individuals who are candidates or new hires at locations in a
22 rural or remote area, including feedback on the quality of life in rural or remote areas
23 for new hires and their families.

24 “(G) Feedback from CBP employees, other than new hires, who are stationed at
25 locations in a rural or remote area, including feedback on the quality of life in rural or
26 remote areas for those CBP employees and their families.

27 “(H) Evaluation of Department of Homeland Security internship programs and the
28 usefulness of those programs in improving hiring by the Secretary in rural or remote
29 areas.

30 “(3) EVALUATION.—

31 “(A) IN GENERAL.—Each year, the Secretary shall —

32 “(i) evaluate the extent to which the strategy developed and implemented under
33 paragraph (1) has improved the hiring and retention ability of the Secretary; and

34 “(ii) make any appropriate updates to the strategy under paragraph (1).

35 “(B) INFORMATION.—The evaluation conducted under subparagraph (A) shall
36 include—

37 “(i) any reduction in the time taken by the Secretary to fill mission-critical
38 positions in rural or remote areas;

39 “(ii) a general assessment of the impact of the strategy implemented under
40 paragraph (1) on hiring challenges in rural or remote areas; and

1 “(iii) other information the Secretary determines relevant.

2 “(g) Inspector General Review.—Not later than 2 years after the date of the enactment of the
3 Immigration Reform Act of 2018, the Inspector General of the Department of Homeland
4 Security shall review the use of hiring flexibilities by the Secretary under subsections (c) and (d)
5 to determine whether the use of those flexibilities is helping the Secretary meet hiring and
6 retention needs in rural and remote areas.

7 “(h) Exercise of Authority.—

8 “(1) SOLE DISCRETION.—The exercise of authority under subsection (c) shall be subject to
9 the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under
10 paragraph (2) of this subsection), notwithstanding chapter 71.

11 “(2) DELEGATION.—

12 “(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may delegate any
13 authority under this section to the Commissioner.

14 “(B) OVERSIGHT.—The Commissioner may not make a determination under
15 subsection (b)(1) unless the Secretary approves the determination.

16 “(i) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary
17 or the Director from the applicability of the merit system principles under section 2301.

18 “(j) Sunset.—The authorities under subsections (c) and (d) shall terminate on the date that is 5
19 years after the date of the enactment of the Immigration Reform Act of 2018.”.

20 (b) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 5,
21 United States Code, is amended by adding at the end the following:

22 “9702. U.S. Customs and Border Protection employment authorities.”.

23 SEC. 113. DISTRESS BEACONS.

24 (1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, working
25 through U.S. Border Patrol, shall—

26 (A) identify areas near the international border between the United States and
27 Canada or the international border between the United States and Mexico where
28 migrant deaths are occurring due to climatic and environmental conditions; and

29 (B) deploy up to 1,000 beacon stations in the areas identified pursuant to
30 subparagraph (A).

31 (2) FEATURES.—Beacon stations deployed pursuant to paragraph (1) should—

32 (A) include a self-powering mechanism, such as a solar-powered radio button, to
33 signal U.S. Border Patrol personnel or other emergency response personnel that a
34 person at that location is in distress;

35 (B) include a self-powering cellular phone relay limited to 911 calls to allow persons
36 in distress in the area who are unable to get to the beacon station to signal their
37 location and access emergency personnel; and

38 (C) be movable to allow U.S. Border Patrol to relocate them as needed—

- 1 (i) to mitigate migrant deaths;
2 (ii) to facilitate access to emergency personnel; and
3 (iii) to address any use of the beacons for diversion by criminals.

4 SEC. 114. SOUTHERN BORDER REGION EMERGENCY 5 COMMUNICATIONS GRANTS.

6 (a) In General.—The Secretary of Homeland Security, in consultation with the governors of
7 the States located on the international border between the United States and Mexico, shall
8 establish a 2-year grant program to improve emergency communications in the Southern border
9 region.

10 (b) Eligibility for Grants.—An individual is eligible for a grant under this section if the
11 individual demonstrates that he or she—

12 (1) regularly resides or works in a State that shares a land border with Mexico; and

13 (2) is at greater risk of border violence due to a lack of cellular and LTE network service
14 at the individual’s residence or business and the individual’s proximity to the Southern
15 border.

16 (c) Use of Grants.—Grants awarded under this section may be used to purchase satellite
17 telephone communications systems and services that—

18 (1) can provide access to 9–1–1 service; and

19 (2) are equipped with receivers for the Global Positioning System.

20 (d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary
21 of Homeland Security such sums as may be necessary to carry out this section.

22 SEC. 115. OFFICE OF PROFESSIONAL RESPONSIBILITY.

23 Not later than September 30, 2021, the Commissioner of U.S. Customs and Border Protection
24 shall hire, train, and assign sufficient special agents at the Office of Professional Responsibility
25 to maintain an active duty presence of not fewer than 550 full-time equivalent special agents.

26 Subtitle C—Body-Worn Cameras With Privacy Protections

27 SEC. 121. SHORT TITLE.

28 This subtitle may be cited as the “CBP Body-Worn Camera Act of 2018”.

29 SEC. 122. PILOT PROGRAM ON USE OF BODY-WORN 30 CAMERAS.

31 (a) In General.—The Secretary of Homeland Security, through the Commissioner of U.S.
32 Customs and Border Protection, shall establish a pilot program to test and evaluate the use of
33 body-worn cameras by officers and agents of U.S. Customs and Border Protection.

34 (b) Requirements for Pilot Program at U.S. Customs and Border Protection.—

1 (1) DURATION.—The pilot program required under subsection (a)—

2 (A) shall be implemented not later than 60 days after the date of the enactment of
3 this Act; and

4 (B) shall terminate on the date that is 11 months after such date of enactment.

5 (2) DEPLOYMENT.—In carrying out the pilot program under this section, the Secretary
6 shall ensure that—

7 (A) not fewer than 500 body-worn cameras are deployed to officers and agents of
8 U.S. Customs and Border Protection;

9 (B) not fewer than $\frac{1}{2}$ of such cameras are deployed to agents of U.S. Border
10 Patrol; and

11 (C) not fewer than $\frac{1}{2}$ of such cameras are deployed along the international border
12 between the United States and Mexico.

13 (c) Report.—Not later than 60 days after the pilot program is terminated pursuant to
14 subsection (b)(1)(B), the Secretary shall submit a report to Congress that includes—

15 (1) a detailed description of incidences of the use of force recorded using body-worn
16 cameras under the pilot program, disaggregated by the race, ethnicity, gender, and age of
17 the individuals involved;

18 (2) a detailed description of incidences of the use of force in which a body-worn camera
19 was not used, disaggregated by the race, ethnicity, gender, and age of the individuals
20 involved;

21 (3) the number of complaints filed against officers or agents relating to the use of body-
22 worn cameras under the pilot program;

23 (4) the number of complaints filed related to an incident in which a body-worn camera
24 was worn by an officer or agent, but in which the body-worn camera was not activated;

25 (5) the disposition of complaints described in paragraphs (3) and (4);

26 (6) an assessment of the effect of the use of body-worn cameras under the pilot program
27 on the accountability and transparency of the use of force, including an assessment of—

28 (A) the efficacy of body-worn cameras in deterring the use of excessive force by
29 officers and agents; and

30 (B) the effect of the use of body-worn cameras on responses to and adjudications of
31 complaints;

32 (7) an assessment of the effect of the use of body-worn cameras under the pilot program
33 on the safety of officers and agents;

34 (8) an assessment of the effect of the use of body-worn cameras under the pilot program
35 on public safety;

36 (9) an assessment of the effect of the use of body-worn cameras under the pilot program
37 on the collection of evidence for criminal investigations and civil immigration enforcement,
38 including the number of cases in which data from a body-worn camera was used as
39 evidence;

1 (10) an assessment of the effect of body-worn cameras on the personal privacy of
2 members of the public and officers and agents of U.S. Customs and Border Protection, and
3 whether the use of pinpoint redaction technology may have assisted in protecting personal
4 privacy;

5 (11) a description of issues that arose under the pilot program relating to the secure
6 storage and handling of recordings from body-worn cameras;

7 (12) a description of issues that arose under the pilot program relating to the access of the
8 public to recordings from body-worn cameras, including—

9 (A) issues that arose in situations in which the use of force by an officer or agent
10 was involved; and

11 (B) an accounting of any body-worn camera footage released to the public;

12 (13) best practices for the development of protocols for the safe and effective use of
13 body-worn cameras;

14 (14) a description of issues that arose under the pilot program relating to violations of
15 policies developed under section 123, including—

16 (A) the number of violations detected, disaggregated by the type of violation; and

17 (B) the number of internal affairs cases opened and the disposition of such cases;

18 (15) the total number of hours body-worn cameras were activated under the pilot
19 program, disaggregated by region;

20 (16) an accounting of who accessed any body-worn camera recordings, disaggregated by
21 classified position title and region;

22 (17) an accounting and description of the total number of instances an activity that was
23 required to be recorded by a body-worn camera was not recorded as described in section
24 123(b)(1)(E); and

25 (18) any other matters relating to the pilot program that the Secretary considers
26 appropriate.

27 SEC. 123. DEVELOPMENT OF POLICIES WITH RESPECT 28 TO BODY-WORN CAMERAS.

29 (a) In General.—The Secretary of Homeland Security shall develop draft policies with respect
30 to the use of body-worn cameras by officers and agents of U.S. Customs and Border Protection.

31 (b) Elements.—The draft policies developed under subsection (a) shall—

32 (1) with respect to when a body-worn camera is activated or deactivated in the course of
33 duty—

34 (A) specify under what circumstances a body-worn camera is required to be
35 activated, including that such cameras shall be activated, at a minimum, at the
36 inception of any calls for service or law enforcement encounters, including vehicle
37 stops, pedestrian stops, foot pursuits, witness and victim interviews, in-custody
38 transports, and uses of force, except that when an immediate threat to an officer's or

1 agent's life or safety makes activating the camera impossible or dangerous, the officer
2 or agent shall activate the camera at the first reasonable opportunity to do so;

3 (B) include policies with respect to the use of body-worn cameras in use of force
4 incidents, such as a shooting involving an officer or agent, or in critical incidents,
5 including such an incident that results in an in-custody death;

6 (C) specify at what point a body-worn camera is required to be deactivated, which
7 may be no earlier than when an encounter described in subparagraph (A) has fully
8 concluded;

9 (D) ensure that an officer or agent does not have the ability to edit or delete a
10 recording taken by a body-worn camera; and

11 (E) specify that an officer or agent who is wearing a body-worn camera shall
12 provide an explanation if an activity that is required to be recorded by a body-worn
13 camera is not recorded;

14 (2) with respect to the storage and maintenance of recordings from body-worn cameras—

15 (A) define the minimum and maximum lengths of time for which such recordings
16 shall be retained;

17 (B) provide for the secure storage, handling, and destruction of recordings from
18 body-worn cameras;

19 (C) prevent and address issues relating to tampering with, or deleting or copying,
20 such recordings; and

21 (D) establish a system to store recordings collected by body-worn cameras in a
22 manner that—

23 (i) requires the logging of all viewing, modification, and deletion of such
24 recordings; and

25 (ii) prevents, to the greatest extent practicable, unauthorized access to and
26 unauthorized disclosure of such recordings;

27 (3) with respect to privacy protections—

28 (A) provide for necessary privacy protections for officers and agents wearing body-
29 worn cameras and members of the public with whom such officers and agents interact,
30 including the use of pinpoint redaction technology to protect personal privacy in a
31 manner that does not interfere with the ability to fully and accurately ascertain the
32 events that transpired;

33 (B) require the consent of victims of and witnesses to a crime before recording
34 interviews relating to the crime may be recorded;

35 (C) require that an officer or agent who is wearing a body-worn camera notify an
36 individual that is the subject of a recording that the individual is being recorded as
37 close to the inception of the encounter as reasonably possible;

38 (D) require that, before entering a residence without a warrant or in nonexigent
39 circumstances, an officer or agent obtain consent from the occupant of the residence to
40 continue the use of a body-worn camera; and

1 (E) ensure that recordings unrelated to law enforcement purposes are minimized to
2 the greatest extent practicable;

3 (4) with respect to access to recordings from body-worn cameras—

4 (A) ensure that any officer or agent wearing a body-worn camera is prohibited from
5 accessing a recording on the camera without an authorized purpose;

6 (B) clearly describe the circumstances in which officers and agents and their
7 supervisors may view recordings from body-worn cameras;

8 (C) permit supervisors to view recordings from body-worn cameras only for training
9 purposes (and not for use in any disciplinary action against an agent or officer) or
10 when there is a complaint filed against an agent or officer or a use of force incident;
11 and

12 (D) establish—

13 (i) under what circumstances a recording from a body-worn camera will be
14 released to the subject of the recording or to another law enforcement or
15 intelligence agency or to the public; and

16 (ii) protocols for such release;

17 (5) establish under what circumstances recordings from body-worn cameras will be used
18 to investigate potential misconduct of officers or agents or for other law enforcement
19 purposes;

20 (6) establish disciplinary procedures for violations of body-worn camera policies by
21 agency personnel, including agents, officers and supervisors; and

22 (7) ensure that training—

23 (A) is required and provided to all officers and agents who use body-worn cameras
24 and any personnel involved in the management, storage, or use of body-worn camera
25 data; and

26 (B) is provided before the use of any body-worn camera by such an officer or agent
27 or the involvement of such agency personnel in the direct management, storage, or use
28 of body-worn camera data.

29 SEC. 124. CONSULTATIONS; PUBLIC COMMENT.

30 In developing the pilot program under section 122 and the draft policies required under section
31 123, the Secretary of Homeland Security shall—

32 (1) consult with—

33 (A) the Officer for Civil Rights and Civil Liberties of the Department of Homeland
34 Security;

35 (B) the Chief Privacy Officer of the Department of Homeland Security;

36 (C) the Director of the Office of Privacy and Civil Liberties of the Department of
37 Justice; and

38 (D) any labor organizations representing employees of the Department of Homeland

- 1 Security who are involved with the use of body-worn cameras;
2 (2) provide an opportunity for public comment; and
3 (3) compile a report, which shall be posted on a publicly available website of the
4 Department of Homeland Security, that—
5 (A) summarizes the comments received pursuant to paragraph (2); and
6 (B) describes the final policies adopted under section 123 and the rationale for each
7 such policy.

8 SEC. 125. IMPLEMENTATION PLAN.

9 (a) In General.—Not later than 1 year after the date of the enactment of this Act, the Secretary
10 of Homeland Security shall submit a plan to Congress for the permanent implementation of the
11 use of body-worn cameras by officers and agents of U.S. Customs and Border Protection.

12 (b) Elements.—The plan required under subsection (a) shall include—

- 13 (1) a detailed description of the draft policies developed under section 123;
14 (2) an identification of—
15 (A) the number of body-worn cameras to be purchased and deployed;
16 (B) operational requirements for body-worn cameras, including systems and support
17 staff;
18 (C) the locations where body-worn cameras will be used;
19 (D) costs associated with the use of body-worn cameras; and
20 (E) a description of the cost-benefit analysis used to determine the number,
21 placement, and location of body-worn cameras specified in the plan.

22 SEC. 126. DEPLOYMENT.

23 Not later than 6 months after the date on which the implementation plan is submitted under
24 section 125, the Secretary of Homeland Security shall ensure the agency-wide deployment of
25 body-worn cameras for U.S. Customs and Border Protection personnel at the Office of Field
26 Operations, U.S. Border Patrol, and the Office of Air and Marine whose job duties involve or
27 may reasonably be expected to involve law-enforcement contacts with the public.

28 Subtitle D—GAO Studies

29 SEC. 131. GAO STUDY ON THE USE OF VISA FEES.

30 Not later than 6 months after the date of the enactment of this Act, the Comptroller General of
31 the United States shall submit a report to the Committee on the Judiciary of the Senate, the
32 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on
33 Appropriations of the Senate, the Committee on the Judiciary of the House of Representatives,
34 the Committee on Homeland Security of the House of Representatives, and the Committee on
35 Appropriations of the House of Representatives that—

- 36 (1) describes the impact of authorizing—

1 (A) surcharges on immigration-related fees, including visa application and border
2 crossing fees, to be dedicated to border security; and

3 (B) the use of currently collected fees for border security; and

4 (2) addresses the potential impact on U.S. Citizenship and Immigration Services
5 operations of imposing surcharges on immigration-related fees, including the potential
6 impact on processing times and backlogs.

7 SEC. 132. GAO STUDY ON DEATHS IN CUSTODY.

8 Not later than 6 months after the date of the enactment of this Act, the Comptroller General of
9 the United States shall submit a report to the Committee on the Judiciary of the Senate, the
10 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on
11 the Judiciary of the House of Representatives, and the Committee on Homeland Security of the
12 House of Representatives on the deaths of detainees who were in the custody of the Department
13 of Homeland Security, including, with respect to such deaths—

14 (1) whether any such deaths could have been prevented by the delivery of medical
15 treatment administered while the detainee was in such custody;

16 (2) whether the practices and procedures of the Department of Homeland Security were
17 properly followed and obeyed;

18 (3) whether such practices and procedures are sufficient to protect the health and safety of
19 such detainees; and

20 (4) whether such deaths were reported through the Deaths in Custody Reporting Program.

21 SEC. 133. GAO STUDIES ON MIGRANT DEATHS.

22 Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the
23 Comptroller General of the United States shall submit a report to the Committee on the Judiciary
24 of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the
25 Committee on the Judiciary of the House of Representatives, and the Committee on Homeland
26 Security of the House of Representatives that includes—

27 (1) the total number of migrant deaths along the international border between the United
28 States and Mexico during the most recent 5-year period;

29 (2) the total number of unidentified deceased migrants found along such border during
30 such period;

31 (3) the level of cooperation between U.S. Customs and Border Protection, local and State
32 law enforcement, foreign diplomatic and consular posts, nongovernmental organizations,
33 and family members to accurately identify deceased individuals;

34 (4) the use of DNA testing and sharing of such data between U.S. Customs and Border
35 Protection, State and local law enforcement, foreign diplomatic and consular posts, and
36 nongovernmental organizations to accurately identify deceased individuals;

37 (5) the comparison of DNA data with information on Federal, State, and local missing
38 person registries; and

39 (6) the procedures and processes used by U.S. Customs and Border Protection for

1 notifying relevant authorities or family members after missing persons are identified
2 through DNA testing.

3 TITLE II—DREAM ACT AND PROVISIONAL PROTECTED 4 PRESENCE

5 Subtitle A—Dream Act

6 SEC. 201. SHORT TITLE.

7 This subtitle may be cited as the “Dream Act of 2018”.

8 SEC. 202. DEFINITIONS.

9 In this subtitle:

10 (1) IN GENERAL.—Except as otherwise specifically provided, any term used in this
11 subtitle that is used in the immigration laws shall have the meaning given the term in the
12 immigration laws.

13 (2) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability”
14 means liability for Federal taxes imposed under the Internal Revenue Code of 1986,
15 including any penalties and interest on taxes imposed under the Internal Revenue Code of
16 1986.

17 (3) DACA.—The term “DACA” means deferred action granted to an alien pursuant to
18 the Deferred Action for Childhood Arrivals program announced by President Obama on
19 June 15, 2012.

20 (4) DISABILITY.—The term “disability” has the meaning given the term in section 3(1) of
21 the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

22 (5) EARLY CHILDHOOD EDUCATION PROGRAM.—The term “early childhood education
23 program” has the meaning given the term in section 103 of the Higher Education Act of
24 1965 (20 U.S.C. 1003).

25 (6) ELEMENTARY SCHOOL; HIGH SCHOOL; SECONDARY SCHOOL.—The terms “elementary
26 school”, “high school”, and “secondary school” have the meanings given the terms in
27 section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

28 (7) FELONY.—The term “felony” means a Federal, State, or local criminal offense
29 (excluding a State or local offense for which an essential element was the alien’s
30 immigration status) punishable by imprisonment for a term exceeding 1 year.

31 (8) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term
32 in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

33 (9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education”—

34 (A) except as provided in subparagraph (B), has the meaning given the term in
35 section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

36 (B) does not include an institution of higher education outside of the United States.

1 (10) MISDEMEANOR.—

2 (A) IN GENERAL.—The term “misdemeanor” means a Federal, State, or local
3 criminal offense (excluding a State or local offense for which an essential element is
4 the alien’s immigration status, a significant misdemeanor, and a minor traffic offense)
5 for which—

6 (i) the maximum term of imprisonment is greater than 5 days and not greater
7 than 1 year; and

8 (ii) the individual was sentenced to time in custody of 90 days or less.

9 (11) PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.—The term “permanent
10 resident status on a conditional basis” means status as an alien lawfully admitted for
11 permanent residence on a conditional basis under this subtitle.

12 (12) POVERTY LINE.—The term “poverty line” has the meaning given the term in section
13 673 of the Community Services Block Grant Act (42 U.S.C. 9902).

14 (13) SECRETARY.—Except as otherwise specifically provided, the term “Secretary”
15 means the Secretary of Homeland Security.

16 (14) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means a Federal,
17 State, or local criminal offense (excluding a State or local offense for which an essential
18 element was the alien’s immigration status) for which the maximum term of imprisonment
19 is greater than 5 days and not greater than 1 year that—

20 (A) regardless of the sentence imposed, is a crime of domestic violence (as defined
21 in section 237(a)(2)(E)(i) of the Immigration and Nationality Act (8 U.S.C.
22 1227(a)(2)(E)(i) or an offense of sexual abuse or exploitation, burglary, unlawful
23 possession or use of a firearm, drug distribution or trafficking, or driving under the
24 influence if the State law requires, as an element of the offense, the operation of a
25 motor vehicle and a finding of impairment or a blood alcohol content of .08 or higher;
26 or

27 (B) resulted in a sentence of time in custody of more than 90 days, excluding an
28 offense for which the sentence was suspended.

29 (15) UNIFORMED SERVICES.—The term “Uniformed Services” has the meaning given the
30 term “uniformed services” in section 101(a) of title 10, United States Code.

31 **SEC. 203. PERMANENT RESIDENT STATUS ON A**
32 **CONDITIONAL BASIS FOR CERTAIN LONG-TERM**
33 **RESIDENTS WHO ENTERED THE UNITED STATES AS**
34 **CHILDREN.**

35 (a) Conditional Basis for Status.—Notwithstanding any other provision of law, an alien who
36 obtains the status of an alien lawfully admitted for permanent residence under this section shall
37 be considered to have obtained that status on a conditional basis as of the date on which the alien
38 obtained the status, subject to this subtitle.

39 (b) Requirements.—

1 (1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall cancel
2 the removal of, and adjust to the status of an alien lawfully admitted for permanent
3 residence on a conditional basis, an alien who is inadmissible or deportable from the United
4 States or is in temporary protected status under section 244 of the Immigration and
5 Nationality Act (8 U.S.C. 1254a), if—

6 (A) the alien has been continuously physically present in the United States since
7 June 15, 2012;

8 (B) the alien was younger than 18 years of age on the date on which the alien
9 initially entered the United States;

10 (C) subject to paragraphs (2) and (3), the alien—

11 (i) is not inadmissible under paragraph (2), (3), (6)(E), (6)(G), (8), (10)(A),
12 (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8
13 U.S.C. 1182(a));

14 (ii) has not ordered, incited, assisted, or otherwise participated in the
15 persecution of any person on account of race, religion, nationality, membership in
16 a particular social group, or political opinion; and

17 (iii) has not been convicted of—

18 (I) a felony;

19 (II) a significant misdemeanor; or

20 (III) 3 or more misdemeanors—

21 (aa) not occurring on the same date; and

22 (bb) not arising out of the same act, omission, or scheme of
23 misconduct;

24 (D) the alien—

25 (i) has been admitted to an institution of higher education;

26 (ii) has earned a high school diploma or a commensurate alternative award
27 from a public or private high school, or has obtained a general education
28 development certificate recognized under State law or a high school equivalency
29 diploma in the United States;

30 (iii) is enrolled in secondary school or in an education program assisting
31 students in—

32 (I) obtaining a regular high school diploma or the recognized equivalent of
33 a regular high school diploma under State law; or

34 (II) passing a general educational development exam, a high school
35 equivalence diploma examination, or other similar State-authorized exam; or

36 (iv)(I) has served, is serving, or has enlisted in the Armed Forces; and

37 (II) in the case of an alien who has been discharged from the Armed Forces, has
38 received an honorable discharge; and

1 (E)(i) the alien has paid any applicable Federal tax liability incurred by the alien
2 during the entire period for which the alien was a DACA recipient; or

3 (ii) the alien has entered into an agreement to pay any applicable Federal tax liability
4 incurred by the alien during the entire period for which the alien was a DACA
5 recipient through a payment installment plan approved by the Commissioner of
6 Internal Revenue.

7 (2) WAIVER.—

8 (A) IN GENERAL.—With respect to any benefit under this subtitle, the Secretary may,
9 on a case-by-case basis, waive the grounds of inadmissibility under paragraph (2),
10 (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8
11 U.S.C. 1182(a))—

12 (i) for humanitarian purposes; or

13 (ii) if the waiver is otherwise in the public interest.

14 (B) QUARTERLY REPORTS.—Not later than 180 days after the date of enactment of
15 this Act, and quarterly thereafter, the Secretary shall submit to Congress a report that
16 includes, for the preceding quarter—

17 (i) the number of requests submitted by aliens for a waiver under subparagraph
18 (A);

19 (ii) the number of waivers granted under that subparagraph; and

20 (iii) the number of requests for a waiver under that subparagraph denied by the
21 Secretary.

22 (3) TREATMENT OF EXPUNGED CONVICTIONS.—

23 (A) IN GENERAL.—An expunged conviction shall not automatically be treated as a
24 conviction referred to in paragraph (1)(C)(iii).

25 (B) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged
26 conviction on a case-by-case basis according to the nature and severity of the offense
27 underlying the expunged conviction, based on the record of conviction, to determine
28 whether, under the particular circumstances, the alien is eligible for cancellation of
29 removal, adjustment to permanent resident status on a conditional basis, or other
30 adjustment of status.

31 (4) DACA RECIPIENTS.—With respect to an alien granted DACA, the Secretary shall
32 cancel the removal of the alien and adjust the status of the alien to the status of an alien
33 lawfully admitted for permanent residence on a conditional basis unless, since the date on
34 which the alien was granted DACA, the alien has engaged in conduct that would render an
35 alien ineligible for DACA.

36 (5) APPLICATION FEE.—

37 (A) IN GENERAL.—The Secretary may require an alien applying for permanent
38 resident status on a conditional basis to pay a reasonable fee that is commensurate with
39 the cost of processing the application.

40 (B) EXEMPTION.—An applicant may be exempted from paying the fee required

1 under subparagraph (A) only if the alien—

2 (i)(I) is younger than 18 years of age;

3 (II) received total income, during the 1-year period immediately preceding the
4 date on which the alien files an application under this section, that is less than 150
5 percent of the poverty line; and

6 (III) is in foster care or otherwise lacking any parental or other familial support;

7 (ii) is younger than 18 years of age and is homeless;

8 (iii)(I) cannot care for himself or herself because of a serious, chronic
9 disability; and

10 (II) received total income, during the 1-year period immediately preceding the
11 date on which the alien files an application under this section, that is less than 150
12 percent of the poverty line; or

13 (iv)(I) during the 1-year period immediately preceding the date on which the
14 alien files an application under this section, accumulated \$10,000 or more in debt
15 as a result of unreimbursed medical expenses incurred by the alien or an
16 immediate family member of the alien; and

17 (II) received total income, during the 1-year period immediately preceding the
18 date on which the alien files an application under this section, that is less than 150
19 percent of the poverty line.

20 (6) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

21 (A) IN GENERAL.—The Secretary may not grant an alien permanent resident status
22 on a conditional basis under this section unless the alien submits biometric and
23 biographic data, in accordance with procedures established by the Secretary.

24 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
25 procedure for any alien who is unable to provide the biometric or biographic data
26 referred to in subparagraph (A) due to a physical impairment.

27 (7) BACKGROUND CHECKS.—

28 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric,
29 biographic, and other data that the Secretary determines to be appropriate—

30 (i) to conduct security and law enforcement background checks of an alien
31 seeking permanent resident status on a conditional basis under this section; and

32 (ii) to determine whether there is any criminal, national security, or other factor
33 that would render the alien ineligible for permanent resident status on a
34 conditional basis.

35 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
36 background checks of an alien required under subparagraph (A) shall be completed, to
37 the satisfaction of the Secretary, before the date on which the Secretary grants the alien
38 permanent resident status on a conditional basis.

39 (C) CRIMINAL RECORDS REQUESTS.—With respect to an alien seeking permanent

1 resident status on a conditional basis under this section, the Secretary, in cooperation
2 with the Secretary of State, shall seek to obtain from INTERPOL, EUROPOL, or any
3 other international or national law enforcement agency of the country of nationality,
4 country of citizenship, or country of last habitual residence of the alien, information
5 about any criminal activity—

6 (i) in which the alien engaged in the country of nationality, country of
7 citizenship, or country of last habitual residence of the alien; or

8 (ii) for which the alien was convicted in the country of nationality, country of
9 citizenship, or country of last habitual residence of the alien.

10 (8) MEDICAL EXAMINATION.—

11 (A) REQUIREMENT.—An alien applying for permanent resident status on a
12 conditional basis shall undergo a medical examination.

13 (B) POLICIES AND PROCEDURES.—The Secretary, with the concurrence of the
14 Secretary of Health and Human Services, shall prescribe policies and procedures for
15 the nature and timing of the examination under subparagraph (A).

16 (9) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a
17 conditional basis under this section shall establish that the alien has registered under the
18 Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration
19 under that Act.

20 (c) Determination of Continuous Presence.—

21 (1) TERMINATION OF CONTINUOUS PERIOD.—Any period of continuous physical presence
22 in the United States of an alien who applies for permanent resident status on a conditional
23 basis under this section shall not terminate on the date on which the alien is served a notice
24 to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

25 (2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

26 (A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), an alien shall
27 be considered to have failed to maintain continuous physical presence in the United
28 States under subsection (b)(1)(A) if the alien has departed from the United States for
29 any period greater than 90 days or for any periods, in the aggregate, greater than 180
30 days.

31 (B) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend
32 the time periods described in subparagraph (A) for an alien who demonstrates that the
33 failure to timely return to the United States was due to extenuating circumstances
34 beyond the control of the alien, including the serious illness of the alien, or death or
35 serious illness of a parent, grandparent, sibling, or child of the alien.

36 (C) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the
37 United States by an alien that was authorized by the Secretary may not be counted
38 toward any period of departure from the United States under subparagraph (A).

39 (d) Limitation on Removal of Certain Aliens.—

40 (1) IN GENERAL.—The Secretary or the Attorney General may not remove an alien who

1 appears prima facie eligible for relief under this section.

2 (2) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal
3 proceedings, the subject of a final removal order, or the subject of a voluntary departure
4 order, the Attorney General shall provide the alien with a reasonable opportunity to apply
5 for relief under this section.

6 (3) CERTAIN ALIENS ENROLLED IN ELEMENTARY OR SECONDARY SCHOOL.—

7 (A) STAY OF REMOVAL.—The Attorney General shall stay the removal proceedings
8 of an alien who—

9 (i) meets all the requirements under subparagraphs (A), (B), and (C) of
10 subsection (b)(1), subject to paragraphs (2) and (3) of that subsection;

11 (ii) is at least 5 years of age; and

12 (iii) is enrolled in an elementary school, a secondary school, or an early
13 childhood education program.

14 (B) COMMENCEMENT OF REMOVAL PROCEEDINGS.—The Secretary may not
15 commence removal proceedings for an alien described in subparagraph (A).

16 (C) EMPLOYMENT.—An alien whose removal is stayed pursuant to subparagraph (A)
17 or who may not be placed in removal proceedings pursuant to subparagraph (B) shall,
18 upon application to the Secretary, be granted an employment authorization document.

19 (D) LIFT OF STAY.—The Secretary or Attorney General may not lift the stay granted
20 to an alien under subparagraph (A) unless the alien ceases to meet the requirements
21 under such subparagraph.

22 (e) Exemption From Numerical Limitations.—Nothing in this section or in any other law may
23 be construed to apply a numerical limitation on the number of aliens who may be granted
24 permanent resident status on a conditional basis under this section.

25 SEC. 204. TERMS OF PERMANENT RESIDENT STATUS 26 ON A CONDITIONAL BASIS.

27 (a) Period of Status.—Permanent resident status on a conditional basis is—

28 (1) valid for a period of 8 years, unless that period is extended by the Secretary; and

29 (2) subject to termination under subsection (c).

30 (b) Notice of Requirements.—At the time an alien obtains permanent resident status on a
31 conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this
32 subtitle and the requirements to have the conditional basis of such status removed.

33 (c) Termination of Status.—The Secretary may terminate the permanent resident status on a
34 conditional basis of an alien only if the Secretary—

35 (1) determines that the alien ceases to meet the requirements under paragraph (1)(C) of
36 section 203(b), subject to paragraphs (2) and (3) of that section; and

37 (2) prior to the termination, provides the alien—

1 (A) notice of the proposed termination; and

2 (B) the opportunity for a hearing to provide evidence that the alien meets such
3 requirements or otherwise contest the termination.

4 (d) Return to Previous Immigration Status.—

5 (1) IN GENERAL.—Except as provided in paragraph (2), the immigration status of an alien
6 whose permanent resident status on a conditional basis expires under subsection (a)(1) or is
7 terminated under subsection (c) or whose application for permanent resident status on a
8 conditional basis is denied shall return to the immigration status of the alien on the day
9 before the date on which the alien received permanent resident status on a conditional basis
10 or applied for such status, as appropriate.

11 (2) SPECIAL RULE FOR TEMPORARY PROTECTED STATUS.—An alien whose permanent
12 resident status on a conditional basis expires under subsection (a)(1) or is terminated under
13 subsection (c) or whose application for permanent resident status on a conditional basis is
14 denied and who had temporary protected status under section 244 of the Immigration and
15 Nationality Act (8 U.S.C. 1254a) immediately before receiving or applying for permanent
16 resident status on a conditional basis, as appropriate, may not return to temporary protected
17 status if—

18 (A) the relevant designation under section 244(b) of the Immigration and Nationality
19 Act (8 U.S.C. 1254a(b)) has been terminated; or

20 (B) the Secretary determines that the reason for terminating the permanent resident
21 status on a conditional basis renders the alien ineligible for temporary protected status.

22 SEC. 205. REMOVAL OF CONDITIONAL BASIS OF 23 PERMANENT RESIDENT STATUS.

24 (a) Eligibility for Removal of Conditional Basis.—

25 (1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional
26 basis of the permanent resident status of an alien granted under this subtitle and grant the
27 alien status as an alien lawfully admitted for permanent residence if the alien—

28 (A) is described in paragraph (1)(C) of section 203(b), subject to paragraphs (2) and
29 (3) of that section;

30 (B) has not abandoned the residence of the alien in the United States;

31 (C)(i) has acquired a degree from an institution of higher education or has completed
32 at least 2 years, in good standing, in a program for a bachelor's degree or higher degree
33 in the United States;

34 (ii)(I) has served in the Uniformed Services for at least 2 years; or

35 (II) in the case of an alien who has been discharged from the Uniformed Services,
36 has received an honorable discharge; or

37 (iii) has been employed for periods totaling at least 3 years and at least 75 percent of
38 the time that the alien has had a valid employment authorization, except that any
39 period during which the alien is not employed while having a valid employment

1 authorization and is enrolled in an institution of higher education, a secondary school,
2 or an education program described in section 203(b)(1)(D)(iii), shall not count toward
3 the time requirements under this clause; and

4 (D)(i) has paid any applicable Federal tax liability incurred by the alien during the
5 entire period for which the alien was in permanent resident status on a conditional
6 basis; or

7 (ii) has entered into an agreement to pay the applicable Federal tax liability incurred
8 by the alien during the entire period for which the alien was in permanent resident
9 status on a conditional basis through a payment installment plan approved by the
10 Commissioner of Internal Revenue.

11 (2) HARDSHIP EXCEPTION.—

12 (A) IN GENERAL.—The Secretary shall remove the conditional basis of the
13 permanent resident status of an alien and grant the alien status as an alien lawfully
14 admitted for permanent residence if the alien—

15 (i) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

16 (ii) demonstrates compelling circumstances for the inability to satisfy the
17 requirements under subparagraph (C) of such paragraph; and

18 (iii) demonstrates that—

19 (I) the alien has a disability;

20 (II) the alien is a full-time caregiver of a minor child; or

21 (III) the removal of the alien from the United States would result in
22 extreme hardship to the alien or the alien's spouse, parent, or child who is a
23 national of the United States or is lawfully admitted for permanent residence.

24 (3) CITIZENSHIP REQUIREMENT.—

25 (A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of
26 the permanent resident status granted to an alien under this subtitle may not be
27 removed unless the alien demonstrates that the alien satisfies the requirements under
28 section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

29 (B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to
30 meet the requirements under section 312(a) of the Immigration and Nationality Act (8
31 U.S.C. 1423(a)) due to disability.

32 (4) APPLICATION FEE.—

33 (A) IN GENERAL.—The Secretary may require an alien applying for lawful
34 permanent resident status under this section to pay a reasonable fee that is
35 commensurate with the cost of processing the application.

36 (B) EXEMPTION.—An applicant may be exempted from paying the fee required
37 under subparagraph (A) only if the alien—

38 (i)(I) is younger than 18 years of age;

39 (II) received total income, during the 1-year period immediately preceding the

1 date on which the alien files an application under this section, that is less than 150
2 percent of the poverty line; and

3 (III) is in foster care or otherwise lacking any parental or other familial support;

4 (ii) is younger than 18 years of age and is homeless;

5 (iii)(I) cannot care for himself or herself because of a serious, chronic
6 disability; and

7 (II) received total income, during the 1-year period immediately preceding the
8 date on which the alien files an application under this section, that is less than 150
9 percent of the poverty line; or

10 (iv)(I) during the 1-year period immediately preceding the date on which the
11 alien files an application under this section, the alien accumulated \$10,000 or
12 more in debt as a result of unreimbursed medical expenses incurred by the alien or
13 an immediate family member of the alien; and

14 (II) received total income, during the 1-year period immediately preceding the
15 date on which the alien files an application under this section, that is less than 150
16 percent of the poverty line.

17 (5) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

18 (A) IN GENERAL.—The Secretary may not remove the conditional basis of the
19 permanent resident status of an alien unless the alien submits biometric and biographic
20 data, in accordance with procedures established by the Secretary.

21 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
22 procedure for any applicant who is unable to provide the biometric or biographic data
23 referred to in subparagraph (A) due to physical impairment.

24 (6) BACKGROUND CHECKS.—

25 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric,
26 biographic, and other data that the Secretary determines to be appropriate—

27 (i) to conduct security and law enforcement background checks of an alien
28 applying for removal of the conditional basis of the permanent resident status of
29 the alien; and

30 (ii) to determine whether there is any criminal, national security, or other factor
31 that would render the alien ineligible for removal of the conditional basis if the
32 permanent resident status of the alien.

33 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
34 background checks of an alien required under subparagraph (A) shall be completed, to
35 the satisfaction of the Secretary, before the date on which the Secretary removes the
36 conditional basis of the permanent resident status of the alien.

37 (b) Naturalization.—

38 (1) IN GENERAL.—For purposes of title III of the Immigration and Nationality Act (8
39 U.S.C. 1401 et seq.), an alien granted permanent resident status on a conditional basis shall
40 be considered to have been admitted to the United States, and to be present in the United

1 States, as an alien lawfully admitted for permanent residence.

2 (2) LIMITATIONS ON APPLICATION FOR NATURALIZATION.—

3 (A) IN GENERAL.—An alien may not be naturalized—

4 (i) on any date on which the alien is in permanent resident status on a
5 conditional basis; or

6 (ii) before the date that is 12 years after the date on which the alien was granted
7 permanent resident status on a conditional basis.

8 (B) REDUCTION IN PERIOD.—

9 (i) IN GENERAL.—Subject to clause (ii), the 12-year period referred to in
10 subparagraph (A)(ii) shall be reduced by the number of days that the alien was a
11 DACA recipient.

12 (ii) LIMITATION.—Notwithstanding clause (i), the 12-year period may not be
13 reduced by more than 2 years.

14 (C) ADVANCED FILING DATE.—With respect to an alien granted permanent resident
15 status on a conditional basis under this subtitle, the alien may file an application for
16 naturalization not more than 90 days before the date on which the applicant meets the
17 requirements for naturalization under subparagraph (A).

18 SEC. 206. DOCUMENTATION REQUIREMENTS.

19 (a) Documents Establishing Identity.—An alien's application for permanent resident status on
20 a conditional basis may include, as proof of identity—

21 (1) a passport or national identity document from the alien's country of origin that
22 includes the alien's name and the alien's photograph or fingerprint;

23 (2) the alien's birth certificate and an identity card that includes the alien's name and
24 photograph;

25 (3) a school identification card that includes the alien's name and photograph, and school
26 records showing the alien's name and that the alien is or was enrolled at the school;

27 (4) a Uniformed Services identification card issued by the Department of Defense;

28 (5) any immigration or other document issued by the United States Government bearing
29 the alien's name and photograph; or

30 (6) a State-issued identification card bearing the alien's name and photograph.

31 (b) Documents Establishing Continuous Physical Presence in the United States.—To establish
32 that an alien has been continuously physically present in the United States, as required under
33 section 203(b)(1)(A), or to establish that an alien has not abandoned residence in the United
34 States, as required under section 205(a)(1)(B), the alien may submit documents to the Secretary,
35 including—

36 (1) employment records that include the employer's name and contact information;

37 (2) records from any educational institution the alien has attended in the United States;

- 1 (3) records of service from the Uniformed Services;
- 2 (4) official records from a religious entity confirming the alien's participation in a
- 3 religious ceremony;
- 4 (5) passport entries;
- 5 (6) a birth certificate for a child of the alien who was born in the United States;
- 6 (7) automobile license receipts or registration;
- 7 (8) deeds, mortgages, or rental agreement contracts;
- 8 (9) tax receipts;
- 9 (10) insurance policies;
- 10 (11) remittance records;
- 11 (12) rent receipts or utility bills bearing the alien's name or the name of an immediate
- 12 family member of the alien, and the alien's address;
- 13 (13) copies of money order receipts for money sent in or out of the United States;
- 14 (14) dated bank transactions; or
- 15 (15) 2 or more sworn affidavits from individuals who are not related to the alien who
- 16 have direct knowledge of the alien's continuous physical presence in the United States, that
- 17 contain—
 - 18 (A) the name, address, and telephone number of the affiant; and
 - 19 (B) the nature and duration of the relationship between the affiant and the alien.
- 20 (c) Documents Establishing Initial Entry Into the United States.—To establish under section
- 21 203(b)(1)(B) that an alien was younger than 18 years of age on the date on which the alien
- 22 initially entered the United States, an alien may submit documents to the Secretary, including—
 - 23 (1) an admission stamp on the alien's passport;
 - 24 (2) records from any educational institution the alien has attended in the United States;
 - 25 (3) any document from the Department of Justice or the Department of Homeland
 - 26 Security stating the alien's date of entry into the United States;
 - 27 (4) hospital or medical records showing medical treatment or hospitalization, the name of
 - 28 the medical facility or physician, and the date of the treatment or hospitalization;
 - 29 (5) rent receipts or utility bills bearing the alien's name or the name of an immediate
 - 30 family member of the alien, and the alien's address;
 - 31 (6) employment records that include the employer's name and contact information;
 - 32 (7) official records from a religious entity confirming the alien's participation in a
 - 33 religious ceremony;
 - 34 (8) a birth certificate for a child of the alien who was born in the United States;
 - 35 (9) automobile license receipts or registration;
 - 36 (10) deeds, mortgages, or rental agreement contracts;

- 1 (11) tax receipts;
- 2 (12) travel records;
- 3 (13) copies of money order receipts sent in or out of the country;
- 4 (14) dated bank transactions;
- 5 (15) remittance records; or
- 6 (16) insurance policies.

7 (d) Documents Establishing Admission to an Institution of Higher Education.—To establish
8 that an alien has been admitted to an institution of higher education, the alien shall submit to the
9 Secretary a document from the institution of higher education certifying that the alien—

- 10 (1) has been admitted to the institution; or
- 11 (2) is currently enrolled in the institution as a student.

12 (e) Documents Establishing Receipt of a Degree From an Institution of Higher Education.—
13 To establish that an alien has acquired a degree from an institution of higher education in the
14 United States, the alien shall submit to the Secretary a diploma or other document from the
15 institution stating that the alien has received such a degree.

16 (f) Documents Establishing Receipt of High School Diploma, General Educational
17 Development Certificate, or a Recognized Equivalent.—To establish that an alien has earned a
18 high school diploma or a commensurate alternative award from a public or private high school,
19 or has obtained a general educational development certificate recognized under State law or a
20 high school equivalency diploma in the United States, the alien shall submit to the Secretary—

- 21 (1) a high school diploma, certificate of completion, or other alternate award;
- 22 (2) a high school equivalency diploma or certificate recognized under State law; or
- 23 (3) evidence that the alien passed a State-authorized exam, including the general
24 educational development exam, in the United States.

25 (g) Documents Establishing Enrollment in an Educational Program.—To establish that an
26 alien is enrolled in any school or education program described in section 203(b)(1)(D)(iii),
27 203(d)(3)(A)(iii), or 205(a)(1)(C)(i), the alien shall submit school records from the United States
28 school that the alien is currently attending that include—

- 29 (1) the name of the school; and
- 30 (2) the alien's name, periods of attendance, and current grade or educational level.

31 (h) Documents Establishing Exemption From Application Fees.—To establish that an alien is
32 exempt from an application fee under section 203(b)(5)(B) or 205(a)(4)(B), the alien shall submit
33 to the Secretary the following relevant documents:

- 34 (1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age
35 requirement, the alien shall provide proof of identity, as described in subsection (a), that
36 establishes that the alien is younger than 18 years of age.
- 37 (2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien shall
38 provide—

1 (A) employment records that have been maintained by the Social Security
2 Administration, the Internal Revenue Service, or any other Federal, State, or local
3 government agency;

4 (B) bank records; or

5 (C) at least 2 sworn affidavits from individuals who are not related to the alien and
6 who have direct knowledge of the alien's work and income that contain—

7 (i) the name, address, and telephone number of the affiant; and

8 (ii) the nature and duration of the relationship between the affiant and the alien.

9 (3) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, HOMELESSNESS,
10 OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, lacks
11 parental or familial support, is homeless, or has a serious, chronic disability, the alien shall
12 provide at least 2 sworn affidavits from individuals who are not related to the alien and who
13 have direct knowledge of the circumstances that contain—

14 (A) a statement that the alien is in foster care, otherwise lacks any parental or other
15 familiar support, is homeless, or has a serious, chronic disability, as appropriate;

16 (B) the name, address, and telephone number of the affiant; and

17 (C) the nature and duration of the relationship between the affiant and the alien.

18 (4) DOCUMENTS TO ESTABLISH UNPAID MEDICAL EXPENSE.—To establish that the alien has
19 debt as a result of unreimbursed medical expenses, the alien shall provide receipts or other
20 documentation from a medical provider that—

21 (A) bear the provider's name and address;

22 (B) bear the name of the individual receiving treatment; and

23 (C) document that the alien has accumulated \$10,000 or more in debt in the past 12
24 months as a result of unreimbursed medical expenses incurred by the alien or an
25 immediate family member of the alien.

26 (i) Documents Establishing Qualification for Hardship Exemption.—To establish that an alien
27 satisfies 1 of the criteria for the hardship exemption described in section 205(a)(2)(A)(iii), the
28 alien shall submit to the Secretary at least 2 sworn affidavits from individuals who are not related
29 to the alien and who have direct knowledge of the circumstances that warrant the exemption, that
30 contain—

31 (1) the name, address, and telephone number of the affiant; and

32 (2) the nature and duration of the relationship between the affiant and the alien.

33 (j) Documents Establishing Service in the Uniformed Services.—To establish that an alien has
34 served in the Uniformed Services for at least 2 years and, if discharged, received an honorable
35 discharge, the alien shall submit to the Secretary—

36 (1) a Department of Defense form DD-214;

37 (2) a National Guard Report of Separation and Record of Service form 22;

38 (3) personnel records for such service from the appropriate Uniformed Service; or

1 (4) health records from the appropriate Uniformed Service.

2 (k) Documents Establishing Employment.—

3 (1) IN GENERAL.—An alien may satisfy the employment requirement under section
4 205(a)(1)(C)(iii) by submitting records that—

5 (A) establish compliance with such employment requirement; and

6 (B) have been maintained by the Social Security Administration, the Internal
7 Revenue Service, or any other Federal, State, or local government agency.

8 (2) OTHER DOCUMENTS.—An alien who is unable to submit the records described in
9 paragraph (1) may satisfy the employment requirement by submitting at least 2 types of
10 reliable documents that provide evidence of employment, including—

11 (A) bank records;

12 (B) business records;

13 (C) employer records;

14 (D) records of a labor union, day labor center, or organization that assists workers in
15 employment;

16 (E) sworn affidavits from individuals who are not related to the alien and who have
17 direct knowledge of the alien's work, that contain—

18 (i) the name, address, and telephone number of the affiant; and

19 (ii) the nature and duration of the relationship between the affiant and the alien;
20 and

21 (F) remittance records.

22 (l) Authority to Prohibit Use of Certain Documents.—If the Secretary determines, after
23 publication in the Federal Register and an opportunity for public comment, that any document or
24 class of documents does not reliably establish identity or that permanent resident status on a
25 conditional basis is being obtained fraudulently to an unacceptable degree, the Secretary may
26 prohibit or restrict the use of such document or class of documents.

27 SEC. 207. RULEMAKING.

28 (a) Initial Publication.—

29 (1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the
30 Secretary shall publish in the Federal Register regulations implementing this subtitle.

31 (2) AFFIRMATIVE APPLICATION.—The regulations published under paragraph (1) shall
32 allow any eligible individual to immediately apply affirmatively for the relief available
33 under section 203 without being placed in removal proceedings.

34 (b) Interim Regulations.—Notwithstanding section 553 of title 5, United States Code, the
35 regulations published pursuant to subsection (a)(1) shall be effective, on an interim basis,
36 immediately on publication in the Federal Register, but may be subject to change and revision
37 after public notice and opportunity for a period of public comment.

1 (c) Final Regulations.—Not later than 180 days after the date on which interim regulations are
2 published under this section, the Secretary shall publish final regulations implementing this
3 subtitle.

4 (d) Paperwork Reduction Act.—The requirements under chapter 35 of title 44, United States
5 Code, (commonly known as the “Paperwork Reduction Act”) shall not apply to any action to
6 implement this subtitle.

7 SEC. 208. CONFIDENTIALITY OF INFORMATION.

8 (a) In General.—The Secretary may not disclose or use for the purpose of immigration
9 enforcement any information provided in—

10 (1) an application filed under this subtitle; or

11 (2) a request for DACA.

12 (b) Referrals Prohibited.—The Secretary may not refer to U.S. Immigration and Customs
13 Enforcement, U.S. Customs and Border Protection, or any designee of U.S. Immigration and
14 Customs Enforcement or U.S. Customs and Border Protection any individual who—

15 (1) has been granted permanent resident status on a conditional basis; or

16 (2) was granted DACA.

17 (c) Limited Exception.—Notwithstanding subsections (a) and (b), information provided in an
18 application for permanent resident status on a conditional basis or a request for DACA may be
19 shared with a Federal security or law enforcement agency—

20 (1) for assistance in the consideration of an application for permanent resident status on a
21 conditional basis;

22 (2) to identify or prevent fraudulent claims;

23 (3) for national security purposes; or

24 (4) for the investigation or prosecution of any felony not related to immigration status.

25 (d) Penalty.—Any person who knowingly uses, publishes, or permits information to be
26 examined in violation of this section shall be fined not more than \$10,000.

27 SEC. 209. RESTORATION OF STATE OPTION TO 28 DETERMINE RESIDENCY FOR PURPOSES OF HIGHER 29 EDUCATION BENEFITS.

30 (a) In General.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility
31 Act of 1996 (8 U.S.C. 1623) is repealed.

32 (b) Effective Date.—The repeal under subsection (a) shall take effect as if included in the
33 original enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
34 (division C of Public Law 104–208; 110 Stat. 3009–546).

35 SEC. 210. LIMITATION ON PARENTS OF CERTAIN 36 LONG-TERM RESIDENTS WHO ENTERED THE UNITED

1 STATES AS CHILDREN.

2 An alien who—

3 (a) is the parent of an alien granted permanent resident status on a conditional basis under this
4 subtitle; and

5 (b) entered, or attempted to enter, the United States unlawfully together with the alien granted
6 permanent resident status on a conditional basis

7 shall not be eligible to adjust status to that of a lawful permanent resident based on a petition
8 filed by any of the parent’s children.

9 Subtitle B—Provisional Protected Presence for Certain Aliens

10 SEC. 211. PROVISIONAL PROTECTED PRESENCE.

11 (a) In General.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et
12 seq.) is amended by adding at the end the following:

13 “SEC. 244A. PROVISIONAL PROTECTED PRESENCE.

14 “(a) Definitions.—In this section:

15 “(1) ELIGIBLE CHILD.—The term ‘eligible child’ means an alien who is eligible for
16 permanent resident status on a conditional basis or a stay of removal under the Dream Act
17 of 2018.

18 “(2) FELONY.—The term ‘felony’ means a Federal, State, or local criminal offense
19 (excluding a State or local offense for which an essential element was the alien’s
20 immigration status) punishable by imprisonment for a term exceeding 1 year.

21 “(3) MISDEMEANOR.—The term ‘misdemeanor’ means a Federal, State, or local criminal
22 offense (excluding a State or local offense for which an essential element was the alien’s
23 immigration status, a significant misdemeanor, and a minor traffic offense) for which—

24 “(A) the maximum term of imprisonment is greater than 5 days and not greater than
25 1 year; and

26 “(B) the individual was sentenced to time in custody of 90 days or less.

27 “(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.

28 “(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a Federal,
29 State, or local criminal offense (excluding a State or local offense for which an essential
30 element was the alien’s immigration status) for which the maximum term of imprisonment
31 is greater than 5 days and not greater than 1 year that—

32 “(A) regardless of the sentence imposed, is a crime of domestic violence (as defined
33 in section 237(a)(2)(E)(i)) or an offense of sexual abuse or exploitation, burglary,
34 unlawful possession or use of a firearm, drug distribution or trafficking, or driving
35 under the influence if the State law requires, as an element of the offense, the operation
36 of a motor vehicle and a finding of impairment or a blood alcohol content of .08 or
37 higher; or

1 “(B) resulted in a sentence of time in custody of more than 90 days, excluding an
2 offense for which the sentence was suspended.

3 “(6) THREAT TO NATIONAL SECURITY.—With respect to an alien, the term ‘threat to
4 national security’ means an alien who is—

5 “(A) inadmissible under section 212(a)(3); or

6 “(B) deportable under section 237(a)(4).

7 “(7) THREAT TO PUBLIC SAFETY.—With respect to an alien, the term ‘threat to public
8 safety’ means an alien who has —

9 “(A) been convicted of an offense for which an element was participation in a
10 criminal street gang (as defined in section 521(a) of title 18, United States Code); or

11 “(B) engaged in a continuing criminal enterprise (as defined in section 408(c) of the
12 Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 848(c))).

13 “(b) Authorization.—The Secretary—

14 “(1) shall grant provisional protected presence and employment authorization to an alien
15 who—

16 “(A) files an application demonstrating that the alien meets the eligibility criteria
17 described in subsection (c); and

18 “(B) pays the appropriate application fee; and

19 “(2) may not remove an alien granted provisional protected presence under paragraph (1)
20 from the United States during the period in which the provisional protected presence of the
21 alien is in effect unless the provisional protected presence is rescinded pursuant to
22 subsection (i).

23 “(c) Eligibility Criteria.—An alien is eligible for provisional protected presence under this
24 section and employment authorization if the alien—

25 “(1) is the parent of an eligible child;

26 “(2) continuously resided in the United States between December 31, 2017, and the date
27 on which the alien files an application under this section;

28 “(3) was unlawfully present in the United States on December 31, 2017, and on the date
29 on which the alien files an application under this section;

30 “(4) has not been convicted of—

31 “(A) a felony;

32 “(B) a significant misdemeanor; or

33 “(C) 3 or more misdemeanors—

34 “(i) not occurring on the same date; and

35 “(ii) not arising out of the same act, omission, or scheme of misconduct; and

36 “(5) does not otherwise pose a threat to national security or a threat to public safety.

1 “(d) Duration of Provisional Protected Presence and Employment Authorization.—

2 “(1) IN GENERAL.—Provisional protected presence and employment authorization granted
3 under this section shall be effective until the date that is 3 years after the date on which the
4 provisional protected presence and employment authorization are granted.

5 “(2) RENEWAL.—

6 “(A) IN GENERAL.—An alien is eligible to renew for successive 3-year periods the
7 provisional protected presence of the alien if, since the date on which the provisional
8 protected presence was granted, the alien—

9 “(i) remains eligible based on the criteria described in subsection (c);

10 “(ii) has not traveled outside of the United States without authorization from
11 the Secretary; and

12 “(iii) has not ceased to continuously reside in the United States.

13 “(B) APPLICATION FOR RENEWAL.—Beginning on the date that is 180 days before
14 the date on which the provisional protected presence of an alien expires, the alien may
15 file an application to renew the provisional protected presence of the alien.

16 “(C) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

17 “(i) IN GENERAL.—The Secretary may not grant a renewal of the provisional
18 protected presence of an alien unless the alien submits biometric and biographic
19 data, in accordance with procedures established by the Secretary.

20 “(ii) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
21 procedure for any alien who is unable to provide the biometric or biographic data
22 referred to in clause (i) due to a physical impairment.

23 “(e) Status During Period of Provisional Protected Presence.—

24 “(1) IN GENERAL.—An alien granted provisional protected presence shall not be
25 considered to be unlawfully present in the United States during the period beginning on the
26 date on which the provisional protected presence of the alien is granted and ending on the
27 date described in subsection (d)(1), including any renewal period granted under subsection
28 (d)(2).

29 “(2) STATUS OUTSIDE PERIOD.—A grant of provisional protected presence under this
30 section does not excuse any period of unlawful presence that has accrued before, or accrues
31 after, the period of provisional protected presence.

32 “(f) Application.—

33 “(1) APPLICATION FEE.—The Secretary may require an alien applying for provisional
34 protected presence and employment authorization under this section to pay a reasonable fee
35 that is commensurate with the cost of processing the application.

36 “(2) REMOVAL STAYED WHILE APPLICATION PENDING.—The Secretary or the Attorney
37 General may not remove from the United States an alien who appears to be prima facie
38 eligible for provisional protected presence.

39 “(3) ALIENS SUBJECT TO REMOVAL.—With respect to an alien who is in removal

1 proceedings, the subject of a final removal order, or the subject of a voluntary departure
2 order, the Secretary shall provide the alien with a reasonable opportunity to apply for
3 provisional protected presence under this section.

4 “(4) CONFIDENTIALITY.—

5 “(A) IN GENERAL.—The Secretary may not disclose or use for the purpose of
6 immigration enforcement any information provided in an application for provisional
7 protected presence under this section.

8 “(B) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration
9 and Customs Enforcement, U.S. Customs and Border Protection, or any designee of
10 U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection
11 any individual who has been granted provisional protected presence under this section.

12 “(C) LIMITED EXCEPTION.—Notwithstanding subparagraphs (A) and (B),
13 information submitted in an application for provisional protected presence under this
14 section may be shared with a national security or law enforcement agency—

15 “(i) for assistance in the consideration of the application;

16 “(ii) to identify or prevent fraudulent claims;

17 “(iii) for national security purposes; and

18 “(iv) for the investigation or prosecution of any felony not relating to
19 immigration status.

20 “(g) Background Checks.—

21 “(1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric,
22 biographic, and other data that the Secretary determines to be appropriate—

23 “(A) to conduct security and law enforcement background checks of an alien
24 seeking provisional protected presence under this section; and

25 “(B) to determine whether there is any criminal, national security, or other factor
26 that would render the alien ineligible for provisional protected presence.

27 “(2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
28 background checks required under paragraph (1) shall be completed, to the satisfaction of
29 the Secretary, before the date on which the Secretary grants the alien provisional protected
30 presence under this section.

31 “(3) CRIMINAL RECORDS REQUESTS.—With respect to an alien seeking permanent resident
32 status on a conditional basis under this section, the Secretary, in cooperation with the
33 Secretary of State, shall seek to obtain from INTERPOL, EUROPOL, or any other
34 international or national law enforcement agency of the country of nationality, country of
35 citizenship, or country of last habitual residence of the alien, information about any criminal
36 activity—

37 “(A) in which the alien engaged in the country of nationality, country of citizenship,
38 or country of last habitual residence of the alien; or

39 “(B) for which the alien was convicted in the country of nationality, country of
40 citizenship, or country of last habitual residence of the alien.

1 “(h) Documentation Requirements.—

2 “(1) DOCUMENTS ESTABLISHING IDENTITY.—An alien’s application for provisional
3 protected presence may include, as proof of identity—

4 “(A) a passport or national identity document from the alien’s country of origin that
5 includes the alien’s name and the alien’s photograph or fingerprint;

6 “(B) the alien’s birth certificate and an identity card that includes the alien’s name
7 and photograph;

8 “(C) a school identification card that includes the alien’s name and photograph, and
9 school records showing the alien’s name and that the alien is or was enrolled at the
10 school;

11 “(D) a Uniformed Services identification card issued by the Department of Defense;

12 “(E) any immigration or other document issued by the United States Government
13 bearing the alien’s name and photograph; or

14 “(F) a State-issued identification card bearing the alien’s name and photograph.

15 “(2) DOCUMENTS ESTABLISHING PHYSICAL PRESENCE IN THE UNITED STATES.—To
16 establish that an alien has been physically present in the United States, the alien may submit
17 documents to the Secretary, including—

18 “(A) employment records that include the employer’s name and contact information;

19 “(B) records from any educational institution the alien has attended in the United
20 States;

21 “(C) records of service from the Uniformed Services;

22 “(D) official records from a religious entity confirming the alien’s participation in a
23 religious ceremony;

24 “(E) passport entries;

25 “(F) a birth certificate for a child of the alien who was born in the United States;

26 “(G) automobile license receipts or registration;

27 “(H) deeds, mortgages, or rental agreement contracts;

28 “(I) tax receipts;

29 “(J) insurance policies;

30 “(K) remittance records;

31 “(L) rent receipts or utility bills bearing the alien’s name or the name of an
32 immediate family member of the alien, and the alien’s address;

33 “(M) copies of money order receipts for money sent in or out of the United States;

34 “(N) dated bank transactions; or

35 “(O) 2 or more sworn affidavits from individuals who are not related to the alien
36 who have direct knowledge of the alien’s continuous physical presence in the United

1 States, that contain—
2 “(i) the name, address, and telephone number of the affiant; and
3 “(ii) the nature and duration of the relationship between the affiant and the
4 alien.

5 “(i) Rescission of Provisional Protected Presence.—The Secretary may not rescind the
6 provisional protected presence or employment authorization granted to an alien under this
7 section unless the Secretary—
8 “(1) determines that the alien—
9 “(A) has been convicted of—
10 “(i) a felony;
11 “(ii) a significant misdemeanor; or
12 “(iii) 3 or more misdemeanors—
13 “(I) not occurring on the same date; and
14 “(II) not arising out of the same act, omission, or scheme of misconduct;
15 “(B) poses a threat to national security or a threat to public safety;
16 “(C) has traveled outside of the United States without authorization from the
17 Secretary; or
18 “(D) has ceased to continuously reside in the United States; and
19 “(2) prior to the rescission, provides the alien—
20 “(A) notice of the proposed rescission; and
21 “(B) an opportunity for a hearing in which the alien may—
22 “(i) provide evidence that the alien meets the requirements for provisional
23 protected presence; or
24 “(ii) otherwise contest the rescission.

25 “(j) Authorized Travel.—For purposes of subsections (d)(2)(A)(iii) and (i)(4), an alien shall
26 not be considered to have ceased to continuously reside in the United States due to travel outside
27 of the United States that occurs on or after the date of enactment of this section if the travel is
28 authorized by the Secretary.

29 “(k) Treatment of Expunged Convictions.—
30 “(1) IN GENERAL.—For purposes of subsections (c)(4) and (i)(1), an expunged conviction
31 shall not automatically be treated as a disqualifying felony, significant misdemeanor, or
32 misdemeanor.
33 “(2) CASE-BY-CASE EVALUATION.—The Secretary shall evaluate an expunged conviction
34 on a case-by-case basis according to the nature and severity of the offense underlying the
35 expunged conviction, based on the record of conviction, to determine whether, under the
36 particular circumstances, the alien is eligible for provisional protected presence under this
37 section.

1 “(l) Submission of Biometric and Biographic Data.—

2 “(1) IN GENERAL.—The Secretary may not grant an alien provisional protected presence
3 under this section unless the alien submits biometric and biographic data, in accordance
4 with procedures established by the Secretary.

5 “(2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure
6 for any alien who is unable to provide the biometric or biographic data referred to in
7 paragraph (1) due to a physical impairment.

8 “(m) Rulemaking.—

9 “(1) INITIAL PUBLICATION.—

10 “(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this
11 section, the Secretary shall publish in the Federal Register regulations implementing
12 this section.

13 “(B) AFFIRMATIVE APPLICATION.—The regulations published under subparagraph
14 (A) shall allow any eligible individual to immediately apply affirmatively for the relief
15 available under this section without being placed in removal proceedings.

16 “(2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
17 the regulations published pursuant to paragraph (1)(A) shall be effective, on an interim
18 basis, immediately on publication in the Federal Register, but may be subject to change and
19 revision after public notice and opportunity for a period of public comment.

20 “(3) FINAL REGULATIONS.—Not later than 180 days after the date on which interim
21 regulations are published under this subsection, the Secretary shall publish final regulations
22 implementing this section.

23 “(4) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44,
24 United States Code, (commonly known as the ‘Paperwork Reduction Act’) shall not apply
25 to any action to implement this section.”

26 (b) Conforming Amendment.—The table of contents for the Immigration and Nationality Act
27 (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 244 the following:

28 “Sec.244A.Provisional protected presence.”

29 TITLE III—FAMILY-SPONSORED IMMIGRATION

30 SEC. 301. ALLOCATION OF FAMILY-SPONSORED 31 IMMIGRANT VISAS.

32 (a) Prohibition Against the Sponsor of Unmarried Children Older Than 21 Years of Age by
33 Lawful Permanent Residents.—Section 203(a)(2) of the Immigration and Nationality Act (8
34 U.S.C. 1153(a)(2)) is amended to read as follows:

35 “(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants
36 who are the spouse or child of an alien lawfully admitted for permanent residence shall be
37 allocated visas in a number not to exceed the sum of—

38 “(A) 114,200;

1 “(B) the number (if any) by which such worldwide level exceeds 226,000; and

2 “(C) the number of visas not required for the class described in paragraph (1).”.

3 (b) Conforming Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.)
4 is amended—

5 (1) in section 101(a)(15)(V) (8 U.S.C. 1101(a)(15)(V)), by striking “section
6 203(a)(2)(A)” each place such term appears and inserting “section 203(a)(2)”;

7 (2) in section 201(f)(2) (8 U.S.C. 1151(f)(2)), by striking “section 203(a)(2)(A)” and
8 inserting “section 203(a)(2)”;

9 (3) in section 202—

10 (A) in subsection (a)(8 U.S.C. 1152(a))—

11 (i) in paragraph (2), by striking “(3), (4), and (5)” and inserting “(3) and (4)”

12 (ii) by striking paragraph (4); and

13 (iii) by redesignating paragraph (5) as paragraph (4); and

14 (B) in subsection (e), by striking “, or as limiting the number of visas that may be
15 issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)”;

16 (4) in section 203(h)—

17 (A) in paragraph (3), by striking “subsections (a)(2)(A) and (d)” and inserting
18 “subsection (d)”;

19 (B) by striking “(a)(2)(A)” each place such term appears and inserting “(a)(2)”;

20 (5) in section 204—

21 (A) in subsection (a)(1)(B)—

22 (i) in clause (ii)—

23 (I) in subclause (I), by striking “if such a child has not been classified
24 under clause (iii) of section 203(a)(2)(A) and”;

25 (II) in subclause (II)(cc), by striking “section 203(a)(2)(A)” and inserting
26 “section 203(a)(2)”;

27 (ii) in clause (iii), by striking “section 203(a)(2)(A)” and inserting “section
28 203(a)(2)”;

29 (B) in subsection (k)(1)—

30 (i) by striking “alien unmarried son or daughter’s classification as a family-
31 sponsored immigrant under section 203(a)(2)(B)” and inserting “alien child’s
32 classification as a family-sponsored immigrant under section 203(a)(2)”;

33 (ii) by striking “son or daughter” and inserting “child”; and

34 (iii) by striking “unmarried son or daughter as a family-sponsored immigrant
35 under section 203(a)(1)” and inserting “child as an immediate relative under
36 section 201(b)(2)”;

1 (6) in section 214(q)(1)(B)(i), by striking “(a)(2)(A)” each place such term appears and
2 inserting “(a)(2)”.

3 (c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on the
4 date that is 1 year after the date of the enactment of this Act.

5 TITLE IV—ELIMINATION OF DIVERSITY VISA 6 LOTTERY AND REALLOCATION OF VISAS

7 SEC. 401. DEFINITION OF SECRETARY.

8 In this title, the term “Secretary” means the Secretary of Homeland Security.

9 SEC. 402. GLOBAL OPPORTUNITY PROGRAM.

10 (a) In General.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

11 (1) in section 201 (8 U.S.C. 1151)—

12 (A) in subsection (a)(3), by striking “1995, diversity immigrants” and inserting
13 “2019, global opportunity immigrants”; and

14 (B) in subsection (e)—

15 (i) in the subsection heading, by striking “Diversity” and inserting “Global
16 Opportunity”; and

17 (ii) in the text, by striking “diversity” and inserting “global opportunity”;

18 (2) in section 203 (8 U.S.C. 1153)—

19 (A) by amending subsection (c) to read as follows:

20 “(c) Global Opportunity Program.—

21 “(1) IN GENERAL.—Aliens subject to the worldwide level specified in section 201(e) for
22 global opportunity immigrants shall be allotted visas each fiscal year pursuant to this
23 subsection.

24 “(2) REGIONAL ALLOCATIONS.—

25 “(A) DETERMINATIONS.—Before the beginning of each fiscal year, the Secretary of
26 State, in consultation with the Secretary of Homeland Security, shall determine for the
27 most recent previous 5-fiscal-year period for which data are available the average total
28 number of aliens within each region described in subparagraph (C) whose status was
29 adjusted to that of alien lawfully admitted for permanent residence during each such
30 fiscal year under section 201.

31 “(B) ALLOCATIONS.—Upon making a determination under subparagraph (A), the
32 Secretary of State shall allocate visas to each region described in subparagraph (C) for
33 the following fiscal year as follows:

34 “(i) 28 percent shall be allocated to the region for which the total number of
35 aliens whose status was adjusted to that of alien lawfully admitted for permanent
36 residence is determined to be the lowest.

1 “(ii) 18 percent shall be allocated to each of the remaining regions.

2 “(C) REGIONS DESCRIBED.—

3 “(i) IN GENERAL.—The areas described in each of the following subclauses
4 shall be considered to be a separate region for purposes of this subsection:

5 “(I) The Americas.

6 “(II) East Asia and the Pacific.

7 “(III) Europe.

8 “(IV) North Africa, the Middle East, and South and Central Asia.

9 “(V) Sub-Saharan Africa.

10 “(ii) TREATMENT OF COMPONENT OR DEPENDENT AREAS.—Only for purposes of
11 administering the allocation of visas made available by this subsection, each
12 colony or other component or dependent area of a foreign state overseas from the
13 foreign state shall be treated as part of the foreign state.

14 “(3) PROGRAM CRITERIA.—

15 “(A) IN GENERAL.—Visas allocated under paragraph (2) shall be available to
16 applicants from each region described in paragraph (2)(C) with the highest number of
17 points assigned under this paragraph.

18 “(B) ASSIGNMENT OF POINTS.—Points shall be assigned to each alien applying under
19 this subsection as follows:

20 “(i) EDUCATION.—

21 “(I) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—In this clause,
22 the term ‘institution of higher education’ has the meaning given the term in
23 section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

24 “(II) POINTS.—An alien may receive points under only 1 of the following
25 categories:

26 “(aa) An alien who has received a doctorate degree from an
27 institution of higher education in the United States, or the foreign
28 equivalent, shall be allocated 5 points.

29 “(bb) An alien who has received a master’s degree from an institution
30 of higher education in the United States, or the foreign equivalent, shall
31 be allocated 4 points.

32 “(cc) An alien who has received a bachelor’s degree from an
33 institution of higher education in the United States, or the foreign
34 equivalent, shall be allocated 3 points.

35 “(dd) An alien who has completed high school education or the
36 equivalent of a high school education shall be allocated 2 points.

37 “(ii) EMPLOYMENT OFFER.—An alien who is the beneficiary of an approved
38 petition for an immigrant visa described in paragraph (1), (2), or (3) of section

1 203(b) shall be allocated 5 points.

2 “(iii) EMPLOYMENT EXPERIENCE.—An alien may receive points under only 1 of
3 the following categories:

4 “(I) An alien who is certified to perform work, or has at least 2 years of
5 work experience, in a high-demand occupation (as determined by the
6 Secretary of Labor) shall be allocated 4 points.

7 “(II) An alien who has at least 5 years of work experience in an occupation
8 that requires at least 5 years of training or experience shall be allocated 3
9 points.

10 “(III) An alien who has at least 2 years of work experience in an
11 occupation that requires at least 2 years of training or experience shall be
12 allocated 2 points.

13 “(iv) ENTREPRENEURSHIP.—An alien who is an entrepreneur in a business that
14 employs at least 2 employees shall be allocated 2 points.

15 “(v) FAMILY TIES.—An alien may receive points under only 1 of the following
16 categories:

17 “(I) An alien who is the beneficiary of an approved petition for an
18 immigrant visa described in section 203(a) shall be allocated 4 points.

19 “(II) An alien who is the spouse, son, daughter, or sibling of a United
20 States citizen or alien lawfully admitted for permanent residence shall be
21 allocated 3 points.

22 “(vi) CIVIC INVOLVEMENT.—An alien who has demonstrated significant civic
23 involvement shall be allocated 2 points.

24 “(vii) CAREGIVING.—An alien who is or has been a primary caregiver shall be
25 allocated 2 points.

26 “(viii) ENGLISH LANGUAGE.—An alien may receive points under only 1 of the
27 following categories:

28 “(I) An alien who has demonstrated English proficiency, as determined by
29 a standardized test designated by the Secretary of Education, shall be
30 allocated 3 points.

31 “(II) An alien who has demonstrated English knowledge, as determined by
32 a standardized test designated by the Secretary of Education, shall be
33 allocated 2 points.

34 “(ix) PREVIOUS APPLICATIONS.—

35 “(I) IN GENERAL.—An alien shall be allocated 1 point for each year in
36 which the alien filed an application under this subsection.

37 “(II) LIMITATION.—An alien may not be allocated more than 5 total points
38 under this clause.

39 “(4) PER COUNTRY LEVELS AND UNUSED VISAS.—

1 “(A) IN GENERAL.—Notwithstanding paragraph (3) and subject to subparagraph (C),
2 the total number of visas made available under this subsection to nationals of any
3 single foreign state for any fiscal year may not exceed 7 percent of the total number of
4 visas made available for the applicable region described in paragraph (2)(C) in that
5 fiscal year.

6 “(B) REALLOCATION OF VISAS.—Subject to subparagraph (C), if the limit described
7 in subparagraph (A) is reached with respect to 1 or more foreign states in a fiscal year,
8 any applicants in excess of that limit from that foreign state shall be excluded from
9 consideration for selection under paragraph (3) for the remainder of that fiscal year.

10 “(C) EXCEPTION.—If, because of the application of subparagraphs (A) and (B) with
11 respect to 1 or more foreign states, the total number of visas available for a region
12 described in paragraph (2)(C) exceeds the number of qualified applicants who
13 otherwise may be issued such a visa, subparagraphs (A) and (B) shall not apply to
14 visas made available for that region for the remainder of the fiscal year.

15 “(D) UNUSED VISAS.—If the total number of visas made available for a fiscal year
16 under paragraph (1) is not granted during that fiscal year, the number of unused visas
17 shall be added to the number of visas available under that paragraph for the following
18 fiscal year.

19 “(5) TEMPORARY OFFSET FOR ADJUSTMENT OF STATUS OF ALIENS WITH TEMPORARY
20 PROTECTED STATUS.—

21 “(A) IN GENERAL.—Beginning in the fiscal year following the fiscal year in which 1
22 or more individuals have adjusted their status to that of an alien lawfully admitted for
23 permanent residence under section 403 of the Immigration Reform Act of 2018, the
24 number of visas made available under paragraph (1) shall be reduced by the lesser of—

25 “(i) 27,500; and

26 “(ii) the number computed under subparagraph (B).

27 “(B) COMPUTATION OF NUMBER.—The number computed under this subparagraph is
28 equal to the difference between—

29 “(i) the total number of individuals who have adjusted status to that of an alien
30 lawfully admitted for permanent residence under section 403 of the Immigration
31 Reform Act of 2018 for all previous fiscal years; and

32 “(ii) the total of the reductions in available visas under subparagraph (A) for all
33 previous fiscal years.”; and

34 (B) in subsection (e)(2), by striking “(relating to diversity immigrants)” and all that
35 follows through the period and inserting “(relating to global opportunity immigrants)
36 shall be issued to eligible qualified immigrants under procedures established by the
37 Secretary of State to implement that subsection”; and

38 (3) in section 204(a)(1)(I)(ii) (8 U.S.C. 1154(a)(1)(I)(ii)), by amending subclause (II) to
39 read as follows:

40 “(II) Aliens who are selected for a visa under section 203(c) for a fiscal
41 year shall remain eligible to receive such visa only through the date that is

1 180 days after the end of the fiscal year.”.

2 (b) Conforming Amendment.—Section 203(d) of the Nicaraguan Adjustment and Central
3 American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

4 (c) Effective Date and Application.—

5 (1) EFFECTIVE DATE.—The amendments made by this section shall take effect on October
6 1, 2019.

7 (2) APPLICATION.—An alien who receives a notification from the Secretary that the alien
8 was selected to receive a diversity immigrant visa under section 203(c) of the Immigration
9 and Nationality Act (8 U.S.C. 1153(c)) for fiscal year 2018 or 2019 shall remain eligible to
10 receive such visa under the rules of such section, as in effect on September 30, 2019. No
11 alien may be allocated such a diversity immigrant visa for a fiscal year after fiscal year
12 2019.

13 SEC. 403. PERMANENT RESIDENT STATUS FOR 14 CERTAIN LONG-TERM RESIDENTS.

15 (a) In General.—Subject to the availability of immigrant visas under subsection (g), the
16 Secretary shall adjust the status of an alien to that of an alien lawfully admitted for permanent
17 residence if the alien—

18 (1) submits an application for adjustment of status not later than 1 year after the date on
19 which the application procedure is established in accordance with subsection (b);

20 (2) is admissible as an immigrant under the Immigration and Nationality Act (8 U.S.C.
21 1101 et seq.) on the date on which an examination for the adjustment of status of the alien is
22 carried out, except that in the determination of the admissibility of the alien for purposes of
23 this section, the Secretary shall apply the terms of section 244(c)(2)(A) of that Act (8 U.S.C.
24 1254a(c)(2)(A));

25 (3) on January 1, 2018, had temporary protected status or deferred enforced departure;
26 and

27 (4) has maintained continuous physical presence in the United States—

28 (A) for a period of not less than 5 years before the date of enactment of this Act; or

29 (B) since the date on which the alien was granted temporary protected status.

30 (b) Application Procedure.—

31 (1) IN GENERAL.—The Secretary shall establish a procedure by which eligible individuals
32 may apply affirmatively for relief available under this section without being placed in
33 removal proceedings.

34 (2) MINORS.—The procedure established under paragraph (1) shall include a procedure
35 by which a minor may apply for relief under this section, including through a legal guardian
36 or counsel.

37 (3) EXEMPTION FROM NUMERICAL LIMITATIONS.—Except as provided in subsection (g),
38 an alien granted relief under this section shall not be subject to, or counted against, any
39 numerical limitation under section 201, 202, or 203 of the Immigration and Nationality Act

1 (8 U.S.C. 1151, 1152, 1153).

2 (c) Application Fee.—The Secretary may require an alien applying for permanent resident
3 status or provisional protected presence under this section to pay a reasonable fee that is
4 commensurate with the cost of processing the application.

5 (d) Submission of Biometric and Biographic Data.—

6 (1) IN GENERAL.—The Secretary may not grant an alien permanent resident status or
7 provisional protected presence under this section unless the alien submits biometric and
8 biographic data, in accordance with procedures established by the Secretary.

9 (2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for
10 any alien who is unable to provide the biometric or biographic data referred to in paragraph
11 (1) due to a physical impairment.

12 (e) Background Checks.—

13 (1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall use biometric,
14 biographic, and other data that the Secretary determines to be appropriate—

15 (A) to conduct security and law enforcement background checks of an alien seeking
16 permanent resident status or provisional protected presence under this section; and

17 (B) to determine whether there is any criminal, national security, or other factor that
18 would render the alien ineligible for permanent resident status or provisional protected
19 presence under this section.

20 (2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
21 background checks of an alien required under paragraph (1) shall be completed, to the
22 satisfaction of the Secretary, before the date on which the Secretary grants the alien
23 permanent resident status or provisional protected presence under this section.

24 (3) CRIMINAL RECORDS REQUESTS.—With respect to an alien seeking permanent resident
25 status under this section, the Secretary, in cooperation with the Secretary of State, shall seek
26 to obtain from INTERPOL, EUROPOL, or any other international or national law
27 enforcement agency of the country of nationality, country of citizenship, or country of last
28 habitual residence of the alien, information about any criminal activity—

29 (A) in which the alien engaged in the country of nationality, country of citizenship,
30 or country of last habitual residence of the alien; or

31 (B) for which the alien was convicted in the country of nationality, country of
32 citizenship, or country of last habitual residence of the alien.

33 (f) Treatment of Brief, Casual, and Innocent Departures.—For purposes of subsections (a)(4)
34 and (h)(2)(D)(ii)(I)(dd), an alien shall not be considered to have failed to maintain continuous
35 physical presence in the United States based on 1 or more brief, casual, and innocent absences
36 from the United States.

37 (g) Availability of Immigrant Visas.—

38 (1) IN GENERAL.—Beginning on October 1, 2018, the Secretary shall make available for
39 each fiscal year 27,500 immigrant visas for aliens who are eligible for adjustment of status
40 under subsection (a).

1 (2) PRIORITY.—The Secretary shall make available the immigrant visas referred to in
2 paragraph (1) to applicants in order, with the visas being granted first to applicants who
3 have had temporary protected status or deferred enforced departure for the longest period of
4 time.

5 (3) REPORTING VISA USE TO THE SECRETARY OF STATE.—The Secretary shall report to the
6 Secretary of State the number of immigrant visas used under this section in a manner that
7 allows the Secretary of State to calculate the reduction of global opportunity visas
8 consistent with section 203(c)(5) of the Immigration and Nationality Act.

9 (h) Treatment of Aliens Pending Grant of Permanent Residence.—

10 (1) NO REMOVAL.—The Secretary or the Attorney General may not remove an alien
11 who—

12 (A) has a pending application for relief under this section; and

13 (B) appears to be prima facie eligible for the relief.

14 (2) PROVISIONAL PROTECTED PRESENCE.—

15 (A) IN GENERAL.—In the case of an alien described in paragraph (1), the Secretary
16 shall grant provisional protected presence to the alien and provide to the alien
17 employment authorization.

18 (B) EFFECTIVE DATES.—The provisional protected presence and employment
19 authorization of an alien granted under subparagraph (A) shall be effective until the
20 date on which the Secretary or Attorney General, as applicable—

21 (i) issues a final denial of the application for relief under this section; or

22 (ii) adjusts the status of the alien to that of an alien lawfully admitted for
23 permanent residence.

24 (C) STATUS DURING PERIOD OF PROVISIONAL PROTECTED PRESENCE.—An alien
25 granted provisional protected presence shall not be considered to be unlawfully present
26 in the United States during the period beginning on the date on which the provisional
27 protected presence of the alien is granted and ending on the applicable date described
28 in subparagraph (B).

29 (D) RESCISSION.—

30 (i) DEFINITIONS.—In this subparagraph:

31 (I) FELONY.—The term “felony” means a Federal, State, or local criminal
32 offense (excluding a State or local offense for which an essential element
33 was the alien’s immigration status) punishable by imprisonment for a term
34 exceeding one year.

35 (II) MISDEMEANOR.—The term “misdemeanor” means a Federal, State, or
36 local criminal offense (excluding a State or local offense for which an
37 essential element was the alien’s immigration status, a significant
38 misdemeanor, and a minor traffic offense) for which—

39 (aa) the maximum term of imprisonment is greater than 5 days and
40 not greater than 1 year; and

1 (bb) the individual was sentenced to time in custody of 90 days or
2 less.

3 (III) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor”
4 means a Federal, State, or local criminal offense (excluding a State or local
5 offense for which an essential element was the alien’s immigration status)
6 for which the maximum term of imprisonment is greater than 5 days and not
7 greater than 1 year that—

8 (aa) regardless of the sentence imposed, is a crime of domestic
9 violence (as defined in section 237(a)(2)(E)(i)) or an offense of sexual
10 abuse or exploitation, burglary, unlawful possession or use of a firearm,
11 drug distribution or trafficking, or driving under the influence if the
12 State law requires, as an element of the offense, the operation of a
13 motor vehicle and a finding of impairment or a blood alcohol content of
14 .08 or higher; or

15 (bb) resulted in a sentence of time in custody of more than 90 days,
16 excluding an offense for which the sentence was suspended.

17 (IV) THREAT TO NATIONAL SECURITY.—With respect to an alien, the term
18 “threat to national security” means an alien who is—

19 (aa) inadmissible under section 212(a)(3) of the Immigration and
20 Nationality Act (8 U.S.C. 1182(a)(3)); or

21 (bb) deportable under section 237(a)(4) of the Immigration and
22 Nationality Act (8 U.S.C. 1227(a)(4)).

23 (V) THREAT TO PUBLIC SAFETY.—With respect to an alien, the term “threat
24 to public safety” means an alien who has—

25 (aa) been convicted of an offense for which an element was
26 participation in a criminal street gang (as defined in section 521(a) of
27 title 18, United States Code); or

28 (bb) engaged in a continuing criminal enterprise (as defined in
29 section 408(c) of the Comprehensive Drug Abuse Prevention and
30 Control Act of 1970 (21 U.S.C. 848(c))).

31 (ii) REQUIREMENTS.—The Secretary may rescind the provisional protected
32 presence and employment authorization granted under this paragraph only if the
33 Secretary—

34 (I) determines that the alien—

35 (aa) has been convicted of—

36 (AA) a felony;

37 (BB) a significant misdemeanor; or

38 (CC) 3 or more misdemeanors not occurring on the same date and
39 not arising out of the same act, omission, or scheme of misconduct;

40 (bb) poses a threat to national security or a threat to public safety;

1 (cc) has traveled outside of the United States without authorization
2 from the Secretary; or

3 (dd) has ceased to continuously reside in the United States; and

4 (II) prior to the rescission, provides the alien—

5 (aa) notice of the proposed rescission; and

6 (bb) an opportunity for a hearing in which the alien may—

7 (AA) provide evidence that the alien meets the requirements for
8 provisional protected presence; or

9 (BB) otherwise contest the rescission.

10 (i) Confidentiality.—

11 (1) IN GENERAL.—The Secretary may not disclose or use for the purpose of immigration
12 enforcement any information provided in an application filed under this section.

13 (2) REFERRALS PROHIBITED.—The Secretary may not refer to U.S. Immigration and
14 Customs Enforcement, U.S. Customs and Border Protection, or any designee of U.S.
15 Immigration and Customs Enforcement or U.S. Customs and Border Protection any
16 individual who has been granted permanent resident status or provisional protected presence
17 under this section.

18 (3) LIMITED EXCEPTION.—Notwithstanding paragraphs (1) and (2), information provided
19 in an application under this section may be shared with a Federal security or law
20 enforcement agency—

21 (A) for assistance in the consideration of an application for relief under this section;

22 (B) to identify or prevent fraudulent claims;

23 (C) for national security purposes; or

24 (D) for the investigation or prosecution of any felony not related to immigration
25 status.

26 (j) Rulemaking.—

27 (1) INITIAL PUBLICATION.—

28 (A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act,
29 the Secretary shall publish in the Federal Register regulations implementing this
30 section.

31 (B) AFFIRMATIVE APPLICATION.—The regulations published under subparagraph (A)
32 shall allow any eligible individual to immediately apply affirmatively for the relief
33 available under this section without being placed in removal proceedings.

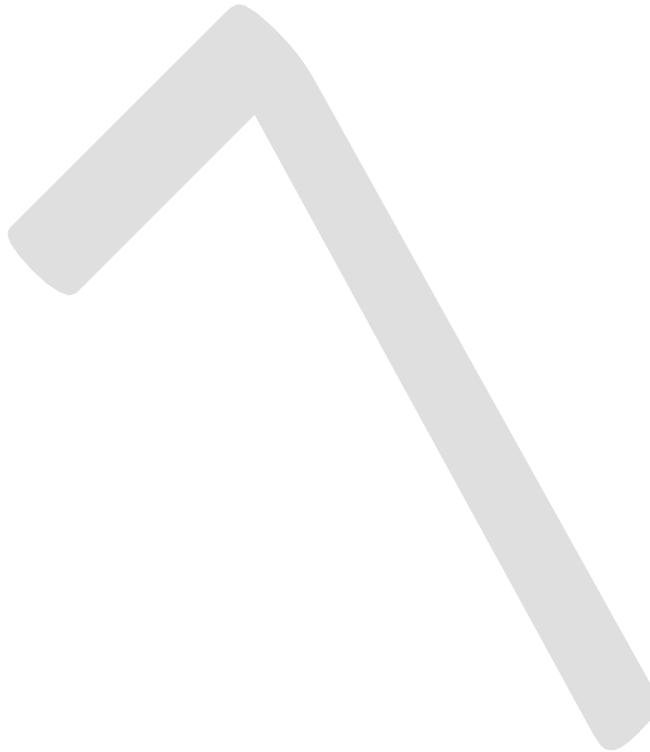
34 (2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
35 the regulations published pursuant to paragraph (1)(A) shall be effective, on an interim
36 basis, immediately on publication in the Federal Register, but may be subject to change and
37 revision after public notice and opportunity for a period of public comment.

38 (3) FINAL REGULATIONS.—Not later than 180 days after the date on which interim

1 regulations are published under this subsection, the Secretary shall publish final regulations
2 implementing this section.

3 (4) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United
4 States Code, (commonly known as the “Paperwork Reduction Act”) shall not apply to any
5 action to implement this section.

6 (k) Rule of Construction.—Section 244(h) of the Immigration and Nationality Act (8 U.S.C.
7 1254a(h)) shall not limit the authority of the Secretary to adjust the status of an alien under this
8 section.



AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

H. R. 2579

To amend the Internal Revenue Code of 1986 to allow the premium tax credit with respect to unsubsidized COBRA continuation coverage.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. CORNYN

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

4 (a) SHORT TITLES.—This Act may be cited as the
5 “Immigration Reform and Technical Corrections Act of
6 2018” or the “IRTCA 2018”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short titles; table of contents.

TITLE I—BUILDING AMERICA’S TRUST ACT

Sec. 1001. Short title.

Subtitle A—Border Security

Sec. 1101. Definitions.

CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

Sec. 1111. Strengthening the requirements for barriers along the southern border.

Sec. 1112. Land use or acquisition.

Sec. 1113. Air and Marine Operations flight hours.

Sec. 1114. Capability deployment to specific sectors and transit zone.

Sec. 1115. Deployment of assets.

Sec. 1116. U.S. Border Patrol activities.

Sec. 1117. Border security technology program management.

Sec. 1118. National Guard support to secure the southern border and reimbursement of States for deployment of the National Guard at the southern border.

Sec. 1119. Operation Phalanx.

Sec. 1120. Merida Initiative.

Sec. 1121. Prohibitions on actions that impede border security on certain Federal land.

Sec. 1122. Landowner and rancher security enhancement.

Sec. 1123. Limitation on land owner's liability.

Sec. 1124. Eradication of carrizo cane and salt cedar.

Sec. 1125. Prevention, detection, control, and eradication of diseases and pests.

Sec. 1126. Transnational criminal organization illicit spotter prevention and detection.

Sec. 1127. Southern border threat analysis.

Sec. 1128. Amendments to U.S. Customs and Border Protection.

Sec. 1129. Agent and officer technology use.

Sec. 1130. Integrated Border Enforcement Teams.

Sec. 1131. Tunnel Task Forces.

Sec. 1132. Pilot program on use of electromagnetic spectrum in support of border security operations.

Sec. 1133. Homeland security foreign assistance.

CHAPTER 2—PERSONNEL

Sec. 1141. Additional U.S. Customs and Border Protection agents and officers.

Sec. 1142. Fair labor standards for border patrol agents.

Sec. 1143. U.S. Customs and Border Protection retention incentives.

Sec. 1144. Anti-Border Corruption Reauthorization Act.

Sec. 1145. Training for officers and agents of U.S. Customs and Border Protection.

Sec. 1146. Additional U.S. Immigration and Customs Enforcement personnel.

Sec. 1147. Other immigration and law enforcement personnel.

Sec. 1148. Judicial resources for border security.

Sec. 1149. Reimbursement to State and local prosecutors for federally initiated, immigration-related criminal cases.

CHAPTER 3—GRANTS

Sec. 1151. State Criminal Alien Assistance Program.

Sec. 1152. Southern border security assistance grants.

Sec. 1153. Operation Stonegarden.

Sec. 1154. Grants for identification of victims of cross-border human smuggling.

Sec. 1155. Grant accountability.

Subtitle B—Emergency Port of Entry Personnel and Infrastructure Funding

- Sec. 1201. Definitions.
- Sec. 1202. Ports of entry infrastructure.
- Sec. 1203. Secure communications.
- Sec. 1204. Border security deployment program.
- Sec. 1205. Pilot and upgrade of license plate readers at ports of entry.
- Sec. 1206. Biometric technology.
- Sec. 1207. Nonintrusive inspection operational demonstration project.
- Sec. 1208. Biometric exit data system.
- Sec. 1209. Sense of Congress on cooperation between agencies.

Subtitle C—Border Security Enforcement Fund

- Sec. 1301. Border Security Enforcement Fund.

Subtitle D—Stop the Importation and Trafficking of Synthetic Analogues Act

- Sec. 1401. Short titles.
- Sec. 1402. Establishment of Schedule A.
- Sec. 1403. Temporary and permanent scheduling of schedule A substances.
- Sec. 1404. Penalties.
- Sec. 1405. False labeling of schedule A controlled substances.
- Sec. 1406. Registration requirements for handlers of schedule A substances.
- Sec. 1407. Additional conforming amendments.
- Sec. 1408. Clarification of the definition of controlled substance analogue under the Analogue Enforcement Act.
- Sec. 1409. Rules of construction.

Subtitle E—Domestic Security

CHAPTER 1—GENERAL MATTERS

- Sec. 1501. Ending catch and release for repeat immigration violators and criminals aliens.
- Sec. 1502. Deterring visa overstays.
- Sec. 1503. Increase in immigration detention capacity.
- Sec. 1504. Collection of DNA from criminal and detained aliens.
- Sec. 1505. Collection, use, and storage of biometric data.
- Sec. 1506. Pilot program for electronic field processing.
- Sec. 1507. Ending abuse of parole authority.
- Sec. 1508. Reports to Congress on parole.
- Sec. 1509. Limits on continuances in removal proceedings.
- Sec. 1510. Reinstatement of the Secure Communities Program.

CHAPTER 2—PROTECTION AND DUE PROCESS FOR UNACCOMPANIED ALIEN CHILDREN

- Sec. 1520. Short title.
- Sec. 1521. Repatriation of unaccompanied alien children.
- Sec. 1522. Expedited due process and screening for unaccompanied alien children.
- Sec. 1523. Child welfare and law enforcement information sharing.
- Sec. 1524. Accountability for children and taxpayers.
- Sec. 1525. Custody of unaccompanied alien children in formal removal proceeding.

- Sec. 1526. Fraud in connection with the transfer of custody of unaccompanied alien children.
- Sec. 1527. Notification of States and foreign governments, reporting, and monitoring.
- Sec. 1528. Emergency immigration judge resources.
- Sec. 1529. Reports to Congress.

CHAPTER 3—COOPERATION WITH MEXICO AND OTHER COUNTRIES ON
ASYLUM AND REFUGEE ISSUES

- Sec. 1540. Strengthening internal asylum systems in Mexico and other countries.
- Sec. 1541. Expanding refugee processing in Mexico and Central America for third country resettlement.

Subtitle F—Penalties for Smuggling, Drug Trafficking, Human Trafficking,
Terrorism, and Illegal Entry and Reentry; Bars to Readmission of Removed Aliens

- Sec. 1601. Dangerous human smuggling, human trafficking, and human rights violations.
- Sec. 1602. Putting the Brakes on Human Smuggling Act.
- Sec. 1603. Drug trafficking and crimes of violence committed by illegal aliens.
- Sec. 1604. Establishing inadmissibility and deportability.
- Sec. 1605. Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or commit terrorism.
- Sec. 1606. Penalties for reentry of removed aliens.
- Sec. 1607. Laundering of monetary instruments.
- Sec. 1608. Freezing bank accounts of international criminal organizations and money launderers.
- Sec. 1609. Criminal proceeds laundered through prepaid access devices, digital currencies, or other similar instruments.
- Sec. 1610. Closing the loophole on drug cartel associates engaged in money laundering.

Subtitle G—Protecting National Security and Public Safety

CHAPTER 1—GENERAL MATTERS

- Sec. 1701. Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
- Sec. 1702. Terrorist and security-related grounds of inadmissibility.
- Sec. 1703. Expedited removal for aliens inadmissible on criminal or security grounds.
- Sec. 1704. Detention of removable aliens.
- Sec. 1705. GAO study on deaths in custody.
- Sec. 1706. GAO study on migrant deaths.
- Sec. 1707. Statute of limitations for visa, naturalization, and other fraud offenses involving war crimes, crimes against humanity, or human rights violations.
- Sec. 1708. Criminal detention of aliens to protect public safety.
- Sec. 1709. Recruitment of persons to participate in terrorism.
- Sec. 1710. Barring and removing persecutors, war criminals, and participants in crimes against humanity from the United States.
- Sec. 1711. Child soldier recruitment ineligibility technical correction.
- Sec. 1712. Gang membership, removal, and increased criminal penalties related to gang violence.

- Sec. 1713. Barring aliens with convictions for driving under the influence or while intoxicated.
- Sec. 1714. Barring aggravated felons, border checkpoint runners, and sex offenders from admission to the United States.
- Sec. 1715. Protecting immigrants from convicted sex offenders.
- Sec. 1716. Enhanced criminal penalties for high speed flight.
- Sec. 1717. Prohibition on asylum and cancellation of removal for terrorists.
- Sec. 1718. Aggravated felonies.
- Sec. 1719. Convictions.
- Sec. 1720. Failure to obey removal orders.
- Sec. 1721. Sanctions for countries that delay or prevent repatriation of their nationals.
- Sec. 1722. Enhanced penalties for construction and use of border tunnels.
- Sec. 1723. Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- Sec. 1724. Expansion of criminal alien repatriation programs.

CHAPTER 2—STRONG VISA INTEGRITY SECURES AMERICA ACT

- Sec. 1731. Short title.
- Sec. 1732. Visa security.
- Sec. 1733. Electronic passport screening and biometric matching.
- Sec. 1734. Reporting visa overstays.
- Sec. 1735. Student and exchange visitor information system verification.
- Sec. 1736. Social media review of visa applicants.

CHAPTER 3—VISA CANCELLATION AND REVOCATION

- Sec. 1741. Cancellation of additional visas.
- Sec. 1742. Visa information sharing.
- Sec. 1743. Visa interviews.
- Sec. 1744. Judicial review of visa revocation.

CHAPTER 4—SECURE VISAS ACT

- Sec. 1751. Short title.
- Sec. 1752. Authority of the Secretary of Homeland Security and the Secretary of State.

CHAPTER 5—VISA FRAUD AND SECURITY IMPROVEMENT ACT OF 2017

- Sec. 1761. Short title.
- Sec. 1762. Expanded usage of fraud prevention and detection fees.
- Sec. 1763. Inadmissibility of spouses and sons and daughters of traffickers.
- Sec. 1764. DNA testing.
- Sec. 1765. Access to NCIC criminal history database for diplomatic visas.
- Sec. 1766. Elimination of signed photograph requirement for visa applications.

CHAPTER 6—OTHER MATTERS

- Sec. 1771. Requirement for completion of background checks.
- Sec. 1772. Withholding of adjudication.
- Sec. 1773. Access to the National Crime Information Center Interstate Identification Index.
- Sec. 1774. Appropriate remedies for immigration litigation.
- Sec. 1775. Use of 1986 IRCA legalization information for national security purposes.

6

- Sec. 1776. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.
- Sec. 1777. Conforming amendment to the definition of racketeering activity.
- Sec. 1778. Validity of electronic signatures.

Subtitle H—Prohibition on Terrorists Obtaining Lawful Status in the United States

CHAPTER 1—PROHIBITION ON ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS

- Sec. 1801. Lawful permanent residents as applicants for admission.
- Sec. 1802. Date of admission for purposes of adjustment of status.
- Sec. 1803. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.
- Sec. 1804. Revocation of lawful permanent resident status for human rights violators.
- Sec. 1805. Removal of condition on lawful permanent resident status prior to naturalization.
- Sec. 1806. Prohibition on terrorists and aliens who pose a threat to national security or public safety from receiving an adjustment of status.
- Sec. 1807. Treatment of applications for adjustment of status during pending denaturalization proceedings.
- Sec. 1808. Extension of time limit to permit rescission of permanent resident status.
- Sec. 1809. Barring persecutors and terrorists from registry.

CHAPTER 2—PROHIBITION ON NATURALIZATION AND UNITED STATES CITIZENSHIP

- Sec. 1821. Barring terrorists from becoming naturalized United States citizens.
- Sec. 1822. Terrorist bar to good moral character.
- Sec. 1823. Prohibition on judicial review of naturalization applications for aliens in removal proceedings.
- Sec. 1824. Limitation on judicial review when agency has not made decision on naturalization application and on denials.
- Sec. 1825. Clarification of denaturalization authority.
- Sec. 1826. Denaturalization of terrorists.
- Sec. 1827. Treatment of pending applications during denaturalization proceedings.
- Sec. 1828. Naturalization document retention.

CHAPTER 3—FORFEITURE OF PROCEEDS FROM PASSPORT AND VISA OFFENSES, AND PASSPORT REVOCATION.

- Sec. 1831. Forfeiture of proceeds from passport and visa offenses.
- Sec. 1832. Passport Revocation Act.

TITLE II—PERMANENT REAUTHORIZATION OF VOLUNTARY E-VERIFY

- Sec. 2001. Permanent reauthorization.
- Sec. 2002. Preemption; liability.
- Sec. 2003. Information sharing.
- Sec. 2004. Small Business Demonstration Program.
- Sec. 2005. Fraud prevention.

Sec. 2006. Identity authentication employment eligibility verification pilot programs.

TITLE III—SUCCEED ACT

Sec. 3001. Short titles.

Sec. 3002. Definitions.

Sec. 3003. Cancellation of removal of certain long-term residents who entered the United States as children.

Sec. 3004. Conditional permanent resident status.

Sec. 3005. Removal of conditional basis for permanent residence.

Sec. 3006. Benefits for relatives of aliens granted conditional permanent resident status.

Sec. 3007. Exclusive jurisdiction.

Sec. 3008. Confidentiality of information.

Sec. 3009. Restriction on welfare benefits for conditional permanent residents.

Sec. 3010. GAO report.

Sec. 3011. Military enlistment.

Sec. 3012. Eligibility for naturalization.

Sec. 3013. Funding.

TITLE IV—ENSURING FAMILY REUNIFICATION

Sec. 4001. Short title.

Sec. 4002. Family-Sponsored immigration priorities.

Sec. 4003. Elimination of Diversity Visa Program.

TITLE V—OTHER MATTERS

Sec. 5001. Other Immigration and Nationality Act amendments.

Sec. 5002. Exemption from the Administrative Procedure Act.

Sec. 5003. Exemption from the Paperwork Reduction Act.

Sec. 5004. Ability to fill and retain Department of Homeland Security positions in United States territories.

Sec. 5005. Severability.

Sec. 5006. Funding.

TITLE VI—TECHNICAL AMENDMENTS

Sec. 6001. References to the Immigration and Nationality Act.

Sec. 6002. Technical amendments to title I of the Immigration and Nationality Act.

Sec. 6003. Technical amendments to title II of the Immigration and Nationality Act.

Sec. 6004. Technical amendments to title III of the Immigration and Nationality Act.

Sec. 6005. Technical amendment to title IV of the Immigration and Nationality Act.

Sec. 6006. Technical amendments to title V of the Immigration and Nationality Act.

Sec. 6007. Other amendments.

Sec. 6008. Repeals; rule of construction.

Sec. 6009. Miscellaneous technical correction.

1 **TITLE I—BUILDING AMERICA’S**
2 **TRUST ACT**

3 **SEC. 1001. SHORT TITLE.**

4 This title may be cited as the “Building America’s
5 Trust Act”.

6 **Subtitle A—Border Security**

7 **SEC. 1101. DEFINITIONS.**

8 In this subtitle:

9 (1) **ADVANCED UNATTENDED SURVEILLANCE**
10 **SENSORS.**—The term “advanced unattended surveil-
11 lance sensors” means sensors that utilize an onboard
12 computer to analyze detections in an effort to dis-
13 cern between vehicles, humans, and animals, and ul-
14 timately filter false positives before transmission.

15 (2) **APPROPRIATE CONGRESSIONAL COM-**
16 **MITTEE.**—The term “appropriate congressional com-
17 mittee” has the meaning given the term in section
18 2(2) of the Homeland Security Act of 2002 (6
19 U.S.C. 101(2)).

20 (3) **COMMISSIONER.**—The term “Commis-
21 sioner” means the Commissioner of U.S. Customs
22 and Border Protection.

23 (4) **HIGH TRAFFIC AREAS.**—The term “high
24 traffic areas” has the meaning given the term in sec-
25 tion 102(f)(1) of the Illegal Immigration Reform

1 and Immigrant Responsibility Act of 1996, as added
2 by section 1111.

3 (5) OPERATIONAL CONTROL.—The term “oper-
4 ational control” has the meaning given the term in
5 section 2(b) of the Secure Fence Act of 2006 (8
6 U.S.C. 1701 note; Public Law 109–367).

7 (6) SECRETARY.—The term “Secretary” means
8 the Secretary of Homeland Security.

9 (7) SITUATIONAL AWARENESS.—The term “sit-
10 uational awareness” has the meaning given the term
11 in section 1092(a)(7) of the National Defense Au-
12 thorization Act for Fiscal Year 2017 (6 U.S.C.
13 223(a)(7); Public Law 114–328).

14 (8) SMALL UNMANNED AERIAL VEHICLE.—The
15 term “small unmanned aerial vehicle” has the mean-
16 ing given the term “small unmanned aircraft” in
17 section 331 of the FAA Modernization and Reform
18 Act of 2012 (49 U.S.C. 40101 note; Public Law
19 112–95).

20 (9) TRANSIT ZONE.—The term “transit zone”
21 has the meaning given the term in section
22 1092(a)(8) of the National Defense Authorization
23 Act for Fiscal Year 2017 (6 U.S.C. 223(a)(7); Pub-
24 lic Law 114–328).

1 to achieve situational awareness and operational control
2 of the border and deter, impede, and detect illegal activity
3 in high traffic areas.”;

4 (2) in subsection (b)—

5 (A) in the subsection heading, by striking
6 “FENCING AND ROAD IMPROVEMENTS” and in-
7 serting “PHYSICAL BARRIERS”;

8 (B) in paragraph (1)—

9 (i) in subparagraph (A)—

10 (I) by striking “subsection (a)”
11 and inserting “this section”;

12 (II) by striking “roads, lighting,
13 cameras, and sensors” and inserting
14 “tactical infrastructure, and tech-
15 nology”; and

16 (III) by striking “gain” and in-
17 serting “achieve situational awareness
18 and”; and

19 (ii) by amending subparagraph (B) to
20 read as follows:

21 “(B) PHYSICAL BARRIERS AND TACTICAL
22 INFRASTRUCTURE.—

23 “(i) IN GENERAL.—Not later than
24 September 30, 2022, the Secretary of
25 Homeland Security, in carrying out this

1 section, shall deploy along the United
2 States border the most practical and effec-
3 tive physical barriers and tactical infra-
4 structure available for achieving situational
5 awareness and operational control of the
6 border.

7 “(ii) CONSIDERATION FOR CERTAIN
8 PHYSICAL BARRIERS AND TACTICAL INFRA-
9 STRUCTURE.—The deployment of physical
10 barriers and tactical infrastructure under
11 this subparagraph shall not apply in areas
12 along the border where natural terrain fea-
13 tures, natural barriers, or the remoteness
14 of such area or region would make any
15 such deployment ineffective, as determined
16 by the Secretary, for the purposes of gain-
17 ing situational awareness or operational
18 control of such area or region if, in the ab-
19 sence of tactical infrastructure, the Sec-
20 retary deploys and permanently maintains
21 the most practical and effective technology
22 or personnel in order to gain situational
23 awareness and operational control of such
24 area or region.”;

25 (iii) in subparagraph (C)—

13

1 (I) by amending clause (i) to
2 read as follows:

3 “(i) IN GENERAL.—In carrying out
4 this section, the Secretary of Homeland
5 Security, before constructing physical bar-
6 riers in a specific area or region, shall con-
7 sult with the Secretary of the Interior, the
8 Secretary of Agriculture, appropriate rep-
9 resentatives of Federal, State, local, and
10 tribal governments, and appropriate pri-
11 vate property owners in the United States
12 to minimize the impact on the environ-
13 ment, culture, commerce, and quality of
14 life for the communities and residents lo-
15 cated near the sites at which such physical
16 barriers are to be constructed.”;

17 (II) by redesignating clause (ii)
18 as clause (iii); and

19 (III) by inserting after clause (i),
20 as amended, the following:

21 “(ii) NOTIFICATION.—Not later than
22 60 days after the consultation required
23 under clause (i), the Secretary of Home-
24 land Security shall notify the Committee
25 on Homeland Security of the House of

1 Representatives and the Committee on
2 Homeland Security and Governmental Af-
3 fairs of the Senate of the type of physical
4 barriers, tactical infrastructure, or tech-
5 nology the Secretary has determined is
6 most practical and effective to achieve situ-
7 ational awareness and operational control
8 in a specific area and the other alter-
9 natives the Secretary considered before
10 making such a determination.”; and

11 (iv) by striking subparagraph (D);
12 (C) in paragraph (2)—

13 (i) by striking “Attorney General”
14 and inserting “Secretary of Homeland Se-
15 curity”;

16 (ii) by striking “this subsection” and
17 inserting “this section”; and

18 (iii) by striking “construction of
19 fences” and inserting “the construction of
20 physical barriers”; and

21 (D) by amending paragraph (3) to read as
22 follows:

23 “(3) AGENT SAFETY.—In carrying out this sec-
24 tion, the Secretary of Homeland Security, when de-
25 signing, constructing, and deploying physical bar-

1 riers, tactical infrastructure, or technology, shall in-
2 corporate such safety features into the design, con-
3 struction, or deployment of such physical barriers,
4 tactical infrastructure, or technology, that the Sec-
5 retary determines, in the Secretary's sole discretion,
6 are necessary to maximize the safety and effective-
7 ness of officers or agents of the Department of
8 Homeland Security or of any other Federal agency
9 deployed in the vicinity of such physical barriers,
10 tactical infrastructure, or technology.”;

11 (3) in subsection (c), by amending paragraph
12 (1) to read as follows:

13 “(1) IN GENERAL.—Notwithstanding any other
14 provision of law, the Secretary of Homeland Security
15 shall have the authority to waive all legal require-
16 ments that the Secretary, in the Secretary's sole dis-
17 cretion, determines necessary to ensure the expedi-
18 tious design, testing, construction, installation, de-
19 ployment, operation, and maintenance of the phys-
20 ical barriers, tactical infrastructure and technology
21 under this section. Any such decision by the Sec-
22 retary shall be effective upon publication in the Fed-
23 eral Register.”; and

24 (4) by adding after subsection (d) the following:

1 “(e) TECHNOLOGY.—Not later than September 30,
2 2022, the Secretary of Homeland Security, in carrying out
3 this section, shall deploy, operate, and permanently main-
4 tain along the United States border the most practical and
5 effective technology available for achieving situational
6 awareness and operational control of the border.

7 “(f) DEFINITIONS.—In this section:

8 “(1) HIGH TRAFFIC AREAS.—The term ‘high
9 traffic areas’ means areas in the vicinity of the
10 United States border that—

11 “(A) are within the responsibility of U.S.
12 Customs and Border Protection; and

13 “(B) have significant unlawful cross-border
14 activity, as determined by the Secretary of
15 Homeland Security.

16 “(2) OPERATIONAL CONTROL.—The term ‘oper-
17 ational control’ has the meaning given the term in
18 section 2(b) of the Secure Fence Act of 2006 (8
19 U.S.C. 1701 note; Public Law 109–367).

20 “(3) SITUATIONAL AWARENESS DEFINED.—The
21 term ‘situational awareness’ has the meaning given
22 the term in section 1092(a)(7) of the National De-
23 fense Authorization Act for Fiscal Year 2017 (6
24 U.S.C. 223(a)(7); Public Law 114–328).

1 “(4) TACTICAL INFRASTRUCTURE.—The term
2 ‘tactical infrastructure’ includes boat ramps, access
3 gates, checkpoints, lighting, and roads.

4 “(5) TECHNOLOGY.—The term ‘technology’
5 means border surveillance and detection technology,
6 including—

7 “(A) tower-based surveillance technology;

8 “(B) deployable, lighter-than-air ground
9 surveillance equipment;

10 “(C) Vehicle and Dismount Exploitation
11 Radars (VADER);

12 “(D) 3-dimensional, seismic acoustic detec-
13 tion and ranging border tunneling detection
14 technology;

15 “(E) advanced unattended surveillance
16 sensors;

17 “(F) mobile vehicle-mounted and man-
18 portable surveillance capabilities;

19 “(G) unmanned aerial vehicles; and

20 “(H) other border detection, communica-
21 tion, and surveillance technology necessary to
22 achieve situational awareness and operational
23 control.

24 “(6) UNMANNED AERIAL VEHICLES.—The term
25 ‘unmanned aerial vehicle’ has the meaning given the

1 term ‘unmanned aircraft system’ in section 331 of
2 the FAA Modernization and Reform Act of 2012
3 (49 U.S.C. 40101 note; Public Law 112–95).”.

4 **SEC. 1112. LAND USE OR ACQUISITION.**

5 Section 103(b) of the Immigration and Nationality
6 Act (8 U.S.C. 1103) is amended to read as follows:

7 “(b)(1) The Secretary may lease, contract for, or buy
8 any interest in land, including temporary use rights, adja-
9 cent to or in the vicinity of an international land border
10 when the Secretary determines that such land is essential
11 to control and guard the boundaries and borders of the
12 United States against any violation of this Act.

13 “(2) The Secretary may lease, contract for, or buy
14 any interest in land described in paragraph (1) when—

15 “(A) the lawful owner of that interest fixes a
16 price for leasing, contracting, or buying such inter-
17 est; and

18 “(B) the Secretary considers the price referred
19 to in subparagraph (A) to be reasonable.

20 “(3) If the Secretary and the lawful owner of an in-
21 terest in land described in paragraph (1) are unable to
22 agree to lease, contract for, or buy such interest at a rea-
23 sonable price for such lease, contract, or purchase, the
24 Secretary may commence condemnation proceedings pur-

1 suant to the Act of August 1, 1888 (Chapter 728; 25 Stat.
2 357).

3 “(4) The Secretary may accept, on behalf of the
4 United States, a gift of any interest in land described in
5 paragraph (1)”.

6 **SEC. 1113. AIR AND MARINE OPERATIONS FLIGHT HOURS.**

7 (a) INCREASED FLIGHT HOURS.—The Secretary,
8 after coordination with the Administrator of the Federal
9 Aviation Administration, shall ensure that not fewer than
10 95,000 annual flight hours are carried out by Air and Ma-
11 rine Operations of U.S. Customs and Border Protection.

12 (b) UNMANNED AERIAL SYSTEM.—The Secretary
13 shall ensure that Air and Marine Operations operate un-
14 manned aerial systems on the southern border of the
15 United States for not fewer than 24 hours per day for
16 5 days per week.

17 (c) CONTRACT AIR SUPPORT AUTHORIZATION.—The
18 Commissioner shall contract for the unfulfilled identified
19 air support mission critical hours, as identified by the
20 Chief of the U.S. Border Patrol.

21 (d) PRIMARY MISSION.—The Commissioner shall en-
22 sure that—

23 (1) the primary missions for Air and Marine
24 Operations are to directly support U.S. Border Pa-
25 trol activities along the southern border of the

1 United States and Joint Interagency Task Force
2 South operations in the transit zone; and

3 (2) the Executive Assistant Commissioner of
4 Air and Marine Operations assigns the greatest pri-
5 ority to support missions established by the Commis-
6 sioner to carry out the requirements under this Act.

7 (e) HIGH-DEMAND FLIGHT HOUR REQUIREMENTS.—

8 In accordance with subsection (d), the Commissioner shall
9 ensure that U.S. Border Patrol Sector Chiefs—

10 (1) identify critical flight hour requirements;
11 and

12 (2) direct Air and Marine Operations to sup-
13 port requests from Sector Chiefs as their primary
14 mission.

15 (f) SMALL UNMANNED AERIAL VEHICLES.—

16 (1) IN GENERAL.—The Chief of the U.S. Bor-
17 der Patrol shall be the executive agent for U.S. Cus-
18 toms and Border Protection's use of small, un-
19 manned aerial vehicles for the purpose of meeting
20 the U.S. Border Patrol's unmet flight hour oper-
21 ational requirements and to achieve situational
22 awareness and operational control.

23 (2) COORDINATION.—In carrying out para-
24 graph (1), the Chief of the U.S. Border Patrol
25 shall—

1 (A) coordinate flight operations with the
2 Administrator of the Federal Aviation Adminis-
3 tration to ensure the safe and efficient oper-
4 ation of the National Airspace System; and

5 (B) coordinate with the Executive Assist-
6 ant Commissioner for Air and Marine Oper-
7 ations of U.S. Customs and Border Protection
8 to ensure the safety of other aircraft flying in
9 the vicinity of small, unmanned aerial vehicles
10 operated by the U.S. Border Patrol.

11 (3) CONFORMING AMENDMENT.—Section
12 411(e)(3) of the Homeland Security Act of 2002 (6
13 U.S.C. 211(e)(3)) is amended—

14 (A) in subparagraph (B), by striking
15 “and” at the end;

16 (B) by redesignating subparagraph (C) as
17 subparagraph (D); and

18 (C) by inserting after subparagraph (B)
19 the following:

20 “(C) carry out the small unmanned aerial
21 vehicle requirements pursuant to section
22 1113(f) of the Building America’s Trust Act;
23 and”.

24 (g) SAVINGS CLAUSE.—Nothing in this section may
25 be construed to confer, transfer, or delegate to the Sec-

1 retary, the Commissioner, the Executive Assistant Com-
2 missioner for Air and Marine Operations of U.S. Customs
3 and Border Protection, or the Chief of the U.S. Border
4 Patrol any authority of the Secretary of Transportation
5 or the Administrator of the Federal Aviation Administra-
6 tion relating to the use of airspace or aviation safety.

7 **SEC. 1114. CAPABILITY DEPLOYMENT TO SPECIFIC SEC-**
8 **TORS AND TRANSIT ZONE.**

9 (a) IN GENERAL.—Not later than September 30,
10 2022, the Secretary, in implementing section 102 of the
11 Illegal Immigration Reform and Immigrant Responsibility
12 Act of 1996, as amended by section 1111, and acting
13 through the appropriate component of the Department of
14 Homeland Security, shall deploy to each sector or region
15 of the southern border and the northern border, in a
16 prioritized manner to achieve situational awareness and
17 operational control of such borders, the following addi-
18 tional capabilities:

19 (1) SAN DIEGO SECTOR.—For the San Diego
20 sector, the following:

21 (A) Tower-based surveillance technology.

22 (B) Subterranean surveillance and detec-
23 tion technologies.

24 (C) To increase coastal maritime domain
25 awareness, the following:

1 (i) Deployable, lighter-than-air surface
2 surveillance equipment.

3 (ii) Unmanned aerial vehicles with
4 maritime surveillance capability.

5 (iii) U.S. Customs and Border Protec-
6 tion maritime patrol aircraft.

7 (iv) Coastal radar surveillance sys-
8 tems.

9 (v) Maritime signals intelligence capa-
10 bilities.

11 (D) Ultralight aircraft detection capabili-
12 ties.

13 (E) Advanced unattended surveillance sen-
14 sors.

15 (F) A rapid reaction capability supported
16 by aviation assets.

17 (G) Mobile vehicle-mounted and man-port-
18 able surveillance capabilities.

19 (H) Man-portable unmanned aerial vehi-
20 cles.

21 (I) Improved agent communications capa-
22 bilities.

23 (2) EL CENTRO SECTOR.—For the El Centro
24 sector, the following:

25 (A) Tower-based surveillance technology.

1 (B) Deployable, lighter-than-air ground
2 surveillance equipment.

3 (C) Man-portable unmanned aerial vehi-
4 cles.

5 (D) Ultralight aircraft detection capabili-
6 ties.

7 (E) Advanced unattended surveillance sen-
8 sors.

9 (F) A rapid reaction capability supported
10 by aviation assets.

11 (G) Man-portable unmanned aerial vehi-
12 cles.

13 (H) Improved agent communications capa-
14 bilities.

15 (3) YUMA SECTOR.—For the Yuma sector, the
16 following:

17 (A) Tower-based surveillance technology.

18 (B) Deployable, lighter-than-air ground
19 surveillance equipment.

20 (C) Ultralight aircraft detection capabili-
21 ties.

22 (D) Advanced unattended surveillance sen-
23 sors.

24 (E) A rapid reaction capability supported
25 by aviation assets.

1 (F) Mobile vehicle-mounted and man-port-
2 able surveillance systems.

3 (G) Man-portable unmanned aerial vehi-
4 cles.

5 (H) Improved agent communications capa-
6 bilities.

7 (4) TUCSON SECTOR.—For the Tucson sector,
8 the following:

9 (A) Tower-based surveillance technology.

10 (B) Increased flight hours for aerial detec-
11 tion, interdiction, and monitoring operations ca-
12 pability.

13 (C) Deployable, lighter-than-air ground
14 surveillance equipment.

15 (D) Ultralight aircraft detection capabili-
16 ties.

17 (E) Advanced unattended surveillance sen-
18 sors.

19 (F) A rapid reaction capability supported
20 by aviation assets.

21 (G) Man-portable unmanned aerial vehi-
22 cles.

23 (H) Improved agent communications capa-
24 bilities.

1 (5) EL PASO SECTOR.—For the El Paso sector,
2 the following:

3 (A) Tower-based surveillance technology.

4 (B) Deployable, lighter-than-air ground
5 surveillance equipment.

6 (C) Ultralight aircraft detection capabili-
7 ties.

8 (D) Advanced unattended surveillance sen-
9 sors.

10 (E) Mobile vehicle-mounted and man-port-
11 able surveillance systems.

12 (F) A rapid reaction capability supported
13 by aviation assets.

14 (G) Mobile vehicle-mounted and man-port-
15 able surveillance capabilities.

16 (H) Man-portable unmanned aerial vehi-
17 cles.

18 (I) Improved agent communications capa-
19 bilities.

20 (6) BIG BEND SECTOR.—For the Big Bend sec-
21 tor, the following:

22 (A) Tower-based surveillance technology.

23 (B) Deployable, lighter-than-air ground
24 surveillance equipment.

1 (C) Improved agent communications capa-
2 bilities.

3 (D) Ultralight aircraft detection capabili-
4 ties.

5 (E) Advanced unattended surveillance sen-
6 sors.

7 (F) A rapid reaction capability supported
8 by aviation assets.

9 (G) Mobile vehicle-mounted and man-port-
10 able surveillance capabilities.

11 (H) Man-portable unmanned aerial vehi-
12 cles.

13 (I) Improved agent communications capa-
14 bilities.

15 (7) DEL RIO SECTOR.—For the Del Rio sector,
16 the following:

17 (A) Tower-based surveillance technology.

18 (B) Increased monitoring for cross-river
19 dams, culverts, and footpaths.

20 (C) Improved agent communications capa-
21 bilities.

22 (D) Improved maritime capabilities in the
23 Amistad National Recreation Area.

24 (E) Advanced unattended surveillance sen-
25 sors.

1 (F) A rapid reaction capability supported
2 by aviation assets.

3 (G) Mobile vehicle-mounted and man-port-
4 able surveillance capabilities.

5 (H) Man-portable unmanned aerial vehi-
6 cles.

7 (I) Improved agent communications capa-
8 bilities.

9 (8) LAREDO SECTOR.—For the Laredo sector,
10 the following:

11 (A) Tower-based surveillance technology.

12 (B) Maritime detection resources for the
13 Falcon Lake region.

14 (C) Increased flight hours for aerial detec-
15 tion, interdiction, and monitoring operations ca-
16 pability.

17 (D) Increased monitoring for cross-river
18 dams, culverts, and footpaths.

19 (E) Ultralight aircraft detection capability.

20 (F) Advanced unattended surveillance sen-
21 sors.

22 (G) A rapid reaction capability supported
23 by aviation assets.

24 (H) Man-portable unmanned aerial vehi-
25 cles.

1 (I) Improved agent communications capa-
2 bilities.

3 (9) RIO GRANDE VALLEY SECTOR.—For the Rio
4 Grande Valley sector, the following:

5 (A) Tower-based surveillance technology.

6 (B) Deployable, lighter-than-air ground
7 surveillance equipment.

8 (C) Increased flight hours for aerial detec-
9 tion, interdiction, and monitoring operations ca-
10 pability.

11 (D) Ultralight aircraft detection capability.

12 (E) Advanced unattended surveillance sen-
13 sors.

14 (F) Increased monitoring for cross-river
15 dams, culverts, footpaths.

16 (G) A rapid reaction capability supported
17 by aviation assets.

18 (H) Increased maritime interdiction capa-
19 bilities.

20 (I) Mobile vehicle-mounted and man-port-
21 able surveillance capabilities.

22 (J) Man-portable unmanned aerial vehi-
23 cles.

24 (K) Improved agent communications capa-
25 bilities.

1 (10) BLAINE SECTOR.—For the Blaine sector,
2 the following:

3 (A) Increased flight hours for aerial detec-
4 tion, interdiction, and monitoring operations ca-
5 pability.

6 (B) Coastal radar surveillance systems.

7 (C) Increased maritime interdiction capa-
8 bilities.

9 (D) Mobile vehicle-mounted and man-port-
10 able surveillance capabilities.

11 (E) Advanced unattended surveillance sen-
12 sors.

13 (F) Ultralight aircraft detection capabili-
14 ties.

15 (G) Man-portable unmanned aerial vehi-
16 cles.

17 (H) Improved agent communications capa-
18 bilities.

19 (11) SPOKANE SECTOR.—For the Spokane sec-
20 tor, the following:

21 (A) Increased flight hours for aerial detec-
22 tion, interdiction, and monitoring operations ca-
23 pability.

24 (B) Increased maritime interdiction capa-
25 bilities.

1 (C) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

3 (D) Advanced unattended surveillance sen-
4 sors.

5 (E) Ultralight aircraft detection capabili-
6 ties.

7 (F) Completion of six miles of the Bog
8 Creek road.

9 (G) Man-portable unmanned aerial vehi-
10 cles.

11 (H) Improved agent communications sys-
12 tems.

13 (12) HAVRE SECTOR.—For the Havre sector,
14 the following:

15 (A) Increased flight hours for aerial detec-
16 tion, interdiction, and monitoring operations ca-
17 pability.

18 (B) Mobile vehicle-mounted and man-port-
19 able surveillance capabilities.

20 (C) Advanced unattended surveillance sen-
21 sors.

22 (D) Ultralight aircraft detection capabili-
23 ties.

24 (E) Man-portable unmanned aerial vehi-
25 cles.

1 (F) Improved agent communications sys-
2 tems.

3 (13) GRAND FORKS SECTOR.—For the Grand
4 Forks sector, the following:

5 (A) Increased flight hours for aerial detec-
6 tion, interdiction, and monitoring operations ca-
7 pability.

8 (B) Mobile vehicle-mounted and man-port-
9 able surveillance capabilities.

10 (C) Advanced unattended surveillance sen-
11 sors.

12 (D) Ultralight aircraft detection capabili-
13 ties.

14 (E) Man-portable unmanned aerial vehi-
15 cles.

16 (F) Improved agent communications sys-
17 tems.

18 (14) DETROIT SECTOR.—For the Detroit sec-
19 tor, the following:

20 (A) Increased flight hours for aerial detec-
21 tion, interdiction, and monitoring operations ca-
22 pability.

23 (B) Coastal radar surveillance systems.

24 (C) Increased maritime interdiction capa-
25 bilities.

1 (D) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

3 (E) Advanced unattended surveillance sen-
4 sors.

5 (F) Ultralight aircraft detection capabili-
6 ties.

7 (G) Man-portable unmanned aerial vehi-
8 cles.

9 (H) Improved agent communications sys-
10 tems.

11 (15) BUFFALO SECTOR.—For the Buffalo sec-
12 tor, the following:

13 (A) Increased flight hours for aerial detec-
14 tion, interdiction, and monitoring operations ca-
15 pability.

16 (B) Coastal radar surveillance systems.

17 (C) Increased maritime interdiction capa-
18 bilities.

19 (D) Mobile vehicle-mounted and man-port-
20 able surveillance capabilities.

21 (E) Advanced unattended surveillance sen-
22 sors.

23 (F) Ultralight aircraft detection capabili-
24 ties.

1 (G) Man-portable unmanned aerial vehi-
2 cles.

3 (H) Improved agent communications sys-
4 tems.

5 (16) SWANTON SECTOR.—For the Swanton sec-
6 tor, the following:

7 (A) Increased flight hours for aerial detec-
8 tion, interdiction, and monitoring operations ca-
9 pability.

10 (B) Mobile vehicle-mounted and man-port-
11 able surveillance capabilities.

12 (C) Advanced unattended surveillance sen-
13 sors.

14 (D) Ultralight aircraft detection capabili-
15 ties.

16 (E) Man-portable unmanned aerial vehi-
17 cles.

18 (F) Improved agent communications sys-
19 tems.

20 (17) HOULTON SECTOR.—For the Houlton sec-
21 tor, the following:

22 (A) Increased flight hours for aerial detec-
23 tion, interdiction, and monitoring operations ca-
24 pability.

1 (B) Mobile vehicle-mounted and man-port-
2 able surveillance capabilities.

3 (C) Advanced unattended surveillance sen-
4 sors.

5 (D) Ultralight aircraft detection capabili-
6 ties.

7 (E) Man-portable unmanned aerial vehi-
8 cles.

9 (F) Improved agent communications sys-
10 tems.

11 (18) TRANSIT ZONE.—For the transit zone, the
12 following:

13 (A) Not later than 2 years after the date
14 of the enactment of this Act, an increase in the
15 number of overall cutter, boat, and aircraft
16 hours spent conducting interdiction operations
17 over the average number of such hours during
18 the preceding 3 fiscal years.

19 (B) Increased maritime signals intelligence
20 capabilities.

21 (C) To increase maritime domain aware-
22 ness—

23 (i) unmanned aerial vehicles with
24 maritime surveillance capability; and

1 (ii) increased maritime aviation patrol
2 hours.

3 (D) Increased operational hours for mari-
4 time security components dedicated to joint
5 counter-smuggling and interdiction efforts with
6 other Federal agencies, including the
7 Deployable Specialized Forces of the Coast
8 Guard.

9 (E) Coastal radar surveillance systems
10 with long range day and night cameras capable
11 of providing full maritime domain awareness of
12 the United States territorial waters surrounding
13 Puerto Rico, Mona Island, Desecheo Island,
14 Vieques Island, Culebra Island, Saint Thomas,
15 Saint John, and Saint Croix.

16 (b) REIMBURSEMENT RELATED TO THE LOWER RIO
17 GRANDE VALLEY FLOOD CONTROL PROJECT.—The
18 International Boundary and Water Commission is author-
19 ized to reimburse State and local governments for any ex-
20 penses incurred before, on, or after the date of the enact-
21 ment of this Act by such governments in designing, con-
22 structing, and rehabilitating the Lower Rio Grande Valley
23 Flood Control Project of the Commission.

24 (c) TACTICAL FLEXIBILITY.—

1 (1) SOUTHERN AND NORTHERN LAND BOR-
2 DERS.—

3 (A) IN GENERAL.—Beginning on Sep-
4 tember 30, 2022, or after the Secretary has de-
5 ployed at least 25 percent of the capabilities re-
6 quired in each sector specified in subsection (a),
7 whichever comes later, the Secretary may devi-
8 ate from such capability deployments if the Sec-
9 retary determines that such deviation is re-
10 quired to achieve situational awareness or oper-
11 ational control.

12 (B) NOTIFICATION.—If the Secretary exer-
13 cises the authority described in subparagraph
14 (A), the Secretary shall, not later than 90 days
15 after such exercise, notify the Committee on
16 Homeland Security and Governmental Affairs
17 of the Senate and the Committee on Homeland
18 Security of the House of Representatives re-
19 garding the deviation under such subparagraph
20 that is the subject of such exercise. Not later
21 than 90 days after the Secretary makes any
22 changes to such deviation, the Secretary shall
23 notify such committees regarding such change.

24 (2) TRANSIT ZONE.—

1 (A) NOTIFICATION.—The Secretary shall
2 notify the Committee on Homeland Security
3 and Governmental Affairs of the Senate, the
4 Committee on Commerce, Science, and Trans-
5 portation of the Senate, the Committee on
6 Homeland Security of the House of Representa-
7 tives, and the Committee on Transportation
8 and Infrastructure of the House of Representa-
9 tives regarding the capability deployments for
10 the transit zone specified in subsection (a)(18),
11 including information relating to—

12 (i) the number and types of assets
13 and personnel deployed; and

14 (ii) the impact such deployments have
15 on the capability of the Coast Guard to
16 conduct its mission in the transit zone re-
17 ferred to in subsection (a)(18).

18 (B) ALTERATION.—The Secretary may
19 alter the capability deployments referred to in
20 this section if the Secretary—

21 (i) determines, after consultation with
22 the committees referred to in subpara-
23 graph (A), that such alteration is nec-
24 essary; and

1 (ii) not later than 30 days after mak-
2 ing a determination under clause (i), noti-
3 fies the committees referred to in such
4 subparagraph regarding such alteration,
5 including information relating to—

6 (I) the number and types of as-
7 sets and personnel deployed pursuant
8 to such alteration; and

9 (II) the impact such alteration
10 has on the capability of the Coast
11 Guard to conduct its mission in the
12 transit zone referred to in subsection
13 (a)(18).

14 (d) EXIGENT CIRCUMSTANCES.—

15 (1) IN GENERAL.—Notwithstanding subsection
16 (b), the Secretary may deploy the capabilities re-
17 ferred to in subsection (a) in a manner that is incon-
18 sistent with the requirements specified in such sub-
19 section if, after the Secretary has deployed at least
20 25 percent of such capabilities in each sector, the
21 Secretary determines that exigent circumstances de-
22 mand such an inconsistent deployment or that such
23 an inconsistent deployment is vital to the national
24 security interests of the United States.

1 (2) NOTIFICATION.—Not later than 30 days
2 after making a determination under paragraph (1),
3 the Secretary shall notify the Committee on Home-
4 land Security of the House of Representatives and
5 the Committee on Homeland Security and Govern-
6 mental Affairs of the Senate of such determination
7 and include, in such notification, a detailed justifica-
8 tion for such determination.

9 **SEC. 1115. DEPLOYMENT OF ASSETS.**

10 (a) JOINT BRIEFING.—Not later than March 1 of
11 each year, the Secretary (or the Secretary’s designees)
12 shall conduct a joint, comprehensive briefing for all Mem-
13 bers of the appropriate congressional committees on the
14 deployment of Department of Homeland Security per-
15 sonnel and assets along the borders of the United States.

16 (b) CONTENT.—Each briefing conducted pursuant to
17 subsection (a) shall include—

18 (1) the number and types of assets and per-
19 sonnel to be deployed in each sector and district;

20 (2) the cause for any change in deployments of
21 assets and personnel in each sector and district; and

22 (3) the anticipated impact that such deploy-
23 ments or change in deployments will have in terms
24 of the capacity of the Department of Homeland Se-

1 security to conduct its mission in each sector or dis-
2 trict.

3 **SEC. 1116. U.S. BORDER PATROL ACTIVITIES.**

4 The Chief of the U.S. Border Patrol shall prioritize
5 the deployment of U.S. Border Patrol agents to as close
6 to the physical land border as possible, consistent with
7 border security enforcement priorities and accessibility to
8 such areas.

9 **SEC. 1117. BORDER SECURITY TECHNOLOGY PROGRAM**
10 **MANAGEMENT.**

11 (a) IN GENERAL.—Subtitle C of title IV of the
12 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.)
13 is amended by adding at the end the following:

14 **“SEC. 434. BORDER SECURITY TECHNOLOGY PROGRAM**
15 **MANAGEMENT.**

16 “(a) MAJOR ACQUISITION PROGRAM DEFINED.—In
17 this section, the term ‘major acquisition program’ means
18 an acquisition program of the Department that the Sec-
19 retary estimates will require a total life cycle cost of at
20 least \$300,000,000 (based on fiscal year 2017 constant
21 dollars).

22 “(b) PLANNING DOCUMENTATION.—For each border
23 security technology acquisition program of the Depart-
24 ment that is a major acquisition program, the Secretary
25 shall—

1 “(1) ensure that such program has a written
2 acquisition program baseline approved by the rel-
3 evant acquisition decision authority;

4 “(2) document that such program is meeting
5 cost, schedule, and performance thresholds as speci-
6 fied in such baseline, in compliance with relevant de-
7 partmental acquisition policies and the Federal Ac-
8 quisition Regulation; and

9 “(3) have a plan for meeting program imple-
10 mentation objectives by managing contractor per-
11 formance.

12 “(c) ADHERENCE TO STANDARDS.—The Secretary,
13 acting through the Under Secretary for Management and
14 the Commissioner of U.S. Customs and Border Protection,
15 shall ensure border security technology acquisition pro-
16 gram managers who are responsible for carrying out this
17 section adhere to relevant internal control standards iden-
18 tified by the Comptroller General of the United States.
19 The Commissioner shall provide information, as needed,
20 to assist the Under Secretary in monitoring management
21 of border security technology acquisition programs under
22 this section.

23 “(d) PLAN.—The Secretary, acting through the
24 Under Secretary for Management, in coordination with
25 the Under Secretary for Science and Technology and the

1 Commissioner of U.S. Customs and Border Protection,
2 shall submit to the appropriate congressional committees
3 a plan for testing, evaluating, and using independent
4 verification and validation resources for border security
5 technology. Under the plan, new border security tech-
6 nologies shall be evaluated through a series of assess-
7 ments, processes, and audits to ensure—

8 “(1) compliance with relevant departmental ac-
9 quisition policies and the Federal Acquisition Regu-
10 lation; and

11 “(2) the effective use of taxpayer dollars.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 in section 1(b) of the Homeland Security Act of 2002 is
14 amended by inserting after the item relating to section
15 433 the following:

“Sec. 434. Border security technology program management.”.

16 (c) PROHIBITION ON ADDITIONAL AUTHORIZATION
17 OF APPROPRIATIONS.—No additional funds are author-
18 ized to be appropriated to carry out section 434 of the
19 Homeland Security Act of 2002, as added by subsection
20 (a). Such section shall be carried out using amounts other-
21 wise authorized for such purposes.

1 **SEC. 1118. NATIONAL GUARD SUPPORT TO SECURE THE**
2 **SOUTHERN BORDER AND REIMBURSEMENT**
3 **OF STATES FOR DEPLOYMENT OF THE NA-**
4 **TIONAL GUARD AT THE SOUTHERN BORDER.**

5 (a) IN GENERAL.—With the approval of the Sec-
6 retary and the Secretary of Defense, the Governor of a
7 State may order any units or personnel of the National
8 Guard of such State to perform operations and missions
9 under section 502(f) of title 32, United States Code, along
10 the southern border for the purposes of assisting U.S.
11 Customs and Border Protection to achieve situational
12 awareness and operational control of the border.

13 (b) ASSIGNMENT OF OPERATIONS AND MISSIONS.—

14 (1) IN GENERAL.—National Guard units and
15 personnel deployed under subsection (a) may be as-
16 signed such operations and missions specified in sub-
17 section (c) as may be necessary to secure the south-
18 ern border.

19 (2) NATURE OF DUTY.—The duty of National
20 Guard personnel performing operations and missions
21 described in paragraph (1) shall be full-time duty
22 under title 32, United States Code.

23 (c) RANGE OF OPERATIONS AND MISSIONS.—The op-
24 erations and missions assigned under subsection (b) shall
25 include the temporary authority to—

1 (1) construct reinforced fencing or other phys-
2 ical barriers;

3 (2) operate ground-based surveillance systems;

4 (3) operate unmanned and manned aircraft;

5 (4) provide radio communications interoper-
6 ability between U.S. Customs and Border Protection
7 and State, local, and tribal law enforcement agen-
8 cies;

9 (5) construct checkpoints along the Southern
10 border to bridge the gap to long-term permanent
11 checkpoints; and

12 (6) provide intelligence support.

13 (d) MATERIEL AND LOGISTICAL SUPPORT.—The
14 Secretary of Defense shall deploy such materiel, equip-
15 ment, and logistical support as may be necessary to ensure
16 success of the operations and missions conducted by the
17 National Guard under this section.

18 (e) REIMBURSEMENT REQUIRED.—

19 (1) IN GENERAL.—The Secretary of Defense
20 shall reimburse States for the cost of the deployment
21 of any units or personnel of the National Guard to
22 perform operations and missions in full-time State
23 Active Duty in support of a southern border mission.
24 The Secretary of Defense may not seek reimburse-

1 ment from the Secretary for any reimbursements
2 paid to States for the costs of such deployments.

3 (2) LIMITATION.—The total amount of reim-
4 bursements under this section may not exceed
5 \$35,000,000 in any fiscal year.

6 **SEC. 1119. OPERATION PHALANX.**

7 (a) IN GENERAL.—The Secretary of Defense, with
8 the concurrence of the Secretary, shall provide assistance
9 to U.S. Customs and Border Protection for purposes of
10 increasing ongoing efforts to secure the southern border.

11 (b) TYPES OF ASSISTANCE AUTHORIZED.—The as-
12 sistance provided under subsection (a) may include—

13 (1) deployment of manned aircraft, unmanned
14 aerial surveillance systems, and ground-based sur-
15 veillance systems to support continuous surveillance
16 of the southern border; and

17 (2) intelligence analysis support.

18 (c) MATERIEL AND LOGISTICAL SUPPORT.—The Sec-
19 retary of Defense may deploy such materiel, equipment,
20 and logistics support as may be necessary to ensure the
21 effectiveness of the assistance provided under subsection
22 (a).

23 (d) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for the Department of
25 Defense \$75,000,000 to provide assistance under this sec-

1 tion. The Secretary of Defense may not seek reimburse-
2 ment from the Secretary for any assistance provided under
3 this section.

4 (e) REPORTS.—

5 (1) IN GENERAL.—Not later than 90 days after
6 the date of the enactment of this Act and annually
7 thereafter, the Secretary of Defense shall submit a
8 report to the appropriate congressional defense com-
9 mittees (as defined in section 101(a)(16) of title 10,
10 United States Code) regarding any assistance pro-
11 vided under subsection (a) during the period speci-
12 fied in paragraph (3).

13 (2) ELEMENTS.—Each report under paragraph
14 (1) shall include, for the period specified in para-
15 graph (3), a description of—

16 (A) the assistance provided;

17 (B) the sources and amounts of funds used
18 to provide such assistance; and

19 (C) the amounts obligated to provide such
20 assistance.

21 (3) PERIOD SPECIFIED.—The period specified
22 in this paragraph is—

23 (A) in the case of the first report required
24 under paragraph (1), the 90-day period begin-

1 ning on the date of the enactment of this Act;

2 and

3 (B) in the case of any subsequent report
4 submitted under paragraph (1), the calendar
5 year for which the report is submitted.

6 **SEC. 1120. MERIDA INITIATIVE.**

7 (a) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that assistance to Mexico, including assistance from
9 the Department of State and the Department of Defense
10 and any aid related to the Merida Initiative—

11 (1) should be focused on providing enhanced
12 border security at Mexico’s northern and southern
13 borders, judicial reform, and support for Mexico’s
14 anti-drug efforts; and

15 (2) should return to its original focus and
16 prioritize security, training, and acquisition of equip-
17 ment for Mexican security forces involved in anti-
18 drug efforts as well as be used to train prosecutors
19 in ongoing justice reform efforts.

20 (b) ASSISTANCE FOR MEXICO.—The Secretary of
21 State, in coordination with the Secretary and the Sec-
22 retary of Defense, shall provide level and consistent assist-
23 ance to Mexico—

1 (1) to combat drug production and trafficking
2 and related violence, transnational organized crimi-
3 nal organizations, and corruption;

4 (2) to build a secure, modern border security
5 system capable of preventing illegal migration;

6 (3) to support border security and cooperation
7 with United States military, intelligence, and law en-
8 forcement agencies on border incursions;

9 (4) to support judicial reform, institution build-
10 ing, and rule of law activities to build judicial capac-
11 ity, address corruption and impunity, and support
12 human rights; and

13 (5) to provide for training and equipment for
14 Mexican security forces involved in efforts to eradi-
15 cate and interdict drugs.

16 (c) ALLOCATION OF FUNDS; REPORT.—

17 (1) IN GENERAL.—Notwithstanding any other
18 provision of law, 50 percent of any assistance appro-
19 priated in any appropriations Act to implement this
20 section shall be withheld until after the Secretary of
21 State submits a written report to the congressional
22 committees specified in paragraph (3) certifying that
23 the Government of Mexico is—

24 (A) significantly reducing illegal migration,
25 drug trafficking, and cross-border criminal ac-

1 activities on Mexico's northern and southern bor-
2 ders;

3 (B) taking significant action to address
4 corruption, impunity, and human rights abuses;
5 and

6 (C) improving the transparency and ac-
7 countability of Mexican Federal police forces
8 and working with Mexican State and municipal
9 authorities to improve the transparency and ac-
10 countability of Mexican State and municipal po-
11 lice forces.

12 (2) MATTERS TO INCLUDE.—The report re-
13 quired under paragraph (1) shall include a descrip-
14 tion of—

15 (A) actions taken by the Government of
16 Mexico to address the matters described in such
17 paragraph;

18 (B) any relevant assessments by civil soci-
19 ety and non-government organizations in Mex-
20 ico relating to such matters; and

21 (C) any instances in which the Secretary
22 determines that the actions taken by the Gov-
23 ernment of Mexico are inadequate to address
24 such matters.

1 (3) CONGRESSIONAL COMMITTEES SPECI-
2 FIED.—The congressional committees specified in
3 this paragraph are—

4 (A) the Committee on Appropriations of
5 the Senate;

6 (B) the Committee on Homeland Security
7 and Governmental Affairs of the Senate;

8 (C) the Committee on the Judiciary of the
9 Senate;

10 (D) the Committee on Foreign Relations of
11 the Senate;

12 (E) the Committee on Appropriations of
13 the House of Representatives;

14 (F) the Committee on Homeland Security
15 of the House of Representatives;

16 (G) the Committee on the Judiciary of the
17 House of Representatives; and

18 (H) the Committee on Foreign Affairs of
19 the House of Representatives.

20 (d) NOTIFICATIONS.—Any assistance made available
21 by the Secretary of State under this section shall be sub-
22 ject to—

23 (1) the notification procedures set forth in sec-
24 tion 634A of the Foreign Assistance Act of 1961 (22
25 U.S.C. 2394–1); and

1 (2) the notification requirements of—

2 (A) the Committee on Homeland Security
3 and Governmental Affairs of the Senate;

4 (B) the Committee on the Judiciary of the
5 Senate;

6 (C) the Committee on Foreign Relations of
7 the Senate;

8 (D) the Committee on Homeland Security
9 of the House of Representatives;

10 (E) the Committee on the Judiciary of the
11 House of Representatives; and

12 (F) the Committee on Foreign Affairs of
13 the House of Representatives.

14 (e) SPENDING PLAN.—Not later than 60 days after
15 the date of the enactment of this Act, the Secretary of
16 State shall submit, to the congressional committees speci-
17 fied in subsection (c)(3), a detailed spending plan for as-
18 sistance to Mexico under this section, which shall include
19 a strategy, developed after consulting with relevant au-
20 thorities of the Government of Mexico, for—

21 (1) combating drug trafficking and related vio-
22 lence and organized crime; and

23 (2) anti-corruption and rule of law activities,
24 which shall include concrete goals, actions to be

1 taken, budget proposals, and a description of antici-
2 pated results.

3 **SEC. 1121. PROHIBITIONS ON ACTIONS THAT IMPEDE BOR-**
4 **DER SECURITY ON CERTAIN FEDERAL LAND.**

5 (a) PROHIBITION ON INTERFERENCE WITH U.S.
6 CUSTOMS AND BORDER PROTECTION.—

7 (1) IN GENERAL.—The Secretary concerned
8 shall not impede, prohibit, or restrict activities of
9 U.S. Customs and Border Protection on covered
10 Federal land to carry out the activities described in
11 subsection (b).

12 (2) APPLICABILITY.—The authority of U.S.
13 Customs and Border Protection to conduct activities
14 described in subsection (b) on covered Federal land
15 applies without regard to whether a state of emer-
16 gency exists.

17 (b) AUTHORIZED ACTIVITIES OF U.S. CUSTOMS AND
18 BORDER PROTECTION.—

19 (1) IN GENERAL.—U.S. Customs and Border
20 Protection shall have immediate access to covered
21 Federal land to conduct the activities described in
22 paragraph (2) on such land to prevent all unlawful
23 entries into the United States, including entries by
24 terrorists, unlawful aliens, instruments of terrorism,

1 narcotics, and other contraband through the south-
2 ern border or the northern border.

3 (2) ACTIVITIES DESCRIBED.—The activities de-
4 scribed in this paragraph are—

5 (A) the use of motorized vehicles, foot pa-
6 trols, and horseback to patrol the border area,
7 apprehend illegal entrants, and rescue individ-
8 uals; and

9 (B) the design, testing, construction, in-
10 stallation, deployment, and operation of phys-
11 ical barriers, tactical infrastructure, and tech-
12 nology pursuant to section 102 of the Illegal
13 Immigration Reform and Immigrant Responsi-
14 bility Act of 1996, as amended by section 1111.

15 (c) CLARIFICATION RELATING TO WAIVER AUTHOR-
16 ITY.—

17 (1) IN GENERAL.—The activities of U.S. Cus-
18 toms and Border Protection described in subsection
19 (b)(2) may be carried out without regard to the pro-
20 visions of law specified in paragraph (2).

21 (2) PROVISIONS OF LAW SPECIFIED.—The pro-
22 visions of law specified in this paragraph are all
23 Federal, State, or other laws, regulations, and legal
24 requirements of, deriving from, or related to the sub-
25 ject of, the following laws:

1 (A) The National Environmental Policy
2 Act of 1969 (42 U.S.C. 4321 et seq.).

3 (B) The Endangered Species Act of 1973
4 (16 U.S.C. 1531 et seq.).

5 (C) The Federal Water Pollution Control
6 Act (33 U.S.C. 1251 et seq.) (commonly re-
7 ferred to as the “Clean Water Act”).

8 (D) Division A of subtitle III of title 54,
9 United States Code (54 U.S.C. 300301 et seq.)
10 (formerly known as the “National Historic
11 Preservation Act”).

12 (E) The Migratory Bird Treaty Act (16
13 U.S.C. 703 et seq.).

14 (F) The Clean Air Act (42 U.S.C. 7401 et
15 seq.).

16 (G) The Archaeological Resources Protec-
17 tion Act of 1979 (16 U.S.C. 470aa et seq.).

18 (H) The Safe Drinking Water Act (42
19 U.S.C. 300f et seq.).

20 (I) The Noise Control Act of 1972 (42
21 U.S.C. 4901 et seq.).

22 (J) The Solid Waste Disposal Act (42
23 U.S.C. 6901 et seq.).

1 (K) The Comprehensive Environmental
2 Response, Compensation, and Liability Act of
3 1980 (42 U.S.C. 9601 et seq.).

4 (L) Chapter 3125 of title 54, United
5 States Code (formerly known as the “Archeo-
6 logical and Historic Preservation Act”).

7 (M) The Antiquities Act (16 U.S.C. 431 et
8 seq.).

9 (N) Chapter 3203 of title 54, United
10 States Code (formerly known as the “Historic
11 Sites, Buildings, and Antiquities Act”).

12 (O) The Wild and Scenic Rivers Act (16
13 U.S.C. 1271 et seq.).

14 (P) The Farmland Protection Policy Act
15 (7 U.S.C. 4201 et seq.).

16 (Q) The Coastal Zone Management Act of
17 1972 (16 U.S.C. 1451 et seq.).

18 (R) The Wilderness Act (16 U.S.C. 1131
19 et seq.).

20 (S) The Federal Land Policy and Manage-
21 ment Act of 1976 (43 U.S.C. 1701 et seq.).

22 (T) The National Wildlife Refuge System
23 Administration Act of 1966 (16 U.S.C. 668dd
24 et seq.).

1 (U) The Fish and Wildlife Act of 1956 (16
2 U.S.C. 742a et seq.).

3 (V) The Fish and Wildlife Coordination
4 Act (16 U.S.C. 661 et seq.).

5 (W) Subchapter II of chapter 5, and chap-
6 ter 7, of title 5, United States Code (commonly
7 known as the “Administrative Procedure Act”).

8 (X) The Otay Mountain Wilderness Act of
9 1999 (Public Law 106–145).

10 (Y) Sections 102(29) and 103 of the Cali-
11 fornia Desert Protection Act of 1994 (Public
12 Law 103–433).

13 (Z) Division A of subtitle I of title 54,
14 United States Code (formerly known as the
15 “National Park Service Organic Act”).

16 (AA) The National Park Service General
17 Authorities Act (Public Law 91–383, 16 U.S.C.
18 1a–1 et seq.).

19 (BB) Sections 401(7), 403, and 404 of the
20 National Parks and Recreation Act of 1978
21 (Public Law 95–625).

22 (CC) Sections 301(a) through (f) of the
23 Arizona Desert Wilderness Act (Public Law
24 101–628).

1 (DD) The Rivers and Harbors Act of 1899
2 (33 U.S.C. 403).

3 (EE) The Eagle Protection Act (16 U.S.C.
4 668 et seq.).

5 (FF) The Native American Graves Protec-
6 tion and Repatriation Act (25 U.S.C. 3001 et
7 seq.).

8 (GG) The American Indian Religious Free-
9 dom Act (42 U.S.C. 1996).

10 (HH) The Religious Freedom Restoration
11 Act (42 U.S.C. 2000bb).

12 (II) The National Forest Management Act
13 of 1976 (16 U.S.C. 1600 et seq.).

14 (JJ) The Multiple Use and Sustained
15 Yield Act of 1960 (16 U.S.C. 528 et seq.).

16 (3) APPLICABILITY OF WAIVER TO SUCCESSOR
17 LAWS.—If a provision of law specified in paragraph
18 (2) was repealed and incorporated into title 54,
19 United States Code, after April 1, 2008, and before
20 the date of the enactment of this Act, the waiver de-
21 scribed in paragraph (1) shall apply to the provision
22 of such title that corresponds to the provision of law
23 specified in paragraph (2) to the same extent the
24 waiver applied to that provision of law.

1 (4) SAVINGS CLAUSE.—The waiver authority
2 under this subsection may not be construed as af-
3 fecting, negating, or diminishing in any manner the
4 applicability of section 552 of title 5, United States
5 Code (commonly referred to as the “Freedom of In-
6 formation Act”), in any relevant matter.

7 (d) PROTECTION OF LEGAL USES.—Nothing in this
8 section may be construed to provide—

9 (1) authority to restrict legal uses, such as
10 grazing, hunting, mining, or recreation or the use of
11 backcountry airstrips, on land under the jurisdiction
12 of the Secretary of the Interior or the Secretary of
13 Agriculture; or

14 (2) any additional authority to restrict legal ac-
15 cess to such land.

16 (e) EFFECT ON STATE AND PRIVATE LAND.—This
17 section shall have no force or effect on State lands or pri-
18 vate lands and shall not provide authority, on or access
19 to, State lands or private lands.

20 (f) TRIBAL SOVEREIGNTY.—Nothing in this section
21 may be construed to supersede, replace, negate, or dimin-
22 ish treaties or other agreements between the United States
23 and Indian tribes.

24 (g) MEMORANDA OF UNDERSTANDING.—The re-
25 quirements under this section shall not apply to the extent

1 that such requirements are incompatible with any memo-
2 randum of understanding or similar agreement entered
3 into between the Commissioner of U.S. Customs and Bor-
4 der Protection and a National Park Unit before, on, or
5 after the date of the enactment of this Act.

6 (h) DEFINITIONS.—In this section:

7 (1) COVERED FEDERAL LAND.—The term “cov-
8 ered Federal land” includes all land under the con-
9 trol of the Secretary concerned that is located within
10 100 miles of the southern border or the northern
11 border.

12 (2) SECRETARY CONCERNED.—The term “Sec-
13 retary concerned” means—

14 (A) with respect to land under the jurisdic-
15 tion of the Department of Agriculture, the Sec-
16 retary of Agriculture; and

17 (B) with respect to land under the jurisdic-
18 tion of the Department of the Interior, the Sec-
19 retary of the Interior.

20 **SEC. 1122. LANDOWNER AND RANCHER SECURITY EN-**
21 **HANCEMENT.**

22 (a) ESTABLISHMENT OF NATIONAL BORDER SECU-
23 RITY ADVISORY COMMITTEE.—The Secretary shall estab-
24 lish a National Border Security Advisory Committee,
25 which—

1 (1) may advise, consult with, report to, and
2 make recommendations to the Secretary on matters
3 relating to border security matters, including—

4 (A) verifying security claims and the bor-
5 der security metrics established by the Depart-
6 ment of Homeland Security under section 1092
7 of the National Defense Authorization Act for
8 Fiscal Year 2017 (Public Law 114–328; 6
9 U.S.C. 223); and

10 (B) discussing ways to improve the secu-
11 rity of high traffic areas along the northern
12 border and the southern border; and

13 (2) may provide, through the Secretary, rec-
14 ommendations to Congress.

15 (b) CONSIDERATION OF VIEWS.—The Secretary shall
16 consider the information, advice, and recommendations of
17 the National Border Security Advisory Committee in for-
18 mulating policy regarding matters affecting border secu-
19 rity.

20 (c) MEMBERSHIP.—The National Border Security
21 Advisory Committee shall consist of at least 1 member
22 from each State who—

23 (1) has at least 5 years practical experience in
24 border security operations; or

1 (2) lives and works in the United States within
2 80 miles of the southern border or within 80 miles
3 of the northern border.

4 (d) NONAPPLICABILITY OF FEDERAL ADVISORY
5 COMMITTEE ACT.—The Federal Advisory Committee Act
6 (5 U.S.C. App.) shall not apply to the National Border
7 Security Advisory Committee.

8 **SEC. 1123. LIMITATION ON LAND OWNER'S LIABILITY.**

9 Section 287 of the Immigration and Nationality Act
10 (8 U.S.C. 1357) is amended by adding at the end the fol-
11 lowing:

12 “(i) INDEMNITY FOR ACTIONS OF LAW ENFORCE-
13 MENT OFFICERS.—

14 “(1) DEFINITIONS.—In this subsection—

15 “(A) the term ‘land’ includes roads, water,
16 watercourses, and private ways, and buildings,
17 structures, machinery, and equipment that is
18 attached to real property; and

19 “(B) the term ‘owner’ includes the pos-
20 sessor of a fee interest, a tenant, a lessee, an
21 occupant, the possessor of any other interest in
22 land, and any person having a right to grant
23 permission to use the land.

24 “(2) REIMBURSEMENT AUTHORIZED.—Notwith-
25 standing any other provision of law, and subject to

1 the availability of appropriations, any owner of land
2 located in the United States within 150 miles of the
3 southern border of the United States may seek reim-
4 bursement from the Department and the Secretary
5 shall pay for any adverse final tort judgment for
6 negligence (excluding attorneys' fees and costs) au-
7 thorized under Federal or State tort law, arising di-
8 rectly from any border patrol action, such as appre-
9 hensions, tracking, and detention of aliens, that is
10 conducted on privately-owned land if—

11 “(A) such land owner has been found neg-
12 ligent by a Federal or State court in any tort
13 litigation;

14 “(B) such land owner has not already been
15 reimbursed for the final tort judgment, includ-
16 ing outstanding attorneys' fees and costs;

17 “(C) such land owner did not have or does
18 not have sufficient property insurance to cover
19 the judgment and has had an insurance claim
20 for such coverage denied; and

21 “(D) such tort action was brought against
22 such land owner as a direct result of activity of
23 law enforcement officers of the Department of
24 Homeland Security, acting in their official ca-
25 pacity, on the owner's land.

1 “(3) EXCEPTIONS.—Nothing in this subsection
2 may be construed to require the Secretary to reim-
3 burse a land owner under paragraph (2) for any ad-
4 verse final tort judgment for negligence or to limit
5 land owner liability which would otherwise exist
6 for—

7 “(A) willful or malicious failure to guard
8 or warn against a known dangerous condition,
9 use, structure, or activity likely to cause harm;

10 “(B) maintaining an attractive nuisance;

11 “(C) gross negligence; or

12 “(D) direct interference with, or hindrance
13 of, any agent or officer of the Federal Govern-
14 ment who is authorized to enforce the immigra-
15 tion laws during—

16 “(i) a patrol of such landowner’s land;
17 or

18 “(ii) any action taken to apprehend or
19 detain any alien attempting to enter the
20 United States illegally or to evade execu-
21 tion of an arrest warrant for a violation of
22 any immigration law.

23 “(4) SAVINGS PROVISION.—Nothing in this sub-
24 section may be construed to affect any right or rem-
25 edy available pursuant to chapter 171 of title 28,

1 United States Code (commonly known as the ‘Fed-
2 eral Tort Claims Act’).”.

3 **SEC. 1124. ERADICATION OF CARRIZO CANE AND SALT**
4 **CEDAR.**

5 Not later than September 30, 2022, the Secretary,
6 after coordinating with the heads of the relevant Federal,
7 State, and local agencies, shall begin eradicating the
8 carrizo cane plant and any salt cedar along the Rio
9 Grande River.

10 **SEC. 1125. PREVENTION, DETECTION, CONTROL, AND**
11 **ERADICATION OF DISEASES AND PESTS.**

12 (a) DEFINITIONS.—In this section:

13 (1) ANIMAL.—The term “animal” means any
14 member of the animal kingdom (except a human).

15 (2) ARTICLE.—The term “article” means any
16 pest or disease or any material or tangible object
17 that could harbor a pest or disease.

18 (3) DISEASE.—The term “disease” has the
19 meaning given such term by the Secretary of Agri-
20 culture.

21 (4) LIVESTOCK.—The term “livestock” means
22 all farm-raised animals.

23 (5) MEANS OF CONVEYANCE.—The term
24 “means of conveyance” means any personal property

1 used for, or intended for use for, the movement of
2 any other personal property.

3 (6) PEST.—The term “pest” means any of the
4 following that can directly or indirectly injure, cause
5 damage to, or cause disease in human livestock, a
6 plant, or a plant part:

7 (A) A protozoan.

8 (B) A plant or plant part.

9 (C) An animal.

10 (D) A bacterium.

11 (E) A fungus.

12 (F) A virus or viroid.

13 (G) An infectious agent or other pathogen.

14 (H) An arthropod.

15 (I) A parasite or parasitic plant.

16 (J) A prion.

17 (K) A vector.

18 (L) Any organism similar to or allied with
19 any of the organisms described in this para-
20 graph.

21 (7) PLANT.—The term “plant” means any
22 plant (including any plant part) capable of propaga-
23 tion, including a tree, a tissue culture, a plantlet cul-
24 ture, pollen, a shrub, a vine, a cutting, a graft, a
25 scion, a bud, a bulb, a root, and a seed.

1 (8) STATE.—The term “State” means any of
2 the several States, the District of Columbia, the
3 Commonwealth of Puerto Rico, Guam, the Common-
4 wealth of the Northern Mariana Islands, the Virgin
5 Islands of the United States, and any territory or
6 possession of the United States.

7 (b) DETECTION, CONTROL, AND ERADICATION OF
8 THE SPREAD OF DISEASES AND PESTS.—

9 (1) IN GENERAL.—The Secretary of Agriculture
10 may carry out operations and measures to prevent,
11 detect, control, or eradicate the spread of any pest
12 or disease of livestock or plant that threatens any
13 segment of agriculture.

14 (2) COMPENSATION.—

15 (A) IN GENERAL.—The Secretary of Agri-
16 culture may pay a claim arising out of—

17 (i) the destruction of any animal,
18 plant, plant part, article, or means of con-
19 veyance consistent with the purposes of
20 this section; and

21 (ii) implementing measures to pre-
22 vent, detect, control, or eradicate the
23 spread of any pest disease of livestock or
24 plant that threatens any segment of agri-
25 culture.

1 (B) SPECIFIC COOPERATIVE PROGRAMS.—

2 The Secretary of Agriculture shall compensate
3 industry participants and State agencies that
4 cooperate with the Secretary of Agriculture in
5 carrying out operations and measures under
6 this subsection for up to 100 percent of eligible
7 costs relating to—

8 (i) cooperative programs involving
9 Federal, State, or industry participants to
10 control diseases of low or high pathoge-
11 nicity and pests in accordance with regula-
12 tions issued by the Secretary of Agri-
13 culture; and

14 (ii) the construction and operation of
15 research laboratories, quarantine stations,
16 and other buildings and facilities for spe-
17 cial purposes.

18 (C) REVIEWABILITY.—The action of any
19 officer, employee, or agent of the Secretary of
20 Agriculture under paragraph (1) shall not be
21 subject to review by any officer or employee of
22 the Federal Government other than the Sec-
23 retary of Agriculture or a designee of the Sec-
24 retary of Agriculture.

25 (c) COOPERATION.—

1 (1) IN GENERAL.—In carrying out this section,
2 the Secretary of Agriculture may cooperate with
3 other Federal agencies, States, State agencies, polit-
4 ical subdivisions of States, national and local govern-
5 ments of foreign countries, domestic and inter-
6 national organizations and associations, domestic
7 nonprofit corporations, Indian tribes, and other per-
8 sons.

9 (2) RESPONSIBILITY.—The person or other en-
10 tity cooperating with the Secretary of Agriculture
11 shall be responsible for the authority necessary to
12 carry out operations or measures—

13 (A) on all land and property within a for-
14 eign country or State, or under the jurisdiction
15 of an Indian tribe, other than on land and
16 property owned or controlled by the United
17 States; and

18 (B) using other facilities and means, as de-
19 termined by the Secretary of Agriculture.

20 (d) FUNDING.—For fiscal year 2018, and for each
21 subsequent fiscal year, the Secretary of Agriculture shall
22 use such amounts from the Commodity Credit Cooperation
23 as may be necessary to carry out operations and measures
24 to prevent, detect, control, or eradicate the spread of any

1 pest or disease of livestock or plant that threatens any
2 segment of agriculture.

3 (e) REIMBURSEMENT.—The Secretary of Agriculture
4 shall reimburse any Federal agency, State, State agency,
5 political subdivision of a State, national or local govern-
6 ment of a foreign country, domestic or international orga-
7 nization or association, domestic nonprofit corporation,
8 Indian tribe, or other person for specified costs, as pre-
9 scribed by the Secretary of Agriculture, in the discretion
10 of the Secretary of Agriculture, that result from coopera-
11 tion with the Secretary of Agriculture in carrying out op-
12 erations and measures under this section.

13 **SEC. 1126. TRANSNATIONAL CRIMINAL ORGANIZATION IL-**
14 **LICIT SPOTTER PREVENTION AND DETEC-**
15 **TION.**

16 (a) UNLAWFULLY HINDERING IMMIGRATION, BOR-
17 DER, AND CUSTOMS CONTROLS.—

18 (1) ENHANCED PENALTIES.—Chapter 9 of title
19 II of the Immigration and Nationality Act (8 U.S.C.
20 1351 et seq.) is amended by adding at the end the
21 following:

22 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION, BOR-**
23 **DER, AND CUSTOMS CONTROLS.**

24 “(a) ILLICIT SPOTTING.—Any person who knowingly
25 transmits, by any means, to another person the location,

1 movement, or activities of any Federal, State, local, or
2 tribal law enforcement agency or officer with the intent
3 to further a Federal crime relating to United States immi-
4 gration, customs, controlled substances, agriculture, mon-
5 etary instruments, or other border controls shall be fined
6 under title 18, imprisoned not more than 10 years, or
7 both.

8 “(b) DESTRUCTION OF UNITED STATES BORDER
9 CONTROLS.—Any person who knowingly and without law-
10 ful authorization destroys, alters, or damages any fence,
11 barrier, sensor, camera, or other physical or electronic de-
12 vice deployed by the Federal Government to control the
13 border or a port of entry or otherwise seeks to construct,
14 excavate, or make any structure intended to defeat, cir-
15 cumvent, or evade any such fence, barrier, sensor camera,
16 or other physical or electronic device deployed by the Fed-
17 eral Government to control the border or a port of entry—

18 “(1) shall be fined under title 18, imprisoned
19 not more than 10 years, or both; and

20 “(2) if, at the time of the offense, the person
21 uses or carries a firearm or who, in furtherance of
22 any such crime, possesses a firearm, shall be fined
23 under title 18, imprisoned not more than 20 years,
24 or both.

1 “(c) CONSPIRACY AND ATTEMPT.—Any person who
2 attempts or conspires to violate subsection (a) or (b) shall
3 be punished in the same manner as a person who com-
4 pletes a violation of such subsection.”.

5 (2) CLERICAL AMENDMENT.—The table of con-
6 tents in the first section of the Immigration and Na-
7 tionality Act is amended by inserting after the item
8 relating to section 294 the following:

“Sec. 295. Unlawfully hindering immigration, border, and customs controls.”.

9 (b) CARRYING OR USING A FIREARM DURING AND
10 IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section
11 924(c) of title 18, United States Code, is amended—

12 (1) in paragraph (1)—

13 (A) in subparagraph (A), by inserting “,
14 alien smuggling crime,” after “crime of vio-
15 lence” each place that term appears; and

16 (B) in subparagraph (D)(ii), by inserting
17 “, alien smuggling crime,” after “crime of vio-
18 lence”;

19 (2) by striking paragraphs (2) through (4);

20 (3) by redesignating paragraph (5) as para-
21 graph (2); and

22 (4) by adding at the end the following:

23 “(3) For purposes of this subsection—

24 “(A) the term ‘alien smuggling crime’ means
25 any felony punishable under section 274(a), 277, or

1 278 of the Immigration and Nationality Act (8
2 U.S.C. 1324(a), 1327, and 1328);

3 “(B) the term ‘brandish’ means, with respect to
4 a firearm, to display all or part of the firearm, or
5 otherwise make the presence of the firearm known
6 to another person, in order to intimidate that per-
7 son, regardless of whether the firearm is directly
8 visible to that person;

9 “(C) the term ‘crime of violence’ means a felony
10 offense that—

11 “(i) has as an element the use, attempted
12 use, or threatened use of physical force against
13 the person or property of another; or

14 “(ii) by its nature, involves a substantial
15 risk that physical force against the person or
16 property of another may be used in the course
17 of committing the offense; and

18 “(D) the term ‘drug trafficking crime’ means
19 any felony punishable under the Controlled Sub-
20 stances Act (21 U.S.C. 801 et seq.), the Controlled
21 Substances Import and Export Act (21 U.S.C. 951
22 et seq.), or chapter 705 of title 46.”.

23 (c) STATUTE OF LIMITATIONS.—Section 3298 of title
24 18, United States Code, is amended by inserting “, or
25 295” after “274(a)”.

1 **SEC. 1127. SOUTHERN BORDER THREAT ANALYSIS.**

2 (a) THREAT ANALYSIS.—

3 (1) REQUIREMENT.—Not later than 180 days
4 after the date of the enactment of this Act, the Sec-
5 retary shall submit a southern border threat analysis
6 to the Committee on Homeland Security and Gov-
7 ernmental Affairs of the Senate and the Committee
8 on Homeland Security of the House of Representa-
9 tives.

10 (2) CONTENTS.—The threat analysis submitted
11 under paragraph (1) shall include an assessment
12 of—

13 (A) current and potential terrorism and
14 criminal threats posed by individuals and orga-
15 nized groups seeking—

16 (i) to unlawfully enter the United
17 States through the southern border; or

18 (ii) to exploit security vulnerabilities
19 along the southern border;

20 (B) improvements needed at and between
21 ports of entry along the southern border to pre-
22 vent terrorists and instruments of terror from
23 entering the United States;

24 (C) gaps in law, policy, and coordination
25 between State, local, or tribal law enforcement,
26 international agreements, or tribal agreements

1 that hinder effective and efficient border secu-
2 rity, counterterrorism, and anti-human smug-
3 gling and trafficking efforts;

4 (D) the current percentage of situational
5 awareness achieved by the Department of
6 Homeland Security along the southern border;

7 (E) the current percentage of operational
8 control achieved by the Department of Home-
9 land Security along the southern border; and

10 (F) traveler crossing times and any poten-
11 tial security vulnerability associated with pro-
12 longed wait times.

13 (3) ANALYSIS REQUIREMENTS.—In compiling
14 the southern border threat analysis under this sub-
15 section, the Secretary shall consider and examine—

16 (A) the technology needs and challenges,
17 including such needs and challenges identified
18 as a result of previous investments that have
19 not fully realized the security and operational
20 benefits that were sought;

21 (B) the personnel needs and challenges, in-
22 cluding such needs and challenges associated
23 with recruitment and hiring;

24 (C) the infrastructure needs and chal-
25 lenges;

1 (D) the roles and authorities of State,
2 local, and tribal law enforcement in general bor-
3 der security activities;

4 (E) the status of coordination among Fed-
5 eral, State, local, tribal, and Mexican law en-
6 forcement entities relating to border security;

7 (F) the terrain, population density, and cli-
8 mate along the southern border; and

9 (G) the international agreements between
10 the United States and Mexico related to border
11 security.

12 (4) CLASSIFIED FORM.—To the extent possible,
13 the Secretary shall submit the southern border
14 threat analysis required under this subsection in un-
15 classified form, but may submit a portion of the
16 threat analysis in classified form if the Secretary de-
17 termines such action is appropriate.

18 (b) U.S. BORDER PATROL STRATEGIC PLAN.—

19 (1) IN GENERAL.—Not later than the later of
20 180 days after the submission of the threat analysis
21 under subsection (a), and every 5 years thereafter,
22 the Secretary, acting through the Chief of the U.S.
23 Border Patrol, and in consultation with the Officer
24 for Civil Rights and Civil Liberties of the Depart-

1 ment of Homeland Security, shall issue a Border
2 Patrol Strategic Plan.

3 (2) CONTENTS.—The Border Patrol Strategic
4 Plan required under this subsection shall include a
5 consideration of—

6 (A) the southern border threat analysis re-
7 quired under subsection (a), with an emphasis
8 on efforts to mitigate threats identified in such
9 threat analysis;

10 (B) efforts to analyze and disseminate bor-
11 der security and border threat information be-
12 tween border security components of the De-
13 partment of Homeland Security and other ap-
14 propriate Federal departments and agencies
15 with missions associated with the southern bor-
16 der;

17 (C) efforts to increase situational aware-
18 ness, including—

19 (i) surveillance capabilities, including
20 capabilities developed or utilized by the
21 Department of Defense, and any appro-
22 priate technology determined to be excess
23 by the Department of Defense; and

24 (ii) the use of manned aircraft and
25 unmanned aerial systems, including cam-

1 era and sensor technology deployed on
2 such assets;

3 (D) efforts to detect and prevent terrorists
4 and instruments of terrorism from entering the
5 United States;

6 (E) efforts to detect, interdict, and disrupt
7 aliens and illicit drugs at the earliest possible
8 point;

9 (F) efforts to focus intelligence collection
10 to disrupt transnational criminal organizations
11 outside of the international and maritime bor-
12 ders of the United States;

13 (G) efforts to ensure that any new border
14 security technology can be operationally inte-
15 grated with existing technologies in use by the
16 Department of Homeland Security;

17 (H) any technology required to maintain,
18 support, and enhance security and facilitate
19 trade at ports of entry, including nonintrusive
20 detection equipment, radiation detection equip-
21 ment, biometric technology, surveillance sys-
22 tems, and other sensors and technology that the
23 Secretary determines to be necessary;

24 (I) operational coordination unity of effort
25 initiatives of the border security components of

1 the Department of Homeland Security, includ-
2 ing any relevant task forces of the Department
3 of Homeland Security;

4 (J) lessons learned from Operation
5 Jumpstart and Operation Phalanx;

6 (K) cooperative agreements and informa-
7 tion sharing with State, local, tribal, territorial,
8 and other Federal law enforcement agencies
9 that have jurisdiction on the northern border or
10 the southern border;

11 (L) border security information received
12 from consultation with State, local, tribal, terri-
13 torial, and Federal law enforcement agencies
14 that have jurisdiction on the northern border or
15 the southern border, or in the maritime envi-
16 ronment, and from border community stake-
17 holders (including through public meetings with
18 such stakeholders), including representatives
19 from border agricultural and ranching organiza-
20 tions and representatives from business and
21 civic organizations along the northern border or
22 the southern border;

23 (M) staffing requirements for all depart-
24 mental border security functions;

1 (N) a prioritized list of departmental re-
2 search and development objectives to enhance
3 the security of the southern border;

4 (O) an assessment of training programs,
5 including training programs for—

6 (i) identifying and detecting fraudu-
7 lent documents;

8 (ii) understanding the scope of en-
9 forcement authorities and the use of force
10 policies; and

11 (iii) screening, identifying, and ad-
12 dressing vulnerable populations, such as
13 children and victims of human trafficking;
14 and

15 (P) an assessment of how border security
16 operations affect border crossing times.

17 **SEC. 1128. AMENDMENTS TO U.S. CUSTOMS AND BORDER**
18 **PROTECTION.**

19 (a) DUTIES.—Section 411(c) of the Homeland Secu-
20 rity Act of 2002 (6 U.S.C. 211(c)) is amended—

21 (1) in paragraph (18), by striking “and” at the
22 end;

23 (2) by redesignating paragraph (19) as para-
24 graph (21); and

1 (3) by inserting after paragraph (18) the fol-
2 lowing:

3 “(19) administer the U.S. Customs and Border
4 Protection public private partnerships under subtitle
5 G;

6 “(20) administer preclearance operations under
7 the Preclearance Authorization Act of 2015 (19
8 U.S.C. 4431 et seq.); enacted as subtitle B of title
9 VIII of the Trade Facilitation and Trade Enforce-
10 ment Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

11 (b) OFFICE OF FIELD OPERATIONS STAFFING.—Sec-
12 tion 411(g)(5)(A) of the Homeland Security Act of 2002
13 (6 U.S.C. 211(g)(5)(A)) is amended by inserting “com-
14 pared to the number indicated by the current fiscal year
15 work flow staffing model” before the period at the end.

16 (c) IMPLEMENTATION PLAN.—Section 814(e)(1)(B)
17 of the Preclearance Authorization Act of 2015 (19 U.S.C.
18 4433(e)(1)(B)) is amended to read as follows:

19 “(B) a port of entry vacancy rate which
20 compares the number of officers identified in
21 subparagraph (A) with the number of officers
22 at the port at which such officer is currently as-
23 signed.”.

24 (d) DEFINITIONS.—Section 411(r) of the Homeland
25 Security Act of 2002 (6 U.S.C. 211) is amended—

1 (1) by striking “this section, the terms” and in-
2 serting the following: “this section:”

3 “(1) the terms”;

4 (2) in paragraph (1), as added by subparagraph
5 (A), by striking the period at the end and inserting
6 “; and”; and

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

8 “(2) the term ‘unmanned aerial systems’ has
9 the meaning given the term ‘unmanned aircraft sys-
10 tem’ in section 331 of the FAA Modernization and
11 Reform Act of 2012 (49 U.S.C. 40101 note; Public
12 Law 112–95).”.

13 **SEC. 1129. AGENT AND OFFICER TECHNOLOGY USE.**

14 In carrying out section 102 of the Illegal Immigration
15 Reform and Immigrant Responsibility Act of 1996, as
16 amended by section 1111, and in carrying out section
17 1113, the Secretary, to the greatest extent practicable,
18 shall ensure that technology deployed to gain situational
19 awareness and operational control of the border be pro-
20 vided to front-line officers and agents of the Department
21 of Homeland Security.

22 **SEC. 1130. INTEGRATED BORDER ENFORCEMENT TEAMS.**

23 (a) IN GENERAL.—Subtitle C of title IV of the
24 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),

1 as amended by section 1117, is further amended by adding
2 at the end the following:

3 **“SEC. 435. INTEGRATED BORDER ENFORCEMENT TEAMS.**

4 “(a) ESTABLISHMENT.—The Secretary shall estab-
5 lish within the Department a program, which shall be
6 known as the Integrated Border Enforcement Team pro-
7 gram (referred to in this section as the ‘IBET Program’).

8 “(b) PURPOSE.—The Secretary shall administer the
9 IBET Program in a manner that results in a cooperative
10 approach between the United States and Canada—

11 “(1) to strengthen security between designated
12 ports of entry;

13 “(2) to detect, prevent, investigate, and respond
14 to terrorism and violations of law related to border
15 security;

16 “(3) to facilitate collaboration among compo-
17 nents and offices within the Department and inter-
18 national partners;

19 “(4) to execute coordinated activities in further-
20 ance of border security and homeland security; and

21 “(5) to enhance information-sharing, including
22 the dissemination of homeland security information
23 among such components and offices.

24 “(c) COMPOSITION AND LOCATION OF IBETs.—

1 “(1) COMPOSITION.—IBETs shall be led by the
2 U.S. Border Patrol and may be comprised of per-
3 sonnel from—

4 “(A) other subcomponents of U.S. Cus-
5 toms and Border Protection;

6 “(B) U.S. Immigration and Customs En-
7 forcement, led by Homeland Security Investiga-
8 tions;

9 “(C) the Coast Guard, for the purpose of
10 securing the maritime borders of the United
11 States;

12 “(D) other Department personnel, as ap-
13 propriate;

14 “(E) other Federal departments and agen-
15 cies, as appropriate;

16 “(F) appropriate State law enforcement
17 agencies;

18 “(G) foreign law enforcement partners;

19 “(H) local law enforcement agencies from
20 affected border cities and communities; and

21 “(I) appropriate tribal law enforcement
22 agencies.

23 “(2) LOCATION.—The Secretary is authorized
24 to establish IBETs in regions in which such teams
25 can contribute to IBET missions, as appropriate.

1 When establishing an IBET, the Secretary shall con-
2 sider—

3 “(A) whether the region in which the
4 IBET would be established is significantly im-
5 pacted by cross-border threats;

6 “(B) the availability of Federal, State,
7 local, tribal, and foreign law enforcement re-
8 sources to participate in an IBET; and

9 “(C) whether other joint cross-border ini-
10 tiatives already take place within the region in
11 which the IBET would be established, including
12 other Department cross-border programs such
13 as the Integrated Cross-Border Maritime Law
14 Enforcement Operation Program established
15 under section 711 of the Coast Guard and Mar-
16 itime Transportation Act of 2012 (46 U.S.C.
17 70101 note) or the Border Enforcement Secu-
18 rity Task Force established under section 432.

19 “(3) DUPLICATION OF EFFORTS.—In deter-
20 mining whether to establish a new IBET or to ex-
21 pand an existing IBET in a given region, the Sec-
22 retary shall ensure that the IBET under consider-
23 ation does not duplicate the efforts of other existing
24 interagency task forces or centers within such re-
25 gion, including the Integrated Cross-Border Mari-

1 time Law Enforcement Operation Program estab-
2 lished under section 711 of the Coast Guard and
3 Maritime Transportation Act of 2012 (46 U.S.C.
4 70101 note) or the Border Enforcement Security
5 Task Force established under section 432.

6 “(d) OPERATION.—

7 “(1) IN GENERAL.—After determining the re-
8 gions in which to establish IBETs, the Secretary
9 may—

10 “(A) direct the assignment of Federal per-
11 sonnel to such IBETs; and

12 “(B) take other actions to assist Federal,
13 State, local, and tribal entities to participate in
14 such IBETs, including providing financial as-
15 sistance, as appropriate, for operational, admin-
16 istrative, and technological costs associated with
17 such participation.

18 “(2) LIMITATION.—Coast Guard personnel as-
19 signed under paragraph (1) may be assigned only
20 for the purposes of securing the maritime borders of
21 the United States, in accordance with subsection
22 (e)(1)(C).

23 “(e) COORDINATION.—The Secretary shall coordinate
24 the IBET Program with other similar border security and
25 antiterrorism programs within the Department in accord-

1 ance with the strategic objectives of the Cross-Border Law
2 Enforcement Advisory Committee.

3 “(f) MEMORANDA OF UNDERSTANDING.—The Sec-
4 retary may enter into memoranda of understanding with
5 appropriate representatives of the entities specified in sub-
6 section (c)(1) necessary to carry out the IBET Program.

7 “(g) REPORT.—Not later than 180 days after the
8 date on which an IBET is established, and biannually
9 thereafter for the following 6 years, the Secretary shall
10 submit a report to the appropriate congressional commit-
11 tees, including the Committee on Homeland Security and
12 Governmental Affairs of the Senate and the Committee
13 on Homeland Security of the House of Representatives,
14 and in the case of Coast Guard personnel used to secure
15 the maritime borders of the United States, to the Com-
16 mittee on Transportation and Infrastructure of the House
17 of Representatives, that—

18 “(1) describes the effectiveness of IBETs in ful-
19 filling the purposes specified in subsection (b);

20 “(2) assesses the impact of certain challenges
21 on the sustainment of cross-border IBET operations,
22 including challenges faced by international partners;

23 “(3) addresses ways to support joint training
24 for IBET stakeholder agencies and radio interoper-

1 ability to allow for secure cross-border radio commu-
2 nications; and

3 “(4) assesses how IBETs, Border Enforcement
4 Security Task Forces, and the Integrated Cross-Bor-
5 der Maritime Law Enforcement Operation Program
6 can better align operations, including interdiction
7 and investigation activities.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 in section 1(b) of the Homeland Security Act of 2002 is
10 amended by adding after the item relating to section 434,
11 as added by section 1117(b), the following:

“Sec. 435. Integrated Border Enforcement Teams.”.

12 **SEC. 1131. TUNNEL TASK FORCES.**

13 The Secretary is authorized to establish Tunnel Task
14 Forces for the purposes of detecting and remediating tun-
15 nels that breach the international borders of the United
16 States.

17 **SEC. 1132. PILOT PROGRAM ON USE OF ELECTRO-**
18 **MAGNETIC SPECTRUM IN SUPPORT OF BOR-**
19 **DER SECURITY OPERATIONS.**

20 (a) IN GENERAL.—The Commissioner of U.S. Cus-
21 toms and Border Protection, in consultation with the As-
22 sistant Secretary of Commerce for Communications and
23 Information, shall conduct a pilot program to test and
24 evaluate the use of electromagnetic spectrum by U.S. Cus-

1 toms and Border Protection in support of border security
2 operations through—

3 (1) ongoing management and monitoring of
4 spectrum to identify threats such as unauthorized
5 spectrum use, and the jamming and hacking of
6 United States communications assets, by persons en-
7 gaged in criminal enterprises;

8 (2) automated spectrum management to enable
9 greater efficiency and speed for U.S. Customs and
10 Border Protection in addressing emerging challenges
11 in overall spectrum use on the United States border;
12 and

13 (3) coordinated use of spectrum resources to
14 better facilitate interoperability and interagency co-
15 operation and interdiction efforts at or near the
16 United States border.

17 (b) REPORT TO CONGRESS.—Not later than 180 days
18 after the conclusion of the pilot program under subsection
19 (a), the Commissioner of U.S. Customs and Border Pro-
20 tection shall submit a report to the Committee on Home-
21 land Security of the House of Representatives, the Com-
22 mittee on Energy and Commerce of the House of Rep-
23 resentatives, the Committee on Homeland Security and
24 Governmental Affairs of the Senate, and the Committee
25 on Commerce, Science, and Transportation of the Senate

1 that contains the findings and data derived from such pilot
2 program.

3 **SEC. 1133. HOMELAND SECURITY FOREIGN ASSISTANCE.**

4 (a) IN GENERAL.—Subtitle C of title IV of the
5 Homeland Security Act of 2002 (6 U.S.C. 231 et seq.),
6 as amended by sections 1117 and 1130, is further amend-
7 ed by adding at the end the following:

8 **“SEC. 436. SECURITY ASSISTANCE.**

9 “(a) IN GENERAL.—The Secretary, with the concu-
10 rrence of the Secretary of State, may provide, to a foreign
11 government, financial assistance and security assistance,
12 with or without reimbursement, including equipment,
13 training, maintenance, supplies, and sustainment support.

14 “(b) DETERMINATION.—The Secretary may only pro-
15 vide financial assistance or security assistance under sub-
16 section (a) if the Secretary determines that such assist-
17 ance would enhance the recipient government’s capacity—

18 “(1) to mitigate the risk or threat of
19 transnational organized crime and terrorism;

20 “(2) to address irregular migration flows that
21 may affect the United States, including any deten-
22 tion or removal operations of the recipient govern-
23 ment; or

24 “(3) to protect and expedite legitimate trade
25 and travel.

1 “(c) LIMITATION ON TRANSFER.—The Secretary
2 may not—

3 “(1) transfer any equipment or supplies that
4 are designated as a munitions item or controlled on
5 the United States Munitions List, pursuant to sec-
6 tion 38 of the Foreign Military Sales Act (22 U.S.C.
7 2778); or

8 “(2) transfer any vessel or aircraft pursuant to
9 this section.

10 “(d) RELATED TRAINING.—In conjunction with a
11 transfer of equipment under subsection (a), the Secretary
12 may provide such equipment-related training and assist-
13 ance as the Secretary determines necessary.

14 “(e) MAINTENANCE OF TRANSFERRED EQUIP-
15 MENT.—The Secretary may provide for the maintenance
16 of transferred equipment through service contracts or
17 other means, with or without reimbursement, as the Sec-
18 retary determines necessary.

19 “(f) REIMBURSEMENT OF EXPENSES.—

20 “(1) IN GENERAL.—The Secretary may collect
21 payment from the receiving entity for the provision
22 of security assistance under this section, including
23 equipment, training, maintenance, supplies,
24 sustainment support, and related shipping costs.

1 “(2) TRANSFER.—Notwithstanding any other
2 provision of law, to the extent the Secretary does not
3 collect payment under paragraph (1), any amounts
4 appropriated or otherwise made available to the De-
5 partment of Homeland Security may be transferred
6 to the account that finances the security assistance
7 provided under subsection (a).

8 “(g) RECEIPTS CREDITED AS OFFSETTING COLLEC-
9 TIONS.—Notwithstanding section 3302 of title 31, United
10 States Code, any reimbursement collected pursuant to
11 subsection (f)—

12 “(1) shall be credited as offsetting collections to
13 the account that finances the security assistance
14 under this section for which such reimbursement is
15 received; and

16 “(2) shall remain available until expended for
17 the purpose of carrying out this section.

18 “(h) RULE OF CONSTRUCTION.—Nothing in this sec-
19 tion may be construed as affecting, augmenting, or dimin-
20 ishing the authority of the Secretary of State.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 in section 1(b) of the Homeland Security Act of 2002 is
23 amended by inserting after the item relating to section
24 435, as added by section 1130, the following:

“Sec. 436. Security assistance.”.

1 **CHAPTER 2—PERSONNEL**

2 **SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER PRO-**
3 **TECTION AGENTS AND OFFICERS.**

4 (a) **BORDER PATROL AGENTS.**—Not later than Sep-
5 tember 30, 2022, the Commissioner of U.S. Customs and
6 Border Protection shall hire, train, and assign sufficient
7 agents to maintain an active duty presence of not fewer
8 than 26,370 full-time equivalent agents.

9 (b) **CBP OFFICERS.**—In addition to positions author-
10 ized before the date of the enactment of this Act and any
11 existing officer vacancies within U.S. Customs and Border
12 Protection as of such date, the Commissioner shall hire,
13 train, and assign to duty, not later than September 30,
14 2022—

15 (1) sufficient U.S. Customs and Border Protec-
16 tion officers to maintain an active duty presence of
17 not fewer than 27,725 full-time equivalent officers;
18 and

19 (2) 350 full-time support staff distributed
20 among all United States ports of entry.

21 (c) **AIR AND MARINE OPERATIONS.**—Not later than
22 September 30, 2022, the Commissioner of U.S. Customs
23 and Border Protection shall hire, train, and assign suffi-
24 cient agents for Air and Marine Operations of U.S. Cus-
25 toms and Border Protection to maintain not fewer than

1 1,675 full-time equivalent agents and not fewer than 264
2 Marine and Air Interdiction Agents for southern border
3 air and maritime operations.

4 (d) U.S. CUSTOMS AND BORDER PROTECTION K-9
5 UNITS AND HANDLERS.—

6 (1) K-9 UNITS.—Not later than September 30,
7 2022, the Commissioner shall deploy not fewer than
8 300 new K-9 units, with supporting officers of U.S.
9 Customs and Border Protection and other required
10 staff, at land ports of entry and checkpoints, on the
11 southern border and the northern border.

12 (2) USE OF CANINES.—The Commissioner shall
13 prioritize the use of canines at the primary inspec-
14 tion lanes at land ports of entry and checkpoints.

15 (e) U.S. CUSTOMS AND BORDER PROTECTION
16 HORSEBACK UNITS.—

17 (1) INCREASE.—Not later than September 30,
18 2022, the Commissioner shall increase the number
19 of horseback units, with supporting officers of U.S.
20 Customs and Border Protection and other required
21 staff, by not fewer than 100 officers and 50 horses
22 for security patrol along the Southern border.

23 (2) HORSE UNIT SUPPORT.—The Commissioner
24 of U.S. Customs and Border Protection shall con-
25 struct new stables, maintain and improve existing

1 stables, and provide other resources needed to main-
2 tain the health and well-being of the horses that
3 serve in the horseback units.

4 (f) U.S. CUSTOMS AND BORDER PROTECTION
5 SEARCH TRAUMA AND RESCUE TEAMS.—Not later than
6 September 30, 2022, the Commissioner shall increase by
7 not fewer than 50 the number of officers engaged in
8 search and rescue activities along the southern border.

9 (g) U.S. CUSTOMS AND BORDER PROTECTION TUN-
10 NEL DETECTION AND TECHNOLOGY PROGRAM.—Not
11 later than September 30, 2022, the Commissioner shall
12 increase by not fewer than 50 the number of officers as-
13 sisting task forces and activities related to deployment and
14 operation of border tunnel detection technology and appre-
15 hensions of individuals using such tunnels for crossing
16 into the United States, drug trafficking, or human smug-
17 gling.

18 (h) AGRICULTURAL SPECIALISTS.—Not later than
19 September 30, 2022, the Secretary shall hire, train, and
20 assign to duty, in addition to the officers and agents au-
21 thorized under subsections (a) through (g), 631 U.S. Cus-
22 toms and Border Protection agricultural specialists to
23 ports of entry along the southern border and the northern
24 border.

1 (i) OFFICE OF PROFESSIONAL RESPONSIBILITY.—
2 Not later than September 30, 2022, the Commissioner
3 shall hire, train, and assign sufficient Office of Profes-
4 sional Responsibility special agents to maintain an active
5 duty presence of not fewer than 550 full-time equivalent
6 special agents.

7 (j) GAO REPORT.—If the staffing levels required
8 under this section are not achieved by September 30,
9 2022, the Comptroller General of the United States shall
10 conduct a review of the reasons why such levels were not
11 achieved.

12 **SEC. 1142. FAIR LABOR STANDARDS FOR BORDER PATROL**
13 **AGENTS.**

14 (a) IN GENERAL.—Section 7 of the Fair Labor
15 Standards Act of 1938 (29 U.S.C. 207) is amended by
16 adding at the end the following:

17 “(s) EMPLOYMENT AS A BORDER PATROL AGENT.—
18 No public agency shall be deemed to have violated sub-
19 section (a) with respect to the employment of any border
20 patrol agent (as defined in section 5550(1) of title 5,
21 United States Code) if, during a work period of 14 con-
22 secutive days, the border patrol agent receives compensa-
23 tion at a rate that is not less than 150 percent of the
24 regular rate at which the agent is employed for all hours
25 of work from 80 hours to 100 hours. Payments required

1 under this section shall be in addition to any payments
2 made under section 5550 of title 5, United States Code,
3 and shall be made notwithstanding any pay limitations set
4 forth in that title.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
6 Section 13(a) of the Fair Labor Standards Act of 1938
7 (29 U.S.C. 213(a)) is amended—

8 (1) in paragraph (16), by adding “or” at the
9 end;

10 (2) in paragraph (17), in the undesignated mat-
11 ter following subparagraph (D), by striking “; or”
12 and inserting a period; and

13 (3) by striking paragraph (18).

14 **SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION RE-**
15 **TENTION INCENTIVES.**

16 (a) IN GENERAL.—Chapter 97 of title 5, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 **“SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION TEM-**
20 **PORARY EMPLOYMENT AUTHORITIES.**

21 “(a) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘CBP employee’ means an em-
23 ployee of U.S. Customs and Border Protection de-
24 scribed under any of subsections (a) through (h) of
25 section 1141 of the Building America’s Trust Act;

1 “(2) the term ‘Commissioner’ means the Com-
2 missioner of U.S. Customs and Border Protection;

3 “(3) the term ‘Director’ means the Director of
4 the Office of Personnel Management;

5 “(4) the term ‘Secretary’ means the Secretary
6 of Homeland Security; and

7 “(5) the term ‘appropriate congressional com-
8 mittees’ means—

9 “(A) the Committee on Oversight and Gov-
10 ernment Reform of the House of Representa-
11 tives;

12 “(B) the Committee on Homeland Security
13 of the House of Representatives;

14 “(C) the Committee on Ways and Means
15 of the House of Representatives;

16 “(D) the Committee on Homeland Security
17 and Governmental Affairs of the Senate; and

18 “(E) the Committee on Finance of the
19 Senate.

20 “(b) DIRECT HIRE AUTHORITY; RECRUITMENT AND
21 RELOCATION BONUSES; RETENTION BONUSES.—

22 “(1) STATEMENT OF PURPOSE AND LIMITA-
23 TION.—The purpose of this subsection is to allow
24 U.S. Customs and Border Protection to expedi-
25 tiously meet the hiring goals and staffing levels re-

1 required under section 1141 of the Solution for Un-
2 documented Children through Careers, Employment,
3 Education, and Defending our Nation Act. The Sec-
4 retary may not use such authority beyond meeting
5 the requirements under such section.

6 “(2) DIRECT HIRE AUTHORITY.—The Secretary
7 may appoint, without regard to any provision of sec-
8 tions 3309 through 3319, candidates to positions in
9 the competitive service as CBP employees if the Sec-
10 retary has given public notice for the positions.

11 “(3) RECRUITMENT AND RELOCATION BO-
12 NUSES.—The Secretary may pay a recruitment or
13 relocation bonus of up to 50 percent of the annual
14 rate of basic pay to an individual CBP employee at
15 the beginning of the service period multiplied by the
16 number of years (including a fractional part of a
17 year) in the required service period to an individual
18 (other than an individual described in section
19 5753(a)(2)) if—

20 “(A) the Secretary determines that condi-
21 tions consistent with the conditions described in
22 paragraphs (1) and (2) of section 5753(b) are
23 satisfied with respect to the individual (without
24 regard to the regulations referenced in section

1 5753(b)(2)(B(ii)(I) or to any other provision of
2 section 5753); and

3 “(B) the individual enters into a written
4 service agreement with the Secretary—

5 “(i) under which the individual is re-
6 quired to complete a period of employment
7 as a CBP employee of not less than 2
8 years; and

9 “(ii) that includes—

10 “(I) the commencement and ter-
11 mination dates of the required service
12 period (or provisions for the deter-
13 mination thereof);

14 “(II) the amount of the bonus;
15 and

16 “(III) other terms and conditions
17 under which the bonus is payable,
18 subject to the requirements of this
19 subsection, including—

20 “(aa) the conditions under
21 which the agreement may be ter-
22 minated before the agreed-upon
23 service period has been com-
24 pleted; and

1 “(bb) the effect of a termi-
2 nation described in item (aa).

3 “(4) RETENTION BONUSES.—The Secretary
4 may pay a retention bonus of up to 50 percent of
5 basic pay to an individual CBP employee (other than
6 an individual described in section 5754(a)(2)) if—

7 “(A) the Secretary determines that—

8 “(i) a condition consistent with the
9 condition described in section 5754(b)(1) is
10 satisfied with respect to the CBP employee
11 (without regard to any other provision of
12 section 5754);

13 “(ii) in the absence of a retention
14 bonus, the CBP employee would be likely
15 to leave—

16 “(I) the Federal service; or

17 “(II) for a different position in
18 the Federal service, including a posi-
19 tion in another agency or component
20 of the Department of Homeland Secu-
21 rity; and

22 “(B) the individual enters into a written
23 service agreement with the Secretary—

24 “(i) under which the individual is re-
25 quired to complete a period of employment

1 as a CBP employee of not less than 2
2 years; and

3 “(ii) that includes—

4 “(I) the commencement and ter-
5 mination dates of the required service
6 period (or provisions for the deter-
7 mination thereof);

8 “(II) the amount of the bonus;
9 and

10 “(III) other terms and conditions
11 under which the bonus is payable,
12 subject to the requirements under this
13 subsection, including—

14 “(aa) the conditions under
15 which the agreement may be ter-
16 minated before the agreed-upon
17 service period has been com-
18 pleted; and

19 “(bb) the effect of a termi-
20 nation described in item (aa).

21 “(5) RULES FOR BONUS.—

22 “(A) MAXIMUM BONUS.—

23 “(i) RECRUITMENT AND RELOCATION
24 BONUS.—A bonus paid to an employee
25 under paragraph (3) may not exceed 100

1 percent of the annual rate of basic pay of
2 the employee as of the commencement date
3 of the applicable service period.

4 “(ii) RETENTION BONUS.—A bonus
5 paid to an employee under paragraph (4)
6 may not exceed 50 percent of the annual
7 rate of basic pay of the employee.

8 “(B) RELATIONSHIP TO BASIC PAY.—A
9 bonus paid to an employee under paragraph (3)
10 or (4) shall not be considered part of the basic
11 pay of the employee for any purpose, including
12 for retirement or in computing a lump-sum pay-
13 ment to the covered employee for accumulated
14 and accrued annual leave under section 5551 or
15 section 5552.

16 “(C) PERIOD OF SERVICE FOR RECRUIT-
17 MENT, RELOCATION, AND RETENTION BO-
18 NUSES.—A bonus paid to an employee under
19 paragraph (4) may not be based on any period
20 of such service which is the basis for a recruit-
21 ment or relocation bonus under paragraph (3).
22 A bonus paid to an employee under paragraph
23 (3) or (4) may not be based on any period of
24 service which is the basis for a recruitment or

1 relocation bonus under section 5753 or a reten-
2 tion bonus under section 5754.

3 “(c) SPECIAL RATES OF PAY.—In addition to the cir-
4 cumstances described in section 5305(b), the Director may
5 establish special rates of pay in accordance with that sec-
6 tion to assist the Secretary in meeting the requirements
7 of section 1141 of the Solution for Undocumented Chil-
8 dren through Careers, Employment, Education, and De-
9 fending our Nation Act. The Director shall prioritize the
10 consideration of requests from the Secretary for such spe-
11 cial rates of pay and issue a decision as soon as prac-
12 ticable. The Secretary shall provide such information to
13 the Director as the Director deems necessary to evaluate
14 special rates of pay under this subsection.

15 “(d) OPM OVERSIGHT.—

16 “(1) REPORT.—Not later than September 30 of
17 each year, the Secretary shall submit a report to the
18 Director on U.S. Customs and Border Protection’s
19 use of authorities provided under subsections (b)
20 and (c).

21 “(2) CONTENTS.—Each report submitted under
22 paragraph (1) shall include—

23 “(A) such information as the Director de-
24 termines is appropriate to ensure appropriate
25 use of authorities under such subsections; and

1 “(B) an assessment of—

2 “(i) the impact of the use of authori-
3 ties under subsections (b) and (c) on im-
4 plementation of section 1141 of the Solu-
5 tion for Undocumented Children through
6 Careers, Employment, Education, and De-
7 fending our Nation Act;

8 “(ii) solving hiring and retention chal-
9 lenges at the agency, including at specific
10 locations;

11 “(iii) whether hiring and retention
12 challenges still exist at the agency or spe-
13 cific locations; and

14 “(iv) whether the Secretary needs to
15 continue to use authorities provided under
16 this section at the agency or at specific lo-
17 cations.

18 “(3) CONSIDERATION.—In compiling each re-
19 port under paragraph (1), the Secretary shall con-
20 sider—

21 “(A) whether any CBP employee accepted
22 an employment incentive under subsection (b)
23 and (c) and then transferred to a new location
24 or left U.S. Customs and Border Protection;
25 and

1 “(B) the length of time that each employee
2 identified under subparagraph (A) stayed at the
3 original location before transferring to a new lo-
4 cation or leaving U.S. Customs and Border
5 Protection.

6 “(4) DISTRIBUTION.—In addition to the Direc-
7 tor, the Secretary shall submit each report required
8 under this subsection to the appropriate congress-
9 sional committees.

10 “(e) OPM ACTION.—

11 “(1) NOTIFICATION.—The Director shall sub-
12 mit written notification to the Secretary and the ap-
13 propriate congressional committees if the Director
14 determines the Secretary has inappropriately used
15 the authority under subsection (b) or a special rate
16 of pay authorized under subsection (c).

17 “(2) EFFECT OF NOTIFICATION.—Upon receipt
18 of a notification under paragraph (1), the Secretary
19 may not make any new appointments or issue any
20 new bonuses under subsection (b) or provide CBP
21 employees with further special rates of pay until the
22 Director has submitted written notice to the Sec-
23 retary and the appropriate congressional committees
24 certifying that the Director is satisfied that safe-

1 guards are in place to prevent further inappropriate
2 use.

3 “(f) IMPROVING CBP HIRING AND RETENTION.—

4 “(1) EDUCATION OF CBP HIRING OFFICIALS.—

5 Not later than 180 days after the date of the enact-
6 ment of this section, and in conjunction with the
7 Chief Human Capital Officer of the Department of
8 Homeland Security, the Secretary shall develop and
9 implement a strategy to improve the education re-
10 garding hiring and human resources flexibilities (in-
11 cluding hiring and human resources flexibilities for
12 locations in rural or remote areas) for all employees,
13 serving in agency headquarters or field offices, who
14 are involved in the recruitment, hiring, assessment,
15 or selection of candidates for locations in a rural or
16 remote area, as well as the retention of current em-
17 ployees.

18 “(2) ELEMENTS.—Elements of the strategy de-
19 veloped under paragraph (1) shall include—

20 “(A) developing or updating training and
21 educational materials on hiring and human re-
22 sources flexibilities for employees who are in-
23 volved in the recruitment, hiring, assessment, or
24 selection of candidates, as well as the retention
25 of current employees;

1 “(B) regular training sessions for per-
2 sonnel who are critical to filling open positions
3 in rural or remote areas;

4 “(C) developing pilot programs or other
5 programs, as appropriate, consistent with au-
6 thorities provided to the Secretary to address
7 identified hiring challenges, including in rural
8 or remote areas;

9 “(D) developing and enhancing strategic
10 recruiting efforts through the relationships with
11 institutions of higher education (as defined in
12 section 102 of the Higher Education Act of
13 1965 (20 U.S.C. 1002)), veterans transition
14 and employment centers, and job placement
15 program in regions that could assist in filling
16 positions in rural or remote areas;

17 “(E) examining existing agency programs
18 to determine how to most effectively aid spouses
19 and families of individuals who are candidates
20 or new hires in a rural or remote area;

21 “(F) gathering feedback from individuals
22 who are candidates or new hires at locations in
23 a rural or remote area, including feedback on
24 the quality of life in rural or remote areas for
25 new hires and their families;

1 “(G) gathering feedback from CBP em-
2 ployees, other than new hires, who are stationed
3 at locations in a rural or remote area, including
4 feedback on the quality of life in rural or re-
5 mote areas for those CBP employees and their
6 families; and

7 “(H) evaluating Department of Homeland
8 Security internship programs and the useful-
9 ness of such programs in improving hiring by
10 the Secretary in rural or remote areas.

11 “(3) EVALUATION.—

12 “(A) IN GENERAL.—The Secretary shall
13 annually—

14 “(i) evaluate the extent to which the
15 strategy developed and implemented under
16 paragraph (1) has improved the hiring and
17 retention ability of the Secretary; and

18 “(ii) make any appropriate updates to
19 the strategy developed under paragraph
20 (1).

21 “(B) INFORMATION.—The evaluation
22 under subparagraph (A) shall include—

23 “(i) any reduction in the time taken
24 by the Secretary to fill mission-critical po-
25 sitions, including in rural or remote areas;

1 “(ii) a general assessment of the im-
2 pact of the strategy implemented under
3 paragraph (1) on hiring challenges, includ-
4 ing in rural or remote areas; and

5 “(iii) other information the Secretary
6 determines relevant.

7 “(g) INSPECTOR GENERAL REVIEW.—Not later than
8 2 years after the date of the enactment of this section,
9 the Inspector General of the Department of Homeland Se-
10 curity shall review the use of hiring and pay flexibilities
11 under subsections (b) and (c) to determine whether the
12 use of such flexibilities is helping the Secretary meet hir-
13 ing and retention needs, including in rural and remote
14 areas.

15 “(h) REPORT ON POLYGRAPH REQUESTS.—The Sec-
16 retary shall submit a report to the appropriate congres-
17 sional committees that identifies the number of requests
18 the Secretary has received from any other Federal agency
19 for the file of an applicant for a position in U.S. Customs
20 and Border Protection that includes the results of a poly-
21 graph examination.

22 “(i) EXERCISE OF AUTHORITY.—

23 “(1) SOLE DISCRETION.—The exercise of au-
24 thority under subsection (b) shall be subject to the
25 sole and exclusive discretion of the Secretary (or the

1 Commissioner, as applicable under paragraph (2) of
2 this subsection), notwithstanding chapter 71 and
3 any collective bargaining agreement.

4 “(2) DELEGATION.—The Secretary may dele-
5 gate any authority under this section to the Com-
6 missioner.

7 “(j) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion shall be construed to exempt the Secretary or the Di-
9 rector from applicability of the merit system principles
10 under section 2301.

11 “(k) SUNSET.—The authorities under subsections (b)
12 and (c) shall terminate on September 30, 2022. Any bonus
13 to be paid pursuant to subsection (b) that is approved be-
14 fore such date may continue until such bonus has been
15 paid, subject to the conditions specified in this section.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The table of sections for chapter 97 of title 5, United
18 States Code, is amended by adding at the end the fol-
19 lowing:

“9702. U.S. Customs and Border Protection temporary employment authori-
ties.”.

20 (c) OVERTIME LIMITATION.—Section 5(c)(1) of the
21 Act of February 13, 1911 (19 U.S.C. 267(c)(1)) is amend-
22 ed by striking “\$25,000” and inserting “\$45,000”.

1 **SEC. 1144. ANTI-BORDER CORRUPTION REAUTHORIZATION**
2 **ACT.**

3 (a) **SHORT TITLE.**—This section may be cited as the
4 “Anti-Border Corruption Reauthorization Act of 2018”.

5 (b) **HIRING FLEXIBILITY.**—Section 3 of the Anti-
6 Border Corruption Act of 2010 (6 U.S.C. 221) is amended
7 by striking subsection (b) and inserting the following:

8 “(b) **WAIVER AUTHORITY.**—The Commissioner of
9 U.S. Customs and Border Protection may waive the appli-
10 cation of subsection (a)(1)—

11 “(1) for a current, full-time law enforcement of-
12 ficer employed by a State or local law enforcement
13 agency who—

14 “(A) has continuously served as a law en-
15 forcement officer for not fewer than 3 years;

16 “(B) is authorized by law to engage in or
17 supervise the prevention, detection, investiga-
18 tion, or prosecution of, or the incarceration of
19 any person for, any violation of law, and has
20 statutory powers for arrest or apprehension;

21 “(C) is not currently under investigation,
22 has not been found to have engaged in criminal
23 activity or serious misconduct, has not resigned
24 from a law enforcement officer position under
25 investigation or in lieu of termination, and has

1 not been dismissed from a law enforcement offi-
2 cer position; and

3 “(D) has, during the past 10 years, suc-
4 cessfully completed a polygraph examination as
5 a condition of employment with such officer’s
6 current law enforcement agency;

7 “(2) for a current, full-time Federal law en-
8 forcement officer who—

9 “(A) has continuously served as a law en-
10 forcement officer for not fewer than 3 years;

11 “(B) is authorized to make arrests, con-
12 duct investigations, conduct searches, make sei-
13 zures, carry firearms, and serve orders, war-
14 rants, and other processes;

15 “(C) is not currently under investigation,
16 has not been found to have engaged in criminal
17 activity or serious misconduct, has not resigned
18 from a law enforcement officer position under
19 investigation or in lieu of termination, and has
20 not been dismissed from a law enforcement offi-
21 cer position; and

22 “(D) holds a current Tier 4 background
23 investigation or current Tier 5 background in-
24 vestigation; and

1 “(3) for a member of the Armed Forces (or a
2 reserve component thereof) or a veteran, if such in-
3 dividual—

4 “(A) has served in the Armed Forces for
5 not fewer than 3 years;

6 “(B) holds, or has held within the past 5
7 years, a Secret, Top Secret, or Top Secret/Sen-
8 sitive Compartmented Information clearance;

9 “(C) holds, or has undergone within the
10 past 5 years, a current Tier 4 background in-
11 vestigation or current Tier 5 background inves-
12 tigation;

13 “(D) received, or is eligible to receive, an
14 honorable discharge from service in the Armed
15 Forces and has not engaged in criminal activity
16 or committed a serious military or civil offense
17 under the Uniform Code of Military Justice;
18 and

19 “(E) was not granted any waivers to ob-
20 tain the clearance referred to subparagraph
21 (B).

22 “(c) TERMINATION OF WAIVER AUTHORITY.—The
23 authority to issue a waiver under subsection (b) shall ter-
24 minate on the date that is 4 years after the date of the
25 enactment of the Solution for Undocumented Children

1 through Careers, Employment, Education, and Defending
2 our Nation Act.”.

3 (c) SUPPLEMENTAL COMMISSIONER AUTHORITY AND
4 DEFINITIONS.—

5 (1) SUPPLEMENTAL COMMISSIONER AUTHOR-
6 ITY.—Section 4 of the Anti-Border Corruption Act
7 of 2010 (Public Law 111–376) is amended to read
8 as follows:

9 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

10 “(a) NONEXEMPTION.—An individual who receives a
11 waiver under section 3(b) is not exempt from other hiring
12 requirements relating to suitability for employment and
13 eligibility to hold a national security designated position,
14 as determined by the Commissioner of U.S. Customs and
15 Border Protection.

16 “(b) BACKGROUND INVESTIGATIONS.—Any indi-
17 vidual who receives a waiver under section 3(b) and holds
18 a current Tier 4 background investigation shall be subject
19 to a Tier 5 background investigation.

20 “(c) ADMINISTRATION OF POLYGRAPH EXAMINA-
21 TION.—The Commissioner of U.S. Customs and Border
22 Protection is authorized to administer a polygraph exam-
23 ination to an applicant or employee who is eligible for, or
24 receives a waiver under, section 3(b) if information is dis-
25 covered before the completion of a background investiga-

1 tion that results in a determination that a polygraph ex-
2 amination is necessary to make a final determination re-
3 garding suitability for employment or continued employ-
4 ment, as the case may be.”.

5 (2) REPORT.—The Anti-Border Corruption Act
6 of 2010 (Public Law 111–376), as amended by
7 paragraph (1), is further amended by adding at the
8 end the following:

9 **“SEC. 5. REPORTING.**

10 “(a) ANNUAL REPORT.—Not later than 1 year after
11 the date of the enactment of this section, and annually
12 thereafter while the waiver authority under section 3(b)
13 is in effect, the Commissioner of U.S. Customs and Border
14 Protection shall submit a report to Congress that includes,
15 with respect to each such reporting period—

16 “(1) the number of waivers requested, granted,
17 and denied under section 3(b);

18 “(2) the reasons for any denials of such waiver;

19 “(3) the percentage of applicants who were
20 hired after receiving a waiver;

21 “(4) the number of instances that a polygraph
22 was administered to an applicant who initially re-
23 ceived a waiver and the results of such polygraph;

24 “(5) an assessment of the current impact of the
25 polygraph waiver program on filling law enforcement

1 positions at U.S. Customs and Border Protection;
2 and

3 “(6) additional authorities needed by U.S. Cus-
4 toms and Border Protection to better utilize the
5 polygraph waiver program for its intended goals.

6 “(b) ADDITIONAL INFORMATION.—The first report
7 submitted under subsection (a) shall include—

8 “(1) an analysis of other methods of employ-
9 ment suitability tests that detect deception and could
10 be used in conjunction with traditional background
11 investigations to evaluate potential employees for
12 suitability; and

13 “(2) a recommendation regarding whether a
14 test referred to in paragraph (1) should be adopted
15 by U.S. Customs and Border Protection when the
16 polygraph examination requirement is waived pursu-
17 ant to section 3(b).”.

18 (3) DEFINITIONS.—The Anti-Border Corrup-
19 tion Act of 2010 (Public Law 111–376), as amended
20 by paragraphs (1) and (2), is further amended by
21 adding at the end the following:

22 **“SEC. 6. DEFINITIONS.**

23 “In this Act:

24 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—
25 The term ‘Federal law enforcement officer’ has the

1 meaning given the term ‘law enforcement officer’ in
2 sections 8331(20) and 8401(17) of title 5, United
3 States Code.

4 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—
5 The term ‘serious military or civil offense’ means an
6 offense for which—

7 “(A) a member of the Armed Forces may
8 be discharged or separated from service in the
9 Armed Forces; and

10 “(B) a punitive discharge is, or would be,
11 authorized for the same or a closely related of-
12 fense under the Manual for Court-Martial, as
13 pursuant to Army Regulation 635-200 chapter
14 14–12.

15 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and
16 ‘Tier 5’ with respect to background investigations
17 have the meaning given such terms under the 2012
18 Federal Investigative Standards.

19 “(4) VETERAN.—The term ‘veteran’ has the
20 meaning given such term in section 101(2) of title
21 38, United States Code.”.

22 (d) POLYGRAPH EXAMINERS.—Not later than Sep-
23 tember 30, 2022, the Secretary shall increase to not fewer
24 than 150 the number of trained full-time equivalent poly-
25 graph examiners for administering polygraphs under the

1 Anti-Border Corruption Act of 2010, as amended by this
2 section.

3 **SEC. 1145. TRAINING FOR OFFICERS AND AGENTS OF U.S.**
4 **CUSTOMS AND BORDER PROTECTION.**

5 (a) IN GENERAL.—Section 411(l) of the Homeland
6 Security Act of 2002 (6 U.S.C. 211(l)) is amended to read
7 as follows:

8 “(l) TRAINING AND CONTINUING EDUCATION.—

9 “(1) MANDATORY TRAINING AND CONTINUING
10 EDUCATION.—The Commissioner shall ensure that
11 every agent and officer of U.S. Customs and Border
12 Protection receives at least 21 weeks of training that
13 is directly related to the mission of the U.S. Border
14 Patrol, Air and Marine, and the Office of Field Op-
15 erations before the initial assignment of such agents
16 and officers.

17 “(2) FLETC.—The Commissioner shall work
18 in consultation with the Director of the Federal Law
19 Enforcement Training Centers to establish guide-
20 lines and curriculum for the training of agents and
21 officers of U.S. Customs and Border Protection
22 under subsection (a).

23 “(3) CONTINUING EDUCATION.—The Commis-
24 sioner shall require all agents and officers of U.S.
25 Customs and Border Protection who are required to

1 undergo training under subsection (a) to participate
2 in not fewer than 8 hours of continuing education
3 annually to maintain and update understanding of
4 Federal legal rulings, court decisions, and Depart-
5 ment policies, procedures, and guidelines related to
6 relevant subject matters.

7 “(4) LEADERSHIP TRAINING.—Not later than 1
8 year after the date of the enactment of the Solution
9 for Undocumented Children through Careers, Em-
10 ployment, Education, and Defending our Nation
11 Act, the Commissioner shall develop and require
12 training courses geared towards the development of
13 leadership skills for mid- and senior-level career em-
14 ployees not later than 1 year after such employees
15 assume duties in supervisory roles.”.

16 (b) REPORT.—Not later than 180 days after the date
17 of the enactment of this Act, the Commissioner shall sub-
18 mit a report to the Committee on Finance of the Senate,
19 the Committee on Homeland Security and Governmental
20 Affairs of the Senate, the Committee on Homeland Secu-
21 rity of the House of Representatives, and the Committee
22 on Ways and Means of the House of Representatives that
23 identifies the guidelines and curriculum established to
24 carry out section 411(l) of the Homeland Security Act of
25 2002, as amended by subsection (a).

1 (c) ASSESSMENT.—Not later than 4 years after the
2 date of the enactment of this Act, the Comptroller General
3 of the United States shall submit a report to the Com-
4 mittee on Homeland Security of the House of Representa-
5 tives and the Committee on Homeland Security and Gov-
6 ernmental Affairs of the Senate that assesses the training
7 and education, including continuing education, required
8 under section 411(l) of the Homeland Security Act of
9 2002, as amended by subsection (a).

10 **SEC. 1146. ADDITIONAL U.S. IMMIGRATION AND CUSTOMS**
11 **ENFORCEMENT PERSONNEL.**

12 (a) ENFORCEMENT AND REMOVAL OFFICERS.—By
13 not later than September 30, 2022, the Director of U.S.
14 Immigration and Customs Enforcement shall increase the
15 number of trained, full-time, active duty U.S. Immigration
16 and Customs Enforcement Enforcement and Removal Op-
17 erations law enforcement officers performing interior im-
18 migration enforcement functions to not fewer than 8,500.

19 (b) HOMELAND SECURITY INVESTIGATIONS SPECIAL
20 AGENTS.—By not later than September 30, 2022, the Di-
21 rector of U.S. Immigration and Customs Enforcement
22 shall increase the number of trained, full-time, active duty
23 Homeland Security Investigations special agents by not
24 fewer than 1,500.

1 (c) BORDER ENFORCEMENT SECURITY TASK
2 FORCE.—By not later than September 30, 2022, the Di-
3 rector of U.S. Immigration and Customs Enforcement
4 shall assign not fewer than 100 Homeland Security Inves-
5 tigation special agents to the Border Enforcement Secu-
6 rity Task Force Program established under section 432
7 of the Homeland Security Act of 2002 (6 U.S.C. 240).

8 **SEC. 1147. OTHER IMMIGRATION AND LAW ENFORCEMENT**
9 **PERSONNEL.**

10 (a) DEPARTMENT OF JUSTICE.—

11 (1) UNITED STATES ATTORNEYS.—By not later
12 than September 30, 2022, in addition to positions
13 authorized before the date of the enactment of this
14 Act and any existing attorney vacancies within the
15 Department of Justice on such date of enactment,
16 the Attorney General shall—

17 (A) increase by not fewer than 100 the
18 number of Assistant United States Attorneys;
19 and

20 (B) increase by not fewer than 50 the
21 number of Special Assistant United States At-
22 torneys in the United States Attorneys' office to
23 litigate denaturalization and other immigration
24 cases in the Federal courts.

25 (2) IMMIGRATION JUDGES.—

1 (A) ADDITIONAL IMMIGRATION JUDGES.—
2 By not later than September 30, 2022, in addi-
3 tion to positions authorized before the date of
4 the enactment of this Act and any existing va-
5 cancies within the Department of Justice on
6 such date of enactment, the Attorney General
7 shall increase by 200 the number of trained
8 full-time immigration judges.

9 (B) FACILITIES, SUPPORT PERSONNEL,
10 AND FULL-TIME INTERPRETERS.—The Attorney
11 General is authorized to procure space, tem-
12 porary facilities, support staff, and full-time in-
13 terpreters on an expedited basis, to accommo-
14 date the additional immigration judges author-
15 ized under subparagraph (A).

16 (3) BOARD OF IMMIGRATION APPEALS.—

17 (A) BOARD MEMBERS.—By not later than
18 September 30, 2022, the Attorney General shall
19 increase the number of Board Members author-
20 ized to serve on the Board of Immigration Ap-
21 peals to 25.

22 (B) STAFF ATTORNEYS.—By not later
23 than September 30, 2022, in addition to posi-
24 tions authorized before the date of the enact-
25 ment of this Act and any existing staff attorney

1 vacancies within the Department of Justice on
2 such date of enactment, the Attorney General
3 shall increase the number of staff attorneys as-
4 signed to support the Board of Immigration
5 Appeals by not fewer than 50.

6 (C) FACILITIES AND SUPPORT PER-
7 SONNEL.—The Attorney General is authorized
8 to procure space, temporary facilities, and re-
9 quired administrative support staff, on an expe-
10 dited basis, to accommodate the additional
11 Board Members authorized under subparagraph
12 (A).

13 (4) OFFICE OF IMMIGRATION LITIGATION.—By
14 not later than September 30, 2022, in addition to
15 positions authorized before the date of the enact-
16 ment of this Act and any existing vacancies within
17 the Department of Justice on such date of enact-
18 ment, the Attorney General shall increase by not
19 fewer than 100 the number of attorneys for the Of-
20 fice of Immigration Litigation.

21 (b) DEPARTMENT OF HOMELAND SECURITY.—

22 (1) FRAUD DETECTION AND NATIONAL SECU-
23 RITY OFFICERS.—By not later than September 30,
24 2022, in addition to positions authorized before the
25 date of the enactment of this Act and any existing

1 officer vacancies within the Department of Home-
2 land Security on such date of enactment, the Direc-
3 tor of U.S. Citizenship and Immigration Services
4 shall increase by not fewer than 100 the number of
5 trained full-time active duty Fraud Detection and
6 National Security (FDNS) officers.

7 (2) ICE HOMELAND SECURITY INVESTIGATIONS
8 FORENSIC DOCUMENT LABORATORY PERSONNEL.—
9 By not later than September 30, 2022, in addition
10 to positions authorized before the date of the enact-
11 ment of this Act and any existing officer vacancies
12 within the Department of Homeland Security on
13 such date of enactment, the Director of U.S. Immi-
14 gration and Customs Enforcement shall increase—

15 (A) the number of trained, full-time Foren-
16 sic Document Laboratory Examiners by 15;

17 (B) the number of trained, full-time Fin-
18 gerprint Specialists by 15;

19 (C) the number of trained, full-time Intel-
20 ligence Officers by 10; and

21 (D) the number of trained, full-time ad-
22 ministrative staff by 3.

23 (3) IMMIGRATION ATTORNEYS.—

24 (A) OFFICE OF THE PRINCIPAL LEGAL AD-
25 VISOR ATTORNEYS.—By not later than Sep-

1 tember 30, 2022, in addition to positions au-
2 thorized before the date of the enactment of
3 this Act and any existing attorney vacancies
4 within the Department of Homeland Security
5 on such date of enactment, the Director of U.S.
6 Immigration and Customs Enforcement shall
7 increase the number of trained, full-time, active
8 duty Office of Principal Legal Advisor attorneys
9 by not fewer than 1,200. The majority of such
10 attorneys shall perform duties related to litiga-
11 tion of removal proceedings and representing
12 the Department of Homeland Security in immi-
13 gration matters before the immigration courts
14 within the Department of Justice, the Executive
15 Office for Immigration Review, and enforce-
16 ment of U.S. customs and trade laws. At least
17 50 of these additional attorney positions shall
18 be used by the Attorney General to increase the
19 number of U.S. Immigration and Customs En-
20 forcement attorneys serving as Special Assist-
21 ant U.S. Attorneys, on detail to the Depart-
22 ment of Justice, Offices of the U.S. Attorneys,
23 to assist with immigration-related litigation.

24 (B) USCIS IMMIGRATION ATTORNEYS.—
25 By not later than September 30, 2022, in addi-

1 tion to positions authorized before the date of
2 the enactment of this Act and any existing at-
3 torney vacancies within the Department of
4 Homeland Security on such date of enactment,
5 the Director of U.S. Citizenship and Immigra-
6 tion Services shall increase the number of
7 trained, full-time, active duty Office of Chief
8 Counsel attorneys by not fewer than 250. Such
9 attorneys shall primarily handle national secu-
10 rity and public safety cases, denaturalization
11 cases, and legal sufficiency reviews of immigra-
12 tion benefit decisions. At least 50 of these addi-
13 tional attorney positions shall be used by the
14 Attorney General to increase the number of
15 U.S. Citizenship and Immigration Service attor-
16 neys serving as Special Assistant U.S. Attor-
17 neys, on detail to the Department of Justice,
18 Offices of the U.S. Attorneys, to assist with im-
19 migration-related litigation.

20 (C) FACILITIES AND SUPPORT PER-
21 SONNEL.—The Attorney General and Secretary
22 are authorized to procure space, temporary fa-
23 cilities, and to hire the required administrative
24 and legal support staff, on an expedited basis,

1 to accommodate the additional positions author-
2 ized under this paragraph.

3 (c) DEPARTMENT OF STATE.—

4 (1) VISA SPECIALISTS.—By not later than Sep-
5 tember 30, 2022, in addition to positions authorized
6 before the date of the enactment of this Act and any
7 existing attorney vacancies within the Department
8 on such date of enactment, the Assistant Secretary
9 of State for Consular Affairs shall increase the num-
10 ber of trained, full-time analysts within the Bureau
11 of Consular Affairs by not fewer than 50. Such ana-
12 lysts primarily should handle and advise on cases
13 and matters involving the potential for visa denial on
14 the basis of national security and public safety con-
15 cerns.

16 (2) IMMIGRATION ATTORNEYS.—By not later
17 than September 30, 2022, in addition to positions
18 authorized before the date of the enactment of this
19 Act and any existing attorney vacancies within the
20 Department on such date of enactment, the Assist-
21 ant Secretary of State for Consular Affairs shall in-
22 crease the number of trained, full-time, active attor-
23 neys adviser within the Bureau of Consular Affairs
24 by not fewer than 25. Such attorneys primarily
25 should handle and advise on cases and matters in-

1 volving the potential for visa denial on the basis of
2 national security and public safety concerns.

3 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
4 are authorized to be appropriated, for each of the fiscal
5 years 2018 through 2022, such sums as may be necessary
6 to carry out this section.

7 **SEC. 1148. JUDICIAL RESOURCES FOR BORDER SECURITY.**

8 (a) **BORDER CROSSING PROSECUTIONS; CRIMINAL**
9 **CONSEQUENCE INITIATIVE.**—

10 (1) **IN GENERAL.**—Amounts appropriated pur-
11 suant to paragraph (3) shall be used—

12 (A) to increase the number of criminal
13 prosecutions for unlawful border crossing in
14 each and every sector of the southern border by
15 not less than 80 percent per day, as compared
16 to the average number of such prosecutions per
17 day during the 12-month period preceding the
18 date of the enactment of this Act, by increasing
19 funding for—

20 (i) attorneys and administrative sup-
21 port staff in offices of United States attor-
22 neys;

23 (ii) support staff and interpreters in
24 court clerks' offices;

25 (iii) pre-trial services;

1 (iv) activities of the Office of the Fed-
2 eral Public Defender, including payments
3 to retain appointed counsel under section
4 3006A of title 18, United States Code; and

5 (v) additional personnel, including
6 deputy United States marshals in the
7 United States Marshals Service, to perform
8 intake, coordination, transportation, and
9 court security; and

10 (B) to reimburse Federal, State, local, and
11 tribal law enforcement agencies for any deten-
12 tion costs related to the increased border cross-
13 ing prosecutions carried out pursuant to sub-
14 paragraph (A).

15 (2) ADDITIONAL MAGISTRATE JUDGES TO AS-
16 SIST WITH INCREASED CASELOAD.—The chief judge
17 of each judicial district located within a sector of the
18 southern border is authorized to appoint additional
19 full-time magistrate judges, who, consistent with the
20 Constitution and laws of the United States, shall
21 have the authority to hear cases and controversies in
22 the judicial district in which the magistrate judges
23 are appointed.

24 (3) AUTHORIZATION OF APPROPRIATIONS.—
25 There are authorized to be appropriated, for each of

1 the fiscal years 2018 through 2022, such sums as
2 may be necessary to carry out this subsection.

3 (b) ADDITIONAL PERMANENT DISTRICT COURT
4 JUDGESHIPS IN SOUTHERN BORDER STATES.—

5 (1) IN GENERAL.—The President shall appoint,
6 by and with the advice and consent of the Senate—

7 (A) 4 additional district judges for the Dis-
8 trict of Arizona;

9 (B) 2 additional district judges for the
10 Southern District of California;

11 (C) 4 additional district judges for the
12 Western District of Texas; and

13 (D) 2 additional district judges for the
14 Southern District of Texas.

15 (2) CONVERSIONS OF TEMPORARY DISTRICT
16 COURT JUDGESHIPS.—The judgeships for the Dis-
17 trict of Arizona and the Central District of Cali-
18 fornia authorized under section 312(c) of the 21st
19 Century Department of Justice Appropriations Au-
20 thorization Act (28 U.S.C. 133 note), in existence on
21 the day before the date of the enactment of this Act,
22 shall be authorized under section 133 of title 28,
23 United States Code, and the individuals holding
24 such judgeships on such day shall hold office under

1 section 133 of title 28, United States Code, as
2 amended by paragraph (3).

3 (3) TECHNICAL AND CONFORMING AMEND-
4 MENTS.—The table contained in section 133(a) of
5 title 28, United States Code, is amended—

6 (A) by striking the item relating to the dis-
7 trict of Arizona and inserting the following:

“Arizona 17”;

8 (B) by striking the items relating to Cali-
9 fornia and inserting the following :

“California:
Northern 19
Eastern 12
Central 28
Southern 15”; and

10 (C) by striking the items relating to Texas
11 and inserting the following :

“Texas:
Northern 12
Southern 21
Eastern 7
Western 17”.

12 (c) INCREASE IN FILING FEES.—

13 (1) IN GENERAL.—Section 1914(a) of title 28,
14 United States Code, is amended—

15 (A) by striking “\$350” and inserting
16 “\$375”; and

17 (B) by striking “\$5” and inserting “\$7”.

1 (2) EXPENDITURE LIMITATION.—Incremental
2 amounts collected pursuant to the amendments
3 made by paragraph (1)—

4 (A) shall be deposited as offsetting receipts
5 in the special fund of the Treasury established
6 under section 1931 of title 28, United States
7 Code; and

8 (B) shall be available solely for the purpose
9 of facilitating the processing of civil cases, but
10 only to the extent specifically appropriated by
11 an Act of Congress enacted after the date of
12 the enactment of this Act.

13 **SEC. 1149. REIMBURSEMENT TO STATE AND LOCAL PROS-**
14 **ECUTORS FOR FEDERALLY INITIATED, IMMI-**
15 **GRATION-RELATED CRIMINAL CASES.**

16 (a) IN GENERAL.—The Attorney General shall reim-
17 burse State, county, tribal, and municipal governments for
18 costs associated with the prosecution of federally initiated
19 criminal cases declined to be prosecuted by local offices
20 of the United States attorneys, including costs relating to
21 pre-trial services, detention, clerical support, and public
22 defenders' services associated to such prosecution.

23 (b) EXCEPTION.—Reimbursement under subsection
24 (a) shall not be available, at the discretion of the Attorney
25 General, if the Attorney General determines that there is

1 reason to believe that the jurisdiction seeking reimburse-
2 ment has engaged in unlawful conduct in connection with
3 immigration-related apprehensions.

4 **CHAPTER 3—GRANTS**

5 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

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

8 (1) in paragraph (1)—

9 (A) by inserting “AUTHORIZATION.—” be-
10 fore “If the chief”; and

11 (B) by inserting “or an alien with an un-
12 known status” after “undocumented criminal
13 alien” each place that term appears;

14 (2) by striking paragraphs (2) and (3) and in-
15 serting the following:

16 “(2) COMPENSATION.—

17 “(A) CALCULATION OF COMPENSATION.—
18 Compensation under paragraph (1)(A) shall be
19 the average cost of incarceration of a prisoner
20 in the relevant State, as determined by the At-
21 torney General.

22 “(B) COMPENSATION OF STATE FOR IN-
23 CARCERATION.—The Attorney General shall
24 compensate the State or political subdivision of

1 the State, in accordance with subparagraph
2 (A), for the incarceration of an alien—

3 “(i) whose immigration status cannot
4 be verified by the Secretary; and

5 “(ii) who would otherwise be an un-
6 documented criminal alien if the alien is
7 unlawfully present in the United States.

8 “(3) DEFINITIONS.—In this subsection:

9 “(A) ALIEN WITH AN UNKNOWN STA-
10 TUS.—The term ‘alien with an unknown status’
11 means an individual—

12 “(i) who has been incarcerated by a
13 Federal, State, or local law enforcement
14 entity; and

15 “(ii) whose immigration status cannot
16 be definitively identified.

17 “(B) UNDOCUMENTED CRIMINAL ALIEN.—
18 The term ‘undocumented criminal alien’ means
19 an alien who—

20 “(i) has been charged with or con-
21 victed of a felony or any misdemeanors;
22 and

23 “(ii)(I) entered the United States
24 without inspection or at any time or place
25 other than as designated by the Secretary;

1 “(II) was the subject of exclusion or
2 deportation or removal proceedings at the
3 time he or she was taken into custody by
4 the State or a political subdivision of the
5 State; or

6 “(III) was admitted as a non-
7 immigrant and, at the time he or she was
8 taken into custody by the State or a polit-
9 ical subdivision of the State, has failed to
10 maintain the nonimmigrant status in which
11 the alien was admitted or to which it was
12 changed under section 248, or to comply
13 with the conditions of any such status.”;

14 (3) in paragraph (4), by inserting “and aliens
15 with an unknown status” after “undocumented
16 criminal aliens” each place that term appears;

17 (4) in paragraph (5)(C), by striking “to carry
18 out this subsection” and all that follows and insert-
19 ing “\$950,000,000, for each of the fiscal years 2018
20 through 2022, to carry out this subsection.”; and

21 (5) by adding at the end the following:

22 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any
23 amounts provided to a State or to a political subdivi-
24 sion of a State as compensation under paragraph
25 (1)(A) for a fiscal year shall be distributed to such

1 State or political subdivision not later than 120 days
2 after the last day of the period specified by the At-
3 torney General for the submission of requests under
4 that paragraph for that fiscal year.”.

5 **SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE**
6 **GRANTS.**

7 (a) **AUTHORITY.**—

8 (1) **IN GENERAL.**—The Secretary, in consulta-
9 tion with State and local law enforcement agencies,
10 may award border security assistance grants to law
11 enforcement agencies located in the Southwest bor-
12 der region for the purposes described in subsection
13 (b).

14 (2) **PRIORITY.**—In awarding grants under this
15 section, the Secretary shall give priority to law en-
16 forcement agencies located in a county that is lo-
17 cated within 25 miles of the Southern border.

18 (b) **PURPOSES.**—Each grant awarded under sub-
19 section (a) shall be used to address drug trafficking,
20 smuggling, and border violence—

21 (1) by obtaining law enforcement equipment
22 and tools, including secure 2-way communication de-
23 vices, portable laptops and office computers, license
24 plate readers, unmanned aerial vehicles, unmanned
25 aircraft systems, manned aircraft, cameras with

1 night viewing capabilities, and any other appropriate
2 law enforcement equipment;

3 (2) by hiring additional personnel, including ad-
4 ministrative support personnel, dispatchers, and
5 jailers, and to provide overtime pay for such per-
6 sonnel;

7 (3) by purchasing law enforcement vehicles;

8 (4) by providing high performance aircraft and
9 helicopters for border surveillance and other critical
10 mission applications and paying for the operational
11 and maintenance costs associated with such craft;

12 (5) by providing critical power generation sys-
13 tems, infrastructure, and technological upgrades to
14 support State and local data management systems
15 and fusion centers; or

16 (6) by providing specialized training and paying
17 for the direct operating expenses associated with de-
18 tecting and prosecuting drug trafficking, human
19 smuggling, and other illegal activity or violence that
20 occurs at or near the Southern border.

21 (c) APPLICATION.—

22 (1) REQUIREMENT.—A law enforcement agency
23 seeking a grant under subsection (a), or a nonprofit
24 organization or coalition acting as an agent for 1 or
25 more such law enforcement entities, shall submit an

1 application to the Secretary that includes the infor-
2 mation described in paragraph (2) at such time and
3 in such manner as the Secretary may require.

4 (2) CONTENT.—Each application submitted
5 under paragraph (1) shall include—

6 (A) a description of the activities to be car-
7 ried out with a grant awarded under subsection
8 (a);

9 (B) if equipment will be purchased with
10 the grant, a detailed description of—

11 (i) the type and quantity of such
12 equipment; and

13 (ii) the personnel who will be using
14 such equipment;

15 (C) a description of the need of the law en-
16 forcement agency or agencies for the grant, in-
17 cluding a description of the inability of the
18 agency or agencies to carry out the proposed
19 activities without the grant; and

20 (D) an assurance that the agency or agen-
21 cies will, to the extent practicable, seek, recruit,
22 and hire women and members of racial and eth-
23 nic minority groups in law enforcement posi-
24 tions of the agency or agencies.

25 (d) REVIEW AND AWARD.—

1 (1) REVIEW.—Not later than 90 days after re-
2 ceiving an application submitted under subsection
3 (c), the Secretary shall review and approve or reject
4 the application.

5 (2) AWARD OF FUNDS.—Subject to the avail-
6 ability of appropriations, not later than 45 days
7 after the date an application is approved under
8 paragraph (1), the Secretary shall transmit the
9 grant funds to the applicant.

10 (3) PRIORITY.—In distributing grant funds
11 under this subsection, priority shall be given to high-
12 intensity areas for drug trafficking, smuggling, and
13 border violence.

14 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated, for each of the fiscal years
16 2018 through 2022, \$300,000,000 for grants authorized
17 under this section.

18 **SEC. 1153. OPERATION STONEGARDEN.**

19 (a) IN GENERAL.—Subtitle A of title XX of the
20 Homeland Security Act of 2002 (6 U.S.C. 601 et seq.)
21 is amended by adding at the end the following:

22 **“SEC. 2009. OPERATION STONEGARDEN.**

23 “(a) ESTABLISHMENT.—There is established in the
24 Department a program to be known as ‘Operation
25 Stonegarden’, under which the Secretary, acting through

1 the Administrator, shall make grants to eligible law en-
2 forcement agencies, through the State administrative
3 agency, to enhance border security in accordance with this
4 section.

5 “(b) ELIGIBLE RECIPIENTS.—To be eligible to re-
6 ceive a grant under this section, a law enforcement agen-
7 cy—

8 “(1) shall be located in—

9 “(A) a State bordering Canada or Mexico;

10 or

11 “(B) a State or territory with a maritime
12 border; and

13 “(2) shall be involved in an active, ongoing,
14 U.S. Customs and Border Protection operation co-
15 ordinated through a U.S. Border Patrol sector of-
16 fice.

17 “(c) PERMITTED USES.—The recipient of a grant
18 under this section may use such grant for—

19 “(1) equipment, including maintenance and
20 sustainment costs;

21 “(2) personnel, including overtime and backfill,
22 in support of enhanced border law enforcement ac-
23 tivities;

24 “(3) any activity permitted for Operation
25 Stonegarden under the Department of Homeland

1 Security’s most recent Homeland Security Grant
2 Program Notice of Funding Opportunity; and

3 “(4) any other appropriate activity, as deter-
4 mined by the Administrator, in consultation with the
5 Commissioner of U.S. Customs and Border Protec-
6 tion.

7 “(d) PERIOD OF PERFORMANCE.—The Secretary
8 shall award grants under this section to grant recipients
9 for a period of not less than 36 months.

10 “(e) REPORT.—For each of the fiscal years 2018
11 through 2022, the Administrator shall submit a report to
12 the Committee on Homeland Security and Governmental
13 Affairs of the Senate and the Committee on Homeland
14 Security of the House of Representatives containing infor-
15 mation on the expenditure of grants made under this sec-
16 tion by each grant recipient.

17 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
18 is authorized to be appropriated \$110,000,000, for each
19 of the fiscal years 2018 through 2022, for grants under
20 this section.”.

21 (b) CONFORMING AMENDMENT.—Section 2002(a) of
22 the Homeland Security Act of 2002 (6 U.S.C. 603(a)) is
23 amended to read as follows:

24 “(a) GRANTS AUTHORIZED.—The Secretary, through
25 the Administrator, may award grants under sections 2003,

1 2004, and 2009 to State, local, and tribal governments,
2 as appropriate.”.

3 (c) CLERICAL AMENDMENT.—The table of contents
4 in section 1(b) of the Homeland Security Act of 2002 is
5 amended by inserting after the item relating to section
6 2008 the following:

“Sec. 2009. Operation Stonegarden.”.

7 **SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS OF**
8 **CROSS-BORDER HUMAN SMUGGLING.**

9 In addition to any funding for grants made available
10 to the Attorney General for State and local law enforce-
11 ment assistance, the Attorney General shall award grants
12 to county, municipal, or tribal governments in States
13 along the southern border for costs, or reimbursement of
14 costs, associated with the transportation and processing
15 of unidentified alien remains that have been transferred
16 to an official medical examiner’s office or an institution
17 of higher education in the area with the capacity to ana-
18 lyze human remains using forensic best practices, includ-
19 ing DNA testing, where such expenses may contribute to
20 the collection and analysis of information pertaining to
21 missing and unidentified persons.

22 **SEC. 1155. GRANT ACCOUNTABILITY.**

23 (a) DEFINITIONS.—In this section:

24 (1) AWARDING ENTITY.—The term “awarding
25 entity” means the Secretary, the Administrator of

1 the Federal Emergency Management Agency, the
2 Director of the National Science Foundation, or the
3 Chief of the Office of Citizenship and New Ameri-
4 cans.

5 (2) NONPROFIT ORGANIZATION.—The term
6 “nonprofit organization” means an organization that
7 is described in section 501(c)(3) of the Internal Rev-
8 enue Code of 1986 and is exempt from taxation
9 under section 501(a) of such Code.

10 (3) UNRESOLVED AUDIT FINDING.—The term
11 “unresolved audit finding” means a finding in a
12 final audit report conducted by the Inspector Gen-
13 eral of the Department of Homeland Security, or the
14 Inspector General for the National Science Founda-
15 tion for grants awarded by the Director of the Na-
16 tional Science Foundation, that the audited grantee
17 has utilized grant funds for an unauthorized expend-
18 iture or otherwise unallowable cost that is not closed
19 or resolved within 1 year after the date when the
20 final audit report is issued.

21 (b) ACCOUNTABILITY.—All grants awarded by an
22 awarding entity pursuant to this subtitle shall be subject
23 to the following accountability provisions:

24 (1) AUDIT REQUIREMENT.—

1 (A) AUDITS.—Beginning in the first fiscal
2 year beginning after the date of the enactment
3 of this Act, and in each fiscal year thereafter,
4 the Inspector General of the Department of
5 Homeland Security, or the Inspector General
6 for the National Science Foundation for grants
7 awarded by the Director of the National
8 Science Foundation, shall conduct audits of re-
9 cipients of grants under this subtitle or any
10 amendments made by this subtitle to prevent
11 waste, fraud, and abuse of funds by grantees.
12 Such Inspectors General shall determine the ap-
13 propriate number of grantees to be audited
14 each year.

15 (B) MANDATORY EXCLUSION.—A recipient
16 of grant funds under this subtitle that is found
17 to have an unresolved audit finding shall not be
18 eligible to receive grant funds under this sub-
19 title or any amendment made by this subtitle
20 during the first 2 fiscal years beginning after
21 the end of the fiscal year in which a finding de-
22 scribed in subsection (A) was discovered.

23 (C) PRIORITY.—In awarding a grant under
24 this subtitle or any amendment made by this
25 subtitle, the awarding entity shall give priority

1 to eligible applicants that did not have an unre-
2 solved audit finding during the 3 fiscal years
3 immediately preceding the date on which the
4 entity submitted the application for such grant.

5 (D) REIMBURSEMENT.—If an entity is
6 awarded grant funds under this subtitle or any
7 amendment made by this subtitle during the 2-
8 year period when the entity is barred from re-
9 ceiving grants under subparagraph (B), the
10 awarding entity shall—

11 (i) deposit an amount equal to the
12 amount of the grant funds that were im-
13 properly awarded to such entity into the
14 general fund of the Treasury; and

15 (ii) seek to recover the costs of the re-
16 payment under clause (i) from such entity.

17 (2) NONPROFIT ORGANIZATION REQUIRE-
18 MENTS.—

19 (A) PROHIBITION.—An awarding entity
20 may not award a grant under this subtitle or
21 any amendment made by this subtitle to a non-
22 profit organization that holds money in offshore
23 accounts for the purpose of avoiding the tax im-
24 posed under section 511(a) of the Internal Rev-
25 enue Code of 1986.

1 (B) DISCLOSURE.—Each nonprofit organi-
2 zation that is awarded a grant under this sub-
3 title or any amendment made by this subtitle
4 and uses the procedures prescribed by Internal
5 Revenue regulations to create a rebuttable pre-
6 sumption of reasonableness for the compensa-
7 tion of its officers, directors, trustees, and key
8 employees, shall disclose to the awarding entity,
9 in the application for the grant, the process for
10 determining such compensation, including the
11 independent persons involved in reviewing and
12 approving such compensation, the comparability
13 data used, and contemporaneous substantiation
14 of the deliberation and decision. Upon request,
15 the awarding entity shall make the information
16 disclosed under this subparagraph available for
17 public inspection.

18 (3) CONFERENCE EXPENDITURES.—

19 (A) LIMITATION.—Amounts authorized to
20 be appropriated to the Department of Home-
21 land Security or the National Science Founda-
22 tion for grant programs under this subtitle or
23 any amendment made by this subtitle may not
24 be used by an awarding entity to host or sup-
25 port any expenditure for conferences that uses

1 more than \$20,000 in funds made available by
2 the Department of Homeland Security or the
3 National Science Foundation unless the Deputy
4 Secretary for Homeland Security, or the Dep-
5 uty Director of the National Science Founda-
6 tion, or their designee, provides prior written
7 authorization that the funds may be expended
8 to host the conference.

9 (B) WRITTEN APPROVAL.—Written ap-
10 proval under subparagraph (A) shall include a
11 written estimate of all costs associated with the
12 conference, including the cost of all food, bev-
13 erages, audio-visual equipment, honoraria for
14 speakers, and entertainment.

15 (C) REPORT.—The Deputy Secretary of
16 Homeland Security and the Deputy Director of
17 the National Science Foundation shall submit
18 an annual report to Congress that identifies all
19 conference expenditures approved under this
20 paragraph.

21 (4) ANNUAL CERTIFICATION.—Beginning in the
22 first fiscal year beginning after the date of the en-
23 actment of this Act, and annually thereafter, each
24 awarding entity shall submit a report to Congress
25 that—

- 1 (A) indicates whether—
- 2 (i) all audits issued by the Offices of
- 3 the Inspector General under paragraph (1)
- 4 have been completed and reviewed by the
- 5 appropriate individuals;
- 6 (ii) all mandatory exclusions required
- 7 under paragraph (1)(B) have been issued;
- 8 and
- 9 (iii) all reimbursements required
- 10 under paragraph (1)(D) have been made;
- 11 and
- 12 (B) includes a list of any grant recipients
- 13 excluded under paragraph (1) during the pre-
- 14 vious year.

15 **Subtitle B—Emergency Port of**

16 **Entry Personnel and Infrastruc-**

17 **ture Funding**

18 **SEC. 1201. DEFINITIONS.**

19 In this subtitle:

20 (1) APPROPRIATE CONGRESSIONAL COMMIT-

21 TEES.—The term “appropriate congressional com-

22 mittees” means—

23 (A) the Committee on Homeland Security

24 and Governmental Affairs of the Senate;

1 (B) the Committee on Finance of the Sen-
2 ate;

3 (C) the Committee on the Judiciary of the
4 Senate;

5 (D) the Committee on Homeland Security
6 of the House of Representatives;

7 (E) the Committee on Ways and Means of
8 the House of Representatives; and

9 (F) the Committee on the Judiciary of the
10 House of Representatives.

11 (2) SECRETARY.—The term “Secretary” means
12 the Secretary of Homeland Security.

13 **SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.**

14 (a) ADDITIONAL PORTS OF ENTRY.—

15 (1) AUTHORITY.—The Secretary may construct
16 new ports of entry along the northern border and
17 along the southern border and determine the loca-
18 tion of any such new ports of entry.

19 (2) CONSULTATION.—

20 (A) REQUIREMENT TO CONSULT.—The
21 Secretary shall consult with the Secretary of
22 State, the Secretary of the Interior, the Sec-
23 retary of Agriculture, the Secretary of Trans-
24 portation, the Administrator of General Serv-
25 ices, and appropriate representatives of State

1 and local governments, Indian tribes, and prop-
2 erty owners in the United States before select-
3 ing a location for any new port constructed pur-
4 suant to paragraph (1).

5 (B) CONSIDERATIONS.—The purpose of
6 the consultations required under subparagraph
7 (A) shall be to minimize any negative impacts
8 of such a new port on the environment, culture,
9 commerce, and quality of life of the commu-
10 nities and residents located near such new port.

11 (b) EXPANSION AND MODERNIZATION OF HIGH-VOL-
12 UME SOUTHERN BORDER PORTS OF ENTRY.—Not later
13 than September 30, 2022, the Secretary shall expand or
14 modernize the primary and secondary inspection lanes for
15 vehicle, cargo, and pedestrian inbound and outbound in-
16 spection lanes at ports of entry on the southern border,
17 as determined by the Secretary, for the purposes of reduc-
18 ing wait times and enhancing security, as determined by
19 the Secretary.

20 (c) PORT OF ENTRY PRIORITIZATION.—Before con-
21 structing any new ports of entry pursuant to subsection
22 (a), the Secretary shall complete the expansion and mod-
23 ernization of ports of entry pursuant to subsection (b) to
24 the extent practicable.

25 (d) NOTIFICATIONS.—

1 (1) NEW PORTS OF ENTRY.—Not later than 15
2 days after determining the location of any new port
3 of entry for construction pursuant to subsection (a),
4 the Secretary shall submit a report to the appro-
5 priate congressional committees and the Members of
6 Congress who represent the State or congressional
7 district in which such new port of entry will be lo-
8 cated that includes—

9 (A) information relating to the location of
10 such new port of entry;

11 (B) a description of the need for such new
12 port of entry and associated anticipated bene-
13 fits;

14 (C) a description of the consultations un-
15 dertaken by the Secretary pursuant to sub-
16 section (a)(2);

17 (D) any actions that will be taken to mini-
18 mize negative impacts of such new port of
19 entry; and

20 (E) the anticipated time line for the con-
21 struction and completion of such new port of
22 entry.

23 (2) EXPANSION AND MODERNIZATION OF PORTS
24 OF ENTRY.—Not later than 180 days after the date

1 of the enactment of this Act, the Secretary shall no-
2 tify the appropriate congressional committees of—

3 (A) the ports of entry on the southern bor-
4 der selected for expansion or modernization
5 pursuant to subsection (b); and

6 (B) the Secretary's plan for expanding or
7 modernizing the primary and secondary inspec-
8 tion lanes at each such port of entry.

9 **SEC. 1203. SECURE COMMUNICATIONS.**

10 (a) **IN GENERAL.**—The Secretary shall ensure that
11 each U.S. Customs and Border Protection and U.S. Immi-
12 gration and Customs Enforcement officer or agent, if ap-
13 propriate, is equipped with a secure 2-way communication
14 device, supported by system interoperability, that allows
15 each such officer to communicate—

16 (1) between ports of entry and inspection sta-
17 tions; and

18 (2) with other Federal, State, tribal, and local
19 law enforcement entities.

20 (b) **LAND BORDER AGENTS AND OFFICERS.**—The
21 Secretary shall ensure that each U.S. Customs and Border
22 Protection agent or officer assigned or required to patrol
23 on foot, by horseback, or with a canine unit, in remote
24 mission critical locations, and at border checkpoints, has
25 a multi- or dual-band encrypted portable radio.

1 **SEC. 1204. BORDER SECURITY DEPLOYMENT PROGRAM.**

2 (a) EXPANSION.—Not later than September 30,
3 2022, the Secretary shall fully implement U.S. Customs
4 and Border Protection’s Border Security Deployment Pro-
5 gram and expand the integrated surveillance and intrusion
6 detection system at land ports of entry along the southern
7 border and the northern border.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
9 tion to amounts otherwise authorized to be appropriated
10 for such purpose, there is authorized to be appropriated
11 \$33,000,000, for each of the fiscal year 2018 through
12 2022, to carry out subsection (a).

13 **SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE READ-**
14 **ERS AT PORTS OF ENTRY.**

15 (a) UPGRADE.—Not later than 1 year after the date
16 of the enactment of this Act, the Commissioner of U.S.
17 Customs and Border Protection shall upgrade all existing
18 license plate readers on the northern border and on the
19 southern border on incoming and outgoing vehicle lanes.

20 (b) PILOT PROGRAM.—Not later than 90 days after
21 the date of the enactment of this Act, the Commissioner
22 of U.S. Customs and Border Protection shall conduct a
23 1-month pilot program on the southern border using li-
24 cense plate readers for 1 to 2 cargo lanes at the top 2
25 high-volume southern border land ports of entry or check-
26 points and at the top 2 high-volume northern border land

1 ports of entry or checkpoints to determine their effective-
2 ness in reducing cross-border wait times for commercial
3 traffic and tractor-trailers.

4 (c) REPORT.—Not later than 180 days after the date
5 of the enactment of this Act, the Secretary shall submit
6 a report to the appropriate congressional committees that
7 contains—

8 (1) the results of the pilot program under sub-
9 section (b); and

10 (2) recommendations for using such technology
11 on the southern border.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
13 tion to amounts otherwise authorized to be appropriated
14 for such purpose, there is authorized to be appropriated
15 \$125,000,000 for fiscal year 2018 to carry out subsection
16 (a).

17 **SEC. 1206. BIOMETRIC TECHNOLOGY.**

18 (a) BIOMETRIC STORAGE.—

19 (1) CREATION OR EXPANSION OF SYSTEM.—
20 Not later than 180 days after the date of the enact-
21 ment of this Act, the Secretary shall create a system
22 (or upgrade and expand the capability and capacity
23 of an existing system, if a Department of Homeland
24 Security system already has capability and capacity
25 for storage) to allow for the storage of fingerprints,

1 photographs, iris scans, voice prints, and any other
2 biometric data of aliens that can be used by the De-
3 partment of Homeland Security, other Federal agen-
4 cies, and State and local law enforcement agencies
5 for identity verification, authentication, background
6 checks, and document production.

7 (2) COMPATIBILITY.—The Secretary shall en-
8 sure, to the extent possible, that the system created
9 or expanded under paragraph (1) is compatible with
10 existing State and local law enforcement systems
11 that are used for the collection and storage of bio-
12 metric data for criminal aliens.

13 (b) PILOT PROGRAM.—When the system created
14 under subsection (a) is operational, U.S. Immigration and
15 Customs Enforcement and U.S. Citizenship and Immigra-
16 tion Services shall conduct a 6-month pilot program on
17 the collection and use of iris scans and voice prints for
18 identity verification, authentication, background checks,
19 and document production.

20 (c) REPORT.—Not later than 6 months after the con-
21 clusion of the pilot program under subsection (b), the Sec-
22 retary shall submit a report containing the results of the
23 pilot program and recommendations for using such tech-
24 nology to—

1 (1) the Committee on Homeland Security and
2 Governmental Affairs of the Senate;

3 (2) the Committee on the Judiciary of the Sen-
4 ate;

5 (3) the Committee on Homeland Security of the
6 House of Representatives; and

7 (4) the Committee on the Judiciary of the
8 House of Representatives.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—In addi-
10 tion to amounts otherwise authorized to be appropriated,
11 there are authorized to be appropriated, for each of the
12 fiscal years 2018 through 2022, \$10,000,000 carry out
13 this section.

14 **SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL**
15 **DEMONSTRATION PROJECT.**

16 (a) IN GENERAL.—

17 (1) ESTABLISHMENT.—Not later than 6
18 months after the date of the enactment of this Act,
19 the Commissioner shall establish a 6-month oper-
20 ational demonstration project to deploy a high-
21 throughput nonintrusive passenger vehicle inspection
22 system at not fewer than 3 land ports of entry along
23 the United States-Mexico border with significant
24 cross-border traffic.

1 (2) LOCATION.—The demonstration project es-
2 tablished under paragraph (1)—

3 (A) shall be located within the pre-primary
4 traffic flow; and

5 (B) should be scalable to span up to 26
6 contiguous in-bound traffic lanes without recon-
7 figuration of existing lanes.

8 (b) REPORT.—Not later than 90 days after the con-
9 clusion of the operational demonstration project under
10 subsection (a), the Commissioner shall submit a report to
11 the Committee on Homeland Security and Governmental
12 Affairs of the Senate, the Committee on Finance of the
13 Senate, the Committee on Homeland Security of the
14 House of Representatives, and the Committee on Ways
15 and Means of the House of Representatives that de-
16 scribes—

17 (1) the effects of the demonstration project on
18 legitimate travel and trade;

19 (2) the effects of the demonstration project on
20 wait times, including processing times, for non-pe-
21 destrian traffic; and

22 (3) the effectiveness of the demonstration
23 project in combating terrorism and smuggling.

1 **SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.**

2 (a) IN GENERAL.—Subtitle B of title IV of the
3 Homeland Security Act of 2002 (6 U.S.C. 211 et seq.)
4 is amended by inserting after section 415 the following:

5 **“SEC. 416. BIOMETRIC ENTRY-EXIT.**

6 “(a) ESTABLISHMENT.—The Secretary—

7 “(1) not later than 180 days after the date of
8 the enactment of this section, shall submit an imple-
9 mentation plan to the Committee on Homeland Se-
10 curity and Governmental Affairs of the Senate, the
11 Committee on the Judiciary of the Senate, the Com-
12 mittee on Homeland Security of the House of Rep-
13 resentatives, and the Committee on the Judiciary of
14 the House of Representatives for establishing a bio-
15 metric exit data system to complete the integrated
16 biometric entry and exit data system required under
17 section 7208 of the Intelligence Reform and Ter-
18 rorism Prevention Act of 2004 (8 U.S.C. 1365b), in-
19 cluding—

20 “(A) an integrated master schedule and
21 cost estimate, including requirements and de-
22 sign, development, operational, and mainte-
23 nance costs of such a system, that takes into
24 account prior reports on such matters issued by
25 the Government Accountability Office and the
26 Department;

1 “(B) cost-effective staffing and personnel
2 requirements of such a system that leverages
3 existing resources of the Department that takes
4 into account prior reports on such matters
5 issued by the Government Accountability Office
6 and the Department;

7 “(C) a consideration of training programs
8 necessary to establish such a system that takes
9 into account prior reports on such matters
10 issued by the Government Accountability Office
11 and the Department;

12 “(D) a consideration of how such a system
13 will affect arrival and departure wait times that
14 takes into account prior reports on such matter
15 issued by the Government Accountability Office
16 and the Department;

17 “(E) information received after consulta-
18 tion with private sector stakeholders, including
19 the—

20 “(i) trucking industry;

21 “(ii) airport industry;

22 “(iii) airline industry;

23 “(iv) seaport industry;

24 “(v) travel industry; and

25 “(vi) biometric technology industry;

1 “(F) a consideration of how trusted trav-
2 eler programs in existence as of the date of the
3 enactment of this section may be impacted by,
4 or incorporated into, such a system;

5 “(G) defined metrics of success and mile-
6 stones;

7 “(H) identified risks and mitigation strate-
8 gies to address such risks;

9 “(I) a consideration of how other countries
10 have implemented a biometric exit data system;
11 and

12 “(J) a list of statutory, regulatory, or ad-
13 ministrative authorities needed to integrate
14 such a system into the operations of the Trans-
15 portation Security Administration; and

16 “(2) not later than 2 years after the date of the
17 enactment of this section, shall establish a biometric
18 exit data system at—

19 “(A) the 15 United States airports that
20 support the highest volume of international air
21 travel, as determined by available Federal flight
22 data;

23 “(B) the 10 United States seaports that
24 support the highest volume of international sea

1 travel, as determined by available Federal travel
2 data; and

3 “(C) the 15 United States land ports of
4 entry that support the highest volume of vehi-
5 cle, pedestrian, and cargo crossings, as deter-
6 mined by available Federal border crossing
7 data.

8 “(b) IMPLEMENTATION.—

9 “(1) PILOT PROGRAM AT LAND PORTS OF
10 ENTRY FOR NON-PEDESTRIAN OUTBOUND TRAF-
11 FIC.—Not later than 6 months after the date of the
12 enactment of this section, the Secretary, in collabo-
13 ration with industry stakeholders, shall establish a
14 6-month pilot program to test the biometric exit
15 data system referred to in subsection (a)(2) on non-
16 pedestrian outbound traffic at not fewer than 3 land
17 ports of entry with significant cross-border traffic,
18 including at not fewer than 2 land ports of entry on
19 the southern land border and at least 1 land port of
20 entry on the northern land border. Such pilot pro-
21 gram may include a consideration of more than 1 bi-
22 ometric mode, and shall be implemented to deter-
23 mine—

1 “(A) how a nationwide implementation of
2 such biometric exit data system at land ports of
3 entry shall be carried out;

4 “(B) the infrastructure required to carry
5 out subparagraph (A);

6 “(C) the effects of such pilot program on
7 legitimate travel and trade;

8 “(D) the effects of such pilot program on
9 wait times, including processing times, for such
10 nonpedestrian traffic;

11 “(E) the effects of such pilot program on
12 combating terrorism; and

13 “(F) the effects of such pilot program on
14 identifying visa holders who violate the terms of
15 their visas.

16 “(2) EXPANSION TO LAND PORTS OF ENTRY
17 FOR NONPEDESTRIAN OUTBOUND TRAFFIC.—

18 “(A) IN GENERAL.—Not later than 5 years
19 after the date of the enactment of this section,
20 the Secretary shall expand the biometric exit
21 data system referred to in subsection (a)(2) to
22 all land ports of entry, and such system shall
23 apply only in the case of nonpedestrian out-
24 bound traffic.

1 “(B) EXTENSION.—The Secretary may ex-
2 tend for a single 2-year period the date speci-
3 fied in subparagraph (A) if the Secretary cer-
4 tifies to the Committee on Homeland Security
5 and Governmental Affairs of the Senate, the
6 Committee on the Judiciary of the Senate, the
7 Committee on Homeland Security of the House
8 of Representatives, and the Committee on the
9 Judiciary of the House of Representatives that
10 the 15 land ports of entry that support the
11 highest volume of passenger vehicles, as deter-
12 mined by available Federal data, do not have
13 the physical infrastructure or characteristics to
14 install the systems necessary to implement a bi-
15 ometric exit data system.

16 “(3) EXPANSION TO AIR AND SEA PORTS OF
17 ENTRY.—Not later than 5 years after the date of
18 the enactment of this section, the Secretary shall ex-
19 pand the biometric exit data system referred to in
20 subsection (a)(2) to all air and sea ports of entry.

21 “(4) EXPANSION TO LAND PORTS OF ENTRY
22 FOR PEDESTRIANS.—Not later than 5 years after
23 the date of the enactment of this section, the Sec-
24 retary shall expand the biometric exit data system
25 referred to in subsection (a)(2) to all land ports of

1 entry, and such system shall apply only in the case
2 of pedestrians.

3 “(c) EFFECTS ON AIR, SEA, AND LAND TRANSPOR-
4 TATION.—The Secretary, in consultation with appropriate
5 private sector stakeholders, shall ensure that the collection
6 of biometric data under this section causes the least pos-
7 sible disruption to the movement of people or cargo in air,
8 sea, or land transportation, while fulfilling the goals of im-
9 proving counterterrorism efforts and identifying visa hold-
10 ers who violate the terms of their visas.

11 “(d) TERMINATION OF PROCEEDING.—Notwith-
12 standing any other provision of law, the Secretary shall,
13 on the date of the enactment of this section, terminate
14 the proceeding entitled ‘Collection of Alien Biometric Data
15 Upon Exit From the United States at Air and Sea Ports
16 of Departure; United States Visitor and Immigrant Status
17 Indicator Technology Program (“US-VISIT”)', issued on
18 April 24, 2008 (73 Fed. Reg. 22065).

19 “(e) DATA-MATCHING.—The biometric exit data sys-
20 tem established under this section shall—

21 “(1) match biometric information for an indi-
22 vidual who is departing the United States against bi-
23 ometric data previously provided to the United
24 States Government by such individual for the pur-
25 poses of international travel;

1 “(2) leverage the infrastructure and databases
2 of the current biometric entry and exit system estab-
3 lished pursuant to section 7208 of the Intelligence
4 Reform and Terrorism Prevention Act of 2004 (8
5 U.S.C. 1365b) for the purpose described in para-
6 graph (1); and

7 “(3) be interoperable with, and allow matching
8 against, other Federal databases that—

9 “(A) store biometrics of known or sus-
10 pected terrorists; and

11 “(B) identify visa holders who violate the
12 terms of their visas.

13 “(f) SCOPE.—

14 “(1) IN GENERAL.—The biometric exit data
15 system established under this section shall include a
16 requirement for the collection of biometric exit data
17 at the time of departure for all categories of individ-
18 uals who are required by the Secretary to provide bi-
19 ometric entry data.

20 “(2) EXCEPTION FOR CERTAIN OTHER INDIVID-
21 UALS.—This section shall not apply in the case of an
22 individual who exits and then enters the United
23 States on a passenger vessel (as such term is defined
24 in section 2101 of title 46, United States Code) the

1 itinerary of which originates and terminates in the
2 United States.

3 “(3) EXCEPTION FOR LAND PORTS OF
4 ENTRY.—This section shall not apply in the case of
5 a United States or Canadian citizen who exits the
6 United States through a land port of entry.

7 “(g) COLLECTION OF DATA.—The Secretary may not
8 require any entity that is not part of the Federal Govern-
9 ment to collect biometric data, or to contribute to the costs
10 of collecting or administering the biometric exit data sys-
11 tem established under this section, except through a mu-
12 tual agreement.

13 “(h) MULTI-MODAL COLLECTION.—In carrying out
14 subsections (a)(1) and (b), the Secretary shall make every
15 effort to collect biometric data using multiple modes of
16 biometrics.

17 “(i) FACILITIES.—All facilities at which the biometric
18 exit data system established under this section is imple-
19 mented shall provide and maintain space for Federal use
20 that is adequate to support biometric data collection and
21 other inspection-related activity. For non-federally owned
22 facilities, such space shall be provided and maintained at
23 no cost to the Government.

24 “(j) NORTHERN LAND BORDER.—In the case of the
25 northern land border, the requirements under subsections

1 (a)(2)(C), (b)(2)(A), and (b)(4) may be achieved through
2 the sharing of biometric data provided to U.S. Customs
3 and Border Protection by the Canadian Border Services
4 Agency pursuant to the 2011 Beyond the Border agree-
5 ment.

6 “(k) FAIR AND OPEN COMPETITION.—The Secretary
7 shall procure goods and services to implement this section
8 via fair and open competition in accordance with the Fed-
9 eral Acquisition Regulation.

10 “(l) OTHER BIOMETRIC INITIATIVES.—The Sec-
11 retary may pursue biometric initiatives at air, land, and
12 sea ports of entry for the purposes of border security and
13 trade facilitation distinct from the biometric exit data sys-
14 tem described in this section.

15 “(m) CONGRESSIONAL REVIEW.—Not later than 90
16 days after the date of the enactment of this section, the
17 Secretary shall submit reports and recommendations to
18 the Committee on Homeland Security and Governmental
19 Affairs of the Senate, the Committee on the Judiciary of
20 the Senate, the Committee on Homeland Security of the
21 House of Representatives, and the Committee on the Judi-
22 ciary of the House of Representatives regarding the
23 Science and Technology Directorate’s Air Entry and Exit
24 Re-Engineering Program of the Department and the U.S.

1 Customs and Border Protection entry and exit mobility
2 program demonstrations.

3 “(n) SAVINGS CLAUSE.—Nothing in this section may
4 be construed to prohibit the collection of user fees per-
5 mitted by section 13031 of the Consolidated Omnibus
6 Budget Reconciliation Act of 1985 (19 U.S.C. 58c).”.

7 (b) CLERICAL AMENDMENT.—The table of contents
8 in section 1(b) of the Homeland Security Act of 2002 is
9 amended by inserting after the item relating to section
10 415 the following:

“Sec. 416. Biometric entry-exit.”.

11 **SEC. 1209. SENSE OF CONGRESS ON COOPERATION BE-**
12 **TWEEN AGENCIES.**

13 (a) FINDING.—Congress finds that personnel con-
14 straints exist at land ports of entry with regard to sanitary
15 and phytosanitary inspections for exported goods.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that, in the best interest of cross-border trade and
18 the agricultural community—

19 (1) any lack of certified personnel for inspection
20 purposes at ports of entry should be addressed by
21 seeking cooperation between agencies and depart-
22 ments of the United States, whether in the form of
23 a memorandum of understanding or through a cer-
24 tification process, whereby additional existing agents
25 are authorized for additional hours to facilitate the

1 crossing and trade of perishable goods in a manner
2 consistent with rules of the Department of Agri-
3 culture; and

4 (2) cross designation should be available for
5 personnel who will assist more than 1 agency or de-
6 partment at land ports of entry to facilitate in-
7 creased trade and commerce.

8 **Subtitle C—Border Security**
9 **Enforcement Fund**

10 **SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.**

11 (a) PURPOSE.—It is the purpose of this section to
12 establish a Border Security Enforcement Fund (referred
13 to in this section as the “Fund”), to be administered
14 through the Department of Homeland Security and, in fis-
15 cal year 2018 only, through the Department of State, to
16 carry out activities necessary to implement this Act and
17 other Acts related to border security, including—

18 (1) the construction, installation, deployment,
19 operation, and maintenance of tactical infrastructure
20 and technology in the vicinity of the United States
21 border—

22 (A) to achieve situational awareness and
23 operational control of such border;

24 (B) to deter, impede, and detect illegal ac-
25 tivity in high traffic areas; and

1 (C) to implement other border security
2 provisions under titles I and II;

3 (2) the implementation of port of entry provi-
4 sions under titles I and II;

5 (3) the purchase of new aircraft, vessels, spare
6 parts, and equipment to maintain such craft; and

7 (4) hiring and recruitment.

8 (b) FUNDING.—There are appropriated to the Fund,
9 out of any amounts in the Treasury not otherwise appro-
10 priated, \$25,000,000,000, of which—

11 (1) \$2,947,000,000 is appropriated for fiscal
12 year 2018, and shall remain available through Sep-
13 tember 30, 2022;

14 (2) \$2,225,000,000 is appropriated for fiscal
15 year 2019, and shall remain available through Sep-
16 tember 30, 2023;

17 (3) \$2,467,000,000 is appropriated for fiscal
18 year 2020, and shall remain available through Sep-
19 tember 30, 2024;

20 (4) \$2,644,000,000 is appropriated for fiscal
21 year 2021, and shall remain available through Sep-
22 tember 30, 2025;

23 (5) \$2,862,000,000 is appropriated for fiscal
24 year 2022, and shall remain available through Sep-
25 tember 30, 2026;

1 (6) \$2,370,000,000 is appropriated for fiscal
2 year 2023, and shall remain available through Sep-
3 tember 30, 2027;

4 (7) \$2,371,000,000 is appropriated for fiscal
5 year 2024, and shall remain available through Sep-
6 tember 30, 2028;

7 (8) \$2,401,000,000 is appropriated for fiscal
8 year 2025, and shall remain available through Sep-
9 tember 30, 2029;

10 (9) \$2,371,000,000 is appropriated for fiscal
11 year 2026, and shall remain available through Sep-
12 tember 30, 2030; and

13 (10) \$2,342,000,000 is appropriated for fiscal
14 year 2027, and shall remain available through Sep-
15 tember 30, 2031.

16 (c) PHYSICAL BARRIERS.—

17 (1) TRANSFERS.—The Secretary shall transfer,
18 from the Fund to the “U.S. Customs and Border
19 Protection—Procurement, Construction and Im-
20 provements” account, for the purpose of con-
21 structing, replacing, or planning physical barriers
22 along the United States land border,
23 \$18,000,000,000, of which—

24 (A) \$1,571,000,000 shall be transferred in
25 fiscal year 2018;

1 (B) \$1,600,000,000 shall be transferred in
2 fiscal year 2019;

3 (C) \$1,842,000,000 shall be transferred in
4 fiscal year 2020;

5 (D) \$2,019,000,000 shall be transferred in
6 fiscal year 2021;

7 (E) \$2,237,000,000 shall be transferred in
8 fiscal year 2022;

9 (F) \$1,745,000,000 shall be transferred in
10 fiscal year 2023;

11 (G) \$1,746,000,000 shall be transferred in
12 fiscal year 2024;

13 (H) \$1,776,000,000 shall be transferred in
14 fiscal year 2025;

15 (I) \$1,746,000,000 shall be transferred in
16 fiscal year 2026; and

17 (J) \$1,718,000,000 shall be transferred in
18 fiscal year 2027.

19 (2) AVAILABILITY OF FUNDS.—Notwith-
20 standing section 1552(a) of title 31, United States
21 Code, any amounts transferred pursuant to para-
22 graph (1) shall remain available for disbursement
23 until expended.

24 (d) SPECIFIED TECHNOLOGY.—During fiscal year
25 2018, the Secretary and the Secretary of shall transfer

1 from the Fund to accounts within their respective Depart-
2 ments the following amounts for the following purposes:

3 (1) \$10,000,000 for the Department of Home-
4 land Security to implement Vehicle and Dismount
5 Exploitation Radars (VADER) in border security
6 operations.

7 (2) \$3,000,000 for the Department of Home-
8 land Security to implement southern border tun-
9 neling detection technology, including 3-dimensional,
10 seismic, acoustic detection and ranging border tun-
11 neling detection technology.

12 (3) \$200,000,000 for the Department of State
13 to implement section 1120.

14 (4) \$200,000,000 for the United States Coast
15 Guard to implement section 1114(a)(18).

16 (5) \$2,000,000 for the Department of Home-
17 land Security—

18 (A) to hire additional Uniform Manage-
19 ment Center support personnel;

20 (B) to purchase uniforms for U.S. Cus-
21 toms and Border Protection officers and agents;

22 (C) to acquire additional motor vehicles to
23 support vehicle mounted surveillance systems;

24 (D) to hire additional motor vehicle pro-
25 gram support personnel; and

1 (E) to contract support for customer serv-
2 ice, vendor management, and operations man-
3 agement.

4 (6) \$250,000,000 for the implementation of the
5 biometric exit data system described in section 419
6 of the Homeland Security Act of 2002, as added by
7 section 1208.

8 (7) \$200,000,000 for the Department of Home-
9 land Security to purchase—

10 (A) AS350, UH-60L, and UAS-Native
11 MQ-9 aircraft;

12 (B) required support equipment for such
13 aircraft; and

14 (C) initial spare parts for southern and
15 northern border security and maritime oper-
16 ations.

17 (e) TRANSFER AUTHORITY.—In addition to the
18 amounts transferred by the Secretary and the Secretary
19 of State pursuant to subsections (c) and (d), the Com-
20 mittee on Appropriations of the Senate and the Committee
21 on Appropriations of the House of Representatives may
22 provide for the transfer of amounts in the Fund for each
23 fiscal year to eligible activities under this section, includ-
24 ing—

1 (1) constructing, replacing, or planning for
2 physical barriers along the United States land bor-
3 der; or

4 (2) acquiring any of the technologies described
5 in subsection (d).

6 (f) USE OF FUND.—If the Committee on Appropria-
7 tions of the Senate and the Committee on Appropriations
8 of the House of Representatives does not provide for the
9 transfer of funds in a full-year appropriation in any given
10 fiscal year pursuant to subsection (e), the Secretary of
11 Homeland Security may transfer amounts in the Fund to
12 accounts within the Department of Homeland Security for
13 eligible activities under this section, including—

14 (1) not less than the amounts specified in sub-
15 section (c) for the purpose of constructing, replac-
16 ing, or planning for physical barriers along the
17 United States land border; and

18 (2) not less than the amounts specified in sub-
19 section (d) for the purpose of the technologies de-
20 scribed in that subsection.

21 (g) BUDGET REQUEST.—A request for the transfer
22 of amounts from the Fund pursuant to this section—

23 (1) shall be included in each budget for a fiscal
24 year submitted by the President under section 1105
25 of title 31, United States Code; and

1 (2) shall describe planned obligations by pro-
2 gram, project, and activity in the receiving account
3 at the same level of detail provided for in the re-
4 quest for other appropriations in that account.

5 **Subtitle D—Stop the Importation**
6 **and Trafficking of Synthetic**
7 **Analogues Act**

8 **SEC. 1401. SHORT TITLES.**

9 This subtitle may be cited as the “Stop the Importa-
10 tion and Trafficking of Synthetic Analogues Act of 2018”
11 or the “SITSA Act”.

12 **SEC. 1402. ESTABLISHMENT OF SCHEDULE A.**

13 Section 202 of the Controlled Substances Act (21
14 U.S.C. 812) is amended—

15 (1) in subsection (a), by striking “five schedules
16 of controlled substances, to be known as schedules I,
17 II, III, IV, and V” and inserting “six schedules of
18 controlled substances, to be known as schedules I,
19 II, III, IV, V, and A”;

20 (2) in subsection (b), by adding at the end the
21 following:

22 “(6) SCHEDULE A.—

23 “(A) IN GENERAL.—The drug or substance—

24 “(i) has—

1 “(I) a chemical structure that is sub-
2 stantially similar to the chemical structure
3 of a controlled substance in schedule I, II,
4 III, IV, or V; and

5 “(II) an actual or predicted stimulant,
6 depressant, or hallucinogenic effect on the
7 central nervous system that is substantially
8 similar to or greater than the stimulant,
9 depressant, or hallucinogenic effect on the
10 central nervous system of a controlled sub-
11 stance in schedule I, II, III, IV, or V; and
12 “(ii) is not—

13 “(I) listed or otherwise included in
14 any other schedule in this section or by
15 regulation of the Attorney General; and

16 “(II) with respect to a particular per-
17 son, subject to an exemption that is in ef-
18 fect for investigational use, for that person,
19 under section 505 of the Federal Food,
20 Drug, and Cosmetic Act (21 U.S.C. 355)
21 to the extent conduct with respect to such
22 substance is pursuant to such exemption.

23 “(B) PREDICTED STIMULANT, DEPRESSANT, OR
24 HALLUCINOGENIC EFFECT.—For purpose of this
25 paragraph, a predicted stimulant, depressant, or hal-

1 lucinogenic effect on the central nervous system may
2 be based on—

3 “(i) the chemical structure, structure activ-
4 ity relationships, binding receptor assays, or
5 other relevant scientific information about the
6 substance;

7 “(ii)(I) the current or relative potential for
8 abuse of the substance; and

9 “(II) the clandestine importation, manu-
10 facture, or distribution, or diversion from legiti-
11 mate channels, of the substance; or

12 “(iii) the capacity of the substance to
13 cause a state of dependence, including physical
14 or psychological dependence that is similar to or
15 greater than that of a controlled substance in
16 schedule I, II, III, IV, or V.”; and

17 (3) in subsection (c)—

18 (A) in the matter preceding schedule I, by
19 striking “IV, and V” and inserting “IV, V, and
20 A”; and

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

22 “SCHEDULE A

23 “(a) Unless specifically excepted or unless listed in
24 another schedule, any of the following substances, as
25 scheduled in accordance with section 201(k)(5):

26 “(1) 4-fluoroisobutyryl fentanyl.

- 1 “(2) Valeryl fentanyl.
2 “(3) 4-methoxybutyryl fentanyl.
3 “(4) 4-methylphenethyl acetyl fentanyl.
4 “(5) 3-furanyl fentanyl.
5 “(6) Ortho-fluorofentanyl.
6 “(7) Tetrahydrofuranyl fentanyl.
7 “(8) Ocfentanil.
8 “(9) 4-fluorobutyryl fentanyl.
9 “(10) Methoxyacetyl fentanyl.
10 “(11) Meta-fluorofentanyl.
11 “(12) Isobutyryl fentanyl.
12 “(13) Acryl fentanyl.”.

13 **SEC. 1403. TEMPORARY AND PERMANENT SCHEDULING OF**
14 **SCHEDULE A SUBSTANCES.**

15 Section 201 of the Controlled Substances Act (21
16 U.S.C. 811) is amended by adding at the end the fol-
17 lowing:

18 “(k) TEMPORARY AND PERMANENT SCHEDULING OF
19 SCHEDULE A SUBSTANCES.—

20 “(1) The Attorney General may issue a tem-
21 porary order adding a drug or substance to schedule
22 A if the Attorney General finds that—

23 “(A) the drug or other substance satisfies
24 the criteria for being considered a schedule A
25 substance; and

1 “(B) adding such drug or substance to
2 schedule A will assist in preventing abuse or
3 misuse of the drug or other substance.

4 “(2)(A) A temporary scheduling order issued
5 under paragraph (1) shall not take effect until 30
6 days after the date on which the Attorney General
7 publishes a notice in the Federal Register of the in-
8 tention to issue such order and the grounds upon
9 which such order is to be issued.

10 “(B) The Attorney General may amend, with-
11 draw, or rescind a temporary scheduling order at
12 any time by publication of a notice in the Federal
13 Register.

14 “(C) Subject to paragraph (B), the temporary
15 scheduling order shall expire not later than 5 years
16 after the date on which it becomes effective, except
17 that the Attorney General may, during the pendency
18 of proceedings under paragraph (5), extend the tem-
19 porary scheduling order for up to 180 days.

20 “(3) A temporary scheduling order issued under
21 paragraph (1) shall be vacated upon the issuance of
22 a permanent order issued under paragraph (5) with
23 regard to the same substance, or upon the subse-
24 quent issuance of any scheduling order under this
25 section.

1 “(4) A temporary scheduling order issued under
2 paragraph (1) shall not be subject to judicial review.

3 “(5) The Attorney General may, by rule, issue
4 a permanent order adding a drug or other substance
5 to schedule A if such drug or substance satisfies the
6 criteria for being considered a schedule A substance.
7 Such rulemaking may be commenced simultaneously
8 with the issuance of the temporary scheduling order
9 issued under paragraph (1) with regard to the same
10 substance.

11 “(6) Before initiating proceedings under para-
12 graph (1) or (5), the Attorney General shall trans-
13 mit notice of an order proposed to be issued to the
14 Secretary of Health and Human Services. In issuing
15 an order under paragraph (1) or (5), the Attorney
16 General shall take into consideration any comments
17 submitted by the Secretary of Health and Human
18 Services in response to a notice transmitted pursu-
19 ant to this paragraph.”.

20 **SEC. 1404. PENALTIES.**

21 (a) CONTROLLED SUBSTANCES ACT.—The Con-
22 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
23 ed—

24 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)),
25 by adding at the end the following:

1 “(F)(i) In the case of any controlled sub-
2 stance in schedule A, such person shall be sen-
3 tenced to a term of imprisonment of not more
4 than 10 years and if death or serious bodily in-
5 jury results from the use of such substance
6 shall be sentenced to a term of imprisonment of
7 not more than 15 years, a fine not to exceed
8 the greater of that authorized in accordance
9 with the provisions of title 18, United States
10 Code, or \$500,000 if the defendant is an indi-
11 vidual or \$2,500,000 if the defendant is other
12 than an individual, or both.

13 “(ii) If any person commits such a viola-
14 tion after a prior conviction for a felony drug
15 offense has become final, such person shall be
16 sentenced to a term of imprisonment of not
17 more than 20 years and if death or serious bod-
18 ily injury results from the use of such substance
19 shall be sentenced to a term of imprisonment of
20 not more than 30 years, a fine not to exceed
21 the greater of twice that authorized in accord-
22 ance with the provisions of title 18, United
23 States Code, or \$1,000,000 if the defendant is
24 an individual or \$5,000,000 if the defendant is
25 other than an individual, or both.

1 “(iii) Any sentence imposing a term of im-
2 prisonment under this subparagraph shall, in
3 the absence of such a prior conviction, impose
4 a term of supervised release of not less than 2
5 years in addition to such term of imprisonment
6 and shall, if there was such a prior conviction,
7 impose a term of supervised release of not less
8 than 4 years in addition to such term of impris-
9 onment.”;

10 (2) in section 403(a) (21 U.S.C. 843(a))—

11 (A) in paragraph (8), by striking “or” at
12 the end;

13 (B) in paragraph (9), by striking the pe-
14 riod at the end and inserting “; or”; and

15 (C) by inserting after paragraph (9) the
16 following:

17 “(10) to export a substance in violation of the
18 controlled substance laws of the country to which
19 the substance is exported.”; and

20 (3) in section 404 (21 U.S.C. 844), by inserting
21 after subsection (a) the following:

22 “(b) A person shall not be subject to a criminal or
23 civil penalty under this title or under any other Federal
24 law solely for possession of a schedule A controlled sub-
25 stance.”.

1 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
2 ACT.—Section 1010(b) of the Controlled Substances Im-
3 port and Export Act (21 U.S.C. 960(b)) is amended by
4 adding at the end the following:

5 “(8) In the case of a violation under subsection
6 (a) involving a controlled substance in schedule A,
7 the person committing such violation shall be sen-
8 tenced to a term of imprisonment of not more than
9 20 years and if death or serious bodily injury results
10 from the use of such substance shall be sentenced to
11 a term of imprisonment for any term of years or for
12 life, a fine not to exceed the greater of that author-
13 ized in accordance with the provisions of title 18,
14 United States Code, or \$1,000,000 if the defendant
15 is an individual or \$5,000,000 if the defendant is
16 other than an individual, or both. If any person com-
17 mits such a violation after a prior conviction for a
18 felony drug offense has become final, such person
19 shall be sentenced to a term of imprisonment of not
20 more than 30 years and if death or serious bodily
21 injury results from the use of such substance shall
22 be sentenced to a term of imprisonment for any
23 term of years or for life, a fine not to exceed the
24 greater of twice that authorized in accordance with
25 the provisions of title 18, United States Code, or

1 \$2,000,000 if the defendant is an individual or
2 \$10,000,000 if the defendant is other than an indi-
3 vidual, or both. Notwithstanding section 3583 of
4 title 18, United States Code, any sentence imposing
5 a term of imprisonment under this paragraph shall,
6 in the absence of such a prior conviction, impose a
7 term of supervised release of not less than 3 years
8 in addition to such term of imprisonment and shall,
9 if there was such a prior conviction, impose a term
10 of supervised release of not less than 6 years in ad-
11 dition to such term of imprisonment. Notwith-
12 standing the prior sentence, and notwithstanding
13 any other provision of law, the court shall not place
14 on probation or suspend the sentence of any person
15 sentenced under the provisions of this paragraph
16 which provide for a mandatory term of imprison-
17 ment if death or serious bodily injury results.”.

18 **SEC. 1405. FALSE LABELING OF SCHEDULE A CONTROLLED**
19 **SUBSTANCES.**

20 (a) IN GENERAL.—Section 305 of the Controlled
21 Substances Act (21 U.S.C. 825) is amended by adding at
22 the end the following:

23 “(f) FALSE LABELING OF SCHEDULE A CON-
24 TROLLED SUBSTANCES.—

1 “(1) It shall be unlawful to import, export,
2 manufacture, distribute, dispense, or possess with
3 intent to manufacture, distribute, or dispense, a
4 schedule A substance or product containing a sched-
5 ule A substance, unless the substance or product
6 bears a label clearly identifying a schedule A sub-
7 stance or product containing a schedule A substance
8 by the nomenclature used by the International
9 Union of Pure and Applied Chemistry.

10 “(2)(A) A product described in subparagraph
11 (B) is exempt from the International Union of Pure
12 and Applied Chemistry nomenclature requirement of
13 this subsection if such product is labeled in the man-
14 ner required under the Federal Food, Drug, and
15 Cosmetic Act.

16 “(B) A product is described in this subpara-
17 graph if the product—

18 “(i) is the subject of an approved applica-
19 tion as described in section 505(b) or (j) of the
20 Federal Food, Drug, and Cosmetic Act; or

21 “(ii) is exempt from the provisions of sec-
22 tion 505 of such Act relating to new drugs be-
23 cause—

1 “(I) it is intended solely for investiga-
2 tional use as described in section 505(i) of
3 such Act; and

4 “(II) such product is being used ex-
5 clusively for purposes of a clinical trial
6 that is the subject of an effective investiga-
7 tional new drug application.”.

8 (b) PENALTIES.—Section 402 of the Controlled Sub-
9 stances Act (21 U.S.C. 842) is amended—

10 (1) in subsection (a)(16), by inserting “or sub-
11 section (f)” after “subsection (e)”; and

12 (2) in subsection (c)(1)(D), by inserting “or a
13 schedule A substance” after “anabolic steroid”.

14 **SEC. 1406. REGISTRATION REQUIREMENTS FOR HANDLERS**
15 **OF SCHEDULE A SUBSTANCES.**

16 (a) CONTROLLED SUBSTANCES ACT.—Section 303 of
17 the Controlled Substances Act (21 U.S.C. 823) is amend-
18 ed—

19 (1) in subsection (f), in the undesignated mat-
20 ter following paragraph (5)—

21 (A) by inserting “or A” after “schedule I”
22 each place it appears; and

23 (B) by adding at the end the following: “A
24 separate registration for engaging in research
25 with a controlled substance in schedule A for

1 practitioners already registered under this part
2 to engage in research with controlled substances
3 in schedule I shall not be required. The Sec-
4 retary shall determine the merits of the re-
5 search protocol submitted by the practitioner
6 registering to engage in research with a con-
7 trolled substance in schedule A, and the Attor-
8 ney General may deny or revoke the registra-
9 tion only on a ground specified in section 304.”;
10 and

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

12 “(k)(1) The Attorney General shall register an appli-
13 cant to manufacture schedule A substances if—

14 “(A) the applicant demonstrates that the sched-
15 ule A substances will be used for research, analyt-
16 ical, or industrial purposes approved by the Attorney
17 General; and

18 “(B) the Attorney General determines that such
19 registration is consistent with the public interest and
20 with the United States obligations under inter-
21 national treaties, conventions, or protocols in effect
22 on the date of enactment of this subsection.

23 “(2) In determining the public interest under para-
24 graph (1)(B), the Attorney General shall consider—

1 “(A) maintenance of effective controls against
2 diversion of particular controlled substances and any
3 controlled substance in schedule A compounded
4 therefrom into other than legitimate medical, sci-
5 entific, research, or industrial channels, by limiting
6 the importation and bulk manufacture of such con-
7 trolled substances to a number of establishments
8 which can produce an adequate and uninterrupted
9 supply of these substances under adequately com-
10 petitive conditions for legitimate medical, scientific,
11 research, and industrial purposes;

12 “(B) compliance with applicable State and local
13 law;

14 “(C) promotion of technical advances in the art
15 of manufacturing substances described in subpara-
16 graph (A) and the development of new substances;

17 “(D) prior conviction record of applicant under
18 Federal and State laws relating to the manufacture,
19 distribution, or dispensing of substances described in
20 paragraph (A);

21 “(E) past experience in the manufacture of con-
22 trolled substances, and the existence in the establish-
23 ment of effective control against diversion; and

24 “(F) such other factors as may be relevant to
25 and consistent with the public health and safety.

1 “(3) If an applicant is registered to manufacture con-
2 trolled substances in schedule I or II under subsection (a),
3 the applicant shall not be required to apply for a separate
4 registration under this subsection.

5 “(1)(1) The Attorney General shall register an appli-
6 cant to distribute schedule A substances—

7 “(A) if the applicant demonstrates that the
8 schedule A substances will be used for research, ana-
9 lytical, or industrial purposes approved by the Attor-
10 ney General; and

11 “(B) unless the Attorney General determines
12 that the issuance of such registration is inconsistent
13 with the public interest.

14 “(2) In determining the public interest under para-
15 graph (1)(B), the Attorney General shall consider—

16 “(A) maintenance of effective control against
17 diversion of particular controlled substances into
18 other than legitimate medical, scientific, and indus-
19 trial channels;

20 “(B) compliance with applicable State and local
21 law;

22 “(C) prior conviction record of applicant under
23 Federal or State laws relating to the manufacture,
24 distribution, or dispensing of substances described in
25 subparagraph (A);

1 “(D) past experience in the distribution of con-
2 trolled substances; and

3 “(E) such other factors as may be relevant to
4 and consistent with the public health and safety.

5 “(3) If an applicant is registered to distribute a con-
6 trolled substance in schedule I or II under subsection (b),
7 the applicant shall not be required to apply for a separate
8 registration under this subsection.

9 “(m)(1) Not later than 90 days after the date on
10 which a substance is placed in schedule A, any practitioner
11 who was engaged in research on the substance before the
12 placement of the substance in schedule A and any manu-
13 facturer or distributor who was handling the substance be-
14 fore the placement of the substance in schedule A shall
15 register with the Attorney General.

16 “(2)(A) Not later than 60 days after the date on
17 which the Attorney General receives an application for
18 registration to conduct research on a schedule A sub-
19 stance, the Attorney General shall—

20 “(i) grant, or initiate proceedings under section
21 304(c) to deny, the application; or

22 “(ii) request supplemental information from the
23 applicant.

24 “(B) Not later than 30 days after the date on which
25 the Attorney General receives supplemental information

1 requested under subparagraph (A)(ii) in connection with
2 an application described in subparagraph (A), the Attor-
3 ney General shall grant or deny the application.”.

4 (b) CONTROLLED SUBSTANCES IMPORT AND EXPORT
5 ACT.—Section 1008 of the Controlled Substances Import
6 and Export Act (21 U.S.C. 958) is amended by adding
7 at the end the following:

8 “(j)(1) The Attorney General shall register an appli-
9 cant to import or export a schedule A substance if—

10 “(A) the applicant demonstrates that the sched-
11 ule A substances will be used for research, analyt-
12 ical, or industrial purposes approved by the Attorney
13 General; and

14 “(B) the Attorney General determines that such
15 registration is consistent with the public interest and
16 with the United States obligations under inter-
17 national treaties, conventions, or protocols in effect
18 on the date of enactment of this subsection.

19 “(2) In determining the public interest under para-
20 graph (1)(B), the Attorney General shall consider the fac-
21 tors described in subparagraphs (A) through (F) of sec-
22 tion 303(k)(2).

23 “(3) If an applicant is registered to import or export
24 a controlled substance in schedule I or II under subsection

1 (a), the applicant shall not be required to apply for a sepa-
2 rate registration under this subsection.”.

3 **SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.**

4 (a) CONTROLLED SUBSTANCES ACT.—The Con-
5 trolled Substances Act (21 U.S.C. 801 et seq.) is amend-
6 ed—

7 (1) in section 303(c) (21 U.S.C. 823(c))—

8 (A) by striking “subsections (a) and (b)”
9 and inserting “subsection (a), (b), (k), or (l)”;
10 and

11 (B) by striking “schedule I or II” and in-
12 serting “schedule I, II, or A”;

13 (2) in section 306 (21 U.S.C. 826)—

14 (A) in subsection (a), in the first sentence,
15 by striking “schedules I and II” and inserting
16 “schedules I, II, and A”;

17 (B) in subsection (b), in the second sen-
18 tence, by striking “schedule I or II” and insert-
19 ing “schedule I, II, or A”;

20 (C) in subsection (c), in the first sentence,
21 by striking “schedules I and II” and inserting
22 “schedules I, II, and A”;

23 (D) in subsection (d), in the first sentence,
24 by striking “schedule I or II” and inserting
25 “schedule I, II, or A”;

1 (E) in subsection (e), in the first sentence,
2 by striking “schedule I or II” and inserting
3 “schedule I, II, or A”; and

4 (F) in subsection (f), in the first sentence,
5 by striking “schedules I and II” and inserting
6 “schedules I, II, and A”;

7 (3) in section 308(a) (21 U.S.C. 828(a)), by
8 striking “schedule I or II” and inserting “schedule
9 I, II, or A”;

10 (4) in section 402(b) (21 U.S.C. 842(b)), in the
11 matter preceding paragraph (1), by striking “sched-
12 ule I or II” and inserting “schedule I, II, or A”;

13 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)),
14 by striking “schedule I or II” and inserting “sched-
15 ule I, II, or A”; and

16 (6) in section 511(f) (21 U.S.C. 881(f)), by
17 striking “schedule I or II” each place it appears and
18 inserting “schedule I, II, or A”.

19 (b) CONTROLLED SUBSTANCES IMPORT EXPORT
20 ACT.—The Controlled Substances Import and Export Act
21 (21 U.S.C. 951 et seq.) is amended—

22 (1) in section 1002(a) (21 U.S.C. 952(a))—

23 (A) in the matter preceding paragraph (1),
24 by striking “schedule I or II” and inserting
25 “schedule I, II, or A”; and

1 (B) in paragraph (2), by striking “sched-
2 ule I or II” and inserting “schedule I, II, or
3 A”;

4 (2) in section 1003 (21 U.S.C. 953)—

5 (A) in subsection (c), in the matter pre-
6 ceding paragraph (1), by striking “schedule I or
7 II” and inserting “schedule I, II, or A”; and

8 (B) in subsection (d), by striking “schedule
9 I or II” and inserting “schedule I, II, or A”;

10 (3) in section 1004(1) (21 U.S.C. 954(1)), by
11 striking “schedule I” and inserting “schedule I or
12 A”;

13 (4) in section 1005 (21 U.S.C. 955), by striking
14 “schedule I or II” and inserting “schedule I, II, or
15 A”; and

16 (5) in section 1009(a) (21 U.S.C. 959(a)), by
17 striking “schedule I or II” and inserting “schedule
18 I, II, or A”.

19 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF CON-**
20 **TROLLED SUBSTANCE ANALOGUE UNDER**
21 **THE ANALOGUE ENFORCEMENT ACT.**

22 Section 102 of the Controlled Substances Act (21
23 U.S.C. 802) is amended—

24 (1) in paragraph (6), by striking “or V” and in-
25 serting “V, or A”;

1 (2) in paragraph (14)—

2 (A) by striking “schedule I(c) and” and in-
3 serting “schedule I(c), schedule A, and”; and

4 (B) by striking “schedule I(c),” and insert-
5 ing “schedule I(c) and schedule A,”; and

6 (3) in paragraph (32)(A), by striking “(32)(A)”
7 and all that follows through clause (iii) and inserting
8 the following:

9 “(32)(A) Except as provided in subparagraph
10 (C), the term ‘controlled substance analogue’ means
11 a substance whose chemical structure is substan-
12 tially similar to the chemical structure of a con-
13 trolled substance in schedule I or II—

14 “(i) which has a stimulant, depressant, or
15 hallucinogenic effect on the central nervous sys-
16 tem that is substantially similar to or greater
17 than the stimulant, depressant, or hallucino-
18 genic effect on the central nervous system of a
19 controlled substance in schedule I or II; or

20 “(ii) with respect to a particular person,
21 which such person represents or intends to have
22 a stimulant, depressant, or hallucinogenic effect
23 on the central nervous system that is substan-
24 tially similar to or greater than the stimulant,
25 depressant, or hallucinogenic effect on the cen-

1 tral nervous system of a controlled substance in
2 schedule I or II.”.

3 **SEC. 1409. RULES OF CONSTRUCTION.**

4 Nothing in this subtitle, or the amendments made by
5 this subtitle, may be construed to limit—

6 (1) the prosecution of offenses involving con-
7 trolled substance analogues under the Controlled
8 Substances Act (21 U.S.C. 801 et seq.); or

9 (2) the authority of the Attorney General to
10 temporarily or permanently schedule, reschedule, or
11 decontrol controlled substances under provisions of
12 section 201 of the Controlled Substances Act (21
13 U.S.C. 811) that are in effect on the day before the
14 date of enactment of this Act.

15 **Subtitle E—Domestic Security**

16 **CHAPTER 1—GENERAL MATTERS**

17 **SEC. 1501. ENDING CATCH AND RELEASE FOR REPEAT IM-**
18 **MIGRATION VIOLATORS AND CRIMINALS**
19 **ALIENS.**

20 (a) **IN GENERAL.**—Section 236 of the Immigration
21 and Nationality Act (8 U.S.C. 1226) is amended by strik-
22 ing the section designation and heading and all that fol-
23 lows through the period at the end of subsection (c) and
24 inserting the following:

1 **“SEC. 236. APPREHENSION AND DETENTION OF ALIENS.**

2 “(a) ARREST, DETENTION, AND RELEASE.—

3 “(1) IN GENERAL.—The Secretary, on a war-
4 rant issued by the Secretary, may arrest an alien
5 and detain the alien pending a decision on whether
6 the alien is to be removed from the United States
7 until the date on which the alien has an administra-
8 tively final order of removal. Except as provided in
9 subsection (c) and pending such decision, the Sec-
10 retary—

11 “(A) may—

12 “(i) continue to detain the arrested
13 alien;

14 “(ii) release the alien on bond of at
15 least \$5,000, with security approved by,
16 and containing conditions prescribed by,
17 the Secretary; or

18 “(iii) release the alien on his or her
19 own recognizance, subject to appropriate
20 conditions set forth by the Secretary, if the
21 Secretary determines that the alien will not
22 pose a danger to the safety of other per-
23 sons or of property and is likely to appear
24 for any scheduled proceeding; and

25 “(B) may not provide the alien with work
26 authorization (including an ‘employment au-

1 thorized' endorsement or other appropriate
2 work permit) or advance parole to travel outside
3 of the United States, unless the alien is lawfully
4 admitted for permanent residence or otherwise
5 would (without regard to removal proceedings)
6 be provided such authorization.

7 “(b) REVOCATION OF BOND OR PAROLE.—The Sec-
8 retary, at any time, may revoke bond or parole authorized
9 under subsection (a), rearrest the alien under the original
10 warrant, and detain the alien.

11 “(c) MANDATORY DETENTION OF CRIMINAL
12 ALIENS.—

13 “(1) CRIMINAL ALIENS.—The Secretary shall
14 take into custody and continue to detain any alien
15 at any time after the alien is released, without re-
16 gard to whether the alien is released on parole, su-
17 pervised release, and without regard to whether the
18 alien may be arrested or imprisoned again for the
19 same offense, if the alien—

20 “(A)(i) has not been admitted or paroled
21 into the United States; and

22 “(ii) was apprehended anywhere within
23 100 miles of the international border of the
24 United States;

1 “(B) is inadmissible by reason of having
2 committed any offense covered in section
3 212(a)(2);

4 “(C) is deportable by reason of having
5 committed any offense covered in section
6 237(a)(2);

7 “(D) is convicted for an offense under sec-
8 tion 275(a);

9 “(E) is convicted for an offense under sec-
10 tion 276;

11 “(F) is convicted for any criminal offense;
12 or

13 “(G) is inadmissible under section
14 212(a)(3)(B) or deportable under section
15 237(a)(4)(B).

16 “(2) RELEASE.—

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the Secretary may release an
19 alien described in paragraph (1) only if the Sec-
20 retary decides pursuant to section 3521 of title
21 18, United States Code, and in accordance with
22 a procedure that considers the severity of the
23 offense committed by the alien, that—

24 “(i) release of the alien from custody
25 is necessary to provide protection to—

202

1 “(I) a witness;

2 “(II) a potential witness;

3 “(III) a person cooperating with
4 an investigation into major criminal
5 activity; or

6 “(IV) an immediate family mem-
7 ber or close associate of a witness, po-
8 tential witness, or person cooperating
9 with such an investigation; and

10 “(ii) the alien demonstrates to the
11 satisfaction of the Secretary that the
12 alien—

13 “(I) is not a flight risk;

14 “(II) poses no danger to the safe-
15 ty of other persons or of property;

16 “(III) is not a threat to national
17 security or public safety; and

18 “(IV) is likely to appear at any
19 scheduled proceeding.

20 “(B) ARRESTED, BUT NOT CONVICTED,
21 ALIENS.—

22 “(i) RELEASE FOR PROCEEDINGS.—

23 The Secretary may release any alien held
24 pursuant to paragraph (1) to the appro-

1 appropriate authority for any proceedings subse-
2 quent to the arrest.

3 “(ii) RESUMPTION OF CUSTODY.—If
4 an alien is released pursuant to clause (i),
5 the Secretary shall—

6 “(I) resume custody of the alien
7 during any period pending the final
8 disposition of any proceedings subse-
9 quent to arrest for which the alien is
10 not in the custody of the appropriate
11 authority referred to in clause (i); and

12 “(II) if the alien is not convicted
13 of the offense for which the alien was
14 arrested, the Secretary shall continue
15 to detain the alien until the date on
16 which removal proceedings are com-
17 pleted.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 in the first section of the Immigration and Nationality Act
20 is amended by striking the item relating to section 236
21 and inserting the following:

 “Sec. 236. Apprehension and detention of aliens.”.

22 **SEC. 1502. DETERRING VISA OVERSTAYS.**

23 (a) ADMISSION OF NONIMMIGRANTS.—Section 214 of
24 the Immigration and Nationality Act (8 U.S.C. 1184) is
25 amended by striking the section designation and heading

1 and all that follows through the end of subsection (a)(1)

2 and inserting the following:

3 **“SEC. 214. ADMISSION OF NONIMMIGRANTS.**

4 “(a) IN GENERAL.—

5 “(1) TERMS AND CONDITIONS OF ADMISSION.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graphs (B) and (C), the admission to the
8 United States of any alien as a nonimmigrant
9 may be for such time and under such conditions
10 as the Secretary may prescribe, including when
11 the Secretary deems necessary the giving of a
12 bond with sufficient surety in such sum and
13 containing such conditions as the Secretary
14 shall prescribe, to ensure that at the expiration
15 of such time or upon failure to maintain the
16 status under which the alien was admitted, or
17 to maintain any status subsequently acquired
18 under section 248, such alien will depart from
19 the United States.

20 “(B) GUAM OR CNMI VISA WAIVER NON-
21 IMMIGRANTS.—No alien admitted to Guam or
22 the Commonwealth of the Northern Mariana Is-
23 lands without a visa pursuant to section 212(l)
24 may be authorized to enter or stay in the
25 United States, other than in Guam or the Com-

1 monwealth of the Northern Mariana Islands, or
2 to remain in Guam or the Commonwealth of
3 the Northern Mariana Islands for a period ex-
4 ceeding 45 days after the date on which the
5 alien was admitted to Guam or the Common-
6 wealth of the Northern Mariana Islands.

7 “(C) VISA WAIVER PROGRAM NON-
8 IMMIGRANTS.—An alien admitted to the United
9 States without a visa pursuant to section 217
10 shall not be authorized to remain in the United
11 States as a nonimmigrant visitor for a period
12 exceeding 90 days from the date on which the
13 alien was admitted.

14 “(D) BAR TO IMMIGRATION BENEFITS AND
15 TO CONTESTING REMOVAL.—

16 “(i) DEFINITION OF GOOD CAUSE.—
17 In this subparagraph, the term ‘good
18 cause’ means extreme exigent humani-
19 tarian circumstances, determined on a
20 case-by-case basis only, such as a medical
21 emergency or force majeure.

22 “(ii) CONSEQUENCE OF OVERSTAY.—
23 Subject to clause (iii), except for an alien
24 admitted as a nonimmigrant under of sub-
25 paragraph (A)(i), (A)(ii), (G)(i), (G)(ii), or

1 (G)(iii) of section 101(a)(15) or as a
2 NATO-1, 2, 3, 4, 5, or 6 nonimmigrant,
3 any alien who remains in the United
4 States for a period of more than 30 days
5 after the date on which the period of stay
6 authorized by the Secretary for the alien
7 ends, without good cause, is ineligible for
8 all immigration benefits or relief available
9 under the immigration laws, including re-
10 lief under sections 240B, 245, 248, and
11 249, other than—

12 “(I) asylum;

13 “(II) relief as a victim of traf-
14 ficking under section 101(a)(15)(T);

15 “(III) relief as a victim of crimi-
16 nal activity under section
17 101(a)(15)(U);

18 “(IV) relief under the Violence
19 Against Women Act of 1994 (42
20 U.S.C. 13701 et seq.) as a spouse or
21 child who has been battered or sub-
22 jected to extreme cruelty;

23 “(V) relief as a battered spouse
24 or child under section 240A(b)(2);

1 “(VI) withholding of removal
2 under section 241(b)(3); or

3 “(VII) protection from removal
4 based on a claim under the Conven-
5 tion Against Torture and Other Cruel,
6 Inhuman or Degrading Treatment or
7 Punishment, done at New York, De-
8 cember 10, 1984.

9 “(iii) EXCEPTION.—The Secretary
10 may, in the Secretary’s sole and
11 unreviewable discretion, determine that a
12 nonimmigrant is not subject to clause (ii)
13 if—

14 “(I) the alien was lawfully admit-
15 ted to the United States as a non-
16 immigrant;

17 “(II) the alien filed a nonfrivo-
18 lous application for change of status
19 to another nonimmigrant category or
20 extension of stay before the date on
21 which the alien’s authorized period of
22 stay as a nonimmigrant expired;

23 “(III) the alien has not been em-
24 ployed without authorization in the
25 United States, before or during pend-

1 ency of the application referred to in
2 subclause (II);

3 “(IV) the alien has not otherwise
4 violated the terms of the alien’s non-
5 immigrant status; and

6 “(V) the Secretary, in the Sec-
7 retary’s sole and unreviewable discre-
8 tion, determines that the alien is not
9 a threat to national security or public
10 safety.

11 “(iv) DETENTION AND EXPEDITED
12 REMOVAL.—An alien described in clause
13 (ii) who remains in the United States more
14 than 30 days after the date on which the
15 period of stay authorized by the Secretary
16 ends, without good cause, shall be detained
17 and the Secretary shall expeditiously re-
18 move the alien from the United States not
19 later than 90 days after the date on which
20 the alien is detained.

21 “(v) LIMITATION ON JUDICIAL RE-
22 VIEW.—Notwithstanding any other provi-
23 sion of law (statutory or nonstatutory), in-
24 cluding section 2241 of title 28, United
25 States Code, any other habeas corpus pro-

1 vision, or sections 1361 and 1651 of such
2 title, no court shall have jurisdiction to re-
3 view any cause or claim, arising from, or
4 relating to, the detention and expedited re-
5 moval of an alien pursuant to clause (iv).”.

6 (b) VISA WAIVER PROGRAM WAIVER OF RIGHTS.—
7 Section 217(b) of the Immigration and Nationality Act (8
8 U.S.C. 1187(b)) is amended to read as follows:

9 “(b) WAIVER OF RIGHTS.—An alien may not be pro-
10 vided a waiver under the program unless the alien has—

11 “(1) signed, under penalty of perjury, an ac-
12 knowledgement confirming that the alien was noti-
13 fied and understands that he or she will be—

14 “(A) ineligible for any form of relief or im-
15 migration benefit under the Act or any other
16 immigration laws, including sections 240B, 245,
17 248, and 249 (other than a request for asy-
18 lum), relief as a victim of trafficking under sec-
19 tion 101(a)(15)(T), relief as a victim of crimi-
20 nal activity under 101(A)(15)(U), relief under
21 the Violence Against Women Act of 1994 (42
22 U.S.C. 13701 et seq.) as a spouse or child who
23 has been battered or subjected to extreme cru-
24 elty, relief as a battered spouse or child under
25 section 240A(b)(2), withholding of removal

1 under section 241(b)(3), or protection from re-
2 moval based on a claim under the Convention
3 Against Torture and Other Cruel, Inhuman or
4 Degrading Treatment or Punishment, done at
5 New York, December 10, 1984; and

6 “(B) subject to detention and expedited re-
7 moval from the United States, if the alien fails
8 to depart from the United States at the end of
9 the 90-day period for admission;

10 “(2) waived any right to review or appeal under
11 this Act of an immigration officer’s determination as
12 to the admissibility of the alien at the port of entry
13 into the United States; and

14 “(3) waived any right to contest any action for
15 removal of the alien.”.

16 (c) DETENTION AND REPATRIATION OF VISA WAIV-
17 ER VIOLATORS.—Section 217(c)(2)(E) of the Immigration
18 and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended
19 to read as follows:

20 “(E) DETENTION AND REPATRIATION OF
21 ALIENS.—Any alien who fails to depart from
22 the United States at the end of the 90-day pe-
23 riod for admission shall be detained pending re-
24 moval.”.

1 (d) ISSUANCE OF NONIMMIGRANT VISAS.—Section
2 221(a) of the Immigration and Nationality Act (8 U.S.C.
3 1201(a)) is amended by adding at the end the following:

4 “(3) The Secretary of State shall ensure that every
5 application for a nonimmigrant visa includes an acknowl-
6 edgment, executed by the alien under penalty of perjury,
7 confirming that the alien—

8 “(A) has been notified of the terms and condi-
9 tions of the nonimmigrant visa, including the waiver
10 of rights under subsection (j); and

11 “(B) understands that he or she will be ineli-
12 gible for all immigration benefits and any form of
13 relief or protection from removal, including relief
14 under sections 240B, 245, 248, and 249, other than
15 a request for asylum, relief as a victim of trafficking
16 under section 101(a)(15)(T), relief as a victim of
17 criminal activity under 101(A)(15)(U), relief under
18 the Violence Against Women Act of 1994 (42 U.S.C.
19 13701 et seq.) as a spouse or child who has been
20 battered or subjected to extreme cruelty, relief as a
21 battered spouse or child under section 240A(b)(2),
22 withholding of removal under section 241(b)(3), or
23 protection from removal based on a claim under the
24 Convention Against Torture and Other Cruel, Inhu-
25 man or Degrading Treatment or Punishment, done

1 at New York, December 10, 1984, and from con-
2 testing removal if the alien violates any term or con-
3 dition of his or her nonimmigrant visa or fails to de-
4 part the United States not later than 30 days after
5 the end of the alien's authorized period of stay.”.

6 (e) BARS TO IMMIGRATION RELIEF.—Section 221 of
7 the Immigration and Nationality Act is amended by add-
8 ing at the end the following:

9 “(j) WAIVER OF RIGHTS.—The Secretary of State
10 may not issue a nonimmigrant visa under section 214 to
11 an alien (other than an alien who qualifies for a visa under
12 subparagraph (A) or (G) of section 101(a)(15), who is eli-
13 gible for relief under the Violence Against Women Act of
14 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who
15 has been battered or subjected to extreme cruelty, or
16 qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 non-
17 immigrant until the alien has waived any right to relief
18 under sections 240B, 245, 248, and 249 (other than relief
19 from removal under section 241(b)(3)), any form of relief
20 established after the date on which the nonimmigrant visa
21 is issued, and from contesting removal if the alien—

22 “(1) violates a term or condition of his or her
23 nonimmigrant status; or

24 “(2) fails to depart the United States not later
25 than the date that is 30 days after last day of the

1 alien’s authorized period of stay (as described in sec-
2 tion 214(a)(1)).”.

3 (f) EFFECTIVE DATE; APPLICABILITY.—

4 (1) IN GENERAL.—This section and the amend-
5 ments made by this section shall—

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

8 (B) apply only to new visas, initial admis-
9 sions of nonimmigrants, and initial requests for
10 change of status from a nonimmigrant category
11 to another nonimmigrant category under sec-
12 tion 248 of the Immigration and Nationality
13 Act (8 U.S.C. 1258).

14 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An
15 individual previously admitted to the United States
16 on a nonimmigrant visa who is present in the United
17 States before the date of the enactment of this Act
18 shall not be subject to this section or to the amend-
19 ments made by this section.

20 **SEC. 1503. INCREASE IN IMMIGRATION DETENTION CAPAC-**
21 **ITY.**

22 Not later than September 30, 2022, and subject to
23 the availability of appropriations, the Secretary of Home-
24 land Security shall increase the immigration detention ca-

1 capacity to a daily immigration detention capacity of not
2 fewer than 48,879 detention beds.

3 **SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND DE-**
4 **TAINED ALIENS.**

5 Section 3 of the DNA Analysis Backlog Elimination
6 Act of 2000 (34 U.S.C. 40702) is amended—

7 (1) in subsection (a)(1), by adding at the end
8 the following:

9 “(C) The Secretary of Homeland Security
10 shall collect DNA samples from any alien (as
11 defined under section 101(a)(3) of the Immi-
12 gration and Nationality Act (8 U.S.C.
13 1101(a)(3))) who—

14 “(i) has been detained pursuant to
15 section 235(b)(1)(B)(iii)(IV), 236, 236A,
16 or 238 of such Act (8 U.S.C.
17 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and
18 1228); or

19 “(ii) is the subject of a final order of
20 removal under section 240 of such Act (8
21 U.S.C. 1229a) based on inadmissibility
22 under section 212(a)(2) of such Act (8
23 U.S.C. 1182(a)(2)) or being subject to re-
24 moval under section 237(a)(2) of such Act
25 (8 U.S.C. 1227(a)(2)).”; and

1 perform other functions related to administering and
2 enforcing the immigration laws.

3 (b) BIOMETRIC AND BIOGRAPHIC INFORMATION
4 SHARING.—

5 (1) SHARING WITH DEPARTMENT OF DEFENSE
6 AND FEDERAL BUREAU OF INVESTIGATION.—The
7 Secretary of Homeland Security, the Secretary of
8 Defense, and the Director of the Federal Bureau of
9 Investigation—

10 (A) shall exchange appropriate biometric
11 and biographic information to determine or con-
12 firm the identity of an individual and to assess
13 whether the individual is a threat to national
14 security or public safety; and

15 (B) may use information exchanged pursu-
16 ant to subparagraph (A)—

17 (i) to compare biometric and bio-
18 graphic information contained in applicable
19 systems of the Department of Homeland
20 Security, the Department of Defense, or
21 the Federal Bureau of Investigation to de-
22 termine if there is a match between such
23 information; and

1 (ii) if there is a match between such
2 information, to relay such information to
3 the requesting agency.

4 (2) USE OF BIOMETRIC DATA BY THE DEPART-
5 MENT OF STATE.—The Secretary of State shall use
6 biometric information from applicable systems of the
7 Department of Homeland Security, the Department
8 of Defense, and the Federal Bureau of Investigation
9 to screen and track visa applicants and other indi-
10 viduals who are—

11 (A)(i) known or suspected terrorists; or
12 (ii) identified as a potential threat to na-
13 tional security; and

14 (B) using an alias while traveling.

15 (3) REPORT ON BIOMETRIC INFORMATION
16 SHARING WITH MEXICO AND OTHER COUNTRIES FOR
17 IDENTITY VERIFICATION.—Not later than 180 days
18 after the date of enactment of this Act, the Sec-
19 retary of Homeland Security and the Secretary of
20 State shall submit a joint report on the status of ef-
21 forts to engage with the Government of Mexico and
22 the governments of other appropriate foreign coun-
23 tries located in Central America or South America—

1 (A) to discuss coordination on biometric
2 information sharing between the United States
3 and such countries; and

4 (B) to enter into bilateral agreements that
5 provide for the sharing of such biometric infor-
6 mation with the Department of State, the De-
7 partment of Defense, the Department of Jus-
8 tice, the Federal Bureau of Investigation, and
9 the Department of Homeland Security to use
10 in—

11 (i) identifying individuals who are
12 known or suspected terrorists or potential
13 threats to national security; and

14 (ii) verifying the entry and exit of in-
15 dividuals to and from the United States.

16 (4) **RULE OF CONSTRUCTION.**—The collection
17 of biometric information under paragraph (1) shall
18 not limit the authority of the Secretary of Homeland
19 Security to collect biometric information from any
20 individual arriving to or departing from the United
21 States.

22 **SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
23 **ESSING.**

24 (a) **IN GENERAL.**—Not later than 180 days after the
25 date of enactment of this Act, the Secretary of Homeland

1 Security shall establish a pilot program in at least 5 of
2 the 10 U.S. Immigration and Customs Enforcement field
3 offices or regions with the largest removal caseloads to
4 allow U.S. Immigration and Customs Enforcement offi-
5 cers to use handheld or vehicle-mounted computers to elec-
6 tronically—

7 (1) process and serve charging documents, in-
8 cluding notices to appear, while in the field;

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

11 (3) collect biometric data for the purpose of
12 identifying an alien and establishing both immigra-
13 tion status and criminal history while in the field;

14 (4) enter any required data, including personal
15 information about an alien subject and the reason
16 for issuing a document;

17 (5) apply the electronic signature of the issuing
18 U.S. Immigration and Customs Enforcement officer
19 or agent;

20 (6) apply or capture the electronic signature of
21 the alien on any charging document or notice, in-
22 cluding any electronic signature captured to ac-
23 knowledge service of such documents or notices;

1 (7) set the date on which the alien is required
2 to appear before an immigration judge, in the case
3 of a notice to appear;

4 (8) print any documents the alien may be re-
5 quired to sign, along with additional copies of docu-
6 ments to be served on the alien; and

7 (9) interface with the ENFORCE database so
8 that all data is collected, stored, and retrievable in
9 real-time.

10 (b) CONTRACT SUPPORT.—The Secretary of Home-
11 land Security may contract with commercial vendors to
12 test prototypes for electronic handheld or vehicle-mounted
13 computers capable of meeting the requirements under sub-
14 section (a).

15 (c) RULE OF CONSTRUCTION.—The pilot program
16 described in subsection (a) shall be designed to replace,
17 to the extent possible, the current paperwork and data
18 entry process used for issuing charging documents and de-
19 tainers referred to in that subsection.

20 (d) REPORT.—Not later than 1 year after the date
21 on which the pilot program described in subsection (a)
22 commences, the Comptroller General of the United States
23 shall submit to the Committee on Homeland Security and
24 Governmental Affairs of the Senate, the Committee on the
25 Judiciary of the Senate, the Committee on Homeland Se-

1 curity of the House of Representatives, the Committee on
2 the Judiciary of the House of Representatives a report
3 that includes—

- 4 (1) the results of the pilot program; and
- 5 (2) recommendations for using the technology
6 described in subsection (a) on a nationwide basis.

7 **SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.**

8 (a) **IN GENERAL.**—Section 212(d)(5) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1182(d)(5)) is
10 amended to read as follows:

11 “(5) **PAROLE AUTHORITY.**—

12 “(A) **DEFINITIONS.**—In this paragraph:

13 “(i) **PUBLIC INTEREST.**—With respect
14 to a reason for parole, the term ‘public in-
15 terest’ means the alien has assisted the
16 United States Government in a matter,
17 such as a criminal investigation, espionage,
18 or other similar law enforcement activity,
19 and either the alien’s presence in the
20 United States is required by the Govern-
21 ment or the alien’s life would be threat-
22 ened if the alien were not permitted to
23 come to the United States.

24 “(ii) **URGENT HUMANITARIAN REASON**
25 **DEFINED.**—With respect to an alien, the

1 term ‘urgent humanitarian reason’
2 means—

3 “(I) the alien has a medical
4 emergency and the alien cannot obtain
5 necessary treatment in the foreign
6 state in which the alien is residing or
7 the medical emergency is life-threat-
8 ening and there is insufficient time
9 for the alien to be admitted through
10 the normal visa process;

11 “(II) the alien is needed in the
12 United States in order to donate an
13 organ or other tissue for transplant
14 into a close family member;

15 “(III) the alien has a close family
16 member in the United States whose
17 death is imminent and the alien could
18 not arrive in the United States in
19 time to see such family member alive
20 if the alien were to be admitted
21 through the normal visa process;

22 “(IV) the alien is a lawful appli-
23 cant for adjustment of status under
24 section 245; or

1 “(V) the alien was lawfully grant-
2 ed status under section 208 or law-
3 fully admitted under section 207.

4 “(B) PAROLE AUTHORIZED.—Except as
5 provided in subparagraph (C) or section 214(f),
6 the Secretary may temporarily parole into the
7 United States any alien applying for admission
8 to the United States, under such conditions as
9 the Secretary may prescribe, including requiring
10 the posting of a bond, and only on a case-by-
11 case basis, for an urgent humanitarian reason
12 or a reason deemed strictly in the public inter-
13 est.

14 “(C) PAROLE NOT AN ADMISSION.—In ac-
15 cordance with section 101(a)(13)(B), parole of
16 an alien under subparagraph (B) shall not be
17 regarded as an admission of the alien to the
18 United States. When the purposes of the parole
19 of an alien have been served, as determined by
20 the Secretary, the alien shall immediately re-
21 turn to his or her country of citizenship, nation-
22 ality, or origin. If the alien was paroled from
23 custody, the alien shall be returned to the cus-
24 tody from which the alien was paroled and the
25 alien shall be considered for admission to the

1 United States on the same basis as other simi-
2 larly situated applicants for admission.

3 “(D) PROHIBITED USES OF PAROLE AU-
4 THORITY.—

5 “(i) IN GENERAL.—The Secretary
6 may not use the authority under subpara-
7 graph (B) to parole in generalized cat-
8 egories of aliens or classes of aliens based
9 solely on nationality, presence, or residence
10 in the United States, family relationships,
11 or any other criteria that would cover a
12 broad group of foreign nationals either in-
13 side or outside of the United States.

14 “(ii) ALIENS WHO ARE NATIONAL SE-
15 CURITY OR PUBLIC SAFETY THREATS.—

16 “(I) DEFINITION OF EXTREME
17 EXIGENT CIRCUMSTANCES.—In this
18 clause, the term ‘extreme exigent cir-
19 cumstances’ means circumstances
20 under which—

21 “(aa) the failure to parole
22 the alien would result in the im-
23 mediate significant risk of loss of
24 life or bodily function due to a
25 medical emergency;

225

1 “(bb) the failure to parole
2 the alien would conflict with
3 medical advice as to the health or
4 safety of the individual, detention
5 facility staff, or other detainees;
6 or

7 “(cc) there is an urgent
8 need for the alien’s presence for
9 a law enforcement purpose, in-
10 cluding for a prosecution or se-
11 curing the alien’s presence to ap-
12 pear as a material witness, or a
13 national security purpose.

14 “(II) PROHIBITION ON PA-
15 ROLE.—The Secretary shall not parole
16 in any alien whom the Secretary, in
17 the Secretary’s sole and unreviewable
18 discretion, determines to be a threat
19 to national security or public safety,
20 except in extreme exigent cir-
21 cumstances.

22 “(E) LIMITATION ON THE USE OF PAROLE
23 AUTHORITY.—The Secretary may not use the
24 parole authority under this paragraph to permit
25 to come to the United States aliens who have

1 applied for and have been found to be ineligible
2 for refugee status or any alien to whom the pro-
3 visions of this paragraph do not apply.

4 “(F) TERMINATION OF PAROLE.—The Sec-
5 retary shall determine when the purpose of pa-
6 role of an alien has been served and, upon such
7 determination—

8 “(i) the alien’s case shall continue to
9 be dealt with in the same manner as that
10 of any other applicant for admission to the
11 United States; and

12 “(ii) if the alien was previously de-
13 tained, the alien shall be returned to the
14 custody from which the alien was paroled.

15 “(G) LIMITATIONS ON USE OF ADVANCE
16 PAROLE.—

17 “(i) DEFINITION OF ADVANCE PA-
18 ROLE.—In this subparagraph, the term
19 ‘advance parole’ means advance approval
20 for an alien applying for admission to the
21 United States to request at a port of entry
22 in the United States, a pre-inspection sta-
23 tion, or a designated field office of the De-
24 partment of Homeland Security, to be pa-

1 roled into the United States under sub-
2 paragraph (B).

3 “(ii) APPROVAL OF ADVANCE PA-
4 ROLE.—The Secretary may, in the Sec-
5 retary’s discretion, grant an application for
6 advance parole. Approval of an application
7 for advance parole shall not constitute a
8 grant of parole under subparagraph (B). A
9 grant of parole into the United States
10 based on an approved application for ad-
11 vance parole shall not be considered a pa-
12 role for purposes of qualifying for adjust-
13 ment of status to lawful permanent resi-
14 dent status in the United States under sec-
15 tion 245 or 245A.

16 “(iii) REVOCATION OF ADVANCE PA-
17 ROLE.—The Secretary may revoke a grant
18 of advance parole to an alien at any time.
19 Such revocation shall not be subject to ad-
20 ministrative appeal or judicial review.

21 “(iv) TEMPORARY DEPARTURE.—An
22 alien who leaves the United States tempo-
23 rarily pursuant to a grant of advance pa-
24 role makes a departure from the United
25 States pursuant to the immigration laws.”.

1 (b) **EFFECTIVE DATE.**—The amendment made by
2 subsection (a) shall take effect on the first day of the first
3 month beginning more than 60 days after the date of en-
4 actment of this Act.

5 **SEC. 1508. REPORTS TO CONGRESS ON PAROLE.**

6 (a) **REPORT ON NUMBER AND CATEGORY OF ALIENS**
7 **PAROLED INTO THE UNITED STATES.**—Not later than 90
8 days after the end of each fiscal year, the Secretary of
9 Homeland Security shall submit to the Committee on the
10 Judiciary of the Senate and the Committee on the Judici-
11 ary of the House of Representatives a report that, with
12 respect to the most recently completed fiscal year—

13 (1) describes the number and categories of
14 aliens paroled into the United States under section
15 212(d)(5) of the Immigration and Nationality Act;
16 and

17 (2) contains information and data concerning—

18 (A) the number and categories of aliens
19 paroled;

20 (B) the duration of parole granted to
21 aliens referred to in subparagraph (A); and

22 (C) the current immigration status of the
23 aliens referred to in subparagraph (A).

24 (b) **REPORT ON PAROLE PROCEDURES.**—Not later
25 than 180 days after the date of enactment of this Act,

1 and annually thereafter, the Attorney General and the
2 Secretary of Homeland Security shall jointly—

3 (1) conduct a review regarding the effectiveness
4 of parole and custody determination procedures ap-
5 plicable to aliens who have established a credible
6 fear of persecution and are awaiting a final deter-
7 mination regarding their asylum claim by the immi-
8 gration courts; and

9 (2) submit to the Committee on the Judiciary
10 of the Senate and the Committee on the Judiciary
11 of the House of Representatives a report based on
12 the results of such review, that includes—

13 (A) an analysis of—

14 (i) the rate at which release from de-
15 tention (including release on parole) is
16 granted to aliens who have established a
17 credible fear of persecution and are await-
18 ing a final determination regarding their
19 asylum claim by the immigration courts
20 throughout the United States; and

21 (ii) any disparity that exists between
22 locations or geographical areas, including
23 an explanation of the reasons for this dis-
24 parity and what actions are being taken to

1 have consistent and uniform application of
2 the standards for granting parole;

3 (B) an analysis of the effect of the proce-
4 dures and policies applied with respect to parole
5 and custody determinations by the Attorney
6 General and by the Secretary of Homeland Se-
7 curity on the alien's pursuit of an asylum claim
8 before an immigration court;

9 (C) an analysis of the effectiveness of the
10 procedures and policies applied with respect to
11 parole and custody determinations by the Attor-
12 ney General and by the Secretary of Homeland
13 Security in securing the alien's presence at the
14 immigration court proceedings;

15 (D) recommendations with respect to
16 whether the existing parole and custody deter-
17 mination procedures applicable to aliens who
18 have established a credible fear of persecution
19 and are awaiting a final determination by the
20 immigration courts with respect to asylum
21 claims—

22 (i) respect the interests of the aliens;
23 and

24 (ii) ensure the presence of the aliens
25 at the immigration court proceedings; and

1 (E) an assessment on corresponding failure
2 to appear rates, in absentia orders, and ab-
3 sconders.

4 **SEC. 1509. LIMITS ON CONTINUANCES IN REMOVAL PRO-**
5 **CEEDINGS.**

6 Section 240(c) of the Immigration and Nationality
7 Act, 8 U.S.C. 1229a(c) is amended by adding at the end
8 the following:

9 “(8) MOTION FOR CONTINUANCE.—

10 “(A) IN GENERAL.—Subject to subpara-
11 graph (B), an immigration judge may grant a
12 motion for continuance in the case of a specific
13 alien if the immigration judge determines that
14 there is an emergent or extraordinary cir-
15 cumstance that justifies the continuance.

16 “(B) LIMITATIONS.—

17 “(i) NUMBER.—Not more than 2 con-
18 tinuances may be granted in the case of a
19 specific alien.

20 “(ii) DURATION.—A continuance
21 issued under subparagraph (A) shall be
22 limited to a period of not more than 180
23 days.

24 “(iii) APPLICABILITY.—The limitation
25 under clause (i) shall not apply to continu-

1 ances for completion of required back-
2 ground and security checks, law enforce-
3 ment investigations (civil or criminal),
4 DNA tests, or forensic document examina-
5 tions needed to make a decision on a re-
6 quest for relief or an immigration benefit
7 in a specific case.

8 “(C) EXCEPTION.—The Attorney General
9 shall have the discretion to grant a continuance
10 for a period of more than 180 days in a case
11 in which—

12 “(i) the alien is a parent of a minor
13 child, under the age of 18 years, who has
14 been granted conditional permanent resi-
15 dent status under the SUCCEED Act; or

16 “(ii) the alien is the primary caretaker
17 of a severely mentally impaired or phys-
18 ically disabled minor child, under the age
19 of 18 years, who is—

20 “(I) in the United States; and

21 “(II) requires continued care
22 while in the United States.”.

1 **SEC. 1510. REINSTATEMENT OF THE SECURE COMMUNITIES**
2 **PROGRAM.**

3 (a) REINSTATEMENT.—The Secretary shall reinstate
4 and operate the Secure Communities immigration enforce-
5 ment program administered by U.S. Immigration and
6 Customs Enforcement between 2008 and 2014.

7 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated \$150,000,000 to carry out
9 this section.

10 **CHAPTER 2—PROTECTION AND DUE**
11 **PROCESS FOR UNACCOMPANIED**
12 **ALIEN CHILDREN**

13 **SEC. 1520. SHORT TITLE.**

14 This chapter may be cited as the “Protecting Chil-
15 dren and America’s Homeland Act of 2018”.

16 **SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN**
17 **CHILDREN.**

18 Section 235(a) of the William Wilberforce Trafficking
19 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
20 1232(a)) is amended—

21 (1) in paragraph (2)—

22 (A) by amending the paragraph heading to
23 read as follows: “RULES FOR UNACCOMPANIED
24 ALIEN CHILDREN.—”;

25 (B) in subparagraph (A), in the matter
26 preceding clause (i), by striking “who is a na-

1 tional or habitual resident of a country that is
2 contiguous with the United States shall be
3 treated in accordance with subparagraph (B)”
4 and inserting “shall be treated in accordance
5 with subparagraph (B) or subsection (b), as ap-
6 propriate”; and

7 (C) in subparagraph (C)—

8 (i) by amending the subparagraph
9 heading to read as follows: “AGREEMENTS
10 WITH FOREIGN COUNTRIES.—”; and

11 (ii) in the matter preceding clause (i),
12 by striking “countries contiguous to the
13 United States” and inserting “Canada, El
14 Salvador, Guatemala, Honduras, Mexico,
15 and any other foreign country that the
16 Secretary determines to be appropriate”;

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

19 (3) inserting after paragraph (2) the following:

20 “(3) MANDATORY EXPEDITED REMOVAL OF
21 CRIMINALS AND GANG MEMBERS.—Notwithstanding
22 any other provision of law, the Secretary of Home-
23 land Security shall place an unaccompanied alien
24 child in a proceeding in accordance with section 235
25 of the Immigration and Nationality Act (8 U.S.C.

1 1225) if, the Secretary determines or has reason to
2 believe that the alien—

3 “(A) has been convicted of any offense car-
4 rying a maximum term of imprisonment of
5 more than 180 days;

6 “(B) has been convicted of, or found to be
7 a juvenile offender based on, an offense that in-
8 volved—

9 “(i) the use or attempted use of phys-
10 ical force, or threatened use of a deadly
11 weapon;

12 “(ii) the purchase, sale, offering for
13 sale, exchange, use, ownership, possession,
14 or carrying, or, of attempting or conspiring
15 to purchase, sell, offer for sale, exchange,
16 use, own, possess, or carry, any weapon,
17 part, or accessory which is a firearm or de-
18 structive device (as defined in section
19 921(a) of title 18, United States Code) in
20 violation of any law;

21 “(iii) child abuse and neglect (as de-
22 fined in section 40002(a)(3) of the Vio-
23 lence Against Women Act of 1994 (34
24 U.S.C. 12291(a)(3)));

1 “(iv) assault resulting in bodily injury
2 (as defined in section 2266 of title 18,
3 United States Code);

4 “(v) the violation of a protection order
5 (as defined in section 2266 of title 18,
6 United States Code);

7 “(vi) driving while intoxicated or driv-
8 ing under the influence (as such terms are
9 defined in section 164 of title 23, United
10 States Code); or

11 “(vii) any offense under foreign law
12 (except a purely political offense) that, if
13 the offense had been committed in the
14 United States, would render the alien inad-
15 missible under section 212(a) of the Immi-
16 gration and Nationality Act (8 U.S.C.
17 1182(a));

18 “(C) has been convicted of, or found to be
19 a juvenile offender based on, more than 1 crimi-
20 nal offense (other than minor traffic offenses);

21 “(D) has been convicted of, or found to be
22 a juvenile offender based on a crime of violence
23 or an offense under Federal, State, or Tribal
24 law, that has, as an element, the use or at-

1 tempted use of physical force or the threatened
2 use of physical force or a deadly weapon;

3 “(E) has engaged in, is engaged in, or is
4 likely to engage after entry in any terrorist ac-
5 tivity (as defined in section 212(a)(3)(B)(iii) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1182(a)(3)(B)(iii))), or intends to participate or
8 has participated in the activities of a foreign
9 terrorist organization (as designated under sec-
10 tion 219 of the Immigration and Nationality
11 Act (8 U.S.C. 1189));

12 “(F) has engaged in, is engaged in, or any
13 time after a prior admission engages in activity
14 described in section 237(a)(4) of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1227(a)(4));

16 “(G) is or was a member of a criminal
17 gang (as defined in section 101(a)(53) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(53)));

20 “(H) provided materially false, fictitious,
21 or fraudulent information regarding age or
22 identity to the United States Government with
23 the intent to inaccurately classified as an unac-
24 panied alien child; or

1 “(I) has entered the United States more
2 than once in violation of section 275(a) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1325(a)), knowing that the entry was unlaw-
5 ful.”; and

6 (4) in paragraph (4) (as redesignated by para-
7 graph (2))—

8 (A) by striking “not described in para-
9 graph (2)(A)”; and

10 (B) by inserting “who choose not to with-
11 draw their application for admission and return
12 to their country of nationality or country of last
13 habitual residence” after “port of entry”; and

14 (5) in paragraph (6)(D) (as redesignated by
15 paragraph (2))—

16 (A) by amending the subparagraph head-
17 ing to read as follows: “EXPEDITED DUE PROC-
18 ESS AND SCREENING FOR UNACCOMPANIED
19 ALIEN CHILDREN.—”;

20 (B) in the matter preceding clause (i), by
21 striking “, except for an unaccompanied alien
22 child from a contiguous country subject to the
23 exceptions under subsection (a)(2), shall be—”
24 and inserting “who meets the criteria under
25 paragraph (2)(A) and chooses not to withdraw

1 his or her application for admission and return
2 to the unaccompanied alien child’s country of
3 nationality or country of last habitual residence,
4 as permitted under section 235B(c)(5) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1225b(c)(5))—”;

7 (C) by amending clause (i) to read as fol-
8 lows:

9 “(i) shall be placed in a proceeding in
10 accordance with section 235B of the Immi-
11 gration and Nationality Act (8 U.S.C.
12 1225b), which shall commence not later
13 than 7 days after the date on which the
14 screening of an unaccompanied alien child
15 described in paragraph (5) is carried out;”;

16 (D) by redesignating clauses (ii) and (iii)
17 as clauses (iii) and (iv), respectively;

18 (E) by inserting after clause (i) the fol-
19 lowing:

20 “(ii) may not be placed in the custody
21 of a nongovernmental sponsor or otherwise
22 released from the immediate custody of the
23 United States Government until the child
24 is repatriated unless the child—

1 “(I) is the subject of an order
2 under section 235B(e)(1) of the Im-
3 migration and Nationality Act (8
4 U.S.C. 1225b(e)(1)); and

5 “(II) is placed or released in ac-
6 cordance with subsection (c)(2)(C).”;

7 (F) in clause (iii) (as redesignated) by in-
8 serting “is” before “eligible”; and

9 (G) in clause (iv), as redesignated, by in-
10 serting “shall be” before “provided”.

11 **SEC. 1522. EXPEDITED DUE PROCESS AND SCREENING FOR**
12 **UNACCOMPANIED ALIEN CHILDREN.**

13 (a) HUMANE AND EXPEDITED INSPECTION AND
14 SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—

15 (1) IN GENERAL.—Chapter 4 of title II of the
16 Immigration and Nationality Act (8 U.S.C. 1221 et
17 seq.) is amended by inserting after section 235A the
18 following:

19 **“SEC. 235B. HUMANE AND EXPEDITED INSPECTION AND**
20 **SCREENING FOR UNACCOMPANIED ALIEN**
21 **CHILDREN.**

22 “(a) DEFINITION OF ASYLUM OFFICER.—In this sec-
23 tion, the term ‘asylum officer’ means an immigration offi-
24 cer who—

1 “(1) has had professional training in country
2 conditions, asylum law, and interview techniques
3 comparable to that provided to full-time adjudicators
4 of applications under section 208; and

5 “(2) is supervised by an officer who—

6 “(A) meets the condition described in
7 paragraph (1); and

8 “(B) has had substantial experience adju-
9 dicating asylum applications under section 208.

10 “(b) PROCEEDING.—

11 “(1) IN GENERAL.—Not later than 7 days after
12 the date on which the screening of an unaccom-
13 panied alien child under section 235(a)(5) of the
14 William Wilberforce Trafficking Victims Protection
15 Reauthorization Act of 2008 (8 U.S.C. 1232(a)(5))
16 is carried out, an immigration judge shall—

17 “(A) conduct and conclude a proceeding to
18 inspect, screen, and determine the status of the
19 unaccompanied alien child who is an applicant
20 for admission to the United States; and

21 “(B) in the case of an unaccompanied
22 alien child seeking asylum, conduct fact finding
23 to determine whether the unaccompanied alien
24 child meets the definition of unaccompanied
25 alien child under section 235(g) of the William

1 Wilberforce Trafficking Victims Protection Re-
2 authorization Act of 2008 (8 U.S.C. 1232(g)).

3 “(2) TIME LIMIT.—Not later than 72 hours
4 after the conclusion of a proceeding with respect to
5 an unaccompanied alien child under this section, the
6 immigration judge who conducted such proceeding
7 shall issue an order pursuant to subsection (e).

8 “(e) CONDUCT OF PROCEEDING.—

9 “(1) AUTHORITY OF IMMIGRATION JUDGE.—
10 The immigration judge conducting a proceeding
11 under this section—

12 “(A) shall administer oaths, receive evi-
13 dence, and interrogate, examine, and cross-ex-
14 amine the unaccompanied alien child and any
15 witness;

16 “(B) is authorized to sanction by civil
17 money penalty any action (or inaction) in con-
18 tempt of the judge’s proper exercise of author-
19 ity under this Act; and

20 “(C) shall determine whether the unaccom-
21 panied alien child meets any of the criteria de-
22 scribed in subparagraphs (A) through (I) of
23 section 235(a)(3) of the William Wilberforce
24 Trafficking Victims Protection Reauthorization

1 Act of 2008 (8 U.S.C. 1232(a)(3)), and if so,
2 order the alien removed under subsection (e)(2).

3 “(2) FORM OF PROCEEDING.—A proceeding
4 under this section may take place—

5 “(A) in person;

6 “(B) at a location agreed to by the parties,
7 in the absence of the unaccompanied alien child;

8 “(C) by video conference; or

9 “(D) by telephone conference.

10 “(3) PRESENCE OF ALIEN.—If it is impracti-
11 cable by reason of the mental incompetency of the
12 unaccompanied alien child for the alien to be present
13 at the proceeding, the Attorney General shall pre-
14 scribe safeguards to protect the rights and privileges
15 of the alien.

16 “(4) RIGHTS OF THE ALIEN.—In a proceeding
17 under this section—

18 “(A) the unaccompanied alien child shall
19 be provided access to counsel in accordance
20 with section 235(c)(5) of the William Wilber-
21 force Trafficking Victims Protection Reauthor-
22 ization Act of 2008 (8 U.S.C. 1232(c)(5));

23 “(B) the alien shall be given a reasonable
24 opportunity—

1 “(i) to examine the evidence against
2 the alien;

3 “(ii) to present evidence on the alien’s
4 own behalf; and

5 “(iii) to cross-examine witnesses pre-
6 sented by the Government;

7 “(C) the rights described in subparagraph
8 (B) shall not entitle the alien—

9 “(i) to examine such national security
10 information as the Government may prof-
11 fer in opposition to the alien’s admission to
12 the United States; or

13 “(ii) to an application by the alien for
14 discretionary relief under this Act; and

15 “(D) a complete record shall be kept of all
16 testimony and evidence produced at the pro-
17 ceeding.

18 “(5) WITHDRAWAL OF APPLICATION FOR AD-
19 MISSION.—An unaccompanied alien child applying
20 for admission to the United States may, and at any
21 time before the issuance of a final order of removal,
22 be permitted to withdraw the application and imme-
23 diately be returned to the alien’s country of nation-
24 ality or country of last habitual residence.

1 “(6) CONSEQUENCES OF FAILURE TO AP-
2 PEAR.—An unaccompanied alien child who does not
3 attend a proceeding under this section, shall be or-
4 dered removed, except under exceptional cir-
5 cumstances in which the alien’s absence is the fault
6 of the Government, a medical emergency, or an act
7 of nature.

8 “(d) DECISION AND BURDEN OF PROOF.—

9 “(1) DECISION.—

10 “(A) IN GENERAL.—Notwithstanding sec-
11 tion 235(b), at the conclusion of a proceeding
12 under this section, the immigration judge shall
13 determine whether an unaccompanied alien
14 child is likely—

15 “(i) to be admissible to the United
16 States; or

17 “(ii) to be eligible for any form of re-
18 lief from removal under this Act.

19 “(B) EVIDENCE.—The determination of
20 the immigration judge under subparagraph (A)
21 shall be based only on the evidence produced at
22 the hearing.

23 “(2) BURDEN OF PROOF.—

24 “(A) IN GENERAL.—In a proceeding under
25 this section, an unaccompanied alien child who

1 is an applicant for admission has the burden of
2 establishing, by clear and convincing evidence,
3 that the alien—

4 “(i) is likely to be entitled to be law-
5 fully admitted to the United States or eli-
6 gible for any form of relief from removal
7 under this Act; or

8 “(ii) is lawfully present in the United
9 States pursuant to a prior admission.

10 “(B) ACCESS TO DOCUMENTS.—In meeting
11 the burden of proof under subparagraph (A)(ii),
12 the alien shall be given access to—

13 “(i) the alien’s visa or other entry
14 document, if any; and

15 “(ii) any other records and docu-
16 ments, not considered by the Attorney
17 General to be confidential, pertaining to
18 the alien’s admission or presence in the
19 United States.

20 “(e) ORDERS.—

21 “(1) PLACEMENT IN FURTHER PRO-
22 CEEDINGS.—If an immigration judge determines
23 that the unaccompanied alien child has met the bur-
24 den of proof under subsection (d)(2), the immigra-

1 tion judge shall order the alien to be placed in fur-
2 ther proceedings in accordance with section 240.

3 “(2) ORDERS OF REMOVAL.—If an immigration
4 judge determines that the unaccompanied alien child
5 has not met the burden of proof required under sub-
6 section (d)(2), the judge shall order the alien re-
7 moved from the United States without further hear-
8 ing or review unless the alien claims—

9 “(A) an intention to apply for asylum
10 under section 208;

11 “(B) a fear of persecution; or

12 “(C) a fear of torture.

13 “(3) CLAIMS FOR ASYLUM.—If an unaccom-
14 panied alien child described in paragraph (2) claims
15 an intention to apply for asylum under section 208,
16 a fear of persecution, or a fear of torture, the immi-
17 gration judge shall order the alien referred for an
18 interview by an asylum officer under subsection (f).

19 “(f) ASYLUM INTERVIEWS.—

20 “(1) DEFINITION OF CREDIBLE FEAR OF PER-
21 SECUTION OR TORTURE.—In this subsection, the
22 term ‘credible fear of persecution or torture’ means
23 that after taking into account the credibility of the
24 statements made by an unaccompanied alien child in
25 support of the alien’s claim and such other facts as

1 are known to the asylum officer, there is a signifi-
2 cant possibility that the alien could establish eligi-
3 bility for—

4 “(A) asylum under section 208; or

5 “(B) protection from removal based on Ar-
6 ticle 3 of the Convention Against Torture and
7 Other Cruel, Inhuman, or Degrading Treatment
8 or Punishment, done at New York, December
9 10, 1984.

10 “(2) CONDUCT BY ASYLUM OFFICER.—An asy-
11 lum officer shall conduct the interviews of an unac-
12 companied alien child referred under subsection
13 (e)(3).

14 “(3) REFERRAL OF CERTAIN ALIENS.—If the
15 asylum officer determines, at the time of the inter-
16 view, that an unaccompanied alien child has a cred-
17 ible fear of persecution or torture, the alien shall be
18 held in the custody of the Secretary of Health and
19 Human Services pursuant to section 235(b) of the
20 William Wilberforce Trafficking Victims Protection
21 Reauthorization Act of 2008 (8 U.S.C. 1232(b))
22 during further consideration of the application for
23 asylum.

24 “(4) REMOVAL WITHOUT FURTHER REVIEW IF
25 NO CREDIBLE FEAR OF PERSECUTION.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (C), if the asylum officer determines that
3 an unaccompanied alien child does not have a
4 credible fear of persecution, the asylum officer
5 shall order the alien removed from the United
6 States without further hearing or review.

7 “(B) RECORD OF DETERMINATION.—The
8 asylum officer shall prepare a written record of
9 a determination under subparagraph (A), which
10 shall include—

11 “(i) a summary of the material facts
12 as stated by the alien;

13 “(ii) such additional facts (if any) re-
14 lied upon by the asylum officer;

15 “(iii) the asylum officer’s analysis of
16 why, in light of such facts, the alien has
17 not established a credible fear of persecu-
18 tion; and

19 “(iv) a copy of the asylum officer’s
20 interview notes.

21 “(C) REVIEW OF DETERMINATION.—

22 “(i) RULEMAKING.—The Attorney
23 General shall establish, by regulation, a
24 process by which an immigration judge
25 shall conduct a prompt review, upon the

1 alien's request, of a determination under
2 subparagraph (A) that the alien does not
3 have a credible fear of persecution or tor-
4 ture.

5 “(ii) MANDATORY COMPONENTS.—
6 The review described in clause (i)—

7 “(I) shall include an opportunity
8 for the alien to be heard and ques-
9 tioned by the immigration judge, ei-
10 ther in person or by telephonic or
11 video connection; and

12 “(II) shall be concluded as expe-
13 ditiously as possible, to the maximum
14 extent practicable within 24 hours,
15 but in no case later than 7 days after
16 the date on which a determination
17 under subparagraph (A) is made.

18 “(D) MANDATORY PROTECTIVE CUS-
19 TODY.—Any alien subject to the procedures
20 under this paragraph shall be held in the cus-
21 tody of the Secretary of Health and Human
22 Services pursuant to section 235(b) of the Wil-
23 liam Wilberforce Trafficking Victims Protection
24 Reauthorization Act of 2008 (8 U.S.C.
25 1232(b))—

1 “(i) pending a final determination of
2 an application for asylum under this sub-
3 section; and

4 “(ii) after a determination under this
5 subsection that the alien does not have a
6 credible fear of persecution, until the date
7 on which the alien is removed.

8 “(g) LIMITATION ON ADMINISTRATIVE REVIEW.—

9 “(1) IN GENERAL.—Except as provided in sub-
10 section (f)(4)(C) and paragraph (2), a removal order
11 entered in accordance with subsection (e)(2) or
12 (f)(4)(A) is not subject to administrative appeal.

13 “(2) RULEMAKING.—The Attorney General
14 shall establish, by regulation, a process for the
15 prompt review of an order under subsection (e)(2)
16 against an alien who claims under oath, or as per-
17 mitted under penalty of perjury under section 1746
18 of title 28, United States Code, after having been
19 warned of the penal ties for falsely making such
20 claim under such conditions to have been—

21 “(A) lawfully admitted for permanent resi-
22 dence;

23 “(B) admitted as a refugee under section
24 207; or

25 “(C) granted asylum under section 208.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents in the first section of the Immigration and Na-
3 tionality Act is amended by inserting after the item
4 relating to section 235A the following:

 “Sec. 235B. Humane and expedited inspection and screening for unaccom-
 panied alien children.”.

5 (b) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
6 Section 242 of the Immigration and Nationality Act (8
7 U.S.C. 1252) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1), by striking “section
10 235(b)(1)” and inserting “section 235(b)(1) or
11 an order of removal issued to an unaccom-
12 panied alien child after proceedings under sec-
13 tion 235B”; and

14 (B) in paragraph (2)—

15 (i) by inserting “or section 235B”
16 after “section 235(b)(1)” each place such
17 term appears; and

18 (ii) in subparagraph (A)—

19 (I) in the subparagraph heading,
20 by inserting “OR 235B” after “SEC-
21 TION 235(b)(1)”; and

22 (II) in clause (iii), by striking
23 “section 235(b)(1)(B),” and inserting

253

- 1 “section 235(b)(1)(B) or 235B(f);”;
2 and
3 (2) in subsection (e)—
4 (A) in the subsection heading, by inserting
5 “OR 235B” after “SECTION 235(b)(1)”;
6 (B) by inserting “or section 235B” after
7 “section 235(b)(1)” each place such term ap-
8 pears;
9 (C) in subparagraph (2)(C), by inserting
10 “or section 235B(g)” after “section
11 235(b)(1)(C)”;
12 (D) in subparagraph (3)(A), by inserting
13 “or section 235B” after “section 235(b)”.

14 **SEC. 1523. CHILD WELFARE AND LAW ENFORCEMENT IN-**
15 **FORMATION SHARING.**

16 Section 235(b) of the William Wilberforce Trafficking
17 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
18 1232(b)) is amended by adding at the end the following:

- 19 “(5) INFORMATION SHARING.—
20 “(A) IMMIGRATION STATUS.—If the Sec-
21 retary of Health and Human Services considers
22 placement of an unaccompanied alien child with
23 a potential sponsor, the Secretary of Homeland
24 Security shall provide to the Secretary of
25 Health and Human Services the immigration

1 status of such potential sponsor before the
2 placement of the unaccompanied alien child.

3 “(B) OTHER INFORMATION.—The Sec-
4 retary of Health and Human Services shall pro-
5 vide to the Secretary of Homeland Security and
6 the Attorney General, upon request, any rel-
7 evant information related to an unaccompanied
8 alien child who is or has been in the custody of
9 the Secretary of Health and Human Services,
10 including the location of the child and any per-
11 son to whom custody of the child has been
12 transferred, for any legitimate law enforcement
13 objective, including the enforcement of the im-
14 migration laws.”.

15 **SEC. 1524. ACCOUNTABILITY FOR CHILDREN AND TAX-**
16 **PAYERS.**

17 Section 235(b) of the William Wilberforce Trafficking
18 Victims Protection Reauthorization Act of 2008 (8 U.S.C.
19 1232(b)) (as amended by section 1523) is amended by
20 adding at the end the following:

21 “(6) INSPECTION OF FACILITIES.—The Inspec-
22 tor General of the Department of Health and
23 Human Services shall conduct regular inspections of
24 facilities utilized by the Secretary of Health and
25 Human Services to provide care and custody of un-

1 accompanied alien children who are in the immediate
2 custody of the Secretary to ensure that such facili-
3 ties are operated in the most efficient manner prac-
4 ticable.

5 “(7) FACILITY OPERATIONS COSTS.—The Sec-
6 retary of Health and Human Services shall ensure
7 that facilities utilized to provide care and custody of
8 unaccompanied alien children are operated efficiently
9 and at a rate of cost that is not greater than \$500
10 per day for each child housed or detained at such fa-
11 cility, unless the Secretary certifies that compliance
12 with this requirement is temporarily impossible due
13 to emergency circumstances.”.

14 **SEC. 1525. CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
15 **DREN IN FORMAL REMOVAL PROCEEDING.**

16 (a) IN GENERAL.—Section 235(c) of the William Wil-
17 berforce Trafficking Victims Protection Reauthorization
18 Act of 2008 (8 U.S.C. 1232(c)) is amended—

19 (1) in paragraph (2) by adding at the end the
20 following:

21 “(C) CHILDREN IN FORMAL REMOVAL
22 PROCEEDINGS.—

23 “(i) LIMITATION ON PLACEMENT.—
24 Notwithstanding any settlement or consent
25 decree previously issued before the date of

1 the enactment of this subparagraph, and
2 section 236.3 of title 8, Code of Federal
3 Regulations, or a similar successor regula-
4 tion, an unaccompanied alien child who has
5 been placed in a proceeding under section
6 240 of the Immigration and Nationality
7 Act (8 U.S.C. 1229a) may not be placed in
8 the custody of a nongovernmental sponsor
9 or otherwise released from the immediate
10 custody of the United States Government
11 unless—

12 “(I) the nongovernmental spon-
13 sor is a biological or adoptive parent
14 or legal guardian of the unaccom-
15 panied alien child;

16 “(II) the parent or legal guardian
17 is legally present in the United States
18 at the time of the placement;

19 “(III) the parent or legal guard-
20 ian has undergone a mandatory bio-
21 metric criminal history check;

22 “(IV) if the nongovernmental
23 sponsor is the biological parent, the
24 parent’s relationship to the alien child
25 has been verified through DNA test-

1 ing conducted by the Secretary of
2 Health and Human Services;

3 “(V) if the nongovernmental
4 sponsor is the adoptive parent, the
5 parent’s relationship to the alien child
6 has been verified with the judicial
7 court that issued the final legal adop-
8 tion decree by the Secretary of Health
9 and Human Services; and

10 “(VI) the Secretary of Health
11 and Human Services has determined
12 that the alien child is not a danger to
13 self, a danger to the community, or at
14 risk of flight.

15 “(ii) EXCEPTIONS.—If the Secretary
16 of Health and Human Services determines
17 that an unaccompanied alien child is a vic-
18 tim of severe forms of trafficking in per-
19 sons (as defined in section 103 of the
20 Trafficking Victims Protection Act of 2000
21 (22 U.S.C. 7102)), a special needs child
22 with a disability (as defined in section 3 of
23 the Americans with Disabilities Act of
24 1990 (42 U.S.C. 12102)), a child who has
25 been a victim of physical or sexual abuse

1 under circumstances that indicate that the
2 child's health or welfare has been signifi-
3 cantly harmed or threatened, or a child
4 with mental health needs that require on-
5 going assistance from a social welfare
6 agency, the alien child may be placed with
7 a grandparent or adult sibling if the
8 grandparent or adult sibling meets the re-
9 quirements under subclauses (II), (III),
10 and (IV) of clause (i).

11 “(iii) MONITORING.—

12 “(I) IN GENERAL.—If an unac-
13 companied alien child who is 15, 16,
14 or 17 years of age is placed with a
15 nongovernmental sponsor or, if an un-
16 accompanied alien child who is young-
17 er than 15 years of age is placed with
18 a nongovernmental sponsor, such non-
19 governmental sponsor shall—

20 “(aa) enroll in the alter-
21 native to detention program of
22 U.S. Immigration and Customs
23 Enforcement; and

24 “(bb) continuously wear an
25 electronic ankle monitor while the

1 unaccompanied alien child is in
2 removal proceedings.

3 “(II) PENALTY FOR MONITOR
4 TAMPERING.—If an electronic ankle
5 monitor required by subclause (I) is
6 tampered with, the sponsor of the un-
7 accompanied alien child shall be sub-
8 ject to a civil penalty of \$150 for each
9 day the monitor is not functioning due
10 to the tampering, up to a maximum of
11 \$3,000.

12 “(iv) EFFECT OF VIOLATION OF CON-
13 DITIONS.—The Secretary of Health and
14 Human Services shall remove an unaccom-
15 panied alien child from a sponsor if the
16 sponsor violates the terms of the agree-
17 ment specifying the conditions under which
18 the alien was placed with the sponsor.

19 “(v) FAILURE TO APPEAR.—

20 “(I) CIVIL PENALTY.—If an un-
21 accompanied alien child is placed with
22 a sponsor and fails to appear in a
23 mandatory court appearance, the
24 sponsor shall be subject to a civil pen-
25 alty of \$250 for each day until the

1 alien appears in court, up to a max-
2 imum of \$5,000.

3 “(II) BURDEN OF PROOF.—The
4 sponsor is not subject to the penalty
5 imposed under subclause (I) if the
6 sponsor—

7 “(aa) appears in person and
8 proves to the immigration court
9 that the failure to appear by the
10 unaccompanied alien child was
11 not the fault of the sponsor; and

12 “(bb) supplies the immigra-
13 tion court with documentary evi-
14 dence that supports the assertion
15 described in item (aa).

16 “(vi) PROHIBITION ON PLACEMENT
17 WITH SEX OFFENDERS AND HUMAN TRAF-
18 FICKERS.—The Secretary of Health and
19 Human Services may not place an unac-
20 companied alien child under this subpara-
21 graph in the custody of an individual who
22 has been convicted of, or the Secretary has
23 reason to believe was otherwise involved in
24 the commission of—

1 “(I) a sex offense (as defined in
2 section 111 of the Sex Offender Reg-
3 istration and Notification Act (34
4 U.S.C. 20911));

5 “(II) a crime involving severe
6 forms of trafficking in persons (as de-
7 fined in section 103 of the Trafficking
8 Victims Protection Act of 2000 (22
9 U.S.C. 7102)); or

10 “(III) an offense under Federal,
11 State, or Tribal law that has, as an
12 element of the offense, the use or at-
13 tempted use of physical force or the
14 threatened use of physical force or a
15 deadly weapon.

16 “(vii) REQUIREMENTS OF CRIMINAL
17 BACKGROUND CHECK.—A biometric crimi-
18 nal history check required under clause
19 (i)(III) shall be conducted using a set of
20 fingerprints or other biometric identifier
21 through—

22 “(I) the Federal Bureau of Inves-
23 tigation;

1 “(II) criminal history repositories
2 of all States that the individual lists
3 as current or former residences; and

4 “(III) any other State or Federal
5 database or repository that the Sec-
6 retary of Health and Human Services
7 determines to be appropriate.”.

8 (b) HOME STUDIES AND FOLLOW-UP SERVICES FOR
9 UNACCOMPANIED ALIEN CHILDREN.—Section 235(c)(3)
10 of the William Wilberforce Trafficking Victims Protection
11 Reauthorization Act of 2008 (8 U.S.C. 1232(c)(3)) is
12 amended—

13 (1) by redesignating subparagraph (C) as (D);
14 and

15 (2) by amending subparagraph (B) to read as
16 follows:

17 “(B) HOME STUDIES.—

18 “(i) IN GENERAL.—Except as re-
19 quired under clause (ii), before placing a
20 child with an individual, the Secretary of
21 Health and Human Services shall deter-
22 mine whether a home study is necessary.

23 “(ii) REQUIRED HOME STUDIES.—A
24 home study shall be conducted for a
25 child—

1 “(I) who is a victim of a severe
2 form of trafficking in persons or is a
3 special needs child with a disability
4 (as defined in section 3 of the Ameri-
5 cans with Disabilities Act of 1990 (42
6 U.S.C. 12102);

7 “(II) who has been a victim of
8 physical or sexual abuse under cir-
9 cumstances that indicate that the
10 child’s health or welfare has been sig-
11 nificantly harmed or threatened; or

12 “(III) whose proposed sponsor
13 clearly presents a risk of abuse, mal-
14 treatment, exploitation, or trafficking
15 to the child based on all available ob-
16 jective evidence.

17 “(C) FOLLOW-UP SERVICES AND ADDI-
18 TIONAL HOME STUDIES.—

19 “(i) PENDENCY OF REMOVAL PRO-
20 CEEDINGS.—Not less frequently than every
21 180 days until the date on which initial re-
22 moval proceedings are completed and the
23 immigration judge issues an order of re-
24 moval, grants voluntary departure under
25 section 240B, or grants the alien relief

1 from removal, the Secretary of Health and
2 Human Services shall conduct follow-up
3 services for any child for whom a home
4 study was conducted and who was placed
5 with a nongovernmental sponsor.

6 “(ii) CHILDREN WITH MENTAL
7 HEALTH OR OTHER NEEDS.—Not less fre-
8 quently than every 180 days, until the date
9 that is 2 years after the date on which a
10 child is placed with a nongovernmental
11 sponsor, the Secretary of Health and
12 Human Services shall conduct follow-up
13 services for any child with mental health
14 needs or other needs who could benefit
15 from ongoing assistance from a social wel-
16 fare agency.

17 “(iii) CHILDREN AT RISK.—Not less
18 frequently than every 90 days until the
19 date that is 2 years after the date on
20 which a child is placed with a nongovern-
21 mental sponsor, the Secretary of Health
22 and Human Services shall conduct home
23 studies and follow-up services, including
24 partnering with local community programs

1 that focus on early morning and after
2 school programs for at-risk children who—

3 “(I) need a secure environment
4 to engage in studying, training, and
5 skills-building programs; and

6 “(II) are at risk for recruitment
7 by criminal gangs or other
8 transnational criminal organizations
9 in the United States.”.

10 (e) DETENTION OF ACCOMPANIED MINORS.—

11 (1) IN GENERAL.—Section 235 of the William
12 Wilberforce Trafficking Victims Protection Reau-
13 thorization Act of 2008 (8 U.S.C. 1232) is amend-
14 ed—

15 (A) by redesignating subsections (d)
16 through (i) as subsections (e) through (j) re-
17 spectively; and

18 (B) by inserting after subsection (c) the
19 following:

20 “(d) DETENTION OF ACCOMPANIED MINORS.—

21 “(1) IN GENERAL.—Notwithstanding any other
22 provision of law—

23 “(A) judicial determination, consent de-
24 cree, or settlement agreement, the detention of
25 any alien minor who is not described in section

1 462(g)(2) of the Homeland Security Act of
2 2002 (6 U.S.C. 279(g)(2)) shall be governed by
3 sections 217, 235, 236, and 241 of the Immi-
4 gration and Nationality Act (8 U.S.C. 1187,
5 1225, 1226, and 1231); and

6 “(B) the decision whether to detain or re-
7 lease the alien minor shall be in the sole and
8 unreviewable discretion of the Secretary of
9 Homeland Security.

10 “(2) LIMITATIONS ON RELEASE.—The release
11 of an alien minor who is not described in section
12 462(g)(2) of the Homeland Security Act of 2002 (6
13 U.S.C. 279(g)(2)) may not be presumed and an
14 alien minor not described in such section may not be
15 released by the Secretary to anyone other than a
16 parent or legal guardian.

17 “(3) CONDITIONS OF CONFINEMENT.—The con-
18 ditions of confinement applicable to alien minors
19 who are not described in section 462(g) of the
20 Homeland Security Act of 2002 (6 U.S.C.
21 279(g)(2)) shall be determined in the sole and
22 unreviewable discretion of the Secretary of Home-
23 land Security, and specific licensing requirements
24 may not be imposed other than requirements deter-
25 mined appropriate by the Secretary.”.

1 (2) EFFECTIVE DATE; APPLICABILITY.—The
2 amendments made by this subsection shall—

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

5 (B) apply regardless of the date on which
6 the actions giving rise to removability or deten-
7 tion take place.

8 **SEC. 1526. FRAUD IN CONNECTION WITH THE TRANSFER OF**
9 **CUSTODY OF UNACCOMPANIED ALIEN CHIL-**
10 **DREN.**

11 (a) IN GENERAL.—Chapter 47 of title 18, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 **“§ 1041. Fraud in connection with the transfer of cus-**
15 **tody of unaccompanied alien children**

16 “(a) IN GENERAL.—It shall be unlawful for a person
17 to obtain custody of an unaccompanied alien child (as de-
18 fined in section 462(g) of the Homeland Security Act of
19 2002 (6 U.S.C. 279(g))) by—

20 “(1) making any materially false, fictitious, or
21 fraudulent statement or representation; or

22 “(2) making or using any false writing or docu-
23 ment knowing the same to contain any materially
24 false, fictitious, or fraudulent statement or entry.

25 “(b) PENALTIES.—

1 “(1) IN GENERAL.—Any person who violates, or
2 attempts or conspires to violate, this section shall be
3 fined under this title and imprisoned for not less
4 than 1 year.

5 “(2) ENHANCED PENALTY FOR TRAF-
6 FICKING.—If the primary purpose of the violation,
7 attempted violation, or conspiracy to violate this sec-
8 tion was to subject the child to sexually explicit ac-
9 tivity or any other form of exploitation, the offender
10 shall be fined under this title and imprisoned for not
11 less than 15 years.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 47 of title 18, United States Code, is amended
14 by inserting after the item relating to section 1040 the
15 following:

“1041. Fraud in connection with the transfer of custody of unaccompanied alien
children.”.

16 **SEC. 1527. NOTIFICATION OF STATES AND FOREIGN GOV-**
17 **ERNMENTS, REPORTING, AND MONITORING.**

18 (a) NOTIFICATION.—Section 235 of the William Wil-
19 berforce Trafficking Victims Protection Reauthorization
20 Act of 2008 (8 U.S.C. 1232) (as amended by section
21 1525(c)(1)(A)) is amended by adding at the end the fol-
22 lowing:

23 “(k) NOTIFICATION TO STATES.—

1 “(1) BEFORE PLACEMENT.—The Secretary of
2 Homeland Security or the Secretary of Health and
3 Human Services shall notify the Governor of a State
4 not later than 48 hours before the placement of an
5 unaccompanied alien child in the custody of such
6 Secretary into the care of a facility or sponsor in
7 such State.

8 “(2) INITIAL REPORTS.—Not later than 60
9 days after the date of the enactment of this sub-
10 section, the Secretary of Health and Human Serv-
11 ices shall submit a report to the Governor of each
12 State in which an unaccompanied alien child was
13 discharged to a sponsor or placed in a facility while
14 remaining in the legal custody of the Secretary dur-
15 ing the period beginning October 1, 2013 and end-
16 ing on the date of enactment of this subsection.

17 “(3) MONTHLY REPORTS.—The Secretary of
18 Health and Human Services shall submit a monthly
19 report to the Governor of each State in which, dur-
20 ing the reporting period, an unaccompanied alien
21 child was discharged to a sponsor or placed in a fa-
22 cility while remaining in the legal custody of the
23 Secretary of Health and Human Services.

24 “(4) CONTENTS.—Each report required to be
25 submitted to the Governor of a State under para-

1 graph (2) or (3) shall identify the number of unac-
2 companied alien children placed in the State during
3 the reporting period, disaggregated by—

4 “(A) the locality in which the aliens were
5 placed; and

6 “(B) the age of such aliens.

7 “(l) NOTIFICATION OF FOREIGN COUNTRY.—The
8 Secretary of Homeland Security shall provide information
9 regarding each unaccompanied alien child to the govern-
10 ment of the country of which the child is a national to
11 assist such government with the identification and reunifi-
12 cation of such child with their parent or other qualifying
13 relative.

14 “(m) MONITORING REQUIREMENT.—The Secretary
15 of Health and Human Services shall—

16 “(1) require all sponsors to agree—

17 “(A) to receive approval from the Sec-
18 retary of Health and Human Services before
19 changing the location in which the sponsor is
20 housing an unaccompanied alien child placed in
21 the sponsor’s custody; and

22 “(B) to provide a current address for the
23 child and the reason for the change of address;

24 “(2) provide regular and frequent monitoring of
25 the physical and emotional well-being of each unac-

1 accompanied alien child who has been discharged to a
2 sponsor or remained in the legal custody of the Sec-
3 retary until the child’s immigration case is resolved;
4 and

5 “(3) not later than 60 days after the date of
6 enactment of this subsection, submit a plan to Con-
7 gress for implementing the requirements under para-
8 graphs (1) and (2).”.

9 **SEC. 1528. EMERGENCY IMMIGRATION JUDGE RESOURCES.**

10 (a) DESIGNATION.—Not later than 14 days after the
11 date of enactment of this Act, the Attorney General shall
12 designate not more than 100 immigration judges, includ-
13 ing through the hiring of retired immigration judges, mag-
14 istrate judges, or administrative law judges, or the reas-
15 signment of current immigration judges, who shall be
16 dedicated—

17 (1) to conducting humane and expedited inspec-
18 tion and screening for unaccompanied alien children
19 under section 235B of the Immigration and Nation-
20 ality Act; or

21 (2) to reducing existing backlogs in immigration
22 court proceedings initiated under section 239 of the
23 Immigration and Nationality Act (8 U.S.C. 1229).

24 (b) REQUIREMENT.—The Attorney General shall en-
25 sure that sufficient immigration judge resources, including

1 required legal support staff and full-time interpreters, are
2 dedicated to the purpose described in subsection (a)(1)
3 and the Secretary of Homeland Security shall ensure that
4 sufficient immigration attorneys are dedicated to such
5 purpose to comply with the requirement under section
6 235B(b)(1) of the Immigration and Nationality Act.

7 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$10,000,000, for each of the fiscal years 2018 through
10 2022.

11 **SEC. 1529. REPORTS TO CONGRESS.**

12 (a) REPORTS ON CARE OF UNACCOMPANIED ALIEN
13 CHILDREN.—Not later than September 30, 2019, the Sec-
14 retary of Health and Human Services shall submit to Con-
15 gress and make publicly available a report that includes—

16 (1) a detailed summary of the contracts in ef-
17 fect to care for and house unaccompanied alien chil-
18 dren, including the names and locations of contrac-
19 tors and the facilities being used;

20 (2) the cost per day to care for and house an
21 unaccompanied alien child, including an explanation
22 of such cost;

23 (3) the number of unaccompanied alien children
24 who have been released to a sponsor, if any;

1 (4) a list of the States to which unaccompanied
2 alien children have been released from the custody of
3 the Secretary of Health and Human Services to the
4 care of a sponsor or placement in a facility;

5 (5) the number of unaccompanied alien children
6 who have been released to a sponsor who is not law-
7 fully present in the United States, including the
8 country of nationality or last habitual residence and
9 age of such children;

10 (6) a determination of whether more than 1 un-
11 accompanied alien child has been released to the
12 same sponsor, including the number of children who
13 were released to such sponsor;

14 (7) an assessment of the extent to which the
15 Secretary of Health and Human Services is moni-
16 toring the release of unaccompanied alien children,
17 including home studies done and electronic moni-
18 toring devices used;

19 (8) an assessment of the extent to which the
20 Secretary of Health and Human Services is making
21 efforts—

22 (A) to educate unaccompanied alien chil-
23 dren about their legal rights; and

24 (B) to provide unaccompanied alien chil-
25 dren with access to pro bono counsel; and

1 (9) the extent of the public health issues of un-
2 accompanied alien children, including contagious dis-
3 eases, the benefits or medical services provided, and
4 the outreach to States and localities about public
5 health issues, that could affect the public.

6 (b) REPORTS ON REPATRIATION AGREEMENTS.—
7 Not later than September 30, 2019, the Secretary of State
8 shall submit to Congress and make publicly available a
9 report that—

10 (1) includes a copy of any repatriation agree-
11 ment in effect for unaccompanied alien children;

12 (2) describes any such repatriation agreement
13 that is being considered or negotiated; and

14 (3) describes the funding provided to the 20
15 countries that have the highest number of nationals
16 entering the United States as unaccompanied alien
17 children, including amounts provided—

18 (A) to deter the nationals of each country
19 from illegally entering the United States; and

20 (B) to care for or reintegrate repatriated
21 unaccompanied alien children in the country of
22 nationality or last habitual residence.

23 (c) REPORTS ON RETURNS TO COUNTRY OF NATION-
24 ALITY.—Not later than September 30, 2019, the Sec-

1 retary of Homeland Security shall submit to Congress and
2 make publicly available a report that describes—

3 (1) the number of unaccompanied alien children
4 who have voluntarily returned to their country of na-
5 tionality or habitual residence, disaggregated by—

6 (A) country of nationality or habitual resi-
7 dence; and

8 (B) age of the unaccompanied alien chil-
9 dren;

10 (2) the number of unaccompanied alien children
11 who have been returned to their country of nation-
12 ality or habitual residence, including the length of
13 time such children were present in the United
14 States;

15 (3) the number of unaccompanied alien children
16 who have not been returned to their country of na-
17 tionality or habitual residence pending travel docu-
18 ments or other requirements from such country, in-
19 cluding how long they have been waiting to return;
20 and

21 (4) the number of unaccompanied alien children
22 who were granted relief in the United States, wheth-
23 er through asylum, any other immigration benefit or
24 status, or deferred action.

1 (d) REPORTS ON IMMIGRATION PROCEEDINGS.—Not
2 later than September 30, 2019, and not less frequently
3 than every 90 days thereafter, the Secretary of Homeland
4 Security, in coordination with the Director of the Execu-
5 tive Office for Immigration Review, shall submit to Con-
6 gress and make publicly available a report that de-
7 scribes—

8 (1) the number of unaccompanied alien children
9 who, after proceedings under section 235B of the
10 Immigration and Nationality Act were returned to
11 their country of nationality or habitual residence,
12 disaggregated by—

13 (A) country of nationality or residence; and

14 (B) age and gender of such aliens;

15 (2) the number of unaccompanied alien children
16 who, after proceedings under section 235B of the
17 Immigration and Nationality Act, prove a claim of
18 admissibility and are placed in proceedings under
19 section 240 of that Act (8 U.S.C. 1229a);

20 (3) the number of unaccompanied alien children
21 who fail to appear at a removal hearing that such
22 alien was required to attend;

23 (4) the number of sponsors who were levied a
24 penalty, including the amount and whether the pen-
25 alty was collected, for the failure of an unaccom-

1 panied alien child to appear at a removal hearing;
2 and

3 (5) the number of aliens that are classified as
4 unaccompanied alien children, the ages and coun-
5 tries of nationality of such children, and the orders
6 issued by the immigration judge at the conclusion of
7 proceedings under section 235B of the Immigration
8 and Nationality Act for such children.

9 **CHAPTER 3—COOPERATION WITH MEXICO**
10 **AND OTHER COUNTRIES ON ASYLUM**
11 **AND REFUGEE ISSUES**

12 **SEC. 1541. STRENGTHENING INTERNAL ASYLUM SYSTEMS**
13 **IN MEXICO AND OTHER COUNTRIES.**

14 (a) IN GENERAL.—The Secretary of State, in con-
15 sultation with the Secretary of Homeland Security, shall
16 work with international partners, including the United
17 Nations High Commissioner for Refugees, to support and
18 provide technical assistance to strengthen the domestic ca-
19 pacity of Mexico and other countries in the region to pro-
20 vide asylum to eligible children and families—

21 (1) by establishing and expanding temporary
22 and long-term in country reception centers and shel-
23 ter capacity to meet the humanitarian needs of those
24 seeking asylum or other forms of international pro-
25 tection;

1 (2) by improving the asylum registration system
2 to ensure that all individuals seeking asylum or
3 other humanitarian protection—

4 (A) are properly screened for security, in-
5 cluding biographic and biometric capture;

6 (B) receive due process and meaningful ac-
7 cess to existing legal protections; and

8 (C) receive proper documents in order to
9 prevent fraud and ensure freedom of movement
10 and access to basic social services;

11 (3) by creating or expanding a corps of trained
12 asylum officers capable of evaluating and deciding
13 individual asylum claims consistent with inter-
14 national law and obligations; and

15 (4) by developing the capacity to conduct best
16 interest determinations for unaccompanied alien chil-
17 dren to ensure that their needs are properly met,
18 which may include family reunification or resettle-
19 ment based on international protection needs.

20 (b) REPORT.—Not later than 60 days after the date
21 of the enactment of this Act, the Secretary of State, in
22 consultation with the Secretary of Homeland Security,
23 shall submit a report that describes the plans of the Sec-
24 retary of State to assist in developing the asylum proc-
25 essing capabilities described in subsection (a) to—

1 (1) the Committee on Foreign Relations of the
2 Senate;

3 (2) the Committee on Homeland Security and
4 Governmental Affairs of the Senate;

5 (3) the Committee on the Judiciary of the Sen-
6 ate;

7 (4) the Committee on Foreign Affairs of the
8 House of Representatives;

9 (5) the Committee on Homeland Security of the
10 House of Representatives; and

11 (6) the Committee on the Judiciary of the
12 House of Representatives.

13 (c) **AUTHORIZATION OF APPROPRIATIONS.**—There
14 are authorized to be appropriated such sums as may be
15 necessary to carry out subsection (a).

16 **SEC. 1542. EXPANDING REFUGEE PROCESSING IN MEXICO**
17 **AND CENTRAL AMERICA FOR THIRD COUN-**
18 **TRY RESETTLEMENT.**

19 (a) **IN GENERAL.**—The Secretary of State, in con-
20 sultation with the Secretary of Homeland Security, shall
21 coordinate with the United Nations High Commissioner
22 for Refugees to support and provide technical assistance
23 to the Government of Mexico and the governments of
24 other countries in the region to increase access to global

1 resettlement for eligible children and families with protec-
2 tion needs—

3 (1) by establishing and expanding in country
4 refugee reception centers to meet the humanitarian
5 needs of those seeking international protection;

6 (2) by improving the refugee registration sys-
7 tem to ensure that all refugees—

8 (A) are properly screened for security, in-
9 cluding biographic and biometric capture;

10 (B) receive due process and meaningful ac-
11 cess to existing legal protections; and

12 (C) receive proper documents in order to
13 prevent fraud and ensure freedom of movement
14 and access to basic social services;

15 (3) by creating or expanding a corps of trained
16 refugee officers capable of evaluating and deciding
17 individual claims for protection, consistent with
18 international law and obligations; and

19 (4) by developing the capacity to conduct best
20 interest determinations for unaccompanied alien chil-
21 dren to ensure that—

22 (A) such children with international pro-
23 tection needs are properly registered; and

24 (B) the needs of such children are properly
25 met, which may include family reunification or

1 resettlement based on international protection
2 needs.

3 (b) REPORT.—Not later than 60 days after the date
4 of the enactment of this Act, the Secretary of State, in
5 consultation with the Secretary of Homeland Security,
6 shall submit a report to the committees listed in section
7 1541(b) that describes the plans of the Secretary of State
8 to assist in developing the refugee processing capabilities
9 described in subsection (a).

10 (c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as may be
12 necessary to carry out subsection (a).

13 **Subtitle F—Penalties for Smug-**
14 **gling, Drug Trafficking, Human**
15 **Trafficking, Terrorism, and Ille-**
16 **gal Entry and Reentry; Bars to**
17 **Readmission of Removed Aliens**

18 **SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN TRAF-**
19 **FICKING, AND HUMAN RIGHTS VIOLATIONS.**

20 (a) CRIMINAL PENALTIES FOR HUMAN SMUGGLING
21 AND TRAFFICKING.—Section 274(a) of the Immigration
22 and Nationality Act (8 U.S.C. 1324(a)) is amended—

23 (1) in paragraph (1)—

24 (A) in subparagraph (A), by amending
25 clause (ii) to read as follows:

1 “(ii) knowing, or in reckless disregard
2 of the fact, that an alien has come to, en-
3 tered into, or remains in the United States
4 in violation of law—

5 “(I) transports, moves, or at-
6 tempts to transport or move such
7 alien within the United States by
8 means of transportation or otherwise,
9 in furtherance of such violation of
10 law; or

11 “(II) transports or moves the
12 alien with the purpose of facilitating
13 the illegal entry of the alien into Can-
14 ada or Mexico;” and

15 (B) in subparagraph (B)—

16 (i) by redesignating clauses (iii) and
17 (iv) as clauses (vi) and (vii), respectively;

18 (ii) in clause (vi) (as so redesignated)
19 by inserting “for not less than 10 years
20 and” before “not more than 20 years;”
21 and

22 (iii) by inserting after clause (ii) the
23 following:

24 “(iii) in the case of a violation of
25 clause (i), (ii), (iii), (iv), or (v) of subpara-

1 graph (A) that is the third or subsequent
2 violation committed by such person under
3 this section, shall be fined under title 18,
4 imprisoned for not less than 5 years and
5 not more than 25 years, or both;

6 “(iv) in the case of a violation of
7 clause (i), (ii), (iii), (iv), or (v) of subpara-
8 graph (A) that recklessly, knowingly, or in-
9 tentiously results in a victim being invol-
10 untarily forced into labor or prostitution,
11 shall be fined under title 18, imprisoned
12 for not less than 5 years and not more
13 than 25 years, or both;

14 “(v) in the case of a violation of
15 clause (i), (ii), (iii), (iv), or (v) of subpara-
16 graph (A) during and in relation to which
17 any person is subjected to an involuntary
18 sexual act (as defined in section 2246 of
19 title 18), be fined under title 18, impris-
20 oned for not less than 5 years and not
21 more than 25 years, or both;” and

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

23 “(5) Any person who, knowing that a person is an
24 alien in unlawful transit from 1 country to another or on
25 the high seas, transports, moves, harbors, conceals, or

1 shields from detection such alien outside of the United
2 States for profit or gain when the alien is seeking to enter
3 the United States without official permission or legal au-
4 thority, shall for, each alien in respect to whom a violation
5 of this paragraph occurs, be fined under title 18, United
6 States Code, imprisoned not more than 10 years, or
7 both.”.

8 (b) SEIZURE AND FORFEITURE.—Section 274(b)(1)
9 of the Immigration and Nationality Act (8 U.S.C.
10 1324(b)(1)) is amended to read as follows:

11 “(1) IN GENERAL.—Any real or personal prop-
12 erty involved in or used to facilitate the commission
13 of a violation or attempted violation of subsection
14 (a), the gross proceeds of such violation or at-
15 tempted violation, and any property traceable to
16 such property or proceeds, shall be seized and sub-
17 ject to forfeiture.”.

18 **SEC. 1602. PUTTING THE BRAKES ON HUMAN SMUGGLING**
19 **ACT.**

20 (a) SHORT TITLE.—This section may be cited as the
21 “Putting the Brakes on Human Smuggling Act”.

22 (b) FIRST VIOLATION.—Section 31310(b)(1) of title
23 49, United States Code, is amended—

24 (1) in subparagraph (D), by striking the “or”
25 at the end;

1 (2) in subparagraph (E), by striking the period
2 at the end and inserting a semicolon; and

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

4 “(F) using a commercial motor vehicle in will-
5 fully aiding or abetting an alien’s illegal entry into
6 the United States by transporting, guiding, direct-
7 ing, or attempting to assist the alien with the alien’s
8 entry in violation of section 275 of the Immigration
9 and Nationality Act (8 U.S.C. 1325), regardless of
10 whether the alien is ultimately fined or imprisoned
11 for an act in violation of such section; or

12 “(G) using a commercial motor vehicle in will-
13 fully aiding or abetting the transport of controlled
14 substances, monetary instruments, bulk cash, or
15 weapons by any individual departing the United
16 States.”.

17 (c) SECOND OR MULTIPLE VIOLATIONS.—Section
18 31310(c)(1) of title 49, United States Code, is amended—

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

21 (2) by redesignating subparagraph (F) as sub-
22 paragraph (H);

23 (3) in subparagraph (H), as redesignated, by
24 striking “(E)” and inserting “(G)”; and

1 (4) by inserting after subparagraph (E) the fol-
2 lowing:

3 “(F) using a commercial motor vehicle more
4 than once in willfully aiding or abetting an alien’s il-
5 legal entry into the United States by transporting,
6 guiding, directing and attempting to assist the alien
7 with the alien’s entry in violation of section 275 of
8 the Immigration and Nationality Act (8 U.S.C.
9 1325), regardless of whether the alien is ultimately
10 fined or imprisoned for an act in violation of such
11 section;

12 “(G) using a commercial motor vehicle more
13 than once in willfully aiding or abetting the trans-
14 port of controlled substances, monetary instruments,
15 bulk cash, or weapons by any individual departing
16 the United States; or”.

17 (d) LIFETIME DISQUALIFICATION.—Section
18 31310(d) of title 49, United States Code, is amended to
19 read as follows:

20 “(d) LIFETIME DISQUALIFICATION.—The Secretary
21 shall permanently disqualify an individual from operating
22 a commercial motor if the individual uses a commercial
23 motor vehicle—

24 “(1) in committing a felony involving manufac-
25 turing, distributing, or dispensing a controlled sub-

1 stance, or possession with intent to manufacture,
2 distribute, or dispense a controlled substance;

3 “(2) in committing an act for which the indi-
4 vidual is convicted under—

5 “(A) section 274 of the Immigration and
6 Nationality Act (8 U.S.C. 1324); or

7 “(B) section 277 of such Act (8 U.S.C.
8 1327); or

9 “(3) in willfully aiding or abetting the transport
10 of controlled substances, monetary instruments, bulk
11 cash, and weapons by any individual departing the
12 United States.”.

13 (e) REPORTING REQUIREMENTS.—

14 (1) COMMERCIAL DRIVER’S LICENSE INFORMA-
15 TION SYSTEM.—Section 31309(b)(1) of title 49,
16 United States Code, is amended—

17 (A) in subparagraph (E), by striking
18 “and” at the end;

19 (B) in subparagraph (F), by striking the
20 period at the end and inserting “; and”; and

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

22 “(G) whether the operator was disquali-
23 fied, either temporarily or permanently, from
24 operating a commercial motor vehicle under sec-

1 tion 31310, including under subsection
2 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

3 (2) NOTIFICATION BY THE STATE.—Section
4 31311(a)(8) of title 49, United States Code, is
5 amended by inserting “including such a disqualifica-
6 tion, revocation, suspension, or cancellation made
7 pursuant to a disqualification under subsection
8 (b)(1)(F), (c)(1)(F), or (d) of section 31310,” after
9 “60 days,”.

10 **SEC. 1603. DRUG TRAFFICKING AND CRIMES OF VIOLENCE**

11 **COMMITTED BY ILLEGAL ALIENS.**

12 (a) IN GENERAL.—Title 18, United States Code, is
13 amended by inserting after chapter 27 the following:

14 **“CHAPTER 28—DRUG TRAFFICKING AND**
15 **CRIMES OF VIOLENCE COMMITTED BY**
16 **ILLEGAL ALIENS**

“581. Enhanced penalties for drug trafficking and crimes committed by illegal
aliens.

17 **“§ 581. Enhanced penalties for drug trafficking and**
18 **crimes committed by illegal aliens**

19 “(a) OFFENSE.—Any alien unlawfully present in the
20 United States, who commits, conspires to commit, or at-
21 tempts to commit an offense under Federal, State, or
22 Tribal law, an element of which involves the use or at-
23 tempted use of physical force or the threatened use of
24 physical force or a deadly weapon or a drug trafficking

1 crime (as defined in section 924), shall be fined under this
2 title, imprisoned for not less than 5 years, or both.

3 “(b) ENHANCED PENALTIES FOR ALIENS ORDERED
4 REMOVED.—Any alien unlawfully present in the United
5 States who violates subsection (a) and was ordered re-
6 moved under the Immigration and Nationality Act (8
7 U.S.C. 1101 et seq.) on the grounds of having committed
8 a crime before the violation of subsection (a), shall be
9 fined under this title, imprisoned for not less than 15
10 years, or both.

11 “(c) REQUIREMENT FOR CONSECUTIVE SEN-
12 TENCES.—Any term of imprisonment imposed under this
13 section shall be consecutive to any term imposed for any
14 other offense.”.

15 (b) CLERICAL AMENDMENT.—The table of chapters
16 at the beginning of part I of title 18, United States Code,
17 is amended by inserting after the item relating to chapter
18 27 the following:

“28 . Drug trafficking and crimes of violence committed by illegal
aliens 581”.

19 **SEC. 1604. ESTABLISHING INADMISSIBILITY AND DEPORT-**
20 **ABILITY.**

21 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1182(a)(2)(A)) is amended by adding at the end the fol-
24 lowing:

1 “(iii) CONSIDERATION OF OTHER EVI-
2 DENCE.—If the statute of conviction or
3 conviction records do not conclusively es-
4 tablish whether a crime does or does not
5 constitute a crime involving moral turpi-
6 tude, the Secretary, the Attorney General,
7 or the consular officer, as applicable, may
8 consider other evidence related to the con-
9 viction, including charging documents, plea
10 agreements, plea colloquies, jury instruc-
11 tions, and police reports, to determine
12 whether the other evidence clearly estab-
13 lishes that the conduct in which the alien
14 was engaged constitutes a crime involving
15 moral turpitude.”.

16 (b) DEPORTABLE ALIENS.—

17 (1) GENERAL CRIMES.—Section 237(a)(2)(A)
18 of the Immigration and Nationality Act (8 U.S.C.
19 1227(a)(2)(A)) is amended by—

20 (A) redesignating clause (vi) and clause
21 (vii); and

22 (B) inserting after clause (v) the following:

23 “(vi) CRIMES INVOLVING MORAL TUR-
24 PITUDE.—If the conviction records do not
25 conclusively establish whether a crime con-

1 stitutes a crime involving moral turpitude,
2 the Secretary or the Attorney General may
3 consider other evidence related to the con-
4 viction, including charging documents, plea
5 agreements, plea colloquies, jury instruc-
6 tions, and police reports, to determine
7 whether the other evidence clearly estab-
8 lishes that the conduct in which the alien
9 was engaged constitutes a crime involving
10 moral turpitude.”.

11 (2) DOMESTIC VIOLENCE.—Section
12 237(a)(2)(E) of Immigration and Nationality Act (8
13 U.S.C. 1227(a)(2)(E)) is amended by adding at the
14 end the following:

15 “(iii) CRIME OF VIOLENCE.—If the
16 statute of conviction or conviction records
17 do not conclusively establish whether a
18 crime of domestic violence constitutes a
19 crime of violence or an offense under Fed-
20 eral, State, or Tribal law that has, as an
21 element of the crime, the use or attempted
22 use of physical force or the threatened use
23 of physical force or a deadly weapon, the
24 Secretary or the Attorney General may
25 consider other evidence related to the con-

1 viction, including charging documents, plea
2 agreements, plea colloquies, jury instruc-
3 tions, and police reports, to determine
4 whether the other evidence clearly estab-
5 lishes that the conduct in which the alien
6 was engaged constitutes a crime of violence
7 or an offense under Federal, State, or
8 Tribal law that has, as an element of the
9 crime, the use or attempted use of physical
10 force or the threatened use of physical
11 force or a deadly weapon.”.

12 (c) **EFFECTIVE DATE; APPLICABILITY.**—The amend-
13 ments made by this section shall—

14 (1) take effect on the date of enactment of this
15 Act; and

16 (2) shall apply to an act that occurs before, on,
17 or after the date of enactment of this Act.

18 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY; ENHANCED**
19 **PENALTIES FOR ENTERING WITH INTENT TO**
20 **AID, ABET, OR COMMIT TERRORISM.**

21 (a) **IN GENERAL.**—Section 275 of the Immigration
22 and Nationality Act (8 U.S.C. 1325) is amended by strik-
23 ing the section designation and heading and all that fol-
24 lows through “may be imposed.” in the undesignated mat-
25 ter following subsection (b)(2) and inserting the following:

1 **“SEC. 275. ILLEGAL ENTRY.**

2 “(a) IN GENERAL.—

3 “(1) BARS TO IMMIGRATION RELIEF AND BENE-
4 FITS.—Any alien shall be ineligible for all immigra-
5 tion benefits or relief available under the immigra-
6 tion laws, including relief under section 240B, 245,
7 248, and 249, other than asylum, relief as a victim
8 of trafficking under section 101(a)(15)(T), relief as
9 a victim of criminal activity under section
10 101(a)(15)(U), relief under the Violence Against
11 Women Act of 1994 (42 U.S.C. 13701 et seq.) as
12 a spouse or child who has been battered or subjected
13 to extreme cruelty, relief as a battered spouse or
14 child under section 240A(b)(2), withholding of re-
15 moval under section 241(b)(3), or protection from
16 removal based on a claim under the Convention
17 Against Torture and Other Cruel, Inhuman or De-
18 grading Treatment or Punishment, done at New
19 York, December 10, 1984, if the alien—

20 “(A) enters, crosses, or attempts to enter
21 or cross the border into, the United States at
22 any time or place other than as designated by
23 immigration officers;

24 “(B) eludes, at any time or place, examina-
25 tion or inspection by an authorized immigra-
26 tion, customs, or agriculture officer (including

1 failing to stop at the command of such officer);

2 or

3 “(C) enters or crosses the border to the
4 United States and, upon examination or inspec-
5 tion, makes a false or misleading representation
6 or conceals a material fact, including such rep-
7 resentation or willful concealment in the context
8 of arrival, reporting, entry, or clearance, re-
9 quirements of the customs laws, immigration
10 laws, agriculture laws, or shipping laws.

11 “(2) CRIMINAL OFFENSES.—An alien shall be
12 subject to the penalties under paragraph (3) if the
13 alien—

14 “(A) enters, crosses, or attempts to enter
15 or cross the border into, the United States at
16 any time or place other than as designated by
17 immigration officers;

18 “(B) eludes, at any time or place, examina-
19 tion or inspection by an authorized immigra-
20 tion, customs, or agriculture officer (including
21 failing to stop at the command of such officer);

22 or

23 “(C) enters or crosses the border to the
24 United States and, upon examination or inspec-
25 tion, makes a false or misleading representation

1 or conceals a material fact, including such rep-
2 resentation or concealment in the context of ar-
3 rival, reporting, entry, or clearance, require-
4 ments of the customs laws, immigration laws,
5 agriculture laws, or shipping laws.

6 “(3) CRIMINAL PENALTIES.—Any alien who
7 violates any provision under paragraph (1) by en-
8 gaging in conduct described in subparagraph (A),
9 (B), or (C) of that paragraph—

10 “(A) shall, for the first violation, be fined
11 under title 18, United States Code, imprisoned
12 not more than 6 months, or both;

13 “(B) shall, for a second or subsequent vio-
14 lation, or following an order of voluntary depar-
15 ture, be fined under such title, imprisoned not
16 more than 2 years, or both;

17 “(C) if the violation occurs after the alien
18 has been convicted of 3 or more misdemeanors
19 (at least 1 of which involves controlled sub-
20 stances, abuse of a minor, trafficking or smug-
21 gling, or any offense that may result in serious
22 bodily harm or injury to another person), a sig-
23 nificant misdemeanor, or a felony, shall be fined
24 under such title, imprisoned not more than 10
25 years, or both;

1 “(D) if the violation occurs after the alien
2 has been convicted of a felony for which the
3 alien received a term of imprisonment of not
4 less than 30 months, shall be fined under such
5 title, imprisoned not more than 15 years, or
6 both; and

7 “(E) if the violation occurs after the alien
8 has been convicted of a felony for which the
9 alien received a term of imprisonment of not
10 less than 60 months, such alien shall be fined
11 under such title, imprisoned not more than 20
12 years, or both.

13 “(4) PRIOR CONVICTIONS.—The prior convic-
14 tions described in subparagraphs (C) through (E) of
15 paragraph (3) are elements of the offenses described
16 in that paragraph and the penalties described in
17 such subparagraphs shall apply only in cases in
18 which the 1 or more convictions that form the basis
19 for the additional penalty are—

20 “(A) alleged in the indictment or informa-
21 tion; and

22 “(B) proven beyond a reasonable doubt at
23 trial; or

24 “(C) admitted by the defendant.

1 “(5) DURATION OF OFFENSES.—An offense
2 under this subsection continues until the alien is dis-
3 covered within the United States by an immigration,
4 customs, or agriculture officer.

5 “(6) ATTEMPT.—Any person who attempts to
6 commit any offense under this section shall be pun-
7 ished in the same manner as for a completion of
8 such offense.

9 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
10 ALTIES.—

11 “(1) IN GENERAL.—Any alien who is appre-
12 hended while entering, attempting to enter, or cross-
13 ing or attempting to cross the border to the United
14 States at a time or place other than as designated
15 by an immigration officer shall be subject to a civil
16 penalty, in addition to any criminal or other civil
17 penalties that may be imposed under any other pro-
18 vision of law, in an amount equal to—

19 “(A) not less than \$50 but not more than
20 \$250 for each such entry, crossing, attempted
21 entry, or attempted crossing; or

22 “(B) twice the amount described in sub-
23 paragraph (A) if the alien had previously been
24 subject to a civil penalty under this subsection.

1 “(2) CIVIL PENALTIES.—Civil penalties under
2 paragraph (1) are in addition to, and not in place
3 of, any criminal or other civil penalties that may be
4 imposed.”.

5 (b) ENHANCED PENALTIES.—Section 275 of the Im-
6 migration and Nationality Act (8 U.S.C. 1325) is amend-
7 ed by adding at the end the following:

8 “(e) ENHANCED PENALTY FOR TERRORIST
9 ALIENS.—Any alien who commits an offense described in
10 subsection (a) for the purpose of engaging in, or with the
11 intent to engage in, any Federal crime of terrorism (as
12 defined in section 2332b(g) of title 18, United States
13 Code) shall be imprisoned for not less than 10 years and
14 not more than 30 years.”.

15 (c) CLERICAL AMENDMENT.—The table of contents
16 in the first section of the Immigration and Nationality Act
17 is amended by striking the item relating to section 275
18 and inserting the following:

“Sec. 275. Illegal entry.”.

19 (d) APPLICATION.—

20 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of
21 the Immigration and Nationality Act shall apply
22 only to violations of section 275(a)(2) of that Act (8
23 U.S.C. 1325(a)(2)) committed on or after the date
24 of enactment of this Act.

1 (2) BARS TO IMMIGRATION RELIEF AND BENE-
2 FITS.—Section 275(a)(1) of the Immigration and
3 Nationality Act (8 U.S.C. 1325(a)(2)) shall take ef-
4 fect on the date of enactment of this Act and apply
5 to any alien who, on or after that date of enact-
6 ment—

7 (A) enters or crosses, or attempts to enter
8 or cross, the border into the United States at
9 any time or place other than as designated by
10 immigration officers;

11 (B) eludes, at any time or place, examina-
12 tion or inspection by an authorized immigra-
13 tion, customs, or agriculture officer (including
14 failing to stop at the command of such officer);
15 or

16 (C) enters or crosses the border to the
17 United States and, upon examination or inspec-
18 tion, makes a false or misleading representation
19 or conceals a material fact, including such rep-
20 resentation or concealment in the context of ar-
21 rival, reporting, entry, or clearance, require-
22 ments of the customs laws, immigration laws,
23 agriculture laws, or shipping laws.

1 **SEC. 1606. PENALTIES FOR REENTRY OF REMOVED ALIENS.**

2 (a) SHORT TITLES.—This section may be cited as the
3 “Stop Illegal Reentry Act” or “Kate’s Law”.

4 (b) INCREASED PENALTIES FOR REENTRY OF RE-
5 MOVED ALIEN.—

6 (1) IN GENERAL.—Section 276 of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1326) is amend-
8 ed to read as follows:

9 **“SEC. 276. REENTRY OF REMOVED ALIEN.**

10 “(a) IN GENERAL.—

11 “(1) BARS TO IMMIGRATION RELIEF AND BENE-
12 FITS.—Any alien who has been denied admission, ex-
13 cluded, deported, or removed or has departed the
14 United States while an order of exclusion, deporta-
15 tion, or removal is outstanding shall be ineligible for
16 all immigration benefits or relief available under the
17 immigration laws, including relief under section
18 240B, 245, 248, and 249, other than asylum, relief
19 as a victim of trafficking under section
20 101(a)(15)(T), relief as a victim of criminal activity
21 under section 101(a)(15)(U), relief under the Vio-
22 lence Against Women Act of 1994 (42 U.S.C. 13701
23 et seq.) as a spouse or child who has been battered
24 or subjected to extreme cruelty, relief as a battered
25 spouse or child under section 240A(b)(2), with-
26 holding of removal under section 241(b)(3), or pro-

1 tection from removal based on a claim under the
2 Convention Against Torture and Other Cruel, Inhu-
3 man or Degrading Treatment or Punishment, done
4 at New York, December 10, 1984, if, after such de-
5 nial, exclusion, deportation, removal, or departure,
6 the alien enters, attempts to enter, crosses the bor-
7 der into, attempts to cross the border into, or is at
8 any time found in, the United States, unless—

9 “(A) if the alien is seeking admission more
10 than 10 years after the date of the alien’s last
11 departure from the United States, the Sec-
12 retary, before the alien’s reembarkation at a
13 place outside of the United States or the alien’s
14 application for admission from a foreign contig-
15 uous territory, has expressly consented to such
16 alien’s reapplying for admission; or

17 “(B) with respect to an alien previously de-
18 nied admission and removed, such alien estab-
19 lishes that the alien was not required to obtain
20 such advance consent under this Act or any
21 other Act.

22 “(2) CRIMINAL OFFENSES.—Any alien who—

23 “(A) has been denied admission, deported,
24 or removed or has departed the United States

1 while an order of deportation, or removal is out-
2 standing; and

3 “(B) after such denial, removal or depar-
4 ture, enters, attempts to enter, crosses the bor-
5 der into, attempts to cross the border into, or
6 is at any time found in, the United States, un-
7 less—

8 “(i) if the alien is seeking admission
9 more than 10 years after the date of the
10 alien’s last departure from the United
11 States, the Secretary, before the alien’s re-
12 embarkation at a place outside the United
13 States or the alien’s application for admis-
14 sion from a foreign contiguous territory,
15 has expressly consented to such alien’s re-
16 applying for admission; or

17 “(ii) with respect to an alien pre-
18 viously denied admission and removed,
19 such alien establishes that the alien was
20 not required to obtain such advance con-
21 sent under this Act or any other Act,

22 “shall be fined under title 18, United States
23 Code, imprisoned not more than 5 years, or both.

24 “(b) CRIMINAL PENALTIES FOR REENTRY OF CER-
25 TAIN REMOVED ALIENS.—

1 “(1) REENTRY AFTER REMOVAL.—Notwith-
2 standing the penalties under subsection (a)(2), and
3 except as provided in subsection (c)—

4 “(A) an alien described in subsection (a)
5 who has been excluded from the United States
6 pursuant to section 235(c) because the alien
7 was excludable under section 212(a)(3)(B) or
8 who has been removed from the United States
9 pursuant to the provisions of title V, and there-
10 after, without the permission of the Secretary,
11 enters the United States, or attempts to enter
12 the United States, shall be fined under title 18,
13 United States Code, and imprisoned for a pe-
14 riod of 15 years, which sentence shall not run
15 concurrently with any other sentence;

16 “(B) an alien described in subsection (a)
17 who was removed from the United States pur-
18 suant to section 237(a)(4)(B) and thereafter,
19 without the permission of the Secretary, enters,
20 attempts to enter, or is at any time found in,
21 the United States (unless the Secretary has ex-
22 pressly consented to such alien’s reentry) shall
23 be fined under title 18, United States Code, im-
24 prisoned for not more than 15 years, or both;
25 and

1 “(C) an alien described in subsection (a)
2 who has been denied admission, excluded, de-
3 ported, or removed 2 or more times for any rea-
4 son and thereafter enters, attempts to enter,
5 crosses the border into, attempts to cross the
6 border into, or is at any time found in, the
7 United States, shall be fined under title 18,
8 United States Code, imprisoned not more than
9 15 years, or both.

10 “(2) REENTRY OF CRIMINAL ALIENS AFTER RE-
11 MOVAL.—Notwithstanding the penalties under sub-
12 section (a)(2), and except as provided in subsection
13 (c)—

14 “(A) an alien described in subsection (a)
15 who was convicted, on a date that is before the
16 date on which the alien was subject to removal
17 or departure, of a significant misdemeanor shall
18 be fined under title 18, United States Code, im-
19 prisoned not more than 10 years, or both;

20 “(B) an alien described in subsection (a)
21 who was convicted, on a date that is before the
22 date on which the alien was subject to removal
23 or departure, of 2 or more misdemeanors in-
24 volving drugs, crimes against the person, or
25 both, shall be fined under title 18, United

1 States Code, imprisoned not more than 10
2 years, or both;

3 “(C) an alien described in subsection (a)
4 who was convicted, on a date that is before the
5 date on which the alien was subject to removal
6 or departure, of 3 or more misdemeanors for
7 which the alien was sentenced to a term of im-
8 prisonment of not less than 90 days for each of-
9 fense, or 12 months in the aggregate, shall be
10 fined under title 18, United States Code, im-
11 prisoned not more than 10 years, or both;

12 “(D) an alien described in subsection (a)
13 who was convicted, on a date that is before the
14 date on which the alien was subject to removal
15 or departure, of a felony for which the alien
16 was sentenced to a term of imprisonment of not
17 less than 30 months shall be fined under such
18 title, imprisoned not more than 15 years, or
19 both;

20 “(E) an alien described in subsection (a)
21 who was convicted, on a date that is before the
22 date on which the alien was subject to removal
23 or departure, of a felony for which the alien
24 was sentenced to a term of imprisonment of not

1 less than 5 years shall be fined under such title,
2 imprisoned not more than 20 years, or both;

3 “(F) an alien described in subsection (a)
4 who was convicted of 3 or more felonies of any
5 kind shall be fined under such title, imprisoned
6 not more than 25 years, or both; and

7 “(G) an alien described in subsection (a)
8 who was convicted, on a date that is before the
9 date on which the alien was subject to removal
10 or departure or after such removal or depart-
11 ure, for murder, rape, kidnapping, or a felony
12 offense described in chapter 77 (relating to pe-
13 onage and slavery) or 113B (relating to ter-
14 rorism) of such title shall be fined under such
15 title, imprisoned not more than 25 years, or
16 both.

17 “(c) MANDATORY MINIMUM CRIMINAL PENALTY FOR
18 REENTRY OF CERTAIN REMOVED ALIENS.—Notwith-
19 standing the penalties under subsections (a) and (b), an
20 alien described in subsection (a) shall be imprisoned not
21 less than 5 years and not more than 20 years, and may,
22 in addition, be fined under title 18, United States Code,
23 if the alien—

1 “(1) was convicted, on a date that is before the
2 date on which the alien was subject to removal or
3 departure, of an aggravated felony; or

4 “(2) was convicted at least twice of illegal re-
5 entry under this section on 1 or more dates that are
6 before the date on which such removal or departure.

7 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
8 convictions described in subsection (b)(2) are elements of
9 the crimes described in that subsection, and the penalties
10 in that subsection shall apply only in cases in which the
11 1 or more convictions that form the basis for the addi-
12 tional penalty are—

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

15 “(2)(A) proven beyond a reasonable doubt at
16 trial; or

17 “(B) admitted by the defendant.

18 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
19 firmative defense to a violation of this section that—

20 “(1) on a date that is before the date of the al-
21 leged violation, the alien sought and received the ex-
22 press consent of the Secretary to reapply for admis-
23 sion into the United States; or

24 “(2) with respect to an alien previously denied
25 admission and removed, the alien—

1 “(A) was not required to obtain such ad-
2 vance consent under this Act or any other Act;
3 and

4 “(B) complied with all other laws and reg-
5 ulations governing the alien’s admission into
6 the United States.

7 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
8 DERLYING REMOVAL ORDER.—In a criminal proceeding
9 under this section, an alien may not challenge the validity
10 of a removal order described in subsection (a), (b), or (c)
11 concerning the alien unless the alien demonstrates that—

12 “(1) the alien exhausted any administrative
13 remedies that may have been available to seek relief
14 against the order;

15 “(2) the removal or deportation proceedings at
16 which the order was issued improperly deprived the
17 alien of the opportunity for judicial review; and

18 “(3) the entry of the order was fundamentally
19 unfair.

20 “(g) REENTRY OF ALIEN REMOVED BEFORE THE
21 COMPLETION OF THE TERM OF IMPRISONMENT.—Any
22 alien removed pursuant to section 241(a)(4) who enters,
23 attempts to enter, crosses the border into, attempts to
24 cross the border into, or is at any time found in, the
25 United States—

1 “(1) shall be incarcerated for the remainder of
2 the sentence of imprisonment that was pending at
3 the time of deportation or removal without any re-
4 duction for parole or supervised release unless the
5 alien affirmatively demonstrates that the Secretary
6 has expressly consented to the alien’s reentry (if a
7 request for consent to reapply is authorized under
8 this section); and

9 “(2) shall be subject to such other penalties re-
10 lating to the reentry of removed aliens as may be
11 available under this section or any other provision of
12 law.

13 “(h) DEFINITIONS.—In this section:

14 “(1) CROSS THE BORDER.—The term ‘cross the
15 border’ refers to the physical act of crossing the bor-
16 der, regardless of whether the alien is free from offi-
17 cial restraint.

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

22 “(3) MISDEMEANOR.—The term ‘misdemeanor’
23 means any criminal offense punishable by a term of
24 imprisonment of not more than 1 year under the ap-

1 plicable laws of the United States, any State, or a
2 foreign government.

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

7 “(5) SIGNIFICANT MISDEMEANOR.—The term
8 ‘significant misdemeanor’ means a misdemeanor
9 crime that—

10 “(A) involves the use or attempted use of
11 physical force, or threatened use of a deadly
12 weapon, committed by a current or former
13 spouse, parent, or guardian of the victim, by a
14 person with whom the victim shares a child in
15 common, by a person who is cohabiting with or
16 has cohabited with the victim as a spouse, par-
17 ent, or guardian, or by a person similarly situ-
18 ated to a spouse, parent, or guardian of the vic-
19 tim;

20 “(B) is a sexual assault (as defined in sec-
21 tion 40002(a) of the Violent Crime Control and
22 Law Enforcement Act of 1994 (34 U.S.C.
23 12291(a));

1 “(C) involved the unlawful possession of a
2 firearm (as defined in section 921 of title 18,
3 United States Code);

4 “(D) is a crime of violence (as defined in
5 section 16 of title 18, United States Code); or

6 “(E) is an offense under Federal, State, or
7 Tribal law, that has, as an element, the use or
8 attempted use of physical force or the threat-
9 ened use of physical force or a deadly weapon.

10 “(6) STATE.—The term ‘State’ means a State
11 of the United States, the District of Columbia, and
12 any commonwealth, territory, or possession of the
13 United States.”.

14 (c) EFFECTIVE DATE; APPLICABILITY.—Section
15 276(a)(1) of the Immigration and Nationality Act (8
16 U.S.C. 1326(a)(1)) shall take effect on the date of enact-
17 ment of this Act and shall apply to any alien who, on or
18 after that date of enactment—

19 (1) has been denied admission, excluded, de-
20 ported, or removed or has departed the United
21 States while an order of exclusion, deportation, or
22 removal is outstanding; and

23 (2) after such denial, exclusion, deportation or
24 removal, enters, attempts to enter, crosses the bor-

1 der into, attempts to cross the border into, or is at
2 any time found in, the United States, unless—

3 (A) if the alien is seeking admission more
4 than 10 years after the date of the alien’s last
5 departure from the United States, the Secretary
6 of Homeland Security, before the alien’s re-
7 embarkation at a place outside the United
8 States or the alien’s application for admission
9 from a foreign contiguous territory, has ex-
10 pressly consented to such alien’s reapplying for
11 admission; or

12 (B) with respect to an alien previously de-
13 nied admission and removed, such alien estab-
14 lishes that the alien was not required to obtain
15 such advance consent under the Immigration
16 and Nationality Act (8 U.S.C. 1101 et seq.) or
17 any other Act.

18 **SEC. 1607. LAUNDERING OF MONETARY INSTRUMENTS.**

19 Section 1956(c)(7)(D) of title 18, United States
20 Code, is amended by inserting “section 1590 (relating to
21 trafficking with respect to peonage, slavery, involuntary
22 servitude, or forced labor),” after “section 1363 (relating
23 to destruction of property within the special maritime and
24 territorial jurisdiction),”.

1 **SEC. 1608. FREEZING BANK ACCOUNTS OF INTERNATIONAL**
2 **CRIMINAL ORGANIZATIONS AND MONEY**
3 **LAUNDERERS.**

4 Section 981(b) of title 18, United States Code, is
5 amended by adding at the end the following:

6 “(5)(A) If a person is arrested or charged in connec-
7 tion with an offense described in subparagraph (C) involv-
8 ing the movement of funds into or out of the United
9 States, the Attorney General may apply to any Federal
10 judge or magistrate judge in the district in which the ar-
11 rest is made or where the charges are filed for an ex parte
12 order restraining any account held by the person arrested
13 or charged for not more than 30 days. Such 30-day period
14 may be extended for good cause shown at a hearing con-
15 ducted in the manner provided in rule 43(e) of the Federal
16 Rules of Civil Procedure. The court may receive and con-
17 sider evidence and information submitted by the Govern-
18 ment that would be inadmissible under the Federal Rules
19 of Evidence.

20 “(B) The application for a restraining order under
21 subparagraph (A) shall—

22 “(i) identify the offense for which the person
23 has been arrested or charged;

24 “(ii) identify the location and description of the
25 accounts to be restrained; and

1 “(iii) state that the restraining order is needed
2 to prevent the removal of the funds in the account
3 by the person arrested or charged, or by others asso-
4 ciated with such person, during the time needed by
5 the Government to conduct such investigation as
6 may be necessary to establish whether there is prob-
7 able cause to believe that the funds in the accounts
8 are subject to forfeiture in connection with the com-
9 mission of any criminal offense.

10 “(C) An offense described in this subparagraph is any
11 offense for which forfeiture is authorized under this title,
12 title 31, or the Controlled Substances Act (21 U.S.C. 801
13 et seq.).

14 “(D) For purposes of this section—

15 “(i) the term ‘account’ includes any safe deposit
16 box and any account (as defined in paragraphs (1)
17 and (2) of section 5318A(e) of title 31, United
18 States Code) at any financial institution; and

19 “(ii) the term ‘account held by the person ar-
20 rested or charged’ includes an account held in the
21 name of such person, and any account over which
22 such person has effective control as a signatory or
23 otherwise.

1 “(E) A restraining order issued under this paragraph
2 shall not be considered a ‘seizure’ for purposes of section
3 983(a).

4 “(F) A restraining order issued under this paragraph
5 may be executed in any district in which the subject ac-
6 count is found, or transmitted to the central authority of
7 any foreign State for service in accordance with any treaty
8 or other international agreement.”.

9 **SEC. 1609. CRIMINAL PROCEEDS LAUNDERED THROUGH**
10 **PREPAID ACCESS DEVICES, DIGITAL CUR-**
11 **RENCIES, OR OTHER SIMILAR INSTRUMENTS.**

12 (a) IN GENERAL.—

13 (1) DEFINITIONS.—

14 (A) ADDITION OF ISSUERS, REDEEMERS,
15 AND CASHIERS OF PREPAID ACCESS DEVICES
16 AND DIGITAL CURRENCIES TO THE DEFINITION
17 OF FINANCIAL INSTITUTIONS.—Section
18 5312(a)(2)(K) of title 31, United States Code,
19 is amended to read as follows:

20 “(K) an issuer, redeemer, or cashier of
21 travelers’ checks, checks, money orders, prepaid
22 access devices, digital currencies, or any digital
23 exchanger or tumbler of digital currency;”.

24 (B) ADDITION OF PREPAID ACCESS DE-
25 VICES TO THE DEFINITION OF MONETARY IN-

1 STRUMENTS.—Section 5312(a)(3)(B) of title
2 31, United States Code, is amended by insert-
3 ing “prepaid access devices,” after “delivery,”.

4 (C) PREPAID ACCESS DEVICE.—Section
5 5312 of such title is amended—

6 (i) by redesignating paragraph (6) as
7 paragraph (7); and

8 (ii) by inserting after paragraph (5)
9 the following:

10 “(6) ‘prepaid access device’ means an electronic
11 device or vehicle, such as a card, plate, code, num-
12 ber, electronic serial number, mobile identification
13 number, personal identification number, or other in-
14 strument that provides a portal to funds or the value
15 of funds that have been paid in advance and can be
16 retrievable and transferable at some point in the fu-
17 ture.”.

18 (2) GAO REPORT.—Not later than 18 months
19 after the date of enactment of this Act, the Comp-
20 troller General of the United States shall submit a
21 report to Congress that describes—

22 (A) the impact of amendments made by
23 paragraph (1) on law enforcement, the prepaid
24 access device industry, and consumers; and

1 (B) the implementation and enforcement
2 by the Department of the Treasury of the final
3 rule relating to “Bank Secrecy Act Regula-
4 tions—Definitions and Other Regulations Re-
5 lating to Prepaid Access” (76 Fed. Reg. 45403
6 (July 29, 2011)).

7 (b) U.S. CUSTOMS AND BORDER PROTECTION
8 STRATEGY FOR PREPAID ACCESS DEVICES.—Not later
9 than 18 months after the date of enactment of this Act,
10 the Secretary of Homeland Security, in consultation with
11 the Commissioner of U.S. Customs and Border Protection,
12 shall submit to Congress a report that—

13 (1) details a strategy to interdict and detect
14 prepaid access devices, digital currencies, or other
15 similar instruments, at border crossings and other
16 ports of entry for the United States; and

17 (2) includes an assessment of the infrastructure
18 needed to carry out the strategy detailed pursuant
19 to paragraph (1).

20 (c) MONEY SMUGGLING THROUGH BLANK CHECKS
21 IN BEARER FORM.—Section 5316 of title 31, United
22 States Code, is amended by adding at the end the fol-
23 lowing:

24 “(e) MONETARY INSTRUMENTS WITH AMOUNT LEFT
25 BLANK.—For purposes of this section, a monetary instru-

1 ment in bearer form that has the amount left blank, such
2 that the amount could be filled in by the bearer, shall be
3 considered to have a value of more than \$10,000 if the
4 monetary instrument was drawn on an account that con-
5 tained or was intended to contain more than \$10,000 at
6 the time the monetary instrument was—

7 “(1) transported; or

8 “(2) negotiated.”.

9 **SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL AS-**
10 **SOCIATES ENGAGED IN MONEY LAUNDERING.**

11 (a) INTENT TO CONCEAL OR DISGUISE.—Section
12 1956(a) of title 18, United States Code, is amended—

13 (1) in paragraph (1)(B), by striking “(B) know-
14 ing that” and all that follows through “Federal
15 law,” in clause (ii) and inserting the following:

16 “(B) knowing that the transaction—

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

21 “(ii) avoids, or is intended to avoid, a
22 transaction reporting requirement under State
23 or Federal law,”; and

1 (2) in paragraph (2)(B), by striking “(B) know-
2 ing that” and all that follows through “Federal
3 law,” in clause (ii) and inserting the following:

4 “(B) knowing that the monetary instrument or
5 funds involved in the transportation, transmission,
6 or transfer represent the proceeds of some form of
7 unlawful activity, and knowing that such transpor-
8 tation, transmission, or transfer—

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

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

16 (b) PROCEEDS OF A FELONY.—Section 1956(c)(1) of
17 title 18, United States Code, is amended by inserting “,
18 and regardless of whether the person knew that the activ-
19 ity constituted a felony” before the semicolon at the end.

1 **Subtitle G—Protecting National**
2 **Security and Public Safety**

3 **CHAPTER 1—GENERAL MATTERS**

4 **SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, ENGAGE**
5 **IN TERRORIST ACTIVITY, AND TERRORIST**
6 **ORGANIZATION.**

7 (a) DEFINITION OF ENGAGE IN TERRORIST ACTIV-
8 ITY.—Section 212(a)(3)(B)(iv)(I) of the Immigration and
9 Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amend-
10 ed to read as follows:

11 “(I) to commit a terrorist activity
12 or, under circumstances indicating an
13 intention to cause death, serious bod-
14 ily harm, or substantial damage to
15 property, to incite another person to
16 commit a terrorist activity;”.

17 (b) DEFINITION OF TERRORIST ORGANIZATION.—
18 Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
19 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

20 “(III) that is a group of 2 or
21 more individuals, whether organized
22 or not, which engages in, or has a
23 subgroup that engages in, the activi-
24 ties described in subclauses (I)
25 through (VI) of clause (iv), if the

1 group or subgroup presents a threat
2 to the national security of the United
3 States.”.

4 **SEC. 1702. TERRORIST AND SECURITY-RELATED GROUNDS**
5 **OF INADMISSIBILITY.**

6 (a) SECURITY AND RELATED GROUNDS.—Section
7 212(a)(3)(A) of the Immigration and Nationality Act (8
8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

9 “(A) IN GENERAL.—Any alien who a con-
10 sular officer, the Attorney General, or the Sec-
11 retary knows, or has reasonable ground to be-
12 lieve, seeks to enter the United States to en-
13 gage solely, principally, or incidentally, in, or
14 who is engaged in—

15 “(i) any activity—

16 “(I) to violate any law of the
17 United States relating to espionage or
18 sabotage; or

19 “(II) to violate or evade any law
20 prohibiting the export from the
21 United States of goods, technology, or
22 sensitive information;

23 “(ii) any other activity which would be
24 unlawful if committed in the United
25 States; or

1 “(iii) any activity a purpose of which
2 is the opposition to, or the control or over-
3 throw of, the Government of the United
4 States by force, violence, or other unlawful
5 means,
6 is inadmissible.”.

7 (b) TERRORIST ACTIVITIES.—Section
8 212(a)(3)(B)(i) of the Immigration and Nationality Act
9 (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

10 (1) in subclause (III), by inserting “or substan-
11 tial damage to property” before “, incited terrorist
12 activity”;

13 (2) in subclause (IV), by inserting “or has
14 been” before “a representative”;

15 (3) in subclause (V), by inserting “or has been”
16 before “a member”;

17 (4) in subclause (VI), by inserting “or has
18 been” before “a member”;

19 (5) by amending subclause (VII) to read as fol-
20 lows:

21 “(VII) endorses or espouses, or
22 has endorsed or espoused, terrorist
23 activity or persuades or has persuaded
24 others to endorse or espouse terrorist

1 activity or support a terrorist organi-
2 zation;”;

3 (6) by amending subclause (IX) to read as fol-
4 lows:

5 “(IX) is the spouse or child of an
6 alien who is inadmissible under this
7 subparagraph if—

8 “(aa) the activity causing
9 the alien to be found inadmissible
10 occurred within the last 10 years;
11 and

12 “(bb)(AA) the spouse or
13 child knew, or should reasonably
14 have known, of the activity caus-
15 ing the alien to be found inad-
16 missible under this section; and

17 “(BB) the consular officer
18 or Attorney General does not
19 have reasonable grounds to be-
20 lieve that the spouse or child has
21 renounced the activity causing
22 the alien to be found inadmissible
23 under this section.”; and

24 (7) by striking the undesignated matter fol-
25 lowing subclause (IX).

1 (c) PALESTINE LIBERATION ORGANIZATION.—Sec-
2 tion 212(a)(3)(B) of the Immigration and Nationality Act
3 (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end
4 the following:

5 “(vii) PALESTINE LIBERATION ORGA-
6 NIZATION.—An alien who is an officer, of-
7 ficial, representative, or spokesman of the
8 Palestine Liberation Organization is con-
9 sidered, for purposes of this Act, to be en-
10 gaged in terrorist activity.”.

11 **SEC. 1703. EXPEDITED REMOVAL FOR ALIENS INADMIS-**
12 **SIBLE ON CRIMINAL OR SECURITY GROUNDS.**

13 (a) IN GENERAL.—Section 238 of the Immigration
14 and Nationality Act (8 U.S.C. 1228) is amended—

15 (1) in the section heading, by adding at the end
16 the following: “or who are subject to terrorism-re-
17 lated grounds for removal”;

18 (2) in subsection (b)—

19 (A) in paragraph (1)—

20 (i) by striking “Attorney General”
21 and inserting “Secretary, in the exercise of
22 discretion,”; and

23 (ii) by striking “set forth in this sub-
24 section or” and inserting “set forth in this

1 subsection, in lieu of removal proceedings
2 under”;

3 (B) in paragraphs (3) and (4), by striking
4 “Attorney General” each place that term ap-
5 pears and inserting “Secretary”;

6 (C) in paragraph (5)—

7 (i) by striking “described in this sec-
8 tion” and inserting “described in para-
9 graph (1) or (2)”;

10 (ii) by striking “the Attorney General
11 may grant in the Attorney General’s dis-
12 cretion.” and inserting “the Secretary or
13 the Attorney General may grant, in the
14 discretion of the Secretary or the Attorney
15 General, in any proceeding.”;

16 (D) by redesignating paragraphs (3), (4),
17 and (5) as paragraphs (4), (5), and (6), respec-
18 tively; and

19 (E) by inserting after paragraph (2) the
20 following:

21 “(3) The Secretary, in the exercise of discre-
22 tion, may determine inadmissibility under section
23 212(a)(2) and issue an order of removal pursuant to
24 the procedures set forth in this subsection, in lieu of

1 removal proceedings under section 240, with respect
2 to an alien who—

3 “(A) has not been admitted or paroled;

4 “(B) has not been found to have a credible
5 fear of persecution pursuant to the procedures
6 set forth in 235(b)(1)(B); and

7 “(C) is not eligible for a waiver of inadmis-
8 sibility or relief from removal.”;

9 (3) by redesignating the first subsection (c) as
10 subsection (d);

11 (4) by redesignating the second subsection (c),
12 as so designated by section 617(b)(13) of the Illegal
13 Immigration Reform and Immigrant Responsibility
14 Act of 1996 (division C of Public Law 104–208; 110
15 Stat. 3009–720)), as subsection (e); and

16 (5) by inserting after subsection (b) the fol-
17 lowing:

18 “(c) REMOVAL OF ALIENS WHO ARE SUBJECT TO
19 TERRORISM-RELATED GROUNDS FOR REMOVAL.—

20 “(1) IN GENERAL.—The Secretary—

21 “(A) notwithstanding section 240, shall—

22 “(i) determine the inadmissibility of
23 every alien under subclause (I), (II), or
24 (III) of section 212(a)(3)(B)(i), or the de-
25 portability of the alien under section

1 237(a)(4)(B) as a consequence of being de-
2 scribed in 1 of such subclauses; and

3 “(ii) issue an order of removal pursu-
4 ant to the procedures set forth in this sub-
5 section to every alien determined to be in-
6 admissible or deportable on a ground de-
7 scribed in clause (i); and

8 “(B) may—

9 “(i) determine the inadmissibility of
10 any alien under subparagraph (A) or (B)
11 of section 212(a)(3) (other than subclauses
12 (I), (II), and (III) of section
13 212(a)(3)(B)), or the deportability of the
14 alien under subparagraph (A) or (B) of
15 section 237(a)(4) (as a consequence of
16 being described in subclause (I), (II), or
17 (III) of section 212(a)(3)(B)); and

18 “(ii) issue an order of removal pursu-
19 ant to the procedures set forth in this sub-
20 section to every alien determined to be in-
21 admissible or deportable on a ground de-
22 scribed in clause (i).

23 “(2) LIMITATION.—The Secretary may not exe-
24 cute any order described in paragraph (1) until 30
25 days after the date on which such order was issued,

1 unless waived by the alien, to give the alien an op-
2 portunity to petition for judicial review under section
3 242.

4 “(3) PROCEEDINGS.—The Secretary shall pre-
5 scribe regulations to govern proceedings under this
6 subsection, which shall require that—

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

10 “(B) the alien has the privilege of being
11 represented (at no expense to the Government)
12 by such counsel, authorized to practice in such
13 proceedings, as the alien shall choose;

14 “(C) the alien has a reasonable oppor-
15 tunity to inspect the evidence and rebut the
16 charges;

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

22 “(E) a record is maintained for judicial re-
23 view; and

1 “(F) the final order of removal is not adju-
2 dicated by the same person who issues the
3 charges.

4 “(4) LIMITATION ON RELIEF FROM RE-
5 MOVAL.—No alien described in this subsection shall
6 be eligible for any relief from removal that the Sec-
7 retary may grant in the Secretary’s discretion.”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 of the Immigration and Nationality Act (8 U.S.C. 1101
10 et seq.) is amended by striking the item relating to section
11 238 and inserting the following:

 “Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who
 are subject to terrorism-related grounds for removal.”.

12 (c) EFFECTIVE DATE AND APPLICATION.—The
13 amendments made by this section shall take effect on the
14 date of the enactment of this Act, but shall not apply to
15 aliens who are in removal proceedings under section 240
16 of the Immigration and Nationality Act (8 U.S.C. 1229a)
17 on such date of enactment.

18 **SEC. 1704. DETENTION OF REMOVABLE ALIENS.**

19 (a) CRIMINAL ALIEN ENFORCEMENT PARTNER-
20 SHIPS.—Section 287 of the Immigration and Nationality
21 Act (8 U.S.C. 1357), as amended by section 1123, is
22 amended by adding at the end the following:

23 “(j) CRIMINAL ALIEN ENFORCEMENT PARTNER-
24 SHIPS.—

1 “(1) IN GENERAL.—The Secretary may enter
2 into a written agreement with a State, or with any
3 political subdivision of a State, to authorize the tem-
4 porary placement of 1 or more U.S. Customs and
5 Border Protection agents or officers or U.S. Immi-
6 gration and Customs Enforcement agents or inves-
7 tigators at a local police department or precinct—

8 “(A) to determine the immigration status
9 of any individual arrested by a State, county, or
10 local police, enforcement, or peace officer for
11 any criminal offense;

12 “(B) to issue charging documents and no-
13 tices related to the initiation of removal pro-
14 ceedings or reinstatement of prior removal or-
15 ders under section 241(a)(5);

16 “(C) to enter information directly into the
17 National Crime Information Center (NCIC)
18 database, Immigration Violator File, includ-
19 ing—

20 “(i) the alien’s address;

21 “(ii) the reason for the arrest;

22 “(iii) the legal cite of the State law
23 violated or for which the alien is charged;

1 “(iv) the alien’s driver’s license num-
2 ber and State of issuance, if the alien has
3 a driver’s license;

4 “(v) any other identification document
5 held by the alien and issuing entity for
6 such identification documents; and

7 “(vi) any identifying marks, such as
8 tattoos, birthmarks, and scars;

9 “(D) to collect biometrics, including iris,
10 fingerprint, photographs, and signature, of the
11 alien and to enter such information into the
12 Automated Biometric Identification System
13 (IDENT) and any other Department of Home-
14 land Security or law enforcement database au-
15 thorized for storage of biometric information for
16 aliens; and

17 “(E) to make advance arrangements for
18 the immediate transfer from State to Federal
19 custody of any criminal alien when the alien is
20 released, without regard to whether the alien is
21 released on parole, supervised release, or proba-
22 tion, and without regard to whether the alien
23 may be arrested and imprisoned again for the
24 same offense.

1 “(2) LENGTH OF TEMPORARY DUTY ASSIGN-
2 MENTS.—The initial period for a temporary duty as-
3 signment authorized under this subsection shall be 1
4 year. The temporary duty assignment may be ex-
5 tended for additional periods of time as agreed to by
6 the Secretary and the State or political subdivision
7 of the State to ensure continuity of operations, co-
8 operation, and coverage.

9 “(3) TECHNOLOGY USAGE.—The Secretary
10 shall provide U.S. Customs and Border Protection
11 and U.S. Immigration and Customs Enforcement
12 agents, officers, and investigators on a temporary
13 duty assignment under this subsection mobile access
14 to Federal databases containing alien information,
15 live scan technology for collection of biometrics, and
16 video-conferencing capability for use at local police
17 departments or precincts in remote locations.

18 “(4) REPORT.—Not later than 1 year after the
19 date of the enactment of the Immigration Reform
20 and Technical Corrections Act of 2018, the Sec-
21 retary shall submit a report to the Committee on the
22 Judiciary of the Senate, the Committee on Home-
23 land Security and Governmental Affairs of the Sen-
24 ate, the Committee on the Judiciary of the House of
25 Representatives, and the Committee on Homeland

1 Security of the House of Representatives that identi-
2 fies—

3 “(A) the number of States that have en-
4 tered into an agreement under this subsection;

5 “(B) the number of criminal aliens proc-
6 essed by the U.S. Customs and Border Protec-
7 tion agent or officer or U.S. Immigration and
8 Customs Enforcement agent or investigator
9 during the temporary duty assignment; and

10 “(C) the number of criminal aliens trans-
11 ferred from State to Federal custody during the
12 agreement period.”.

13 (b) DETENTION, RELEASE, AND REMOVAL OF
14 ALIENS ORDERED REMOVED.—

15 (1) REMOVAL PERIOD.—

16 (A) IN GENERAL.—Section 241(a)(1)(A) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1231(a)(1)(A)) is amended by striking “Attor-
19 ney General” and inserting “Secretary”.

20 (B) BEGINNING OF PERIOD.—Section
21 241(a)(1)(B) of such Act (8 U.S.C.
22 1231(a)(1)(B)) is amended to read as follows:

23 “(B) BEGINNING OF PERIOD.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), the removal period begins on the date
3 that is the latest of the following:

4 “(I) If a court, the Board of Im-
5 migration Appeals, or an immigration
6 judge orders a stay of the removal of
7 the alien, the date on which the stay
8 of removal ends.

9 “(II) If the alien is ordered re-
10 moved, the date pursuant to an ad-
11 ministratively final removal order and
12 the Secretary takes the alien into cus-
13 tody for removal.

14 “(III) If the alien is detained or
15 confined (except under an immigra-
16 tion process), the date on which the
17 alien is released from detention or
18 confinement.

19 “(ii) BEGINNING OF REMOVAL PERIOD
20 FOLLOWING A TRANSFER OF CUSTODY.—If
21 the Secretary transfers custody of the alien
22 pursuant to law to another Federal agency
23 or to an agency of a State or local govern-
24 ment in connection with the official duties

1 of such agency, the removal period for the
2 alien—

3 “(I) shall be tolled; and

4 “(II) shall resume on the date on
5 which the alien is returned to the cus-
6 tody of the Secretary.”.

7 (C) SUSPENSION OF PERIOD.—Section
8 241(a)(1)(C) of such Act (8 U.S.C.
9 1231(a)(1)(C)) is amended to read as follows:

10 “(C) SUSPENSION OF PERIOD.—The re-
11 moval period shall be extended beyond a period
12 of 90 days and the alien may remain in deten-
13 tion during such extended period if the alien—

14 “(i) fails or refuses to make all rea-
15 sonable efforts to comply with the order of
16 removal or to fully cooperate with the ef-
17 forts of the Secretary to establish the
18 alien’s identity and carry out the order of
19 removal, including making timely applica-
20 tion in good faith for travel or other docu-
21 ments necessary to the alien’s departure;
22 or

23 “(ii) conspires or acts to prevent the
24 alien’s removal subject to an order of re-
25 moval.”.

1 (2) DETENTION.—Section 241(a)(2) of the Im-
2 migration and Nationality Act (8 U.S.C. 1231(a)(2))
3 is amended—

4 (A) by inserting “(A) IN GENERAL.—” be-
5 fore “During”;

6 (B) by striking “Attorney General” and in-
7 sserting “Secretary”; and

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

9 “(B) DURING A PENDENCY OF A STAY.—
10 If a court, the Board of Immigration Appeals,
11 or an immigration judge orders a stay of re-
12 moval of an alien who is subject to an order of
13 removal, the Secretary, in the Secretary’s sole
14 and unreviewable exercise of discretion, and
15 notwithstanding any provision of law, including
16 section 2241 of title 28, United States Code,
17 may detain the alien during the pendency of
18 such stay of removal.”.

19 (3) SUSPENSION AFTER 90-DAY PERIOD.—Sec-
20 tion 241(a)(3) of the Immigration and Nationality
21 Act (8 U.S.C. 1231(a)(3)) is amended—

22 (A) in the matter preceding subparagraph
23 (A), by striking “Attorney General” and insert-
24 ing “Secretary”;

1 (B) in subparagraph (C), by striking “At-
2 torney General” and inserting “Secretary”; and

3 (C) by amending subparagraph (D) to read
4 as follows:

5 “(D) to obey reasonable restrictions on the
6 alien’s conduct or activities, or to perform af-
7 firmative acts, that the Secretary prescribes for
8 the alien, in order to prevent the alien from ab-
9 scending, for the protection of the community,
10 or for other purposes related to the enforcement
11 of the immigration laws.”.

12 (4) ALIENS IMPRISONED, ARRESTED, OR ON PA-
13 ROLE, SUPERVISED RELEASE, OR PROBATION.—Sec-
14 tion 241(a)(4) of the Immigration and Nationality
15 Act (8 U.S.C. 1231(a)(4)) is amended—

16 (A) in subparagraph (A), by striking “At-
17 torney General” and inserting “Secretary”; and

18 (B) in subparagraph (B)—

19 (i) in the matter preceding clause (i),
20 by striking “Attorney General” and insert-
21 ing “Secretary”;

22 (ii) in clause (i), by striking “if the
23 Attorney General” and inserting “if the
24 Secretary”; and

1 (iii) in clause (ii)(III), by striking
2 “Attorney General” and inserting “Sec-
3 retary”.

4 (5) REINSTATEMENT OF REMOVAL ORDERS
5 AGAINST ALIENS ILLEGALLY REENTERING.—

6 (A) IN GENERAL.—Section 241(a)(5) of
7 the Immigration and Nationality Act (8 U.S.C.
8 1231(a)(5)) is amended to read as follows:

9 “(5) REINSTATEMENT OF REMOVAL ORDERS
10 AGAINST ALIENS ILLEGALLY REENTERING.—If the
11 Secretary determines that an alien has entered the
12 United States illegally after having been removed,
13 deported, or excluded, or having departed volun-
14 tarily, under an order of removal, deportation, or ex-
15 clusion, regardless of the date of the original order
16 or the date of the illegal entry—

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

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

1 “(C) the alien shall be removed under the
2 order of removal, deportation, or exclusion at
3 any time after the illegal entry; and

4 “(D) reinstatement under subparagraph
5 (A) shall not require proceedings under section
6 240 or other proceedings before an immigration
7 judge.”.

8 (B) JUDICIAL REVIEW.—Section 242 of
9 such Act (8 U.S.C. 1252) is amended by—

10 (i) in subsection (g), by inserting
11 “grant, rescind, or deny any form of dis-
12 cretionary relief under this title, or to” be-
13 fore “commence”; and

14 (ii) by adding at the end the fol-
15 lowing:

16 “(h) JUDICIAL REVIEW OF DECISION TO REIN-
17 STATE REMOVAL ORDER UNDER SECTION
18 241(A)(5).—

19 “(1) REVIEW OF DECISION TO REINSTATE
20 REMOVAL ORDER.—Judicial review of deter-
21 minations under section 241(a)(5) is available
22 in an action under subsection (a).

23 “(2) NO REVIEW OF ORIGINAL ORDER.—
24 Notwithstanding any other provision of law
25 (statutory or nonstatutory), including section

1 2241 of title 28, United States Code, any other
2 habeas corpus provision, or sections 1361 and
3 1651 of such title, no court shall have jurisdic-
4 tion to review any cause or claim, arising from,
5 or relating to, any challenge to the original
6 order.”.

7 (C) EFFECTIVE DATE AND APPLICA-
8 TION.—The amendments made by subpara-
9 graphs (A) and (B) shall take effect as if en-
10 acted on April 1, 1997, and shall apply to all
11 orders reinstated or after that date by the Sec-
12 retary of Homeland Security (or by the Attor-
13 ney General before March 1, 2003), regardless
14 of the date of the original order.

15 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Sec-
16 tion 241(a)(6) of the Immigration and Nationality
17 Act (8 U.S.C. 1231(a)(6)) is amended—

18 (A) by striking “Attorney General” and in-
19 serting “Secretary”; and

20 (B) by striking “removal period and, if re-
21 leased,” and inserting “removal period, in the
22 discretion of the Secretary, without any limita-
23 tions other than those specified in this section,
24 until the alien is removed,”.

1 (7) PAROLE; ADDITIONAL RULES; JUDICIAL RE-
2 VIEW.—Section 241(a) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1231(a)) is amended—

4 (A) in paragraph (7), by striking “Attor-
5 ney General” and inserting “Secretary”;

6 (B) by redesignating paragraph (7) as
7 paragraph (15); and

8 (C) by inserting after paragraph (6) the
9 following:

10 “(7) PAROLE.—Except for aliens subject to de-
11 tention under paragraph (6) and aliens subject to
12 detention under section 236(c), 236A, or 238, if an
13 alien who is detained is an applicant for admission,
14 the Secretary, in the Secretary’s discretion, may pa-
15 role the alien under section 212(d)(5) and may pro-
16 vide, notwithstanding section 212(d)(5), that the
17 alien shall not be returned to custody unless the
18 alien violates the conditions of such parole or the
19 alien’s removal becomes reasonably foreseeable, pro-
20 vided that in no circumstance shall such alien be
21 considered admitted.

22 “(8) ADDITIONAL RULES FOR DETENTION OR
23 RELEASE OF CERTAIN ALIENS WHO WERE PRE-
24 VIOUSLY ADMITTED TO THE UNITED STATES.—

1 “(A) APPLICATION.—The procedures set
2 out under this paragraph—

3 “(i) apply only to an alien who was
4 previously admitted to the United States;
5 and

6 “(ii) do not apply to any other alien,
7 including an alien detained pursuant to
8 paragraph (6).

9 “(B) ESTABLISHMENT OF DETENTION RE-
10 VIEW PROCESS FOR ALIENS WHO FULLY CO-
11 OPERATE WITH REMOVAL.—

12 “(i) REQUIREMENT TO ESTABLISH.—
13 If an alien has made all reasonable efforts
14 to comply with a removal order and to co-
15 operate fully with the efforts of the Sec-
16 retary to establish the alien’s identity and
17 carry out the removal order, including
18 making timely application in good faith for
19 travel or other documents necessary to the
20 alien’s departure, and has not conspired or
21 acted to prevent removal, the Secretary
22 shall establish an administrative review
23 process to determine whether the alien
24 should be detained or released on condi-
25 tions.

1 “(ii) DETERMINATIONS.—The Sec-
2 retary shall—

3 “(I) make a determination
4 whether to release an alien described
5 in clause (i) after the end of the
6 alien’s removal period; and

7 “(II) in making a determination
8 under subclause (I), consider any evi-
9 dence submitted by the alien, and may
10 consider any other evidence, including
11 any information or assistance pro-
12 vided by the Department of State or
13 other Federal agency and any other
14 information available to the Secretary
15 pertaining to the ability to remove the
16 alien.

17 “(9) AUTHORITY TO DETAIN BEYOND THE RE-
18 MOVAL PERIOD.—The Secretary, in the exercise of
19 discretion, without any limitations other than those
20 specified in this section, may continue to detain an
21 alien for 90 days beyond the removal period (includ-
22 ing any extension of the removal period as provided
23 in paragraph (1)(C))—

24 “(A) until the alien is removed, if the Sec-
25 retary determines that—

1 “(i) there is a significant likelihood
2 that the alien will be removed in the rea-
3 sonably foreseeable future;

4 “(ii) the alien would be removed in
5 the reasonably foreseeable future, or would
6 have been removed, but for the alien’s fail-
7 ure or refusal to make all reasonable ef-
8 forts to comply with the removal order, or
9 to cooperate fully with the Secretary’s ef-
10 forts to establish the alien’s identity and
11 carry out the removal order, including
12 making timely application in good faith for
13 travel or other documents necessary to the
14 alien’s departure, or conspiracies or acts to
15 prevent removal;

16 “(iii) the government of the foreign
17 country of which the alien is a citizen, sub-
18 ject, national, or resident is denying or un-
19 reasonably delaying accepting the return of
20 the alien after the Secretary asks whether
21 the government will accept an alien under
22 section 243(d); or

23 “(iv) the government of the foreign
24 country of which the alien is a citizen, sub-
25 ject, national, or resident is refusing to

1 issue any required travel or identity docu-
2 ments to allow the alien to return to that
3 country;

4 “(B) until the alien is removed, if the Sec-
5 retary certifies in writing—

6 “(i) in consultation with the Secretary
7 of Health and Human Services, that the
8 alien has a highly contagious disease that
9 poses a threat to public safety;

10 “(ii) after receipt of a written rec-
11 ommendation from the Secretary of State,
12 that release of the alien is likely to have
13 serious adverse foreign policy consequences
14 for the United States;

15 “(iii) based on information available
16 to the Secretary (including classified, sen-
17 sitive, or other information, and without
18 regard to the grounds upon which the alien
19 was ordered removed), that there is reason
20 to believe that the release of the alien
21 would threaten the national security of the
22 United States;

23 “(iv) that the release of the alien will
24 threaten the safety of the community or
25 any person, conditions of release cannot

1 reasonably be expected to ensure the safety
2 of the community or any person, and ei-
3 ther—

4 “(I) the alien has been convicted
5 of 1 or more aggravated felonies (as
6 defined in section 101(a)(43)), 1 or
7 more crimes identified by the Sec-
8 retary by regulation, or 1 or more at-
9 tempts or conspiracies to commit any
10 such aggravated felonies or such iden-
11 tified crimes, provided that the aggre-
12 gate term of imprisonment for such
13 attempts or conspiracies is at least 5
14 years; or

15 “(II) the alien has committed 1
16 or more violent offenses (but not in-
17 cluding a purely political offense) and,
18 because of a mental condition or per-
19 sonality disorder and behavior associ-
20 ated with that condition or disorder,
21 the alien is likely to engage in acts of
22 violence in the future; or

23 “(v) that the release of the alien will
24 threaten the safety of the community or
25 any person, conditions of release cannot

1 reasonably be expected to ensure the safety
2 of the community or any person, and the
3 alien has been convicted of at least one ag-
4 gravated felony (as defined in section
5 101(a)(43)); and

6 “(C) pending a determination under sub-
7 paragraph (B), if the Secretary has initiated
8 the administrative review process not later than
9 30 days after the expiration of the removal pe-
10 riod (including any extension of the removal pe-
11 riod as provided in paragraph (1)(C)).

12 “(10) RENEWAL AND DELEGATION OF CERTIFI-
13 CATION.—

14 “(A) RENEWAL.—The Secretary may
15 renew a certification under paragraph (9)(B)(ii)
16 every 6 months without limitation, after pro-
17 viding an opportunity for the alien to request
18 reconsideration of the certification and to sub-
19 mit documents or other evidence in support of
20 that request. If the Secretary does not renew a
21 certification, the Secretary may not continue to
22 detain the alien under paragraph (9)(B).

23 “(B) DELEGATION.—Notwithstanding sec-
24 tion 103, the Secretary may not delegate the
25 authority to make or renew a certification de-

1 scribed in clause (ii), (iii), or (iv) of paragraph
2 (9)(B) to an official below the level of the Di-
3 rector of U.S. Immigration and Customs En-
4 forcement.

5 “(11) RELEASE ON CONDITIONS.—If the Sec-
6 retary determines that an alien should be released
7 from detention, the Secretary, in the exercise of dis-
8 cretion, may impose conditions on release as pro-
9 vided in paragraph (3).

10 “(12) REDETENTION.—The Secretary, in the
11 exercise of discretion, without any limitations other
12 than those specified in this section, may again de-
13 tain any alien subject to a final removal order who
14 is released from custody if the alien fails to comply
15 with the conditions of release or to continue to sat-
16 isfy the conditions described in paragraph (8), or if,
17 upon reconsideration, the Secretary determines that
18 the alien can be detained under paragraph (9).
19 Paragraphs (6) through (14) shall apply to any alien
20 returned to custody pursuant to this paragraph, as
21 if the removal period terminated on the day of the
22 redetention.

23 “(13) CERTAIN ALIENS WHO EFFECTED
24 ENTRY.—If an alien has entered the United States,
25 but has not been lawfully admitted nor physically

1 present in the United States continuously for the 2-
2 year period immediately preceding the commence-
3 ment of removal proceedings under this Act against
4 the alien, the Secretary, in the exercise of discretion,
5 may decide not to apply paragraph (8) and detain
6 the alien without any limitations except those which
7 the Secretary shall adopt by regulation.

8 “(14) JUDICIAL REVIEW.—Without regard to
9 the place of confinement, judicial review of any ac-
10 tion or decision pursuant to paragraph (6) through
11 (14) shall be available exclusively in habeas corpus
12 proceedings instituted in the United States District
13 Court for the District of Columbia, and only if the
14 alien has exhausted all administrative remedies
15 (statutory and regulatory) available to the alien as
16 of right.”.

17 (c) DETENTION OF ALIENS DURING REMOVAL PRO-
18 CEEDINGS.—

19 (1) IN GENERAL.—Section 235 of the Immigra-
20 tion and Nationality Act (8 U.S.C. 1225) is amend-
21 ed by adding at the end the following:

22 “(e) LENGTH OF DETENTION.—

23 “(1) IN GENERAL.—An alien may be detained
24 under this section while proceedings are pending,

1 without limitation, until the alien is subject to an
2 administratively final order of removal.

3 “(2) EFFECT ON DETENTION UNDER SECTION
4 241.—The length of detention under this section
5 shall not affect the validity of any detention under
6 section 241.

7 “(f) JUDICIAL REVIEW.—Without regard to the place
8 of confinement, judicial review of any action or decision
9 made pursuant to subsection (e) shall be available exclu-
10 sively in a habeas corpus proceeding instituted in the
11 United States District Court for the District of Columbia
12 and only if the alien has exhausted all administrative rem-
13 edies (statutory and nonstatutory) available to the alien
14 as of right.”.

15 (2) CONFORMING AMENDMENTS.—Section 236
16 of the Immigration and Nationality Act (8 U.S.C.
17 1226) is amended—

18 (A) by redesignating subsection (e) as sub-
19 section (f);

20 (B) by inserting after subsection (d) the
21 following new subsection (e):

22 “(e) LENGTH OF DETENTION.—

23 “(1) IN GENERAL.—An alien may be detained
24 under this section, without limitation, until the alien

1 is subject to an administratively final order of re-
2 moval.

3 “(2) EFFECT ON DETENTION UNDER SECTION
4 241.—The length of detention under this section
5 shall not affect the validity of any detention under
6 section 241.”; and

7 (C) in subsection (f), as so redesignated,
8 by adding at the end the following: “Without
9 regard to the place of confinement, judicial re-
10 view of any action or decision made pursuant to
11 subsection (e) shall be available exclusively in a
12 habeas corpus proceeding instituted in the
13 United States District Court for the District of
14 Columbia, and only if the alien has exhausted
15 all administrative remedies (statutory and non-
16 statutory) available to the alien as of right.”.

17 (d) ATTORNEY GENERAL’S DISCRETION IN DETER-
18 MINING COUNTRIES OF REMOVAL.—Section 241(b) of the
19 Immigration and Nationality Act (8 U.S.C. 1231(b)) is
20 amended—

21 (1) in paragraph (1)(C)(iv), by striking the pe-
22 riod at the end and inserting “, or the Attorney
23 General decides that removing the alien to such
24 country is prejudicial to the interests of the United
25 States.”; and

1 (2) in paragraph (2)(E)(vii), by inserting “or
2 the Attorney General decides that removing the alien
3 to 1 or more of such countries is prejudicial to the
4 interests of the United States,” after “this subpara-
5 graph,”.

6 (e) EFFECTIVE DATES AND APPLICATION.—

7 (1) AMENDMENTS MADE BY SUBSECTION (B).—
8 The amendments made by subsection (b) shall take
9 effect on the date of the enactment of this Act. Sec-
10 tion 241 of the Immigration and Nationality Act, as
11 amended by subsection (b), shall apply to—

12 (A) all aliens subject to a final administra-
13 tive removal, deportation, or exclusion order
14 that was issued before, on, or after the date of
15 the enactment of this Act; and

16 (B) acts and conditions occurring or exist-
17 ing before, on, or after the date of the enact-
18 ment of this Act.

19 (2) AMENDMENTS MADE BY SUBSECTION (C).—
20 The amendments made by subsection (c) shall take
21 effect upon the date of the enactment of this Act.
22 Sections 235 and 236 of the Immigration and Na-
23 tionality Act, as amended by subsection (c), shall
24 apply to any alien in detention under provisions of

1 such sections on or after the date of the enactment
2 of this Act.

3 **SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.**

4 Not later than 1 year after the date of the enactment
5 of this Act, the Comptroller General of the United States
6 shall submit a report to Congress on the deaths in custody
7 of detainees held by the Department of Homeland Secu-
8 rity, which shall include, with respect to any such
9 deaths—

10 (1) whether such death could have been pre-
11 vented by the delivery of medical treatment adminis-
12 tered while the detainee was in the custody of the
13 Department of Homeland Security;

14 (2) whether Department practices and proce-
15 dures were properly followed and obeyed;

16 (3) whether such practices and procedures are
17 sufficient to protect the health and safety of such
18 detainees; and

19 (4) whether reports of such deaths were made
20 to the Deaths in Custody Reporting Program.

21 **SEC. 1706. GAO STUDY ON MIGRANT DEATHS.**

22 Not later than 1 year after the date of the enactment
23 of this Act, the Comptroller General of the United States
24 shall submit to the Committee on the Judiciary of the Sen-
25 ate, the Committee on Homeland Security and Govern-

1 mental Affairs of the Senate, the Committee on the Judici-
2 ary of the House of Representatives, and the Committee
3 on Homeland Security of the House of Representatives a
4 report that describes—

5 (1) the total number of migrant deaths along
6 the southern border during the previous 7 years;

7 (2) the total number of unidentified deceased
8 migrants found along the southern border in the
9 previous 7 years;

10 (3) the level of cooperation between U.S. Cus-
11 toms and Border Protection, State and local law en-
12 forcement agencies, foreign diplomatic and consular
13 posts, nongovernmental organizations, and family
14 members to accurately identify deceased individuals;

15 (4) the use of DNA testing and sharing of such
16 data between U.S. Customs and Border Protection,
17 State and local law enforcement agencies, foreign
18 diplomatic and consular posts, and nongovernmental
19 organizations to accurately identify deceased individ-
20 uals;

21 (5) the comparison of DNA data with informa-
22 tion on Federal, State, and local missing person reg-
23 istries; and

24 (6) the procedures and processes U.S. Customs
25 and Border Protection has in place for notification

1 of relevant authorities or family members after miss-
2 ing persons are identified through DNA testing.

3 **SEC. 1707. STATUTE OF LIMITATIONS FOR VISA, NATU-**
4 **RALIZATION, AND OTHER FRAUD OFFENSES**
5 **INVOLVING WAR CRIMES, CRIMES AGAINST**
6 **HUMANITY, OR HUMAN RIGHTS VIOLATIONS.**

7 (a) STATUTE OF LIMITATIONS FOR VISA FRAUD AND
8 OTHER OFFENSES.—Chapter 213 of title 18, United
9 States Code, is amended by adding at the end the fol-
10 lowing:

11 **“§ 3302. Fraud in connection with certain human**
12 **rights violations, crimes against human-**
13 **ity, or war crimes**

14 “(a) IN GENERAL.—No person shall be prosecuted,
15 tried, or punished for violation of any provision of section
16 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt
17 or conspiracy to violate any provision of such sections, if
18 the fraudulent conduct, misrepresentation, concealment,
19 or fraudulent, fictitious, or false statement concerns the
20 alleged offender’s—

21 “(1) participation, at any time, at any place,
22 and irrespective of the nationality of the alleged of-
23 fender or any victim, in a human rights violation,
24 crime against humanity, or war crime; or

1 “(2) membership in, service in, or authority
2 over a military, paramilitary, or law enforcement or-
3 ganization that participated in such conduct during
4 any part of any period in which the alleged offender
5 was a member of, served in, or had authority over
6 the organization, unless the indictment is found or
7 the information is instituted within 20 years after
8 the commission of the offense.

9 “(b) DEFINITIONS.—In this section—

10 “(1) the term ‘extrajudicial killing under color
11 of law’ means conduct described in section
12 212(a)(3)(E)(iii) of the Immigration and Nationality
13 Act (8 U.S.C. 1182(a)(3)(E)(iii));

14 “(2) the term ‘female genital mutilation’ means
15 conduct described in section 116;

16 “(3) the term ‘genocide’ means conduct de-
17 scribed in section 1091(a);

18 “(4) the term ‘human rights violation or war
19 crime’ means genocide, incitement to genocide, war
20 crimes, torture, female genital mutilation,
21 extrajudicial killing under color of law, persecution,
22 particularly severe violations of religious freedom,
23 the use or recruitment of child soldiers, or other se-
24 rious violation of human rights;

1 “(5) the term ‘incitement to genocide’ means
2 conduct described in section 1091(c);

3 “(6) the term ‘particularly severe violation of
4 religious freedom’ means conduct described in sec-
5 tion 3(3) of the International Religious Freedom Act
6 of 1998 (22 U.S.C. 6402(13));

7 “(7) the term ‘persecution’ means conduct that
8 is a bar to relief under section 208(b)(2)(A)(i) of the
9 Immigration and Nationality Act (8 U.S.C.
10 1158(b)(2)(A)(i));

11 “(8) the term ‘torture’ means conduct described
12 in paragraphs (1) and (2) of section 2340;

13 “(9) the term ‘use or recruitment of child sol-
14 diers’ means conduct described in subsections (a)
15 and (d) of section 2442;

16 “(10) the term ‘war crimes’ means conduct de-
17 scribed in subsections (c) and (d) of section 2441;
18 and

19 “(11) the term ‘crimes against humanity’
20 means conduct described in section 212(a)(3)(E)(iii)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1182(a)(3)(iii)).”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 213 of title 18, United States Code, is amend-
25 ed by adding at the end the following:

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

1 (e) APPLICATION.—The amendments made by this
2 section shall apply to fraudulent conduct, misrepresenta-
3 tions, concealments, and fraudulent, fictitious, or false
4 statements made or committed before, on, or after the
5 date of enactment of this Act.

6 **SEC. 1708. CRIMINAL DETENTION OF ALIENS TO PROTECT**
7 **PUBLIC SAFETY.**

8 (a) IN GENERAL.—Section 3142(e) of title 18,
9 United States Code, is amended to read as follows:

10 “(e) DETENTION.—

11 “(1) IN GENERAL.—If, after a hearing pursu-
12 ant to the provisions of subsection (f), the judicial
13 officer finds that no condition or combination of con-
14 ditions will reasonably assure the appearance of the
15 person as required and the safety of any other per-
16 son and the community, such judicial officer shall
17 order the detention of the person before trial.

18 “(2) PRESUMPTION ARISING FROM OFFENSES
19 DESCRIBED IN SUBSECTION (F)(1).—In a case de-
20 scribed in subsection (f)(1), a rebuttable presump-
21 tion arises that no condition or combination of con-
22 ditions will reasonably assure the safety of any other
23 person and the community if the judicial officer
24 finds that—

1 “(A) the person has been convicted of a
2 Federal offense that is described in subsection
3 (f)(1), or of a State or local offense that would
4 have been an offense described in subsection
5 (f)(1) if a circumstance giving rise to Federal
6 jurisdiction had existed;

7 “(B) the offense described in subparagraph
8 (A) was committed while the person was on re-
9 lease pending trial for a Federal, State, or local
10 offense; and

11 “(C) not more than 5 years has elapsed
12 since the later of the date of conviction or the
13 date of the release of the person from imprison-
14 ment for the offense described in subparagraph
15 (A).

16 “(3) PRESUMPTION ARISING FROM OTHER OF-
17 FENSES INVOLVING ILLEGAL SUBSTANCES, FIRE-
18 ARMS, VIOLENCE, OR MINORS.—Subject to rebuttal
19 by the person, it shall be presumed that no condition
20 or combination of conditions will reasonably assure
21 the appearance of the person as required and the
22 safety of the community if the judicial officer finds
23 that there is probable cause to believe that the per-
24 son committed—

1 “(A) an offense for which a maximum
2 term of imprisonment of 10 years or more is
3 prescribed in the Controlled Substances Act (21
4 U.S.C. 801 et seq.), the Controlled Substances
5 Import and Export Act (21 U.S.C. 951 et seq.),
6 or chapter 705 of title 46;

7 “(B) an offense under section 924(c),
8 956(a), or 2332b;

9 “(C) an offense listed in section
10 2332b(g)(5)(B) for which a maximum term of
11 imprisonment of 10 years or more is prescribed;
12 or

13 “(D) an offense involving a minor victim
14 under section 1201, 1591, 2241, 2242,
15 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1),
16 2252(a)(2), 2252(a)(3), 2252A(a)(1),
17 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260,
18 2421, 2422, 2423, or 2425.

19 “(4) PRESUMPTION ARISING FROM OFFENSES
20 RELATING TO IMMIGRATION LAW.—Subject to rebut-
21 tal by the person, it shall be presumed that no con-
22 dition or combination of conditions will reasonably
23 assure the appearance of the person as required if
24 the judicial officer finds that there is probable cause

1 to believe that the person is an alien and that the
2 person—

3 “(A) has no lawful immigration status in
4 the United States;

5 “(B) is the subject of a final order of re-
6 moval; or

7 “(C) has committed a felony offense under
8 section 842(i)(5), 911, 922(g)(5), 1015, 1028,
9 1028A, 1425, or 1426, or chapter 75 or 77, or
10 section 243, 274, 275, 276, 277, or 278 of the
11 Immigration and Nationality Act (8 U.S.C.
12 1253, 1324, 1325, 1326, 1327, 1328).”.

13 (b) IMMIGRATION STATUS AS FACTOR IN DETER-
14 MINING CONDITIONS OF RELEASE.—Section 3142(g)(3)
15 of title 18, United States Code, is amended—

16 (1) in subparagraph (A), by striking “and” at
17 the end; and

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

19 “(C) whether the person is in a lawful im-
20 migration status, has previously entered the
21 United States illegally, has previously been re-
22 moved from the United States, or has otherwise
23 violated the conditions of his or her lawful im-
24 migration status; and”.

1 **SEC. 1709. RECRUITMENT OF PERSONS TO PARTICIPATE IN**
2 **TERRORISM.**

3 (a) IN GENERAL.—Chapter 113B of title 18, United
4 States Code, is amended by inserting after section 2332b
5 the following:

6 **“§ 2332c. Recruitment of persons to participate in ter-**
7 **rorism**

8 “(a) OFFENSES.—

9 “(1) IN GENERAL.—It shall be unlawful for any
10 person to employ, solicit, induce, command, or cause
11 another person to commit an act of domestic ter-
12 rorism or international terrorism or a Federal crime
13 of terrorism, with the intent that the other person
14 commit such act or crime of terrorism.

15 “(2) ATTEMPT AND CONSPIRACY.—It shall be
16 unlawful for any person to attempt or conspire to
17 commit an offense under paragraph (1).

18 “(b) PENALTIES.—Any person who violates sub-
19 section (a)—

20 “(1) in the case of an attempt or conspiracy,
21 shall be fined under this title, imprisoned not more
22 than 10 years, or both;

23 “(2) if death of an individual results, shall be
24 fined under this title, punished by death or impris-
25 oned for any term of years or for life, or both;

1 “(3) if serious bodily injury to any individual
2 results, shall be fined under this title, imprisoned
3 not less than 10 years nor more than 25 years, or
4 both; and

5 “(4) in any other case, shall be fined under this
6 title, imprisoned not more than 10 years, or both.

7 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion may be construed or applied to abridge the exercise
9 of rights guaranteed under the First Amendment to the
10 Constitution of the United States.

11 “(d) LACK OF CONSUMMATED TERRORIST ACT NOT
12 A DEFENSE.—It is not a defense under this section that
13 the act of domestic terrorism or international terrorism
14 or Federal crime of terrorism that is the object of the em-
15 ployment, solicitation, inducement, commanding, or caus-
16 ing has not been carried out.

17 “(e) DEFINITIONS.—In this section—

18 “(1) the term ‘Federal crime of terrorism’ has
19 the meaning given that term in section 2332b; and

20 “(2) the term ‘serious bodily injury’ has the
21 meaning given that term in section 1365(h).”.

22 “(b) CLERICAL AMENDMENT.—The table of sections
23 for chapter 113B of title 18, United States Code, is
24 amended by inserting after the item relating to section
25 2332b the following:

“2332c. Recruitment of persons to participate in terrorism.”.

1 **SEC. 1710. BARRING AND REMOVING PERSECUTORS, WAR**
2 **CRIMINALS, AND PARTICIPANTS IN CRIMES**
3 **AGAINST HUMANITY FROM THE UNITED**
4 **STATES.**

5 (a) INADMISSIBILITY OF PERSECUTORS, WAR CRIMI-
6 NALS, AND PARTICIPANTS IN CRIMES AGAINST HUMAN-
7 ITY.—Section 212(a)(3)(E) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1182(a)(3)(E)) is amended—

9 (1) by striking the subparagraph heading and
10 inserting “PARTICIPANTS IN PERSECUTION (INCLUD-
11 ING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES,
12 CRIMES AGAINST HUMANITY, OR THE COMMISSION
13 OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILL-
14 ING.—”;

15 (2) in clause (iii)(II)—

16 (A) by striking “of any foreign nation”
17 and inserting “(including acts taken as part of
18 an armed group exercising de facto authority)”;
19 and

20 (3) by adding after clause (iii) the following:

21 “(iv) PERSECUTORS, WAR CRIMINALS,
22 AND PARTICIPANTS IN CRIMES AGAINST
23 HUMANITY.—Any alien, including an alien
24 who has or had superior responsibility, who
25 committed, ordered, incited, assisted, or
26 otherwise participated in a war crime (as

1 defined in section 2441(c) of title 18,
2 United States Code) or a crime against hu-
3 manity, or in the persecution of any person
4 on account of race, religion, nationality,
5 membership in a particular social group, or
6 political opinion, is inadmissible.

7 “(v) CRIME AGAINST HUMANITY DE-
8 FINED.—In this subparagraph, the term
9 ‘crime against humanity’ means conduct
10 that is part of a widespread or systematic
11 attack targeting any civilian population,
12 with knowledge that the conduct was part
13 of the attack or with the intent that the
14 conduct be part of the attack—

15 “(I) that, if such conduct oc-
16 curred in the United States or in the
17 special maritime and territorial juris-
18 diction of the United States, would
19 violate—

20 “(aa) section 1111 of title
21 18, United States Code (relating
22 to murder);

23 “(bb) section 1201(a) of
24 such title (relating to kidnap-
25 ping);

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1 “(cc) section 1203(a) of
2 such title (relating to hostage
3 taking), notwithstanding any ex-
4 ception under subsection (b) of
5 such section 1203;

6 “(dd) section 1581(a) of
7 such title (relating to peonage);

8 “(ee) section 1583(a)(1) of
9 such title (relating to kidnapping
10 or carrying away individuals for
11 involuntary servitude or slavery);

12 “(ff) section 1584(a) of such
13 title (relating to sale into invol-
14 untary servitude);

15 “(gg) section 1589(a) of
16 such title (relating to forced
17 labor);

18 “(hh) section 1590(a) of
19 such title (relating to trafficking
20 with respect to peonage, slavery,
21 involuntary servitude, or forced
22 labor);

23 “(ii) section 1591(a) of such
24 title (relating to sex trafficking of

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1 children or by force, fraud, or co-
2ercion);

3 “(jj) section 2241(a) of such
4title (relating to aggravated sex-
5ual abuse by force or threat); or

6 “(kk) section 2242 of such
7title (relating to sexual abuse);

8 “(II) that would constitute tor-
9ture (as defined in section 2340(1) of
10such title);

11 “(III) that would constitute cruel
12or inhuman treatment, as described in
13section 2441(d)(1)(B) of such title;

14 “(IV) that would constitute per-
15forming biological experiments, as de-
16scribed in section 2441(d)(1)(C) of
17such title;

18 “(V) that would constitute muti-
19lation or maiming, as described in sec-
20tion 2441(d)(1)(E) of such title; or

21 “(VI) that would constitute in-
22tentionally causing serious bodily in-
23jury, as described in section
242441(d)(1)(F) of such title.

1 “(vi) DEFINITIONS.—In this subpara-
2 graph—

3 “(I) the term ‘superior responsi-
4 bility’ means—

5 “(aa) a leader, a member of
6 a military, or a person with effec-
7 tive control of military forces, or
8 a person with de facto or de jure
9 control of an armed group;

10 “(bb) who knew or should
11 have known that a subordinate or
12 someone under his or her de
13 facto or de jure control is com-
14 mitting acts described in sub-
15 section (a), is about to commit
16 such acts, or had committed such
17 acts; and

18 “(cc) who fails to take the
19 necessary and reasonable meas-
20 ures to prevent such acts or, for
21 acts that have been committed,
22 to punish the perpetrators of
23 such acts;

24 “(II) the term ‘systematic’ means
25 the commission of a series of acts fol-

1 lowing a regular pattern and occur-
2 ring in an organized, non-random
3 manner; and

4 “(III) the term ‘widespread’
5 means a single, large scale act or a se-
6 ries of acts directed against a sub-
7 stantial number of victims.”.

8 (b) REMOVAL OF PERSECUTORS.—Section
9 237(a)(4)(D) of the Immigration and Nationality Act (8
10 U.S.C. 1227(a)(4)(D)) is amended—

11 (1) in the subparagraph heading, by striking
12 “NAZI”; and

13 (2) by striking “or (iii)” and inserting “(iii), or
14 (iv)”.

15 (c) SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—
16 Section 212(a)(2)(G) of the Immigration and Nationality
17 Act (8 U.S.C. 1182(a)(2)(G)) is amended—

18 (1) in the subparagraph heading, by striking
19 “FOREIGN GOVERNMENT OFFICIALS” and inserting
20 “ANY PERSONS”; and

21 (2) by striking “, while serving as a foreign
22 government official,”.

23 (d) BARRING PERSECUTORS FROM ESTABLISHING
24 GOOD MORAL CHARACTER.—Section 101(f) of the Immi-

1 gration and Nationality Act (8 U.S.C. 1101(f)) is amend-
2 ed—

3 (1) in paragraph (8), by striking “or” at the
4 end;

5 (2) in paragraph (9), by striking “killings) or
6 212(a)(2)(G) (relating to severe violations of reli-
7 gious freedom).” and inserting “killings),
8 212(a)(2)(G) (relating to severe violations of reli-
9 gious freedom), or 212(a)(3)(G) (relating to recruit-
10 ment and use of child soldiers); or”; and

11 (3) by inserting after paragraph (9) the fol-
12 lowing:

13 “(10) one who at any time committed, ordered,
14 incited, assisted, or otherwise participated in the
15 persecution of any person on account of race, reli-
16 gion, nationality, membership in a particular social
17 group, or political opinion.”.

18 (e) INCREASING CRIMINAL PENALTIES FOR ANYONE
19 WHO AIDS AND ABETS THE ENTRY OF A PERSECUTOR.—
20 Section 277 of the Immigration and Nationality Act (8
21 U.S.C. 1327) is amended by striking “(other than sub-
22 paragraph (E) thereof)”.

23 (f) INCREASING CRIMINAL PENALTIES FOR FEMALE
24 GENITAL MUTILATION.—Section 116 of title 18, United
25 States Code, is amended—

1 (1) in subsection (a), by striking “shall be fined
2 under this title or imprisoned not more than 5 years,
3 or both” and inserting “has engaged in a violent
4 crime against children under section 3559(f)(3),
5 shall be imprisoned for life or for 10 years or
6 longer”; and

7 (2) in subsection (d), by striking “shall be fined
8 under this title or imprisoned not more than 5 years,
9 or both.” and inserting “shall be imprisoned for life
10 or for 10 years or longer.”.

11 (g) TECHNICAL AMENDMENTS.—The Immigration
12 and Nationality Act (8 U.S.C. 1101 et seq.) is amended—

13 (1) in section 101(a)(42) (8 U.S.C.
14 1101(a)(42)), by inserting “committed,” before “or-
15 dered”;

16 (2) in section 208(b)(2)(A)(i) (8 U.S.C.
17 1158(b)(2)(A)(i)), by inserting “committed,” before
18 “ordered”; and

19 (3) in section 241(b)(3)(B)(i) (8 U.S.C.
20 1231(b)(3)(B)(i)), by inserting “committed,” before
21 “ordered”.

22 (h) APPLICATION.—The amendments made by this
23 section shall apply to any offense committed before, on,
24 or after the date of the enactment of this Act.

1 **SEC. 1711. CHILD SOLDIER RECRUITMENT INELIGIBILITY**
2 **TECHNICAL CORRECTION.**

3 Section 212(a)(3)(G) of the Immigration and Nation-
4 ality Act (8 U.S.C. 1182(a)(3)(G)) is amended by striking
5 “section 2442” and inserting “section 2442(a)”.

6 **SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND INCREASED**
7 **CRIMINAL PENALTIES RELATED TO GANG VI-**
8 **OLENCE.**

9 (a) **DEFINITION OF CRIMINAL GANG.**—Section
10 101(a) of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)) is amended by inserting after paragraph (52) the
12 following:

13 “(53)(A) The term ‘criminal gang’ means any ongo-
14 ing group, club, organization, or association, inside or out-
15 side the United States, of 2 or more persons that—

16 “(i) has, as 1 of its primary purposes, the com-
17 mission of 1 or more of the criminal offenses de-
18 scribed in subparagraph (B) and the members of
19 which engage, or have engaged within the past 5
20 years, in a continuing series of such offenses; or

21 “(ii) has been designated as a criminal gang by
22 the Secretary, in consultation with the Secretary of
23 State and the Attorney General, as meeting the cri-
24 teria set forth in clause (i).

25 “(B) The offenses described in this subparagraph,
26 whether in violation of Federal or State law or the law

1 of a foreign country and regardless of whether the offenses
2 occurred before, on, or after the date of the enactment
3 of the Immigration Reform and Technical Corrections Act
4 of 2018, are the following:

5 “(i) Any aggravated felony.

6 “(ii) A felony drug offense (as defined in sec-
7 tion 102 of the Controlled Substances Act (21
8 U.S.C. 802)).

9 “(iii) Any criminal offense described in section
10 212 or 237.

11 “(iv) An offense involving illicit trafficking in a
12 controlled substance (as defined in section 102 of
13 the Controlled Substances Act (21 U.S.C. 802)), in-
14 cluding a drug trafficking crime (as defined in sec-
15 tion 924(c) of title 18, United States Code).

16 “(v) An offense under section 274 (relating to
17 bringing in and harboring certain aliens), section
18 277 (relating to aiding or assisting certain aliens to
19 enter the United States), or section 278 (relating to
20 importation of alien for immoral purpose).

21 “(vi) Any offense under Federal, State, or Trib-
22 al law, that has, as an element of the offense, the
23 use or attempted use of physical force or the threat-
24 ened use of physical force or a deadly weapon.

1 “(vii) Any offense that has, as an element of
2 the offense, the use, attempted use, or threatened
3 use of any physical object to inflict or cause (either
4 directly or indirectly) serious bodily injury, including
5 an injury that may ultimately result in the death of
6 a person.

7 “(viii) An offense involving obstruction of jus-
8 tice or tampering with or retaliating against a wit-
9 ness, victim, or informant.

10 “(ix) Any conduct punishable under section
11 1028 or 1029 of title 18, United States Code (relat-
12 ing to fraud and related activity in connection with
13 identification documents or access devices), sections
14 1581 through 1594 of such title (relating to peon-
15 age, slavery and trafficking in persons), section
16 1952 of such title (relating to interstate and foreign
17 travel or transportation in aid of racketeering enter-
18 prises), section 1956 of such title (relating to the
19 laundering of monetary instruments), section 1957
20 of such title (relating to engaging in monetary trans-
21 actions in property derived from specified unlawful
22 activity), or sections 2312 through 2315 of such title
23 (relating to interstate transportation of stolen motor
24 vehicles or stolen property).

1 “(x) A conspiracy to commit an offense de-
2 scribed in clauses (i) through (v).

3 “(C) Notwithstanding any other provision of law (in-
4 cluding any effective date), a group, club, organization,
5 or association shall be considered a criminal gang regard-
6 less of whether the conduct occurred before, on, or after
7 the date of the enactment of the Immigration Reform and
8 Technical Corrections Act of 2018.”.

9 (b) INADMISSIBILITY.—Section 212(a)(2) of the Im-
10 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is
11 amended by adding at the end the following:

12 “(J) ALIENS ASSOCIATED WITH CRIMINAL
13 GANGS.—

14 “(i) IN GENERAL.—Any alien who a
15 consular officer, the Secretary, or the At-
16 torney General knows or has reasonable
17 ground to believe—

18 “(I) to be or to have been a
19 member of a criminal gang; or

20 “(II) to have participated in the
21 activities of a criminal gang, knowing
22 or having reason to know that such
23 activities promoted or will promote,
24 further, aid, or support the illegal ac-
25 tivity of the criminal gang,

1 is inadmissible.

2 “(ii) EXCEPTION.—Clause (i) shall
3 not apply to an alien—

4 “(I) who did not know, or should
5 not reasonably have known, of the ac-
6 tivity causing the alien to be found in-
7 admissible under this section; or

8 “(II) whom the consular officer,
9 the Secretary, or the Attorney General
10 has reasonable grounds to believe has
11 renounced the activity causing the
12 alien to be found inadmissible under
13 this section.”.

14 (c) DESIGNATION OF CRIMINAL GANGS.—

15 (1) IN GENERAL.—Chapter 2 of title II of the
16 Immigration and Nationality Act (8 U.S.C. 1181 et
17 seq.) is amended by adding at the end the following:

18 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

19 “(a) IN GENERAL.—The Secretary, in consultation
20 with the Attorney General, and the Secretary of State,
21 may designate a group or association as a criminal gang
22 if their conduct is described in section 101(a)(53) or if
23 the group’s or association’s conduct poses a significant
24 risk that threatens the security and the public safety of

1 United States nationals or the national security, homeland
2 security, or economy of the United States.

3 “(b) EFFECTIVE DATE.—A designation under sub-
4 section (a) shall remain in effect until the designation is
5 revoked, after consultation between the Secretary, the At-
6 torney General, and the Secretary of State, or is termi-
7 nated in accordance with Federal law.”.

8 (2) CLERICAL AMENDMENT.—The table of con-
9 tents in the first section of the Immigration and Na-
10 tionality Act is amended by inserting after the item
11 relating to section 219 the following:

“220. Designation of criminal gangs.”

12 (d) DEPORTABILITY.—Section 237(a)(2) of the Im-
13 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is
14 amended by adding at the end the following:

15 “(G) ALIENS ASSOCIATED WITH CRIMINAL
16 GANGS.—

17 “(i) IN GENERAL.—Any alien who the
18 Secretary or the Attorney General knows
19 or has reason to believe—

20 “(I) is or has been a member of
21 a criminal gang; or

22 “(II) has participated in the ac-
23 tivities of a criminal gang, knowing or
24 having reason to know that such ac-
25 tivities will promote, further, aid, or

1 support the illegal activity of the
2 criminal gang,
3 is deportable.

4 “(ii) EXCEPTION.—Clause (i) shall
5 not apply to an alien—

6 “(I) who did not know, or should
7 not reasonably have known, of the ac-
8 tivity causing the alien to be found
9 deportable under this section; or

10 “(II) whom the Secretary or the
11 Attorney General has reasonable
12 grounds to believe has renounced the
13 activity causing the alien to be found
14 deportable under this section.”.

15 (e) CANCELLATION OF REMOVAL.—Section 240A(c)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1229b(c)) is amended by adding at the end the following:

18 “(7) An alien who is described in section
19 212(a)(2)(J)(i) or section 237(a)(2)(G)(i) (relating
20 to participation in criminal gangs).”.

21 (f) VOLUNTARY DEPARTURE.—Section 240B(c) of
22 the Immigration and Nationality Act (8 U.S.C. 1229c(e))
23 is amended to read as follows:

1 “(c) LIMITATION ON VOLUNTARY DEPARTURE.—The
2 Attorney General shall not permit an alien to depart vol-
3 untarily under this section if the alien—

4 “(1) was previously permitted to depart volun-
5 tarily after having been found inadmissible under
6 section 212(a)(6)(A); or

7 “(2) is described in section 212(a)(2)(J)(i) or
8 237(a)(2)(G)(i) (relating to participation in criminal
9 gangs).”.

10 (g) ASYLUM CLAIMS BASED ON GANG AFFILI-
11 ATION.—

12 (1) INAPPLICABILITY OF RESTRICTION ON RE-
13 MOVAL TO CERTAIN COUNTRIES.—Section
14 241(b)(3)(B) of the Immigration and Nationality
15 Act (8 U.S.C. 1231(b)(3)(B)) is amended in the
16 matter preceding clause (i) by inserting “who is de-
17 scribed in section 212(a)(2)(J)(i) or section
18 237(a)(2)(G)(i) or who is” after “to an alien”.

19 (2) INELIGIBILITY FOR ASYLUM.—Section
20 208(b)(2)(A) of the Immigration and Nationality
21 Act (8 U.S.C. 1158(b)(2)(A)) is amended—

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

24 (B) by redesignating clause (vi) as clause
25 (vii);

1 (C) by inserting after clause (v) the fol-
2 lowing:

3 “(vi) the alien is described in section
4 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
5 (relating to participation in criminal
6 gangs); or”; and

7 (D) by amending clause (vii), as redesign-
8 nated, to read as follows:

9 “(vii) the alien was firmly resettled in
10 another country before arriving in the
11 United States, which shall be considered
12 evidence that the alien can live in such
13 country (in any legal status) without fear
14 of persecution.”.

15 (h) GOOD MORAL CHARACTER BAR FOR CRIMINAL
16 GANG MEMBERS.—Section 101(f) of the Immigration and
17 Nationality Act (8 U.S.C. 1101(f)), as amended by section
18 1710(d), 1713(d), and 1822(a) of this Act, is further
19 amended by inserting after paragraph (10) the following:

20 “(11) is a member of one or more classes of
21 persons described in section 212(a)(2)(J) or
22 237(a)(2)(G) and has been convicted of any offense
23 under section 212(a)(2) or 237(a)(2); or”.

24 (i) ANNUAL REPORT ON DETENTION OF CRIMINAL
25 GANG MEMBERS.—Not later than March 1 of the first

1 calendar year beginning at least 1 year after the date of
2 the enactment of this Act, and annually thereafter, the
3 Secretary of Homeland Security, after consultation with
4 the heads of appropriate Federal agencies, shall submit
5 a report to the Committee on Homeland Security and Gov-
6 ernmental Affairs of the Senate, the Committee on the Ju-
7 diciary of the Senate, the Committee on Homeland Secu-
8 rity of the House of Representatives, and the Committee
9 on the Judiciary of the House of Representatives that
10 identifies the number of aliens detained described in sec-
11 tions 212(a)(2)(J) and section 237(a)(2)(G) of the Immi-
12 gration and Nationality Act, as added by subsections (b)
13 and (d).

14 (j) EFFECTIVE DATE AND APPLICATION.—The
15 amendments made by this section shall take effect on the
16 date of the enactment of this Act and shall apply to acts
17 that occur before, on, or after the date of the enactment
18 of this Act.

19 **SEC. 1713. BARRING ALIENS WITH CONVICTIONS FOR DRIV-**
20 **ING UNDER THE INFLUENCE OR WHILE IN-**
21 **TOXICATED.**

22 (a) AGGRAVATED FELONY DRIVING WHILE INTOXI-
23 CATED.—

1 (1) DEFINITIONS.—Section 101(a)(43) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(43)) is amended—

4 (A) in subparagraph (T), by striking
5 “and” at the end;

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

8 (C) by inserting after subparagraph (U)
9 the following:

10 “(V) a single conviction for driving while
11 intoxicated (including a conviction for driving
12 while under the influence of or impaired by al-
13 cohol or illicit drugs), when such impaired driv-
14 ing was the cause of the serious bodily injury
15 or death of another person or a second or sub-
16 sequent conviction for driving while intoxicated
17 (including a conviction for driving under the in-
18 fluence of or impaired by alcohol or illicit
19 drugs), without regard to whether the convic-
20 tion is classified as a misdemeanor or felony
21 under State law. For purposes of this para-
22 graph, the Secretary or the Attorney General
23 are not required to prove the first conviction for
24 driving while intoxicated (including a conviction
25 for driving while under the influence of or im-

1 paired by alcohol or illicit drugs) as a predicate
2 offense and need only make a factual deter-
3 mination that the alien was previously convicted
4 for driving while intoxicated (including a convic-
5 tion for driving while under the influence of or
6 impaired by alcohol or illicit drugs).”.

7 (2) EFFECTIVE DATE AND APPLICATION.—The
8 amendments made by this subsection shall take ef-
9 fect on the date of the enactment of this Act and
10 shall apply to any conviction entered on or after
11 such date.

12 (b) INADMISSIBILITY FOR DRIVING WHILE INTOXI-
13 CATED OR UNDER THE INFLUENCE.—

14 (1) IN GENERAL.—Section 212(a)(2) of the Im-
15 migration and Nationality Act (8 U.S.C.
16 1182(a)(2)), as amended by section 1712(b) of this
17 Act, is further amended by adding at the end the
18 following:

19 “(K) DRIVING WHILE INTOXICATED AND
20 UNLAWFULLY PRESENT IN THE UNITED
21 STATES.—An alien who is convicted of driving
22 while intoxicated, driving under the influence,
23 or a similar violation of State law is inadmis-
24 sible.”.

1 (2) EFFECTIVE DATE AND APPLICATION.—The
2 amendment made by paragraph (1) shall take effect
3 on the date of the enactment of this Act and shall
4 apply to any conviction entered on or after such
5 date.

6 (c) DEPORTATION FOR DRIVING WHILE INTOXI-
7 CATED OR UNDER THE INFLUENCE.—

8 (1) IN GENERAL.—Section 237(a)(2) of the Im-
9 migration and Nationality Act (8 U.S.C. 1227(a)),
10 as amended by section 1712(c) of this Act, is further
11 amended by adding at the end the following:

12 “(H) DRIVING WHILE INTOXICATED AND
13 WHILE UNLAWFULLY PRESENT IN THE UNITED
14 STATES.—An alien who is convicted of driving
15 while intoxicated, driving under the influence,
16 or a similar violation of State law is deport-
17 able.”.

18 (2) EFFECTIVE DATE AND APPLICATION.—The
19 amendment made by paragraph (1) shall take effect
20 on the date of the enactment of this Act and shall
21 apply to any conviction entered on or after such
22 date.

23 (d) GOOD MORAL CHARACTER BAR FOR DUI OR
24 DWI CONVICTIONS.—Section 101(f) of the Immigration
25 and Nationality Act (8 U.S.C. 1101(f)), as amended by

1 sections 1710(d) and 1711(h) of this Act, is further
2 amended by inserting after paragraph (1) the following:

3 “(2) inadmissible under section 212(a)(2)(K) or
4 deportable under section 237(a)(2)(H);”.

5 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

6 (1) IN GENERAL.—Section 212(h) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1182(h)) is
8 amended—

9 (A) by inserting “or the Secretary” after
10 “the Attorney General” each place it appears;
11 and

12 (B) in the matter preceding paragraph (1),
13 by striking “and (E)” and inserting “(E), and
14 (K)”.

15 (2) EFFECTIVE DATE AND APPLICATION.—The
16 amendments made by paragraph (1) shall take effect
17 on the date of the enactment of this Act and apply
18 to any conviction entered on or after such date.

19 **SEC. 1714. BARRING AGGRAVATED FELONS, BORDER**
20 **CHECKPOINT RUNNERS, AND SEX OFFEND-**
21 **ERS FROM ADMISSION TO THE UNITED**
22 **STATES.**

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

1 (1) in subsection (a)(2)—

2 (A) in subparagraph (A)(i)—

3 (i) in subclause (I), by striking “, or”
4 at the end and inserting a semicolon;

5 (ii) in subclause (II), by striking the
6 comma at the end and inserting “; or”;
7 and

8 (iii) by inserting after subclause (II)
9 the following:

10 “(III) a violation of (or a con-
11 spiracy or attempt to violate) any
12 statute relating to section 208 of the
13 Social Security Act (42 U.S.C. 408)
14 (relating to social security account
15 numbers or social security cards) or
16 section 1028 of title 18, United States
17 Code (relating to fraud and related
18 activity in connection with identifica-
19 tion documents, authentication fea-
20 tures, and information)”;

21 (B) by inserting after subparagraph (K),
22 as added by section 1713(b) of this Act, the fol-
23 lowing:

24 “(L) CITIZENSHIP FRAUD.—Any alien con-
25 victed of, or who admits having committed, or

1 who admits committing acts which constitute
2 the essential elements of, a violation of, or an
3 attempt or a conspiracy to violate, subsection
4 (a) or (b) of section 1425 of title 18, United
5 States Code (relating to the procurement of
6 citizenship or naturalization unlawfully), is in-
7 admissible.

8 “(M) CERTAIN FIREARM OFFENSES.—Any
9 alien who at any time has been convicted under
10 any law of, admits having committed, or admits
11 committing acts which constitute the essential
12 elements of, any law relating to, purchasing,
13 selling, offering for sale, exchanging, using,
14 owning, possessing, or carrying, or of attempt-
15 ing or conspiring to purchase, sell, offer for
16 sale, exchange, use, own, possess, or carry, any
17 weapon, part, or accessory which is a firearm or
18 destructive device (as defined in section 921(a)
19 of title 18, United States Code) in violation of
20 any law, is inadmissible.

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

24 “(O) HIGH SPEED FLIGHT.—Any alien
25 who has been convicted of a violation of section

1 758 of title 18, United States Code (relating to
2 high speed flight from an immigration check-
3 point) is inadmissible.

4 “(P) FAILURE TO REGISTER AS A SEX OF-
5 FENDER.—Any alien convicted under section
6 2250 of title 18, United States Code, is inad-
7 missible.

8 “(Q) CRIMES OF DOMESTIC VIOLENCE,
9 STALKING, OR VIOLATION OF PROTECTION OR-
10 DERS; CRIMES AGAINST CHILDREN.—

11 “(i) DOMESTIC VIOLENCE, STALKING,
12 AND CHILD ABUSE.—

13 “(I) IN GENERAL.—Except as
14 provided in section 212 (v), any alien
15 who at any time is or has been con-
16 victed of a crime involving the use or
17 attempted use of physical force, or
18 threatened use of a deadly weapon, a
19 crime of domestic violence, a crime of
20 stalking, or a crime of child abuse,
21 child neglect, or child abandonment is
22 inadmissible.

23 “(II) CRIME OF DOMESTIC VIO-
24 LENCE DEFINED.—For purposes of
25 this clause, the term ‘crime of domes-

1 tie violence’ means any crime of vio-
2 lence or any offense under Federal,
3 State, or Tribal law that has, as an
4 element, the use or attempted use of
5 physical force or the threatened use of
6 physical force or a deadly weapon
7 against a person committed by a cur-
8 rent or former spouse of the person,
9 by an individual with whom the per-
10 son shares a child in common, by an
11 individual who is cohabiting with or
12 has cohabited with the person as a
13 spouse, by an individual similarly situ-
14 ated to a spouse of the person under
15 the domestic or family violence laws of
16 the jurisdiction where the offense oc-
17 curs, or by any other individual
18 against a person who is protected
19 from that individual’s acts under the
20 domestic or family violence laws of the
21 United States or any State, Indian
22 tribal government, or unit of local
23 government.

24 “(ii) VIOLATORS OF PROTECTION OR-
25 DERS.—

1 “(I) IN GENERAL.—Except as
2 provided in subsection (v), any alien
3 who at any time is or has been en-
4 joined under a protection order issued
5 by a court and whom the court deter-
6 mines has engaged in conduct that
7 violates the portion of a protection
8 order that involves protection against
9 credible threats of violence, repeated
10 harassment, or bodily injury to the
11 person or persons for whom the pro-
12 tection order was issued is inadmis-
13 sible.

14 “(II) PROTECTIVE ORDER DE-
15 FINED.—In this clause, the term ‘pro-
16 tection order’ means any injunction
17 issued for the purpose of preventing
18 violent or threatening acts of violence
19 that involve the use or attempted use
20 of physical force, or threatened use of
21 a deadly weapon, committed by a cur-
22 rent or former spouse, parent, or
23 guardian of the victim, by a person
24 with whom the victim shares a child
25 in common, by a person who is cohab-

1 iting with or has cohabited with the
2 victim as a spouse, parent, or guard-
3 ian, or by a person similarly situated
4 to a spouse, parent, or guardian of
5 the victim, including temporary or
6 final orders issued by civil or criminal
7 courts (other than support or child
8 custody orders or provisions) whether
9 obtained by filing an independent ac-
10 tion or as an independent order in an-
11 other proceeding.”;

12 (2) in subsection (h)—

13 (A) in the matter preceding paragraph (1),
14 as amended by section 1713(e) of this Act, by
15 striking “, and (K)”, and inserting “(K), and
16 (M)”;

17 (B) in the undesignated matter following
18 paragraph (2)—

19 (i) by striking “torture.” and insert-
20 ing “torture, or has been convicted of an
21 aggravated felony.”; and

22 (ii) by striking “if either since the
23 date of such admission the alien has been
24 convicted of an aggravated felony or the

1 alien” and inserting “if since the date of
2 such admission the alien”;

3 (3) by redesignating subsection (t), as added by
4 section 1(b)(2)(B) of Public Law 108–449, as sub-
5 section (u); and

6 (4) by adding at the end the following:

7 “(v) WAIVER FOR VICTIMS OF DOMESTIC VIO-
8 LENCE.—

9 “(1) IN GENERAL.—The Secretary or the Attor-
10 ney General is not limited by the criminal court
11 record and may waive the application of subsection
12 (a)(2)(Q)(i) (with respect to crimes of domestic vio-
13 lence and crimes of stalking) and subsection
14 (a)(2)(Q)(ii), in the case of an alien who has been
15 battered or subjected to extreme cruelty and who is
16 not and was not the primary perpetrator of violence
17 in the relationship, upon a determination that—

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

19 “(B) the alien was found to have violated
20 a protection order intended to protect the alien;
21 or

22 “(C) the alien committed, was arrested for,
23 was convicted of, or pled guilty to committing
24 a crime—

1 “(i) that did not result in serious bod-
2 ily injury; and

3 “(ii) where there was a connection be-
4 tween the crime and the alien’s having
5 been battered or subjected to extreme cru-
6 elty.

7 “(2) CREDIBLE EVIDENCE CONSIDERED.—In
8 acting on applications for a waiver under this sub-
9 section, the Secretary or the Attorney General shall
10 consider any credible evidence relevant to the appli-
11 cation. The determination of what evidence is cred-
12 ible and the weight to be given that evidence shall
13 be within the sole discretion of the Secretary or the
14 Attorney General.”.

15 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
16 237(a)(2) of the Immigration and Nationality Act (8
17 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and
18 1713(c) of this Act, is further amended by adding at the
19 end the following:

20 “(I) IDENTIFICATION FRAUD.—Any alien
21 who is convicted of a violation of (or a con-
22 spiracy or attempt to violate) an offense relat-
23 ing to section 208 of the Social Security Act
24 (42 U.S.C. 408) (relating to social security ac-
25 count numbers or social security cards) or sec-

1 tion 1028 of title 18, United States Code (relat-
2 ing to fraud and related activity in connection
3 with identification) is deportable.”.

4 (c) DEPORTABILITY; CRIMINAL OFFENSES.—Section
5 237(a)(3)(B) of the Immigration and Nationality Act (8
6 U.S.C. 1227(a)(3)(B)) is amended—

7 (1) in clause (i), by striking the comma at the
8 end and inserting a semicolon;

9 (2) in clause (ii), by striking “, or” at the end
10 and inserting a semicolon;

11 (3) in clause (iii), by striking the comma at the
12 end and inserting “; or”; and

13 (4) by inserting after clause (iii) the following:

14 “(iv) of a violation of, or an attempt
15 or a conspiracy to violate, subsection (a) or
16 (b) of section 1425 of title 18, United
17 States Code (relating to the unlawful pro-
18 curement of citizenship or naturaliza-
19 tion),”.

20 (d) APPLICABILITY.—The amendments made by this
21 section shall apply to—

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

24 (2) all aliens who are required to establish ad-
25 missibility on or after such date of enactment; and

1 (3) all removal, deportation, or exclusion pro-
2 ceedings that are filed, pending, or reopened, on or
3 after such date of enactment.

4 (e) **RULE OF CONSTRUCTION.**—The amendments
5 made by this section may not be construed to create eligi-
6 bility for relief from removal under section 212(c) of the
7 Immigration and Nationality Act (8 U.S.C. 1182(c)), as
8 in effect on the day before the date of the enactment of
9 this Act, if such eligibility did not exist before such date
10 of enactment.

11 **SEC. 1715. PROTECTING IMMIGRANTS FROM CONVICTED**
12 **SEX OFFENDERS.**

13 (a) **IMMIGRANTS.**—Section 204(a)(1) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1154(a)(1)) is amend-
15 ed—

16 (1) in subparagraph (A), by amending clause
17 (viii) to read as follows:

18 “(viii) Clause (i) shall not apply to a citizen of the
19 United States who has been convicted of an offense de-
20 scribed in subparagraph (A), (I), or (K) of section
21 101(a)(43) or a specified offense against a minor (as de-
22 fined in section 111(7) of the Adam Walsh Child Protec-
23 tion and Safety Act of 2006 (34 U.S.C. 20911(7))) unless
24 the Secretary, in the Secretary’s sole and unreviewable
25 discretion, determines that the citizen poses no risk to the

1 alien with respect to whom a petition described in clause
2 (i) is filed.”; and

3 (2) in subparagraph (B)(i)—

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

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

8 “(II) Subclause (I) shall not apply to an alien law-
9 fully admitted for permanent residence who has been con-
10 victed of an offense described in subparagraph (A), (I),
11 or (K) of section 101(a)(43) or a specified offense against
12 a minor as defined in section 111(7) of the Adam Walsh
13 Child Protection and Safety Act of 2006 (34 U.S.C.
14 20911(7)) unless the Secretary, in the Secretary’s sole and
15 unreviewable discretion, determines that the alien lawfully
16 admitted for permanent residence poses no risk to the
17 alien with respect to whom a petition described in sub-
18 clause (I) is filed.”.

19 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of the
20 Immigration and Nationality Act (8 U.S.C.
21 1101(a)(15)(K)) is amended by striking
22 “204(a)(1)(A)(viii)(I)” each place it appears and insert-
23 ing “204(a)(1)(A)(viii)”.

24 (c) EFFECTIVE DATE AND APPLICATION.—The
25 amendments made by this section shall take effect on the

1 date of the enactment of this Act and shall apply to peti-
2 tions filed on or after such date.

3 **SEC. 1716. ENHANCED CRIMINAL PENALTIES FOR HIGH**
4 **SPEED FLIGHT.**

5 (a) IN GENERAL.—Section 758 of title 18, United
6 States Code, is amended to read as follows:

7 **“§ 758. Unlawful flight from immigration or customs**
8 **controls**

9 “(a) EVADING A CHECKPOINT.—Any person who,
10 while operating a motor vehicle or vessel, knowingly flees
11 or evades a checkpoint operated by the Department of
12 Homeland Security or any other Federal law enforcement
13 agency, and then knowingly or recklessly disregards or dis-
14 obeys the lawful command of any law enforcement agent,
15 shall be fined under this title, imprisoned not more than
16 5 years, or both.

17 “(b) FAILURE TO STOP.—Any person who, while op-
18 erating a motor vehicle, aircraft, or vessel, knowingly or
19 recklessly disregards or disobeys the lawful command of
20 an officer of the Department of Homeland Security en-
21 gaged in the enforcement of the immigration, customs, or
22 maritime laws, or the lawful command of any law enforce-
23 ment agent assisting such officer, shall be fined under this
24 title, imprisoned not more than 2 years, or both.

1 “(c) ALTERNATIVE PENALTIES.—Notwithstanding
2 the penalties provided in subsection (a) or (b), any person
3 who violates such subsection—

4 “(1) shall be fined under this title, imprisoned
5 not more than 10 years, or both, if the violation in-
6 volved the operation of a motor vehicle, aircraft, or
7 vessel—

8 “(A) in excess of the applicable or posted
9 speed limit;

10 “(B) in excess of the rated capacity of the
11 motor vehicle, aircraft, or vessel; or

12 “(C) in an otherwise dangerous or reckless
13 manner;

14 “(2) shall be fined under this title, imprisoned
15 not more than 20 years, or both, if the violation cre-
16 ated a substantial and foreseeable risk of serious
17 bodily injury or death to any person;

18 “(3) shall be fined under this title, imprisoned
19 not more than 30 years, or both, if the violation
20 caused serious bodily injury to any person; or

21 “(4) shall be fined under this title, imprisoned
22 for any term of years or life, or both, if the violation
23 resulted in the death of any person.

24 “(d) ATTEMPT AND CONSPIRACY.—Any person who
25 attempts or conspires to commit any offense under this

1 section shall be punished in the same manner as a person
2 who completes the offense.

3 “(e) FORFEITURE.—Any property, real or personal,
4 constituting or traceable to the gross proceeds of the of-
5 fense and any property, real or personal, used or intended
6 to be used to commit or facilitate the commission of the
7 offense shall be subject to forfeiture.

8 “(f) FORFEITURE PROCEDURES.—Seizures and for-
9 feitures under this section shall be governed by the provi-
10 sions of chapter 46 (relating to civil forfeitures), including
11 section 981(d), except that such duties as are imposed
12 upon the Secretary of the Treasury under the customs
13 laws described in that section shall be performed by such
14 officers, agents, and other persons as may be designated
15 for that purpose by the Secretary of Homeland Security
16 or the Attorney General. Nothing in this section may be
17 construed to limit the authority of the Secretary of Home-
18 land Security to seize and forfeit motor vehicles, aircraft,
19 or vessels under the customs laws or any other laws of
20 the United States.

21 “(g) DEFINITIONS.—For purposes of this section—

22 “(1) the term ‘checkpoint’ includes any customs
23 or immigration inspection at a port of entry or im-
24 migration inspection at a U.S. Border Patrol check-
25 point;

1 “(2) the term ‘law enforcement agent’ means—

2 “(A) any Federal, State, local or tribal of-
3 ficial authorized to enforce criminal law; and

4 “(B) when conveying a command described
5 in subsection (b), an air traffic controller;

6 “(3) the term ‘lawful command’ includes a com-
7 mand to stop, decrease speed, alter course, or land,
8 whether communicated orally, visually, by means of
9 lights or sirens, or by radio, telephone, or other com-
10 munication;

11 “(4) the term ‘motor vehicle’ means any motor-
12 ized or self-propelled means of terrestrial transpor-
13 tation; and

14 “(5) the term ‘serious bodily injury’ has the
15 meaning given in section 2119(2).”.

16 (b) CLERICAL AMENDMENT.—The table of sections
17 for chapter 35 of title 18, United States Code, is amended
18 by striking the item relating to section 758 and inserting
19 the following:

“758. Unlawful flight from immigration or customs controls.”.

20 (c) RULE OF CONSTRUCTION.—The amendments
21 made by subsection (a) may not be construed to create
22 eligibility for relief from removal under section 212(c) of
23 the Immigration and Nationality Act (8 U.S.C. 1182(c)),
24 as in effect on the day before the date of the enactment

1 of this Act, if such eligibility did not exist before such date
2 of enactment.

3 **SEC. 1717. PROHIBITION ON ASYLUM AND CANCELLATION**
4 **OF REMOVAL FOR TERRORISTS.**

5 (a) ASYLUM.—Section 208(b)(2)(A) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)), as
7 amended by 1712(f) of this Act, is further amended—

8 (1) by inserting “or the Secretary” after “if the
9 Attorney General”; and

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

11 “(v) the alien is described in subpara-
12 graph (B)(i) or (F) of section 212(a)(3),
13 unless, in the case of an alien described in
14 section 212(a)(3)(B)(i)(IX), the Secretary
15 or the Attorney General determines, in his
16 or her sole and unreviewable discretion,
17 that there are not reasonable grounds for
18 regarding the alien as a danger to the se-
19 curity of the United States;”.

20 (b) CANCELLATION OF REMOVAL.—Section
21 240A(c)(4) of the Immigration and Nationality Act (8
22 U.S.C. 1229b(c)(4)) is amended—

23 (1) by striking “inadmissible under” and insert-
24 ing “described in”; and

1 (2) by striking “deportable under” and insert-
2 ing “described in”.

3 (c) RESTRICTION ON REMOVAL.—

4 (1) IN GENERAL.—Section 241(b)(3)(A) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1231(b)(3)(A)) is amended—

7 (A) by inserting “or the Secretary” after
8 “Attorney General” both places it appears;

9 (B) by striking “Notwithstanding” and in-
10 serting the following:

11 “(i) IN GENERAL.—Notwithstanding”;

12 and

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

14 “(ii) BURDEN OF PROOF.—The alien
15 has the burden of proof to establish that
16 the alien’s life or freedom would be threat-
17 ened in such country, and that race, reli-
18 gion, nationality, membership in a par-
19 ticular social group, or political opinion
20 would be at least 1 central reason for such
21 threat.”.

22 (2) EXCEPTION.—Section 241(b)(3)(B) of such
23 Act (8 U.S.C. 1231(b)(3)(B)) is amended—

24 (A) by inserting “or the Secretary” after
25 “Attorney General” both places it appears;

1 (B) in clause (iii), striking “or” at the end;

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

4 (D) inserting after clause (iv) the fol-
5 lowing:

6 “(v) the alien is described in subpara-
7 graph (B)(i) or (F) of section
8 212(a)(3)(B), unless, in the case of an
9 alien described in section
10 212(a)(3)(B)(i)(IX), the Secretary or the
11 Attorney General determines, in his or her
12 sole and unreviewable discretion, that there
13 are not reasonable grounds for regarding
14 the alien as a danger to the security of the
15 United States; or

16 “(vi) the alien is convicted of an ag-
17 gravated felony.”; and

18 (E) by striking the undesignated matter at
19 the end.

20 (3) SUSTAINING BURDEN OF PROOF; CREDI-
21 BILITY DETERMINATIONS.—Section 241(b)(3)(C) of
22 such Act (8 U.S.C. 1231(b)(3)(C)) is amended by
23 striking “In determining whether an alien has dem-
24 onstrated that the alien’s life or freedom would be
25 threatened for a reason described in subparagraph

1 (A),” and inserting “For purposes of this para-
2 graph,”.

3 (4) EFFECTIVE DATE AND APPLICATION.—The
4 amendments made by paragraphs (1) and (2) shall
5 take effect as if enacted on May 11, 2005, and shall
6 apply to applications for withholding of removal
7 made on or after such date.

8 (d) EFFECTIVE DATES; APPLICATIONS.—Except as
9 provided in subsection (c)(4), the amendments made by
10 this section shall take effect on the date of the enactment
11 of this Act and sections 208(b)(2)(A), 240A(c), and
12 241(b)(3) of the Immigration and Nationality Act, as
13 amended by this section, shall apply to—

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

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

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

23 **SEC. 1718. AGGRAVATED FELONIES.**

24 (a) DEFINITION OF AGGRAVATED FELONY.—Section
25 101(a)(43) of the Immigration and Nationality Act (8

1 U.S.C. 1101(a)(43)), as amended by section 1713(a) of
2 this Act, is further amended—

3 (1) in subparagraph (A), by striking “sexual
4 abuse of a minor;” and inserting “any conviction for
5 a sex offense, including an offense described in sec-
6 tions 2241 and 2243 of title 18, United States Code,
7 or an offense in which the alien abused or was in-
8 volved in the abuse of any individual younger than
9 18 years of age, or in which the victim was, at the
10 time the offense was committed, younger than 18
11 years of age, regardless of the reason and extent of
12 the act, the sentence imposed, or the elements in the
13 offense that are required for conviction;”;

14 (2) in subparagraph (F), by striking “at least
15 one year” and inserting “is at least 1 year, except
16 that if the conviction records do not conclusively es-
17 tablish whether a crime constitutes a crime of vio-
18 lence or an offense under Federal, State, or Tribal
19 law, that has, as an element, the use or attempted
20 use of physical force or the threatened use of phys-
21 ical force or a deadly weapon, the Attorney General
22 or the Secretary may consider other evidence related
23 to the conviction, including police reports and wit-
24 ness statements, that clearly establishes that the
25 conduct leading to the alien’s conviction constitutes

1 a crime of violence or an offense under Federal,
2 State, or Tribal law, that has, as an element, the use
3 or attempted use of physical force or the threatened
4 use of physical force or a deadly weapon;”;

5 (3) by amending subparagraph (G) to read as
6 follows:

7 “(G) a theft offense under State or Fed-
8 eral law (including theft by deceit, theft by
9 fraud, and receipt of stolen property) or bur-
10 glary offense under State or Federal law for
11 which the term of imprisonment is at least 1
12 year, except that if the conviction records do
13 not conclusively establish whether a crime con-
14 stitutes a theft or burglary offense, the Attor-
15 ney General or Secretary may consider other
16 evidence related to the conviction, including po-
17 lice reports and witness statements, that clearly
18 establishes that the conduct for which the alien
19 was engaged constitutes a theft or burglary of-
20 fense;”;

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

23 (5) in subparagraph (N)—

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

1 (B) by adding a semicolon at the end;

2 (6) by amending subparagraph (O) to read as
3 follows:

4 “(O) an offense described in section 275 or
5 276 for which the term of imprisonment is at
6 least 1 year;”;

7 (7) in subparagraph (P) by striking “(i) which
8 either is falsely making, forging, counterfeiting, mu-
9 tilating, or altering a passport or instrument in vio-
10 lation of section 1543 of title 18, United States
11 Code, or is described in section 1546(a) of such title
12 (relating to document fraud) and (ii)” and inserting
13 “which is described in the first paragraph of section
14 1541, 1542, 1543, 1544, 1546(a), or 1547 of title
15 18, United States Code, and”;

16 (8) in subparagraph (U), by striking “an at-
17 tempt or conspiracy to commit an offense described
18 in this paragraph” and inserting “an attempt to
19 commit, conspiracy to commit, or facilitation of an
20 offense described in this paragraph, or aiding, abet-
21 ting, procuring, commanding, inducing, or soliciting
22 the commission of such an offense”;

23 (9) by striking the undesignated material at
24 end and inserting the following:

1 “The term applies to an offense described in this para-
2 graph, whether in violation of Federal or State law, or
3 a law of a foreign country, for which the term of imprison-
4 ment was completed within the previous 20 years, and
5 even if the length of the term of imprisonment for the
6 offense is based on recidivist or other enhancements. Not-
7 withstanding any other provision of law (including any ef-
8 fective date), the term applies regardless of whether the
9 conviction was entered before, on, or after September 30,
10 1996.”.

11 (b) DEFINITION OF CONVICTION.—Section
12 101(a)(48) of the Immigration and Nationality Act (8
13 U.S.C. 1101(a)(48)) is amended by adding at the end the
14 following:

15 “(C)(i) Any reversal, vacatur, expungement, or modi-
16 fication of a conviction, sentence, or conviction that was
17 granted to ameliorate the consequences of the conviction,
18 sentence, or conviction, or was granted for rehabilitative
19 purposes, shall have no effect on the immigration con-
20 sequences resulting from the original conviction.

21 “(ii) The alien shall have the burden of dem-
22 onstrating that any reversal, vacatur, expungement, or
23 modification, including modification to any sentence for an
24 offense, was not granted to ameliorate the consequences

1 of the conviction, sentence, or conviction record, or for re-
2 habilitative purposes.”.

3 (c) EFFECTIVE DATE AND APPLICATION.—The
4 amendments made by this section shall take effect on the
5 date of the enactment of this Act and apply to any act
6 that occurred before, on, or after such date of enactment.

7 **SEC. 1719. CONVICTIONS.**

8 (a) INADMISSIBILITY.—Section 212(a)(2) of the Im-
9 migration and Nationality Act (8 U.S.C. 1182(a)(2)), as
10 amended by sections 1712(b), 1713(b), and 1714(a) of
11 this Act, is further amended by adding at the end the fol-
12 lowing:

13 “(R) CONVICTIONS.—

14 “(i) IN GENERAL.—For purposes of
15 determining whether an underlying crimi-
16 nal offense constitutes a ground of inad-
17 missibility under this subsection, all stat-
18 utes or common law offenses are divisible
19 if any of the conduct encompassed by the
20 statute constitutes an offense that is a
21 ground of inadmissibility.

22 “(ii) OTHER EVIDENCE.—If the con-
23 viction records, such as charging docu-
24 ments, plea agreements, plea colloquies,
25 and jury instructions, do not conclusively

1 establish whether a crime constitutes a
2 ground of inadmissibility, the Attorney
3 General, the Secretary of State, or the Sec-
4 retary may consider other evidence related
5 to the conviction, including police reports
6 and witness statements, that clearly estab-
7 lishes that the conduct leading to the
8 alien's conviction constitutes a ground of
9 inadmissibility.”.

10 (b) DEPORTABILITY.—Section 237(a)(2) of the Im-
11 migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
12 amended by sections 1712(c), 1713(c), and 1714(c) of this
13 Act, is further amended by adding at the end the fol-
14 lowing:

15 “(J) CRIMINAL OFFENSES.—

16 “(i) IN GENERAL.—For purposes of
17 determining whether an underlying crimi-
18 nal offense constitutes a ground of deport-
19 ability under this subsection, all statutes or
20 common law offenses are divisible if any of
21 the conduct encompassed by the statute
22 constitutes an offense that is a ground of
23 deportability.

24 “(ii) OTHER EVIDENCE.—If the con-
25 viction records, such as charging docu-

1 ments, plea agreements, plea colloquies,
2 and jury instructions, do not conclusively
3 establish whether a crime constitutes a
4 ground of deportability, the Attorney Gen-
5 eral or the Secretary may consider other
6 evidence related to the conviction, includ-
7 ing police reports and witness statements,
8 that clearly establishes that the conduct
9 leading to the alien’s conviction constitutes
10 a ground of deportability.”.

11 **SEC. 1720. FAILURE TO OBEY REMOVAL ORDERS.**

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

14 (1) in subsection (a)—

15 (A) in paragraph (1), in the matter pre-
16 ceding subparagraph (A), by inserting “212(a)
17 or” before “237(a),”; and

18 (B) by striking paragraph (3);

19 (2) by striking subsection (b); and

20 (3) by redesignating subsections (c) and (d) as
21 subsections (b) and (c), respectively.

22 (b) EFFECTIVE DATE AND APPLICATION.—The
23 amendments made by subsection (a)(1) shall take effect
24 on the date of the enactment of this Act and shall apply
25 to acts that are described in subparagraphs (A) through

1 (D) of section 243(a)(1) of the Immigration and Nation-
2 ality Act (8 U.S.C. 1253(a)(1)) that occur on or after such
3 date of enactment.

4 **SEC. 1721. SANCTIONS FOR COUNTRIES THAT DELAY OR**
5 **PREVENT REPATRIATION OF THEIR NATION-**
6 **ALS.**

7 Section 243 of the Immigration and Nationality Act
8 (8 U.S.C. 1253) (as amended by section 1720(a)(3)) is
9 amended by striking subsection (c) and inserting the fol-
10 lowing:

11 “(c) LISTING OF COUNTRIES WHO DELAY REPATRI-
12 ATION OF REMOVED ALIENS.—

13 “(1) LISTING OF COUNTRIES.—Beginning on
14 the date that is 6 months after the date of the en-
15 actment of the Immigration Reform and Technical
16 Corrections Act of 2018, and every 6 months there-
17 after, the Secretary shall publish a report in the
18 Federal Register that includes a list of—

19 “(A) countries that have refused or unrea-
20 sonably delayed repatriation of an alien who is
21 a national of that country since the date of en-
22 actment of this Act and the total number of
23 such aliens, disaggregated by nationality;

24 “(B) countries that have an excessive repa-
25 triation failure rate; and

1 “(C) each country that was reported as
2 noncompliant in the most recent reporting pe-
3 riod.

4 “(2) EXEMPTION.—The Secretary, in the Sec-
5 retary’s sole and unreviewable discretion, and in con-
6 sultation with the Secretary of State, may exempt a
7 country from inclusion on the list under paragraph
8 (1) if there are significant foreign policy or security
9 concerns that warrant such an exemption.

10 “(d) DISCONTINUING GRANTING OF VISAS TO NA-
11 TIONALS OF COUNTRIES DENYING OR DELAYING ACCEPT-
12 ING ALIEN.—

13 “(1) IN GENERAL.—Notwithstanding section
14 221(c), the Secretary shall take the action described
15 in paragraph (2)(A), and may take an action de-
16 scribed in paragraph (2)(B), if the Secretary deter-
17 mines that—

18 “(A) an alien who is a national of a foreign
19 country is inadmissible under section 212 or de-
20 portable under section 237, or has been ordered
21 removed from the United States; and

22 “(B) the government of the foreign coun-
23 try referred to in subparagraph (A) is—

24 “(i) denying or unreasonably delaying
25 accepting aliens who are citizens, subjects,

1 nationals, or residents of that country
2 after the Secretary asks whether the gov-
3 ernment will accept an alien under this
4 section; or

5 “(ii) refusing to issue any required
6 travel or identity documents to allow the
7 alien who is citizen, subject, national, or
8 resident of that country to return to that
9 country.

10 “(2) ACTIONS DESCRIBED.—The actions de-
11 scribed in this paragraph are the following:

12 “(A) Direct the Secretary of State to au-
13 thorize consular officers in the foreign country
14 referred to in paragraph (1) to deny visas
15 under section 101(a)(15)(A)(iii) to attendants,
16 servants, personal employees, and members of
17 their immediate families, of the officials and
18 employees of that country who receive non-
19 immigrant status under clause (i) or (ii) of sec-
20 tion 101(a)(15)(A).

21 “(B) In consultation with the Secretary of
22 State, deny admission to any citizens, subjects,
23 nationals, and residents from the foreign coun-
24 try referred to in paragraph (1), consistent with
25 other international obligations, and the imposi-

1 **SEC. 1723. ENHANCED PENALTIES FOR FRAUD AND MISUSE**
2 **OF VISAS, PERMITS, AND OTHER DOCU-**
3 **MENTS.**

4 Section 1546(a) of title 18, United States Code, is
5 amended—

6 (1) by striking “Commissioner of the Immigra-
7 tion and Naturalization Service” each place it ap-
8 pears and inserting “Secretary of Homeland Secu-
9 rity”; and

10 (2) by striking “Shall be fined” and all that fol-
11 lows and inserting “Shall be fined under this title or
12 imprisoned for not less than 12 years and not more
13 than 25 years (if the offense was committed to fa-
14 cilitate an act of international terrorism (as defined
15 in section 2331)), not less than 10 years and not
16 more than 20 years (if the offense was committed to
17 facilitate a drug trafficking crime (as defined in sec-
18 tion 929(a)), not less than 5 years and not more
19 than 10 years (for the first or second such offense,
20 if the offense was not committed to facilitate such
21 an act of international terrorism or a drug traf-
22 ficking crime), or not less than 7 years and not more
23 than 15 years (for any other offense), or both.”.

1 **SEC. 1724. EXPANSION OF CRIMINAL ALIEN REPATRIATION**
2 **PROGRAMS.**

3 (a) **EXPANSION OF CRIMINAL ALIEN REPATRIATION**
4 **FLIGHTS.**—Not later than 90 days after the date of the
5 enactment of this Act, the Secretary of Homeland Security
6 shall increase the number of criminal and illegal alien re-
7 patriation flights from the United States conducted by
8 U.S. Customs and Border Protection and U.S. Immigra-
9 tion and Customs Enforcement Air Operations by not less
10 than 15 percent compared to the number of such flights
11 operated, and authorized to be operated, under existing
12 appropriations and funding on the date of the enactment
13 of this Act.

14 (b) **U.S. IMMIGRATION AND CUSTOMS ENFORCE-**
15 **MENT AIR OPERATIONS.**—Not later than 90 days after
16 the date of the enactment of this Act, the Secretary of
17 Homeland Security shall issue a directive to expand U.S.
18 Immigration and Customs Enforcement Air Operations
19 (referred to in this subsection as “ICE Air Ops”) so that
20 ICE Air Ops provides additional services with respect to
21 aliens who are illegally present in the United States. Such
22 expansion shall include—

23 (1) increasing the daily operations of ICE Air
24 Ops with buses and air hubs in the top 5 geographic
25 regions along the southern border;

1 “(A) AUTHORIZATION.—Subject to the
2 minimum number specified in subparagraph
3 (B), the Secretary”; and

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

5 “(B) RISK-BASED ASSIGNMENTS.—

6 “(i) IN GENERAL.—In carrying out
7 subparagraph (A), the Secretary shall as-
8 sign, in a risk-based manner, and consid-
9 ering the criteria described in clause (ii),
10 employees of the Department to not fewer
11 than 50 diplomatic and consular posts at
12 which visas are issued.

13 “(ii) CRITERIA DESCRIBED.—The cri-
14 teria described in this clause are the fol-
15 lowing:

16 “(I) The number of nationals of
17 a country in which any of the diplo-
18 matic and consular posts referred to
19 in clause (i) are located who were
20 identified in United States Govern-
21 ment databases as known or sus-
22 pected terrorists during the previous
23 year.

24 “(II) Information on cooperation
25 of the country referred to in subclause

1 (I) with the counterterrorism efforts
2 of the United States.

3 “(III) Information analyzing the
4 presence, activity, or movement of ter-
5 rorist organizations (as such term is
6 defined in section 212(a)(3)(B)(vi) of
7 the Immigration and Nationality Act
8 (8 U.S.C. 1182(a)(3)(B)(vi)) within
9 or through the country referred to in
10 subclause (I).

11 “(IV) The number of formal ob-
12 jections based on derogatory informa-
13 tion issued by the Visa Security Advi-
14 sory Opinion Unit pursuant to para-
15 graph (10) regarding nationals of a
16 country in which any of the diplomatic
17 and consular posts referred to in
18 clause (i) are located.

19 “(V) The adequacy of the border
20 and immigration control of the coun-
21 try referred to in subclause (I).

22 “(VI) Any other criteria the Sec-
23 retary determines appropriate.

24 “(iii) RULE OF CONSTRUCTION.—The
25 Secretary has the final authority to assign

1 employees of the Department pursuant to
2 this subparagraph. The Secretary may con-
3 sult with the Chief of Mission regarding
4 placement and locations for assigned per-
5 sonnel at relevant diplomatic or consular
6 posts but the Secretary's decision on as-
7 signment may not be altered or rejected by
8 the Secretary of State.”.

9 (b) COUNTERTERRORISM VETTING AND SCREEN-
10 ING.—Section 428(e)(2) of the Homeland Security Act of
11 2002 (6 U.S.C. 236(e)(2)) is amended—

12 (1) by redesignating subparagraph (C) as sub-
13 paragraph (D); and

14 (2) by inserting after subparagraph (B) the fol-
15 lowing:

16 “(C) Screen any such applications against
17 the appropriate criminal, national security, and
18 terrorism databases maintained by the Federal
19 Government.”.

20 (c) TRAINING AND HIRING.—Section 428(e)(6)(A) of
21 the Homeland Security Act of 2002 (6 U.S.C.
22 236(e)(6)(A)) is amended—

23 (1) by striking “The Secretary shall ensure, to
24 the extent possible, that any employees” and insert-
25 ing “The Secretary, acting through the Commis-

1 sioner of U.S. Customs and Border Protection and
2 the Director of U.S. Immigration and Customs En-
3 forcement, shall provide training to any employees”;
4 and

5 (2) by striking “shall be provided the necessary
6 training”.

7 (d) PRE-ADJUDICATED VISA SECURITY ASSISTANCE
8 AND VISA SECURITY ADVISORY OPINION UNIT.—Section
9 428(e) of the Homeland Security Act of 2002 (6 U.S.C.
10 236(e)) is amended by adding at the end the following:

11 “(9) REMOTE PRE-ADJUDICATED VISA SECUR-
12 ITY ASSISTANCE.—At the visa-issuing posts at
13 which employees of the Department are not assigned
14 pursuant to paragraph (1), the Secretary shall, in a
15 risk-based manner, assign employees of the Depart-
16 ment to remotely perform the functions required
17 under paragraph (2) at not fewer than 50 of such
18 posts.

19 “(10) VISA SECURITY ADVISORY OPINION
20 UNIT.—The Secretary shall establish within U.S.
21 Immigration and Customs Enforcement a Visa Secu-
22 rity Advisory Opinion Unit to respond to requests
23 from the Secretary of State to conduct a visa secu-
24 rity review using information maintained by the De-
25 partment on visa applicants, including terrorism as-

1 “(1) screen electronic passports at airports of
2 entry by reading each such passport’s embedded
3 chip; and

4 “(2) to the greatest extent practicable, utilize
5 facial recognition technology or other biometric tech-
6 nology, as determined by the Commissioner, to in-
7 spect travelers at United States airports of entry.

8 “(b) APPLICABILITY.—

9 “(1) ELECTRONIC PASSPORT SCREENING.—
10 Subsection (a)(1) shall apply to passports belonging
11 to individuals who are United States citizens, indi-
12 viduals who are nationals of a program country pur-
13 suant to section 217 of the Immigration and Nation-
14 ality Act (8 U.S.C. 1187), and individuals who are
15 nationals of any other foreign country that issues
16 electronic passports.

17 “(2) FACIAL RECOGNITION MATCHING.—Sub-
18 section (a)(2) shall apply, at a minimum, to individ-
19 uals who are nationals of a program country pursu-
20 ant to section 217 of such Act.

21 “(c) ANNUAL REPORT.—

22 “(1) IN GENERAL.—The Commissioner of U.S.
23 Customs and Border Protection, in collaboration
24 with the Chief Privacy Officer of the Department,
25 shall submit an annual report, through fiscal year

1 2022, to the Committee on Homeland Security and
2 Governmental Affairs of the Senate and the Com-
3 mittee on Homeland Security of the House of Rep-
4 resentatives that describes the utilization of facial
5 recognition technology and other biometric tech-
6 nology pursuant to subsection (a)(2).

7 “(2) REPORT CONTENTS.—Each report sub-
8 mitted pursuant to paragraph (1) shall include—

9 “(A) information on the type of technology
10 used at each airport of entry;

11 “(B) the number of individuals who were
12 subject to inspection using either of such tech-
13 nologies at each airport of entry;

14 “(C) within the group of individuals sub-
15 ject to such inspection, the number of those in-
16 dividuals who were United States citizens and
17 lawful permanent residents;

18 “(D) information on the disposition of data
19 collected during the year covered by such re-
20 port; and

21 “(E) information on protocols for the man-
22 agement of collected biometric data, including
23 time frames and criteria for storing, erasing,
24 destroying, or otherwise removing such data
25 from databases utilized by the Department.

1 **“SEC. 420A. CONTINUOUS SCREENING BY U.S. CUSTOMS**
2 **AND BORDER PROTECTION.**

3 “The Commissioner of U.S. Customs and Border
4 Protection shall, in a risk-based manner, continuously
5 screen individuals issued any visa, and individuals who are
6 nationals of a program country pursuant to section 217
7 of the Immigration and Nationality Act (8 U.S.C. 1187),
8 who are present, or expected to arrive within 30 days, in
9 the United States, against the appropriate criminal, na-
10 tional security, and terrorism databases maintained by the
11 Federal Government.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 in section 1(b) of the Homeland Security Act of 2002 is
14 amended by inserting after the item relating to section
15 419 the following:

“Sec. 420. Electronic passport screening and biometric matching.

“Sec. 420A. Continuous screening by U.S. Customs and Border Protection.”.

16 **SEC. 1734. REPORTING VISA OVERSTAYS.**

17 Section 2 of Public Law 105–173 (8 U.S.C. 1376)
18 is amended—

19 (1) in subsection (a)—

20 (A) by striking “Attorney General” and in-
21 serting “Secretary of Homeland Security”; and

22 (B) by inserting “, and any additional in-
23 formation that the Secretary determines nec-

1 essary for purposes of the report under sub-
2 section (b)” before the period at the end; and
3 (2) by amending subsection (b) to read as fol-
4 lows:

5 “(b) ANNUAL REPORT.—Not later than September
6 30, 2018, and annually thereafter, the Secretary of Home-
7 land Security shall submit a report to the Committee on
8 Homeland Security and Governmental Affairs of the Sen-
9 ate, the Committee on the Judiciary of the Senate, the
10 Committee on Homeland Security of the House of Rep-
11 resentatives, and the Committee on the Judiciary of the
12 House of Representatives that provides, for the preceding
13 fiscal year, numerical estimates (including information on
14 the methodology utilized to develop such numerical esti-
15 mates) of—

16 “(1) for each country, the number of aliens
17 from the country who are described in subsection
18 (a), including—

19 “(A) the total number of such aliens within
20 all classes of nonimmigrant aliens described in
21 section 101(a)(15) of the Immigration and Na-
22 tionality Act (8 U.S.C. 1101(a)(15)); and

23 “(B) the number of such aliens within each
24 of the classes of nonimmigrant aliens, as well as
25 the number of such aliens within each of the

1 subclasses of such classes of nonimmigrant
2 aliens, as applicable;

3 “(2) for each country, the percentage of the
4 total number of aliens from the country who were
5 present in the United States and were admitted to
6 the United States as nonimmigrants who are de-
7 scribed in subsection (a);

8 “(3) the number of aliens described in sub-
9 section (a) who arrived by land at a port of entry
10 into the United States;

11 “(4) the number of aliens described in sub-
12 section (a) who entered the United States using a
13 border crossing identification card (as defined in sec-
14 tion 101(a)(6) of the Immigration and Nationality
15 Act (8 U.S.C. 1101(a)(6)); and

16 “(5) the number of Canadian nationals who en-
17 tered the United States without a visa and whose
18 authorized period of stay in the United States termi-
19 nated during the previous fiscal year, but who re-
20 mained in the United States.”.

21 **SEC. 1735. STUDENT AND EXCHANGE VISITOR INFORMA-**
22 **TION SYSTEM VERIFICATION.**

23 Not later than 90 days after the date of the enact-
24 ment of this Act, the Secretary of Homeland Security shall
25 ensure that the information collected under the program

1 established under section 641 of the Illegal Immigration
2 Reform and Immigrant Responsibility Act of 1996 (8
3 U.S.C. 1372) is available to officers of U.S. Customs and
4 Border Protection conducting primary inspections of
5 aliens seeking admission to the United States at each port
6 of entry of the United States.

7 **SEC. 1736. SOCIAL MEDIA REVIEW OF VISA APPLICANTS.**

8 (a) IN GENERAL.—Subtitle C of title IV of the
9 Homeland Security Act of 2002 (6 U.S.C. 231 et. seq.),
10 as amended by sections 1117 and 1730 of this Act, is fur-
11 ther amended by adding at the end the following:

12 **“SEC. 436. SOCIAL MEDIA SCREENING.**

13 “(a) IN GENERAL.—Not later than 180 days after
14 the date of the enactment of the Strong Visa Integrity
15 Secures America Act, the Secretary shall, to the greatest
16 extent practicable, and in a risk based manner and on an
17 individualized basis, review the social media accounts of
18 visa applicants who are citizens of, or who reside in, high
19 risk countries, as determined by the Secretary based on
20 the criteria described in subsection (b).

21 “(b) HIGH-RISK CRITERIA DESCRIBED.—In deter-
22 mining whether a country is high-risk pursuant to sub-
23 section (a), the Secretary shall consider the following cri-
24 teria:

1 “(1) The number of nationals of the country
2 who were identified in United States Government
3 databases related to the identities of known or sus-
4 pected terrorists during the previous year.

5 “(2) The level of cooperation of the country
6 with the counter-terrorism efforts of the United
7 States.

8 “(3) Any other criteria the Secretary deter-
9 mines appropriate.

10 “(c) COLLABORATION.—To develop the technology
11 and procedures required to carry out the requirements
12 under subsection (a), the Secretary shall collaborate
13 with—

14 “(1) the head of a national laboratory within
15 the Department’s laboratory network with relevant
16 expertise;

17 “(2) the head of a relevant university-based
18 center within the Department’s centers of excellence
19 network; and

20 “(3) the heads of other appropriate Federal
21 agencies, including the Secretary of State, the Direc-
22 tor of National Intelligence, and the Attorney Gen-
23 eral.

1 **“SEC. 437. OPEN SOURCE SCREENING.**

2 “The Secretary shall, to the greatest extent prac-
3 ticable, and in a risk-based manner, review open source
4 information of visa applicants.”.

5 (b) CLERICAL AMENDMENT.—The table of contents
6 in section 1(b) of the Homeland Security Act of 2002, as
7 amended by this Act, is further amended by inserting after
8 the item relating to section 435 the following:

“Sec. 436. Social media screening.

“Sec. 437. Open source screening.”.

9 **CHAPTER 3—VISA CANCELLATION AND**
10 **REVOCAATION**

11 **SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.**

12 (a) IN GENERAL.—Section 222(g) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

14 (1) in paragraph (1)—

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

17 (B) by inserting “and any other non-
18 immigrant visa issued by the United States that
19 is in the possession of the alien” after “such
20 visa”; and

21 (2) in paragraph (2)(A), by adding “or foreign
22 residence” after “the alien’s nationality”.

23 (b) EFFECTIVE DATE AND APPLICATION.—The
24 amendments made by subsection (a) shall take effect on

1 the date of the enactment of this Act and shall apply to
2 a visa issued before, on, or after such date.

3 **SEC. 1742. VISA INFORMATION SHARING.**

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

6 (1) in the matter preceding paragraph (1), by
7 striking “issuance or refusal” and inserting
8 “issuance, refusal, or revocation”; and

9 (2) in paragraph (2)—

10 (A) in the matter preceding subparagraph
11 (A), by striking “and on the basis of reci-
12 procity” and all that follows and inserting “may
13 provide to a foreign government information in
14 a Department of State computerized visa data-
15 base and, when necessary and appropriate,
16 other records covered by this section related to
17 information in such database”;

18 (B) by amending subparagraph (A) to read
19 as follows:

20 “(A) on the basis of reciprocity, with re-
21 gard to individual aliens, at any time on a case-
22 by-case basis for the purpose of—

23 “(i) preventing, investigating, or pun-
24 ishing acts that would constitute a crime
25 in the United States, including, but not

1 limited to, terrorism or trafficking in con-
2 trolled substances, persons, or illicit weap-
3 ons; or

4 “(ii) determining a person’s remov-
5 ability or eligibility for a visa, admission,
6 or other immigration benefit;”;

7 (C) in subparagraph (B)—

8 (i) by inserting “on basis of reci-
9 procity,” before “with regard to”;

10 (ii) by striking “in the database” and
11 inserting “such database”;

12 (iii) by striking “for the purposes”
13 and inserting “for 1 of the purposes”; and

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

17 (D) by adding at the end the following:

18 “(C) with regard to any or all aliens in
19 such database, specified data elements from
20 each record, if the Secretary of State deter-
21 mines that it is required for national security or
22 public safety or in the national interest to pro-
23 vide such information to a foreign govern-
24 ment.”.

1 (b) **EFFECTIVE DATE.**—The amendments made by
2 subsection (a) shall take effect on the date that is 60 days
3 after the date of the enactment of the Act.

4 **SEC. 1743. VISA INTERVIEWS.**

5 (a) **IN GENERAL.**—Section 222(h) of the Immigra-
6 tion and Nationality Act (8 U.S.C. 1202(h)) is amended—

7 (1) in paragraph (1)—

8 (A) in subparagraph (B), by striking “or”
9 at the end;

10 (B) in subparagraph (C), by striking
11 “and” at the end and inserting “or”; and

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

13 “(D) by the Secretary of State, if the Sec-
14 retary, in his or her sole and unreviewable dis-
15 cretion, determines that an interview is unnec-
16 essary because the alien is ineligible for a visa;
17 and”.

18 (2) in paragraph (2)—

19 (A) in subparagraph (E), by striking “or”
20 at the end;

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

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

24 “(G) is an individual within a class of
25 aliens that the Secretary, in his or her sole and

1 unreviewable discretion, has determined may
2 pose a threat to national security or public safe-
3 ty.”.

4 **SEC. 1744. JUDICIAL REVIEW OF VISA REVOCATION.**

5 Section 221(i) of the Immigration and Nationality
6 Act (8 U.S.C. 1201(i)) is amended—

7 (1) by inserting “(1)” after “(i)”; and

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

9 “(2) A revocation under this subsection of a visa or
10 other documentation from an alien shall automatically
11 cancel any other valid visa that is in the alien’s posses-
12 sion.”.

13 **CHAPTER 4—SECURE VISAS ACT**

14 **SEC. 1751. SHORT TITLE.**

15 This chapter may be cited as the “Secure Visas Act”.

16 **SEC. 1752. AUTHORITY OF THE SECRETARY OF HOMELAND**
17 **SECURITY AND THE SECRETARY OF STATE.**

18 (a) **IN GENERAL.**—Section 428 of the Homeland Se-
19 curity Act of 2002 (6 U.S.C. 236) is amended by striking
20 subsections (b) and (c) and inserting the following:

21 “(b) **AUTHORITY OF THE SECRETARY OF HOMELAND**
22 **SECURITY.**—

23 “(1) **IN GENERAL.**—Notwithstanding section
24 104(a) of the Immigration and Nationality Act (8
25 U.S.C. 1104(a)) and any other provision of law, and

1 except for the authority of the Secretary of State
2 under subparagraphs (A) and (G) of section
3 101(a)(15) of the Immigration and Nationality Act
4 (8 U.S.C. 1101(a)(15)), the Secretary—

5 “(A) shall have exclusive authority to issue
6 regulations, establish policy, and administer and
7 enforce the provisions of the Immigration and
8 Nationality Act (8 U.S.C. 1101 et seq.) and all
9 other immigration or nationality laws relating
10 to the functions of consular officers of the
11 United States in connection with the granting
12 and refusal of a visa; and

13 “(B) may refuse or revoke any visa to any
14 alien or class of aliens if the Secretary, or his
15 or her designee, determines that such refusal or
16 revocation is necessary or advisable in the secu-
17 rity interests of the United States.

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

20 “(A) shall take effect immediately; and

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

23 “(3) JUDICIAL REVIEW.—Notwithstanding any
24 other provision of law, including section 2241 of title
25 28, United States Code, any other habeas corpus

1 provision, and sections 1361 and 1651 of such title,
2 no United States court has jurisdiction to review a
3 decision by the Secretary or a consular officer to
4 refuse or revoke a visa.

5 “(c) VISA REFUSAL AUTHORITY OF THE SECRETARY
6 OF STATE.—

7 “(1) IN GENERAL.—The Secretary of State may
8 direct a consular officer to refuse or revoke a visa
9 to an alien if the Secretary determines that such re-
10 fusal or revocation is necessary or advisable in the
11 foreign policy interests of the United States.

12 “(2) LIMITATION.—No decision by the Sec-
13 retary of State to approve a visa may override a de-
14 cision by the Secretary under subsection (b).”.

15 (b) VISA REVOCATION.—Section 428 of the Home-
16 land Security Act (6 U.S.C. 236) is amended by adding
17 at the end the following:

18 “(j) VISA REVOCATION INFORMATION.—If the Sec-
19 retary or the Secretary of State revokes a visa—

20 “(1) the relevant consular, law enforcement,
21 and terrorist screening databases shall be imme-
22 diately updated on the date of the revocation; and

23 “(2) look-out notices shall be posted to all De-
24 partment port inspectors and Department of State
25 consular officers.”.

1 (c) CONFORMING AMENDMENT.—Section 104(a)(1)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1104(a)(1)) is amended by inserting “and the power au-
4 thorized under section 428(c) of the Homeland Security
5 Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

6 **CHAPTER 5—VISA FRAUD AND SECURITY**
7 **IMPROVEMENT ACT OF 2017**

8 **SEC. 1761. SHORT TITLE.**

9 This chapter may be cited as the “Visa Fraud and
10 Security Improvement Act of 2018”.

11 **SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION AND**
12 **DETECTION FEES.**

13 Section 286(v)(2)(A) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1356(v)(2)(A)) is amended—

15 (1) in the matter preceding clause (i), by strik-
16 ing “at United States embassies and consulates
17 abroad”;

18 (2) by amending clause (i) to read as follows:

19 “(i) to increase the number of diplo-
20 matic security personnel assigned exclu-
21 sively or primarily to the function of pre-
22 venting and detecting visa fraud;” and

23 (3) in clause (ii), by striking “, including pri-
24 marily fraud by applicants for visas described in

1 subparagraph (H)(i), (H)(ii), or (L) of section
2 101(a)(15)’’.

3 **SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS AND**
4 **DAUGHTERS OF TRAFFICKERS.**

5 Section 212(a)(2) of the Immigration and Nationality
6 Act (8 U.S.C. 1182(a)(2)) is amended—

7 (1) in subparagraph (C)(ii), by inserting ‘‘, or
8 has been,’’ after ‘‘is’’; and

9 (2) in subparagraph (H)(ii), by inserting ‘‘, or
10 has been,’’ after ‘‘is’’.

11 **SEC. 1764. DNA TESTING.**

12 Section 222(b) of the Immigration and Nationality
13 Act (8 U.S.C. 1202(b)) is amended by inserting after the
14 second sentence the following: ‘‘If considered necessary by
15 the consular officer or immigration official of the Depart-
16 ment of Homeland Security to establish the bona fides of
17 a family relationship, the immigrant shall provide DNA
18 evidence of such relationship in accordance with proce-
19 dures established for submitting such evidence. The Sec-
20 retary and the Secretary of State may, in consultation,
21 issue regulations to require the submission of DNA evi-
22 dence to establish family relationship from applicants for
23 certain visa classifications.’’.

1 **SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY DATABASE**
2 **FOR DIPLOMATIC VISAS.**

3 Subsection (a) of article V of section 217 of the Na-
4 tional Crime Prevention and Privacy Compact Act of 1998
5 (34 U.S.C. 40316(V)(a)) is amended by inserting “, ex-
6 cept for diplomatic visa applications for which only full
7 biographical information is required” before the period at
8 the end.

9 **SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH RE-**
10 **QUIREMENT FOR VISA APPLICATIONS.**

11 Section 221(b) of the Immigration and Nationality
12 Act (8 U.S.C. 1201(b)) is amended by striking the first
13 sentence and insert the following: “Each alien who applies
14 for a visa shall be registered in connection with his or her
15 application and shall furnish copies of his or her photo-
16 graph for such use as may be required by regulation.”.

17 **CHAPTER 6—OTHER MATTERS**

18 **SEC. 1771. REQUIREMENT FOR COMPLETION OF BACK-**
19 **GROUND CHECKS.**

20 (a) IN GENERAL.—Section 103 of Immigration and
21 Nationality Act (8 U.S.C. 1103) is amended by adding
22 at the end the following:

23 “(h) COMPLETION OF BACKGROUND AND SECURITY
24 CHECKS.—

25 “(1) REQUIREMENT TO COMPLETE.—Notwith-
26 standing any other provision of law (statutory or

1 nonstatutory), including section 309 of the En-
2 hanced Border Security and Visa Entry Reform Act
3 of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of
4 title 28, United States Code, and section 706(1) of
5 title 5, United States Code, the Secretary and the
6 Attorney General may not approve or grant to an
7 alien any status, relief, protection from removal, em-
8 ployment authorization, or any other benefit under
9 the immigration laws, including an adjustment of
10 status to lawful permanent residence or a grant of
11 United States citizenship or issue to the alien any
12 documentation evidencing a status or grant of any
13 status, relief, protection from removal, employment
14 authorization, or other benefit under the immigra-
15 tion laws until—

16 “(A) all background and security checks
17 required by statute or regulation or deemed
18 necessary by the Secretary or the Attorney
19 General, in his or her sole and unreviewable dis-
20 cretion, for the alien have been completed; and

21 “(B) the Secretary or the Attorney Gen-
22 eral has determined that the results of such
23 checks do not preclude the approval or grant of
24 any status, relief, protection from removal, em-
25 ployment authorization, or any other benefit

1 under the immigration laws or approval, grant,
2 or the issuance of any documentation evidenc-
3 ing such status, relief, protection, authorization,
4 or benefit.

5 “(2) PROHIBITION ON JUDICIAL ACTION.—No
6 court shall have authority to order the approval of,
7 grant, mandate, or require any action in a certain
8 time period, or award any relief for the Secretary’s
9 or Attorney General’s failure to complete or delay in
10 completing any action to provide any status, relief,
11 protection from removal, employment authorization,
12 or any other benefit under the immigration laws, in-
13 cluding an adjustment of status to lawful permanent
14 residence, naturalization, or a grant of United
15 States citizenship for an alien until—

16 “(A) all background and security checks
17 for the alien have been completed; and

18 “(B) the Secretary or the Attorney Gen-
19 eral has determined that the results of such
20 checks do not preclude the approval or grant of
21 such status, relief, protection, authorization, or
22 benefit, or issuance of any documentation evi-
23 dencing such status, relief, protection, author-
24 ization, or benefit.”.

1 (b) EFFECTIVE DATE AND APPLICATION.—The
2 amendment made by subsection (a) shall take effect on
3 the date of the enactment of this Act and shall apply to
4 any application, petition, or request for any benefit or re-
5 lief or any other case or matter under the immigration
6 laws pending with on or filed with the Secretary of Home-
7 land Security, the Attorney General, the Secretary of
8 State, the Secretary of Labor, or a consular officer on or
9 after such date of enactment.

10 **SEC. 1772. WITHHOLDING OF ADJUDICATION.**

11 (a) IN GENERAL.—Section 103 of Immigration and
12 Nationality Act (8 U.S.C. 1103), as amended by section
13 1771 of this Act, is further amended by adding at the
14 end the following:

15 “(i) WITHHOLDING OF ADJUDICATION.—

16 “(1) IN GENERAL.—Except as provided in para-
17 graph (4), nothing in this Act or in any other law,
18 including sections 1361 and 1651 of title 28, United
19 States Code, may be construed to require, and no
20 court can order, the Secretary, the Attorney Gen-
21 eral, the Secretary of State, the Secretary of Labor,
22 or a consular officer to grant any visa or other ap-
23 plication, approve any petition, or grant or continue
24 any relief, protection from removal, employment au-
25 thorization, or any other status or benefit under the

1 immigration laws by, to, or on behalf of any alien
2 with respect to whom a criminal proceeding or inves-
3 tigation is open or pending (including the issuance
4 of an arrest warrant or indictment), if such pro-
5 ceeding or investigation is deemed by such official to
6 be material to the alien's eligibility for the status,
7 relief, protection, or benefit sought.

8 “(2) WITHHOLDING OF ADJUDICATION.—The
9 Secretary, the Attorney General, the Secretary of
10 State, or the Secretary of Labor may, in his or her
11 discretion, withhold adjudication any application, pe-
12 tition, request for relief, request for protection from
13 removal, employment authorization, status or benefit
14 under the immigration laws pending final resolution
15 of the criminal or other proceeding or investigation.

16 “(3) JURISDICTION.—Notwithstanding any
17 other provision of law (statutory or nonstatutory),
18 including section 309 of the Enhanced Border Secu-
19 rity and Visa Entry Reform Act of 2002 (8 U.S.C.
20 1738), sections 1361 and 1651 of title 28, United
21 States Code, and section 706(1) of title 5, United
22 States Code, no court shall have jurisdiction to re-
23 view a decision to withhold adjudication pursuant to
24 this subsection.

1 “(4) WITHHOLDING OF REMOVAL AND TOR-
2 TURE CONVENTION.—This subsection does not limit
3 or modify the applicability of section 241(b)(3) or
4 the United Nations Convention Against Torture and
5 Other Cruel, Inhuman or Degrading Treatment or
6 Punishment, subject to any reservations, under-
7 standings, declarations and provisos contained in the
8 United States Senate resolution of ratification of the
9 Convention, as implemented by section 2242 of the
10 Foreign Affairs Reform and Restructuring Act of
11 1998 (Public Law 105–277) with respect to an alien
12 otherwise eligible for protection under such provi-
13 sions.”.

14 (b) EFFECTIVE DATE AND APPLICATION.—The
15 amendment made by subsection (a) shall take effect on
16 the date of the enactment of this Act and shall apply to
17 any application, petition, or request for any benefit or re-
18 lief or any other case or matter under the immigration
19 laws pending with or filed with the Secretary of Homeland
20 Security on or after such date of enactment.

1 **SEC. 1773. ACCESS TO THE NATIONAL CRIME INFORMATION**
2 **CENTER INTERSTATE IDENTIFICATION**
3 **INDEX.**

4 (a) **CRIMINAL JUSTICE ACTIVITIES.**—Section 104 of
5 the Immigration and Nationality Act (8 U.S.C. 1104) is
6 amended by adding at the end the following:

7 “(f) Notwithstanding any other provision of law, any
8 Department of State personnel with authority to grant or
9 refuse visas or passports may carry out activities that have
10 a criminal justice purpose.”.

11 (b) **LIAISON WITH INTERNAL SECURITY OFFICERS;**
12 **DATA EXCHANGE.**—Section 105 of the Immigration and
13 Nationality Act (8 U.S.C. 1105) is amended by striking
14 subsections (b) and (c) and inserting the following:

15 “(b) **ACCESS TO NCIC-III.**—

16 “(1) **IN GENERAL.**—Notwithstanding any other
17 provision of law, the Attorney General and the Di-
18 rector of the Federal Bureau of Investigation shall
19 provide to the Department of Homeland Security
20 and the Department of State access to the criminal
21 history record information contained in the National
22 Crime Information Center’s Interstate Identification
23 Index (NCIC-III) and the Wanted Persons File and
24 to any other files maintained by the National Crime
25 Information Center for the purpose of determining
26 whether an applicant or petitioner for a visa, admis-

1 sion, or any benefit, relief, or status under the immi-
2 gration laws, or any beneficiary of an application,
3 petition, relief, or status under the immigration
4 laws, has a criminal history record indexed in the
5 file.

6 “(2) AUTHORIZED ACTIVITIES.—

7 “(A) IN GENERAL.—The Secretary and the
8 Secretary of State—

9 “(i) shall have direct access, without
10 any fee or charge, to the information de-
11 scribed in paragraph (1) to conduct name-
12 based searches, file number searches, and
13 any other searches that any criminal jus-
14 tice or other law enforcement officials are
15 entitled to conduct; and

16 “(ii) may contribute to the records
17 maintained by the National Crime Infor-
18 mation Center.

19 “(B) SECRETARY OF HOMELAND SECU-
20 RITY.—The Secretary shall receive, upon re-
21 quest, access to the information described in
22 paragraph (1) by means of extracts of the
23 records for placement in the appropriate data-
24 base without any fee or charge.

1 “(c) CRIMINAL JUSTICE AND LAW ENFORCEMENT
2 PURPOSES.—Notwithstanding any other provision of law,
3 adjudication of eligibility for benefits, relief, or status
4 under the immigration laws, and other purposes relating
5 to citizenship and immigration services, shall be consid-
6 ered to be criminal justice or law enforcement purposes
7 with respect to access to or use of any information main-
8 tained by the National Crime Information Center or other
9 criminal history information or records.”.

10 **SEC. 1774. APPROPRIATE REMEDIES FOR IMMIGRATION**
11 **LITIGATION.**

12 (a) LIMITATION ON CLASS ACTIONS.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), no court may certify a class under Rule
15 23 of the Federal Rules of Civil Procedure in any
16 civil action that—

17 (A) is filed after the date of the enactment
18 of this Act; and

19 (B) pertains to the administration or en-
20 forcement of the immigration laws.

21 (2) EXCEPTION.—A court may certify a class
22 upon a motion by the Government if the Govern-
23 ment is requesting such a certification to ensure effi-
24 ciency in case management or uniformity in applica-

1 tion of precedent decisions or interpretations of laws
2 when there is a nationwide class.

3 (b) REQUIREMENTS FOR AN ORDER GRANTING PRO-
4 SPECTIVE RELIEF AGAINST THE GOVERNMENT.—

5 (1) IN GENERAL.—If a court determines that
6 prospective relief should be ordered against the Gov-
7 ernment in any civil action pertaining to the admin-
8 istration or enforcement of the immigration laws,
9 the court shall—

10 (A) limit the relief to the minimum nec-
11 essary to correct the violation of law;

12 (B) adopt the least intrusive means to cor-
13 rect the violation of law;

14 (C) minimize, to the greatest extent prac-
15 ticable, the adverse impact on national security,
16 border security, immigration administration and
17 enforcement, and public safety; and

18 (D) provide for the expiration of the relief
19 on a specific date, which is not later than the
20 earliest date necessary for the Government to
21 remedy the violation.

22 (2) WRITTEN EXPLANATION.—The require-
23 ments described in paragraph (1) shall be discussed
24 and explained in writing in the order granting pro-

1 spective relief and shall be sufficiently detailed to
2 allow review by another court.

3 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE
4 RELIEF.—Preliminary injunctive relief granted
5 under paragraph (1) shall automatically expire on
6 the date that is 90 days after the date on which
7 such relief is entered, unless the court—

8 (A) finds that such relief meets the re-
9 quirements described in subparagraphs (A)
10 through (D) of paragraph (1) for the entry of
11 permanent prospective relief; and

12 (B) orders the preliminary relief to become
13 a final order granting prospective relief before
14 the expiration of such 90-day period.

15 (c) PROCEDURE FOR MOTION AFFECTING ORDER
16 GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERN-
17 MENT.—

18 (1) IN GENERAL.—A court shall promptly rule
19 on a motion made by the United States Government
20 to vacate, modify, dissolve, or otherwise terminate
21 an order granting prospective relief in any civil ac-
22 tion pertaining to the administration or enforcement
23 of the immigration laws.

24 (2) AUTOMATIC STAYS.—

1 (A) IN GENERAL.—A motion to vacate,
2 modify, dissolve, or otherwise terminate an
3 order granting prospective relief made by the
4 United States Government in any civil action
5 pertaining to the administration or enforcement
6 of the immigration laws shall automatically, and
7 without further order of the court, stay the
8 order granting prospective relief on the date
9 that is 15 days after the date on which such
10 motion is filed unless the court previously has
11 granted or denied the Government’s motion.

12 (B) DURATION OF AUTOMATIC STAY.—An
13 automatic stay under subparagraph (A) shall
14 continue until the court enters an order grant-
15 ing or denying the Government’s motion.

16 (C) POSTPONEMENT.—The court, for good
17 cause, may postpone an automatic stay under
18 subparagraph (A) for not longer than 15 days.

19 (D) ORDERS BLOCKING AUTOMATIC
20 STAYS.—Any order staying, suspending, delay-
21 ing, or otherwise barring the effective date of
22 the automatic stay described in subparagraph
23 (A), other than an order to postpone the effec-
24 tive date of the automatic stay for not longer
25 than 15 days under subparagraph (C)—

1 (i) shall be treated as an order refus-
2 ing to vacate, modify, dissolve, or otherwise
3 terminate an injunction; and

4 (ii) shall be immediately appealable
5 under section 1292(a)(1) of title 28,
6 United States Code.

7 (d) SETTLEMENTS.—

8 (1) CONSENT DECREES.—In any civil action
9 pertaining to the administration or enforcement of
10 the immigration laws of the United States, the court
11 may not enter, approve, or continue a consent decree
12 that does not comply with the requirements under
13 subsection (b)(1).

14 (2) PRIVATE SETTLEMENT AGREEMENTS.—
15 Nothing in this subsection may be construed to pre-
16 clude parties from entering into a private settlement
17 agreement that does not comply with subsection
18 (b)(1).

19 (e) EXPEDITED PROCEEDINGS.—It shall be the duty
20 of every court to advance on the docket and to expedite
21 the disposition of any civil action or motion considered
22 under this section.

23 (f) CONSENT DECREE DEFINED.—In this section,
24 the term “consent decree”—

1 (1) means any relief entered by the court that
2 is based in whole or in part on the consent or acqui-
3 escence of the parties; and

4 (2) does not include private settlements.

5 **SEC. 1775. USE OF 1986 IRCA LEGALIZATION INFORMATION**
6 **FOR NATIONAL SECURITY PURPOSES.**

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

10 (1) by striking “Attorney General” each place
11 it appears and inserting “Secretary”;

12 (2) in subparagraph (A), in the matter pre-
13 ceding clause (i), by striking “Justice” and inserting
14 “Homeland Security”;

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

17 (4) inserting after subparagraph (B) the fol-
18 lowing:

19 “(C) AUTHORIZED DISCLOSURES.—

20 “(i) CENSUS PURPOSE.—The Sec-
21 retary may provide, in the Secretary’s dis-
22 cretion, for the furnishing of information
23 furnished under this section in the same
24 manner and circumstances as census infor-

1 mation may be disclosed under section 8 of
2 title 13, United States Code.”.

3 “(ii) NATIONAL SECURITY PUR-
4 POSE.—The Secretary may provide, in the
5 Secretary’s discretion, for the furnishing,
6 use, publication, or release of information
7 furnished under this section in any inves-
8 tigation, case, or matter, or for any pur-
9 pose, relating to terrorism, national intel-
10 ligence or the national security.

11 “(iii) SUBSEQUENT APPLICATIONS
12 FOR IMMIGRATION BENEFITS.—The Sec-
13 retary may use the information furnished
14 under this section to adjudicate subsequent
15 applications, petitions, or requests for im-
16 migration benefits filed by the alien.

17 “(iv) ALIEN CONSENT.—The Sec-
18 retary may use the information furnished
19 under this section for any purpose when
20 the alien consents to its disclosure or use
21 by the Secretary.

22 “(v) OTHER CIRCUMSTANCES.—The
23 Secretary may use the information fur-
24 nished under this section for other pur-
25 poses and in other circumstances in which

1 disclosure of the information is not related
2 to removal of the alien from the United
3 States.”; and

4 (5) in subparagraph (D), as redesignated, strik-
5 ing “Service” and inserting “Department of Home-
6 land Security”.

7 (b) ADJUSTMENT OF STATUS.—Section 245A(c)(5)
8 of the Immigration and Nationality Act (8 U.S.C.
9 1255a(c)(5)) is amended—

10 (1) by striking “Attorney General” each place
11 it appears and inserting “Secretary”;

12 (2) in subparagraph (A), in the matter pre-
13 ceding clause (i), by striking “Justice” and inserting
14 “Homeland Security”; and

15 (3) by amending subparagraph (C) to read as
16 follows:

17 “(C) AUTHORIZED DISCLOSURES.—

18 “(i) CENSUS PURPOSE.—The Sec-
19 retary may provide, in the Secretary’s dis-
20 cretion, for the furnishing of information
21 furnished under this section in the same
22 manner and circumstances as census infor-
23 mation may be disclosed under section 8 of
24 title 13, United States Code.

1 “(ii) NATIONAL SECURITY PUR-
2 POSE.—The Secretary may provide, in the
3 Secretary’s discretion, for the furnishing,
4 use, publication, or release of information
5 furnished under this section in any inves-
6 tigation, case, or matter, or for any pur-
7 pose, relating to terrorism, national intel-
8 ligence or the national security.”.

9 **SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
10 **TAIN IMMIGRATION, NATURALIZATION, AND**
11 **PEONAGE OFFENSES.**

12 Section 3291 of title 18, United States Code, is
13 amended to read as follows:

14 **“§ 3291. Nationality, citizenship and passports**

15 “No person shall be prosecuted, tried, or punished
16 for a violation of any section of chapter 69 (relating to
17 nationality and citizenship offenses) or 75 (relating to
18 passport, visa, and immigration offenses), for a violation
19 of any criminal provision of section 243, 274, 275, 276,
20 277, or 278 of the Immigration and Nationality Act (8
21 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
22 attempt or conspiracy to violate any such section, unless
23 the indictment is returned or the information is filed with-
24 in 10 years after the commission of the offense.”.

1 **SEC. 1777. CONFORMING AMENDMENT TO THE DEFINITION**
2 **OF RACKETEERING ACTIVITY.**

3 Section 1961(1) of title 18, United States Code, is
4 amended by striking “section 1542” and all that follows
5 through “section 1546 (relating to fraud and misuse of
6 visas, permits, and other documents)” and inserting “sec-
7 tions 1541 through 1547 (relating to passports and
8 visas)”.

9 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

10 (a) CIVIL CASES.—

11 (1) IN GENERAL.—Chapter 9 of title II of the
12 Immigration and Nationality Act (8 U.S.C. 1351 et
13 seq.), as amended by section 1126(a) of this Act, is
14 further amended by adding at the end the following:

15 **“SEC. 296. VALIDITY OF SIGNATURES.**

16 “(a) IN GENERAL.—In any proceeding, adjudication,
17 or any other matter arising under the immigration laws,
18 an individual’s hand written or electronic signature on any
19 petition, application, or any other document executed or
20 provided for any purpose under the immigration laws es-
21 tablishes a rebuttable presumption that the signature exe-
22 cuted is that of the individual signing, that the individual
23 is aware of the contents of the document, and intends to
24 sign it.”.

25 “(b) RECORD INTEGRITY.—The Secretary shall es-
26 tablish procedures to ensure that when any electronic sig-

1 nature is captured for any petition, application, or other
2 document submitted for purposes of obtaining an immi-
3 gration benefit, the identity of the person is verified and
4 authenticated, and the record of such identification and
5 verification is preserved for litigation purposes.”.

6 (2) CLERICAL AMENDMENT.—The table of con-
7 tents in the first section of the Immigration and Na-
8 tionality Act is amended by inserting after the item
9 relating to section 295, as added by section
10 1126(a)(2) of this Act, the following:

“Sec. 296. Validity of signatures.”.

11 (b) CRIMINAL CASES.—

12 (1) IN GENERAL.—Chapter 223 of title 18,
13 United States Code, is amended by adding at the
14 end the following:

15 **“§ 3513. Signatures relating to immigration matters**

16 “In a criminal proceeding in a court of the United
17 States, if an individual’s handwritten or electronic signa-
18 ture appears on a petition, application, or other document
19 executed or provided for any purpose under the immigra-
20 tion laws (as defined in section 101(a)(17) of the Immi-
21 gration and Nationality Act (8 U.S.C. 1101(a)(17)), the
22 trier of fact may infer that the document was signed by
23 that individual, and that the individual knew the contents
24 of the document and intended to sign the document.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for chapter 223 of title 18, United States
3 Code, is amended by inserting after the item relating
4 to section 3512 the following:

“3513. Signatures relating to immigration matters.”.

5 **Subtitle H—Prohibition on Terror-**
6 **ists Obtaining Lawful Status in**
7 **the United States**

8 **CHAPTER 1—PROHIBITION ON ADJUST-**
9 **MENT TO LAWFUL PERMANENT RESI-**
10 **DENT STATUS**

11 **SEC. 1801. LAWFUL PERMANENT RESIDENTS AS APPLI-**
12 **CANTS FOR ADMISSION.**

13 Section 101(a)(13)(C) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

15 (1) in clauses (i), (ii), (iii), and (iv), by striking
16 the comma at the end of each clause and inserting
17 a semicolon;

18 (2) in clause (v), by striking the “, or” and in-
19 serting a semicolon;

20 (3) in clause (vi), by striking the period at the
21 end and inserting “; or” and

22 (4) by adding at the end the following:

23 “(vii) is described in section 212(a)(3) or
24 237(a)(4).”.

1 **SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF ADJUST-**
2 **MENT OF STATUS.**

3 (a) APPLICANTS FOR ADMISSION.—Section
4 101(a)(13) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)(13)), as amended by section 1801, is fur-
6 ther amended by adding at the end the following:

7 “(D) Notwithstanding subparagraph (A), adjustment
8 of status of an alien to that of an alien lawfully admitted
9 for permanent residence under section 245 or under any
10 other provision of law is an admission of the alien.”.

11 (b) ELIGIBILITY TO BE REMOVED FOR A CRIME IN-
12 VOLVING MORAL TURPITUDE.—Section
13 237(a)(2)(A)(i)(I) of such Act (8 U.S.C.
14 1227(a)(2)(A)(i)(I)) is amended by striking “date of ad-
15 mission,” inserting “alien’s most recent date of admis-
16 sion;”.

17 **SEC. 1803. PRECLUDING ASYLEE AND REFUGEE ADJUST-**
18 **MENT OF STATUS FOR CERTAIN GROUNDS OF**
19 **INADMISSIBILITY AND DEPORTABILITY.**

20 (a) GROUNDS OF INADMISSIBILITY.—Section 209(c)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1159(c)) is amended by striking “(other than paragraph
23 (2)(C) or subparagraph (A), (B), (C), or (E) of paragraph
24 (3))”, and inserting “(other than subparagraph (C) or (G)
25 of paragraph (2) or subparagraph (A), (B), (C), (E), (F),
26 or (G) of paragraph (3))”.

1 (b) GROUNDS OF DEPORTABILITY.—Section 209 of
2 such Act, as amended by subsection (a), is further amend-
3 ed by adding at the end the following:

4 “(d) An alien’s status may not be adjusted under this
5 section if the alien—

6 “(1) is in removal proceedings under section
7 238 or 240; and

8 “(2) is charged with a deportable offense under
9 paragraph (2), (3), (4), or (6) of section 237.”.

10 (e) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to—

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

14 (2) all aliens who are required to establish ad-
15 missibility on or after such date in all removal, de-
16 portation, or exclusion proceedings that are filed,
17 pending, or reopened, on or after such date.

18 **SEC. 1804. REVOCATION OF LAWFUL PERMANENT RESI-**
19 **DENT STATUS FOR HUMAN RIGHTS VIOLA-**
20 **TORS.**

21 Section 240(b)(5) of the Immigration and Nationality
22 Act (8 U.S.C. 1229a(b)(5)) is amended by adding at the
23 end the following:

24 “(F) ADDITIONAL APPLICATION TO CER-
25 TAIN ALIENS OUTSIDE OF THE UNITED STATES

1 WHO ARE ASSOCIATED WITH HUMAN RIGHTS
2 VIOLATIONS.—Subparagraphs (A) through (E)
3 shall apply to any alien placed in proceedings
4 under this section who—

5 “(i) is outside of the United States;

6 “(ii) has been provided written notice
7 in accordance with section 239(a) (whether
8 the alien is within or outside the United
9 States); and

10 “(iii) is described in section
11 212(a)(2)(G) (persons who have committed
12 particularly severe violations of religious
13 freedom), 212(a)(3)(E) (Nazi and other
14 persecution, genocide, war crimes, crimes
15 against humanity, extrajudicial killing, tor-
16 ture, or specified human rights violations),
17 or 212(a)(3)(G) (recruitment or use of
18 child soldiers).”.

19 **SEC. 1805. REMOVAL OF CONDITION ON LAWFUL PERMA-**
20 **NENT RESIDENT STATUS PRIOR TO NATU-**
21 **RALIZATION.**

22 Chapter 2 of title II of the Immigration and Nation-
23 ality Act (8 U.S.C. 1181 et seq.) is amended—

24 (1) in section 216(e) (8 U.S.C. 1186a(e)), by
25 inserting “, if the alien has had the conditional basis

1 removed pursuant to this section” before the period
2 at the end; and

3 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by
4 inserting “, if the alien has had the conditional basis
5 removed pursuant to this section” before the period
6 at the end.

7 **SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS WHO**
8 **POSE A THREAT TO NATIONAL SECURITY OR**
9 **PUBLIC SAFETY FROM RECEIVING AN AD-**
10 **JUSTMENT OF STATUS.**

11 (a) APPLICATION FOR ADJUSTMENT OF STATUS IN
12 THE UNITED STATES.—

13 (1) IN GENERAL.—Section 245 of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1255) is amend-
15 ed by striking the section heading and subsection (a)
16 and inserting the following:

17 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A PERSON**
18 **ADMITTED FOR PERMANENT RESIDENCE.**

19 “(a) IN GENERAL.—

20 “(1) ELIGIBILITY FOR ADJUSTMENT.—The sta-
21 tus of an alien who was inspected and admitted or
22 paroled into the United States or the status of any
23 other alien having an approved petition for classi-
24 fication under the Violence Against Women Act of
25 1994 (42 U.S.C. 13701 et seq.) as a spouse or child

1 who has been battered or subjected to extreme cru-
2 elty may be adjusted by the Secretary or by the At-
3 torney General, in the discretion of the Secretary or
4 the Attorney General, and under such regulations as
5 the Secretary or the Attorney General may pre-
6 scribe, to that of an alien lawfully admitted for per-
7 manent residence if—

8 “(A) the alien files an application for such
9 adjustment;

10 “(B) the alien is eligible to receive an im-
11 migrant visa, is admissible to the United States
12 for permanent residence, and is not subject to
13 exclusion, deportation, or removal from the
14 United States; and

15 “(C) an immigrant visa is immediately
16 available to the alien at the time the alien’s ap-
17 plication is filed.

18 “(2) IMMEDIATELY AVAILABLE.—For purposes
19 of this section, the term ‘immediately available’
20 means that on the date on which the application for
21 adjustment of status is filed, the visa category under
22 which the alien is seeking permanent residence is
23 current, as determined by the Secretary of State and
24 reflected in the Department of State’s visa bulletin

1 for the month in which the application for adjust-
2 ment of status is filed.

3 “(3) REQUIREMENT TO OBTAIN AN IMMIGRANT
4 VISA OUTSIDE OF THE UNITED STATES.—Notwith-
5 standing any other provision of this section, if the
6 Secretary determines that an alien may be a threat
7 to national security or public safety or if the Sec-
8 retary determines that a favorable exercise of discre-
9 tion to allow an alien to seek to adjust his or her
10 status in the United States rather than to obtain an
11 immigrant visa outside of the United States is not
12 warranted, the Secretary, in the Secretary’s sole and
13 unreviewable discretion, may prohibit the alien from
14 seeking an adjustment of status under paragraph
15 (1) while the alien is present in the United States.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents in the first section of the Immigration and Na-
18 tionality Act is amended by striking the item relat-
19 ing to section 245 and inserting the following:

“Sec. 245. Adjustment of status to that of a person admitted for permanent
residence.”.

20 (b) PROHIBITION ON TERRORISTS AND ALIENS WHO
21 POSE A THREAT TO NATIONAL SECURITY OR PUBLIC
22 SAFETY ON ADJUSTMENT TO LAWFUL PERMANENT RESI-
23 DENT STATUS.—Section 245(c) of the Immigration and

1 Nationality Act (8 U.S.C. 1255(c)) is amended to read
2 as follows:

3 “(c) Except for an alien who has an approved petition
4 for classification as a VAWA self-petitioner, subsection (a)
5 shall not apply to—

6 “(1) an alien crewman;

7 “(2) subject to subsection (k), any alien (other
8 than an immediate relative (as defined in section
9 201(b)) or a special immigrant (as described in sub-
10 paragraph (H), (I), (J), or (K) of section
11 101(a)(27))) who—

12 “(A) continues in or accepts unauthorized
13 employment before filing an application for ad-
14 justment of status;

15 “(B) is in unlawful immigration status on
16 the date he or she files an application for ad-
17 justment of status; or

18 “(C) has failed (other than through no
19 fault of his or her own or for technical reasons)
20 to maintain continuously a lawful status since
21 entry into the United States;

22 “(3) any alien admitted in transit without a
23 visa under section 212(d)(4)(C);

24 “(4) an alien (other than an immediate relative
25 (as defined in section 201(b))) who was admitted as

1 a nonimmigrant visitor without a visa under section
2 212(l) or 217;

3 “(5) an alien who was admitted as a non-
4 immigrant under section 101(a)(15)(S);

5 “(6) an alien described in subparagraph (B),
6 (F), or (G) of section 237(a)(4);

7 “(7) any alien who seeks adjustment of status
8 to that of an immigrant under section 203(b) and is
9 not in a lawful nonimmigrant status;

10 “(8) any alien who has committed, ordered, in-
11 cited, assisted, or otherwise participated in the per-
12 secution of any person on account of race, religion,
13 nationality, membership in a particular social group,
14 or political opinion; or

15 “(9) any alien who—

16 “(A) was employed while the alien was an
17 unauthorized alien (as defined in section
18 274A(h)(3)); or

19 “(B) has otherwise violated the terms of a
20 nonimmigrant visa.”.

21 **SEC. 1807. TREATMENT OF APPLICATIONS FOR ADJUST-**
22 **MENT OF STATUS DURING PENDING**
23 **DENATURALIZATION PROCEEDINGS.**

24 (a) VISA ISSUANCE.—Section 221(g) of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1201(g)) is amended—

- 1 (1) by inserting “(1)” before “No visa”;
- 2 (2) by striking “if (1) it appears” and inserting
- 3 the following: “if—
- 4 “(A) it appears”;
- 5 (3) by striking “law, (2) the application” and
- 6 inserting the following: “law;
- 7 “(B) the application”;
- 8 (4) by striking “thereunder, or (3) the consular
- 9 officer” and inserting the following: “thereunder;
- 10 “(C) the consular officer”;
- 11 (5) by striking “provision of law: *Provided,*
- 12 That a visa” and inserting the following: “provision
- 13 of law; or
- 14 “(D) the approved petition for classification
- 15 under section 203 or 204 that is the underlying
- 16 basis for the application for a visa was filed by an
- 17 individual who has a judicial proceeding pending
- 18 against him or her that would result in the individ-
- 19 ual’s denaturalization under section 340.
- 20 “(2) A visa”; and
- 21 (6) by striking “section 213: *Provided further,*
- 22 That a visa” and inserting the following: “section
- 23 213.
- 24 “(3) A visa”.

1 (b) ADJUSTMENT OF STATUS.—Section 245 of the
2 Immigration and Nationality Act (8 U.S.C. 1451), as
3 amended by section 1806, is further amended by adding
4 at the end the following:

5 “(n) An application for adjustment of status may not
6 be considered or approved by the Secretary or the Attor-
7 ney General, and no court may order the approval of an
8 application for adjustment of status if the approved peti-
9 tion for classification under section 204 that is the under-
10 lying basis for the application for adjustment of status was
11 filed by an individual who has a judicial proceeding pend-
12 ing against him or her that would result in the revocation
13 of the individual’s naturalization under section 340.”.

14 **SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT RESCIS-**
15 **SION OF PERMANENT RESIDENT STATUS.**

16 Section 246 of the Immigration and Nationality Act
17 (8 U.S.C. 1256) is amended—

18 (1) in subsection (a)—

19 (A) by inserting “(1)” after “(a)”;

20 (B) by striking “within five years” and in-
21 serting “within 10 years”;

22 (C) by striking “Attorney General” each
23 place that term appears and inserting “Sec-
24 retary”; and

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

1 “(2) In any removal proceeding involving an alien
2 whose status has been rescinded under this subsection, the
3 determination by the Secretary that the alien was not eli-
4 gible for adjustment of status is not subject to review or
5 reconsideration during such proceedings.”.

6 (2) by redesignating subsection (b) as sub-
7 section (c); and

8 (3) by inserting after subsection (a) the fol-
9 lowing:

10 “(b) Nothing in subsection (a) may be construed to
11 require the Secretary to rescind the alien’s status before
12 the commencement of removal proceedings under section
13 240. The Secretary may commence removal proceedings
14 at any time against any alien who is removable, including
15 aliens whose status was adjusted to that of an alien law-
16 fully admitted for permanent residence under section 245
17 or 249 or under any other provision of law. There is no
18 statute of limitations with respect to the commencement
19 of removal proceedings under section 240. An order of re-
20 moval issued by an immigration judge shall be sufficient
21 to rescind the alien’s status.”.

22 **SEC. 1809. BARRING PERSECUTORS AND TERRORISTS**
23 **FROM REGISTRY.**

24 Section 249 of the Immigration and Nationality Act
25 (8 U.S.C. 1259) is amended to read as follows:

1 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESI-**
2 **DENCE IN THE CASE OF CERTAIN ALIENS**
3 **WHO ENTERED THE UNITED STATES PRIOR**
4 **TO JANUARY 1, 1972.**

5 “(a) IN GENERAL.—The Secretary, in the discretion
6 of the Secretary and under such regulations as the Sec-
7 retary may prescribe, may enter a record of lawful admis-
8 sion for permanent residence in the case of any alien, if
9 no such record is otherwise available and the alien—

10 “(1) entered the United States before January
11 1, 1972;

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

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

16 “(4) is not ineligible for citizenship;

17 “(5) is not described in paragraph (1)(A)(iv),
18 (2), (3), (6)(C), (6)(E), (8), or (9)(C) of section
19 212(a);

20 “(6) is not described in paragraph (1)(E),
21 (1)(G), (2), (4) of section 237(a); and

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

1 “(b) RECORDATION DATE OF PERMANENT RESI-
2 DENCE.—The record of an alien’s lawful admission for
3 permanence residence shall be the date on which the Sec-
4 retary approves the application for such status under this
5 section.”.

6 **CHAPTER 2—PROHIBITION ON NATU-**
7 **RALIZATION AND UNITED STATES**
8 **CITIZENSHIP**

9 **SEC. 1821. BARRING TERRORISTS FROM BECOMING NATU-**
10 **RALIZED UNITED STATES CITIZENS.**

11 (a) IN GENERAL.—Section 316 of the Immigration
12 and Nationality Act (8 U.S.C. 1427) is amended by add-
13 ing at the end the following:

14 “(g)(1)(A) Except as provided in subparagraph (B),
15 a person may not be naturalized if the Secretary deter-
16 mines, in the discretion of the Secretary, that the alien
17 is described in section 212(a)(3) or 237(a)(4) at any time,
18 including any period before or after the filing of an appli-
19 cation for naturalization.

20 “(B) Subparagraph (A) shall not apply to an alien
21 described in section 212(a)(3) if—

22 “(i) the alien received an exemption under sec-
23 tion 212(d)(3)(B)(i); and

24 “(ii) the only conduct or actions by the alien
25 that are described in section 212(a)(3) (and would

1 bar the alien from naturalization under this para-
2 graph) are specifically covered by the exemption re-
3 ferred to in clause (i).

4 “(2) A determination under paragraph (1) may be
5 based upon any relevant information or evidence, includ-
6 ing classified, sensitive, or national security information.”.

7 (b) APPLICABILITY TO CITIZENSHIP THROUGH NAT-
8 URALIZATION OF PARENT OR SPOUSE.—Section 340(d) of
9 such Act (8 U.S.C. 1451(d)) is amended—

10 (1) by striking the first sentence and inserting
11 the following:

12 “(1) A person who claims United States citizenship
13 through the naturalization of a parent or spouse shall be
14 deemed to have lost his or her citizenship, and any right
15 or privilege of citizenship which he or she may have ac-
16 quired, or may hereafter acquire by virtue of the natu-
17 ralization of such parent or spouse, if the order granting
18 citizenship to such parent or spouse is revoked and set
19 aside under the provisions of—

20 “(A) subsection (a) on the ground that the
21 order and certificate of naturalization were procured
22 by concealment of a material fact or by willful mis-
23 representation; or

1 “(B) subsection (e) pursuant to a conviction
2 under section 1425 of title 18, United States
3 Code.”.

4 (2) in the second sentence, by striking “Any
5 person” and inserting the following:

6 “(2) Any person”.

7 **SEC. 1822. TERRORIST BAR TO GOOD MORAL CHARACTER.**

8 (a) DEFINITION OF GOOD MORAL CHARACTER.—
9 Section 101(f) of the Immigration and Nationality Act (8
10 U.S.C. 1101(f)), as amended by sections 1710(d),
11 1712(h), and 1713(d), is further amended—

12 (1) in paragraph (8), by inserting “, regardless
13 of whether the crime was classified as an aggravated
14 felony at the time of conviction” before the semi-
15 colon at the end;

16 (2) by inserting after paragraph (11), the fol-
17 lowing:

18 “(12) one who the Secretary or the Attorney
19 General determines, in the unreviewable discretion of
20 the Secretary or the Attorney General, to have been
21 an alien described in section 212(a)(3) or 237(a)(4),
22 which determination—

23 “(A) may be based upon any relevant in-
24 formation or evidence, including classified, sen-
25 sitive, or national security information; and

1 “(B) shall be binding upon any court re-
2 gardless of the applicable standard of review.”;
3 and

4 (3) in the undesignated matter at the end, by
5 striking the first sentence and inserting following:

6 “The fact that a person is not within any of the foregoing
7 classes shall not preclude a discretionary finding for other
8 reasons that such a person is or was not of good moral
9 character. The Secretary or the Attorney General shall not
10 be limited to the applicant’s conduct during the period for
11 which good moral character is required, but may take into
12 consideration as a basis for determination the applicant’s
13 conduct and acts at any time. The Secretary or the Attor-
14 ney General, in the unreviewable discretion of the Sec-
15 retary or the Attorney General, may determine that para-
16 graph (8) shall not apply to a single aggravated felony
17 conviction (other than murder, manslaughter, homicide,
18 rape, or any sex offense when the victim of such sex of-
19 fense was a minor) for which completion of the term of
20 imprisonment or the sentence (whichever is later) occurred
21 15 years or longer before the date on which the person
22 filed an application under this Act.”.

23 (b) AGGRAVATED FELONS.—Section 509(b) of the
24 Immigration Act of 1990 (8 U.S.C. 1101 note; Public Law
25 101–649) is amended by striking “convictions” and all

1 that follows and inserting “convictions occurring before,
2 on, or after such date.”.

3 (c) **EFFECTIVE DATES; APPLICATION.**—

4 (1) **SUBSECTION (a).**—The amendments made
5 by subsection (a) shall take effect on the date of the
6 enactment of this Act, shall apply to any act that oc-
7 curred before, on, or after such date of enactment,
8 and shall apply to any application for naturalization
9 or any other benefit or relief, or any other case or
10 matter under the immigration laws pending on or
11 filed after such date of enactment.

12 (2) **SUBSECTION (b).**—The amendment made
13 by subsection (b) shall take effect as if included in
14 the enactment of the Intelligence Reform and Ter-
15 rorism Prevention Act of 2004 (Public Law 108–
16 458).

17 **SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF NATU-
18 RALIZATION APPLICATIONS FOR ALIENS IN
19 REMOVAL PROCEEDINGS.**

20 Section 318 of the Immigration and Nationality Act
21 (8 U.S.C. 1429) is amended to read as follows:

22 **“SEC. 318. PREREQUISITE TO NATURALIZATION; BURDEN
23 OF PROOF.**

24 “(a) **IN GENERAL.**—Except as otherwise provided in
25 this chapter, no person may be naturalized unless he or

1 she has been lawfully admitted to the United States for
2 permanent residence in accordance with all applicable pro-
3 visions of this chapter.

4 “(b) BURDEN OF PROOF.—A person described in
5 subsection (a) shall have the burden of proof to show that
6 he or she entered the United States lawfully, and the time,
7 place, and manner of such entry into the United States.
8 In presenting such proof, the person is entitled to the pro-
9 duction of his or her immigrant visa, if any, or of other
10 entry document, if any, and of any other documents and
11 records, not considered by the Secretary to be confidential,
12 pertaining to such entry, in the custody of the Depart-
13 ment.

14 “(c) LIMITATIONS ON REVIEW.—Notwithstanding
15 section 405(b), and except as provided in sections 328 and
16 329—

17 “(1) a person may not be naturalized against
18 whom there is outstanding a final finding of re-
19 moval, exclusion, or deportation;

20 “(2) an application for naturalization may not
21 be considered by the Secretary or by any court if
22 there is pending against the applicant any removal
23 proceeding or other proceeding to determine whether
24 the applicant’s lawful permanent resident status

1 should be rescinded, regardless of when such pro-
2 ceeding was commenced; and

3 “(3) the findings of the Attorney General in
4 terminating removal proceedings or in cancelling the
5 removal of an alien pursuant to this Act may not be
6 deemed binding in any way upon the Secretary with
7 respect to the question of whether such person has
8 established his or her eligibility for naturalization
9 under this Act.”.

10 **SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGEN-**
11 **CY HAS NOT MADE DECISION ON NATU-**
12 **RALIZATION APPLICATION AND ON DENIALS.**

13 (a) LIMITATION ON REVIEW OF PENDING NATU-
14 RALIZATION APPLICATIONS.—Section 336 of the Immi-
15 gration and Nationality Act (8 U.S.C. 1447) is amend-
16 ed—

17 (1) in subsection (a), by striking “If,” and in-
18 serting the following:

19 “(b) IN GENERAL.—If,”; and

20 (2) by amending subsection (b) to read as fol-
21 lows:

22 “(b) REQUEST FOR HEARING BEFORE DISTRICT
23 COURT.—If a final administrative determination is not
24 made on an application for naturalization under section
25 335 before the end of the 180-day period beginning on

1 the date on which the Secretary completes all examina-
2 tions and interviews under such section (as such terms are
3 defined by the Secretary, by regulation), the applicant
4 may apply to the district court for the district in which
5 the applicant resides for a hearing on the matter. Such
6 court shall only have jurisdiction to review the basis for
7 delay and remand the matter to the Secretary for the Sec-
8 retary's determination on the application.”.

9 (b) LIMITATIONS ON REVIEW OF DENIAL.—Section
10 310 of the Immigration and Nationality Act (8 U.S.C.
11 1421) is amended—

12 (1) by amending subsection (c) to read as fol-
13 lows:

14 “(c) JUDICIAL REVIEW.—

15 “(1) JUDICIAL REVIEW OF DENIAL.—A person
16 whose application for naturalization under this title
17 is denied may, not later than 120 days after the
18 date of the Secretary's administratively final deter-
19 mination on the application and after a hearing be-
20 fore an immigration officer under section 336(a),
21 seek review of such denial before the United States
22 district court for the district in which such person
23 resides in accordance with chapter 7 of title 5,
24 United States Code.

1 “(2) BURDEN OF PROOF.—The petitioner shall
2 have burden of proof to show that the Secretary’s
3 denial of the application for naturalization was not
4 supported by facially legitimate and bona fide rea-
5 sons.

6 “(3) LIMITATIONS ON REVIEW.—Except in a
7 proceeding under section 340, and notwithstanding
8 any other provision of law, including section 2241 of
9 title 28, United States Code, any other habeas cor-
10 pus provision, and sections 1361 and 1651 of such
11 title, no court shall have jurisdiction to determine, or
12 to review a determination of the Secretary made at
13 any time regarding, whether, for purposes of an ap-
14 plication for naturalization, an alien—

15 “(A) is a person of good moral character;

16 “(B) understands and is attached to the
17 principles of the Constitution of the United
18 States; or

19 “(C) is well disposed to the good order and
20 happiness of the United States.”;

21 (2) in subsection (d)—

22 (A) by inserting “**SUBPOENAS.—**” before
23 “The immigration officer”;

24 (B) by striking “subpena” and inserting
25 “subpoena”; and

1 (C) by striking “subpenas” each place such
2 term appears and inserting “subpoenas”; and
3 (3) in subsection (e), by inserting “NAME
4 CHANGE.—” before “It shall”.

5 (c) EFFECTIVE DATE; APPLICATION.—The amend-
6 ments made by this section—

7 (1) shall take effect on the date of the enact-
8 ment of this Act;

9 (2) shall apply to any act that occurred before,
10 on, or after such date of enactment; and

11 (3) shall apply to any application for natu-
12 ralization or any other case or matter under the im-
13 migration laws that is pending on, or filed after,
14 such date of enactment.

15 **SEC. 1825. CLARIFICATION OF DENATURALIZATION AU-**
16 **THORITY.**

17 Section 340 of the Immigration and Nationality Act
18 (8 U.S.C. 1451) is amended—

19 (1) in subsection (a), by striking “United
20 States attorneys for the respective districts” and in-
21 serting “Attorney General”; and

22 (2) by amending subsection (c) to read as fol-
23 lows:

24 “(c) The Government shall have the burden of proof
25 to establish, by clear, unequivocal, and convincing evi-

1 dence, that an order granting citizenship to an alien
2 should be revoked and a certificate of naturalization can-
3 celled because such order and certificate were illegally pro-
4 cured or were procured by concealment of a material fact
5 or by willful misrepresentation.”.

6 **SEC. 1826. DENATURALIZATION OF TERRORISTS.**

7 (a) DENATURALIZATION FOR TERRORISTS ACTIVI-
8 TIES.—Section 340 of the Immigration and Nationality
9 Act, as amended by section 1825, is further amended—

10 (1) by redesignating subsections (d) through (h)
11 as subsections (f) through (j), respectively; and

12 (2) by inserting after subsection (c) the fol-
13 lowing:

14 “(d)(1) If a person who has been naturalized, during
15 the 15-year period after such naturalization, participates
16 in any act described in paragraph (2)—

17 “(A) such act shall be considered prima facie
18 evidence that such person was not attached to the
19 principles of the Constitution of the United States
20 and was not well disposed to the good order and
21 happiness of the United States at the time of natu-
22 ralization; and

23 “(B) in the absence of countervailing evidence,
24 such act shall be sufficient in the proper proceeding
25 to authorize the revocation and setting aside of the

1 order admitting such person to citizenship and the
2 cancellation of the certificate of naturalization as
3 having been obtained by concealment of a material
4 fact or by willful misrepresentation; and

5 “(C) such revocation and setting aside of the
6 order admitting such person to citizenship and such
7 canceling of certificate of naturalization shall be ef-
8 fective as of the original date of the order and cer-
9 tificate, respectively.

10 “(2) The acts described in this paragraph that shall
11 subject a person to a revocation and setting aside of his
12 or her naturalization under paragraph (1)(B) are—

13 “(A) any activity a purpose of which is the op-
14 position to, or the control or overthrow of, the Gov-
15 ernment of the United States by force, violence, or
16 other unlawful means;

17 “(B) engaging in a terrorist activity (as defined
18 in clauses (iii) and (iv) of section 212(a)(3)(B));

19 “(C) incitement of terrorist activity under cir-
20 cumstances indicating an intention to cause death,
21 serious bodily harm, or substantial damage to prop-
22 erty; and

23 “(D) receiving military-type training (as defined
24 in section 2339D(e)(1) of title 18, United States
25 Code) from or on behalf of any organization that, at

1 the time the training was received, was a terrorist
2 organization (as defined in section
3 212(a)(3)(B)(vi)).”.

4 (b) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall take effect on the date of the enact-
6 ment of this Act and shall apply to acts that occur on
7 or after such date.

8 **SEC. 1827. TREATMENT OF PENDING APPLICATIONS DUR-**
9 **ING DENATURALIZATION PROCEEDINGS.**

10 (a) IN GENERAL.—Section 204(b) of the Immigra-
11 tion and Nationality Act (8 U.S.C. 1154(b)) is amended—

12 (1) by striking “After” and inserting “(1) Ex-
13 cept as provided in paragraph (2), after”; and

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

15 “(2) The Secretary may not adjudicate or approve
16 any petition filed under this section by an individual who
17 has a judicial proceeding pending against him or her that
18 would result in the individual’s denaturalization under sec-
19 tion 340 until—

20 “(A) such proceedings have concluded; and

21 “(B) the period for appeal has expired or any
22 appeals have been finally decided, if applicable.”.

23 (b) WITHHOLDING OF IMMIGRATION BENEFITS.—
24 Section 340 of such Act (8 U.S.C. 1451), as amended by
25 sections 1825 and 1826, is further amended by inserting

1 after subsection (d), as added by section 1826(a)(2), the
2 following:

3 “(e) The Secretary may not approve any application,
4 petition, or request for any immigration benefit from an
5 individual against whom there is a judicial proceeding
6 pending that would result in the individual’s
7 denaturalization under this section until—

8 “(1) such proceedings have concluded; and

9 “(2) the period for appeal has expired or any
10 appeals have been finally decided, if applicable.”.

11 **SEC. 1828. NATURALIZATION DOCUMENT RETENTION.**

12 (a) **IN GENERAL.**—Chapter 2 of title III of the Immi-
13 gration and Nationality Act (8 U.S.C. 1421 et seq.) is
14 amended by inserting after section 344 the following:

15 **“SEC. 345. NATURALIZATION DOCUMENT RETENTION.**

16 “(a) **IN GENERAL.**—The Secretary shall retain all
17 documents described in subsection (b) for a minimum of
18 7 years for law enforcement and national security inves-
19 tigation and for litigation purposes, regardless of whether
20 such documents are scanned into U.S. Citizenship and Im-
21 migration Services’ electronic immigration system or
22 stored in any electronic format.

23 “(b) **DOCUMENTS TO BE RETAINED.**—The docu-
24 ments described in this subsection are—

1 “(1) the original paper naturalization applica-
2 tion and all supporting paper documents submitted
3 with the application at the time of filing, subsequent
4 to filing, and during the course of the naturalization
5 interview; and

6 “(2) any paper documents submitted in connec-
7 tion with an application for naturalization that is
8 filed electronically.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 in the first section of the Immigration and Nationality Act
11 is amended by inserting after the item relating to section
12 344 the following:

 “Sec. 345. Naturalization document retention.”.

13 **CHAPTER 3—FORFEITURE OF PROCEEDS**
14 **FROM PASSPORT AND VISA OFFENSES,**
15 **AND PASSPORT REVOCATION.**

16 **SEC. 1831. FORFEITURE OF PROCEEDS FROM PASSPORT**
17 **AND VISA OFFENSES.**

18 Section 981(a)(1) of title 18, United States Code, is
19 amended by adding at the end the following:

20 “(J) Any real or personal property that has
21 been used to commit, or to facilitate the commission
22 of, a violation of chapter 75, the gross proceeds of
23 such violation, and any property traceable to any
24 such property or proceeds.”.

1 **SEC. 1832. PASSPORT REVOCATION ACT.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Passport Revocation Act”.

4 (b) REVOCATION OR DENIAL OF PASSPORTS AND
5 PASSPORT CARDS TO INDIVIDUALS WHO ARE AFFILI-
6 ATED WITH FOREIGN TERRORIST ORGANIZATIONS.—The
7 Act entitled “An Act to regulate the issue and validity of
8 passports, and for other purposes”, approved July 3, 1926
9 (22 U.S.C. 211a et seq.), which is commonly known as
10 the “Passport Act of 1926”, is amended by adding at the
11 end the following:

12 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
13 **PASSPORT CARD.**

14 “(a) INELIGIBILITY.—

15 “(1) ISSUANCE.—Except as provided under
16 subsection (b), the Secretary of State shall refuse to
17 issue a passport or a passport card to any indi-
18 vidual—

19 “(A) who has been convicted of a violation
20 of chapter 113B of title 18, United States
21 Code; or

22 “(B)(i) whom the Secretary has deter-
23 mined is a member of or is otherwise affiliated
24 with an organization the Secretary has des-
25 ignated as a foreign terrorist organization pur-

1 suant to section 219 of the Immigration and
2 Nationality Act (8 U.S.C. 1189); or

3 “(ii) has aided, abetted, or provided mate-
4 rial support to an organization described in
5 clause (i).

6 “(2) REVOCATION.—The Secretary of State
7 shall revoke a passport previously issued to any indi-
8 vidual described in paragraph (1).

9 “(b) EXCEPTIONS.—

10 “(1) EMERGENCY CIRCUMSTANCES, HUMANI-
11 TARIAN REASONS, AND LAW ENFORCEMENT PUR-
12 POSES.—Notwithstanding subsection (a), the Sec-
13 retary of State may issue, or decline to revoke, a
14 passport of an individual described in such sub-
15 section in emergency circumstances, for humani-
16 tarian reasons, or for law enforcement purposes.

17 “(2) LIMITATION FOR RETURN TO UNITED
18 STATES.—Notwithstanding subsection (a)(2), the
19 Secretary of State, before revocation, may—

20 “(A) limit a previously issued passport for
21 use only for return travel to the United States;
22 or

23 “(B) issue a limited passport that only
24 permits return travel to the United States.

1 “(c) RIGHT OF REVIEW.—Any individual who, in ac-
2 cordance with this section, is denied issuance of a passport
3 by the Secretary of State, or whose passport is revoked
4 or otherwise limited by the Secretary of State, may re-
5 quest a hearing before the Secretary of State not later
6 than 60 days after receiving notice of such denial, revoca-
7 tion, or limitation.

8 “(d) REPORT.—If the Secretary of State denies,
9 issues, limits, or declines to revoke a passport or passport
10 card under subsection (b), the Secretary, not later than
11 30 days after such denial, issuance, limitation, or revoca-
12 tion, shall submit a report to Congress that describes such
13 denial, issuance, limitation, or revocation, as appro-
14 priate.”.

15 **TITLE II—PERMANENT REAU-**
16 **THORIZATION OF VOL-**
17 **UNTARY E-VERIFY**

18 **SEC. 2001. PERMANENT REAUTHORIZATION.**

19 Section 401(b) of the Illegal Immigration Reform and
20 Immigrant Responsibility Act of 1996 (division C of Pub-
21 lic Law 104–208; 8 U.S.C. 1324a note) is amended by
22 striking “Unless the Congress otherwise provides, the Sec-
23 retary of Homeland Security shall terminate a pilot pro-
24 gram on September 30, 2015.”.

1 **SEC. 2002. PREEMPTION; LIABILITY.**

2 Section 402 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
4 note) is amended by adding at the end the following:

5 “(g) **LIMITATION ON STATE AUTHORITY.**—

6 “(1) **PREEMPTION.**—A State or local govern-
7 ment may not prohibit a person or other entity from
8 verifying the employment authorization of new hires
9 or current employees through E-Verify.

10 “(2) **LIABILITY.**—A person or other entity that
11 participates in E-Verify may not be held liable under
12 any Federal, State, or local law for any employment-
13 related action taken with respect to the wrongful
14 termination of an individual in good faith reliance on
15 information provided through E-Verify.”.

16 **SEC. 2003. INFORMATION SHARING.**

17 The Commissioner of Social Security, the Secretary
18 of Homeland Security, and the Secretary of the Treasury
19 shall jointly establish a program to share information
20 among their respective agencies that could lead to the
21 identification of unauthorized aliens (as defined in section
22 274A(h)(3) of the Immigration and Nationality Act (8
23 U.S.C. 1324a(h)(3)), including no-match letters and any
24 information in the earnings suspense file.

1 **SEC. 2004. SMALL BUSINESS DEMONSTRATION PROGRAM.**

2 Section 403 of the Illegal Immigration Reform and
3 Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a
4 note) is amended—

5 (1) by redesignating subsection (d) as sub-
6 section (e); and

7 (2) by inserting after subsection (c) the fol-
8 lowing:

9 “(d) SMALL BUSINESS DEMONSTRATION PRO-
10 GRAM.—Not later than 9 months after the date of enact-
11 ment of the Immigration Reform and Technical Correc-
12 tions Act of 2018, the Director of U.S. Citizenship and
13 Immigration Services shall establish a demonstration pro-
14 gram that assists small businesses in rural areas or areas
15 without internet capabilities to verify the employment eli-
16 gibility of newly hired employees solely through the use
17 of publicly accessible internet terminals.”.

18 **SEC. 2005. FRAUD PREVENTION.**

19 (a) BLOCKING MISUSED SOCIAL SECURITY ACCOUNT
20 NUMBERS.—The Secretary of Homeland Security, in con-
21 sultation with the Commissioner of Social Security, shall
22 establish a program in which Social Security account num-
23 bers that have been identified to be subject to unusual
24 multiple use in the employment eligibility verification sys-
25 tem established under section 274A(d) of the Immigration
26 and Nationality Act (8 U.S.C. 1324a(d)), or that are oth-

1 erwise suspected or determined to have been compromised
2 by identity fraud or other misuse, shall be blocked from
3 use for such system purposes unless the individual using
4 such number is able to establish, through secure and fair
5 additional security procedures, that the individual is the
6 legitimate holder of the number.

7 (b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-
8 CIAL SECURITY ACCOUNT NUMBERS.—The Secretary of
9 Homeland Security, in consultation with the Commis-
10 sioner of Social Security, shall establish a program that
11 provides a reliable, secure method by which victims of
12 identity fraud and other individuals may suspend or limit
13 the use of their Social Security account number or other
14 identifying information for purposes of the employment
15 eligibility verification system established under section
16 274A(d) of the Immigration and Nationality Act (8 U.S.C.
17 1324a(d)). The Secretary may implement the program on
18 a limited pilot program basis before making it fully avail-
19 able to all individuals.

20 (c) ALLOWING PARENTS TO PREVENT THEFT OF
21 THEIR CHILD'S IDENTITY.—The Secretary of Homeland
22 Security, in consultation with the Commissioner of Social
23 Security, shall establish a program that provides a reli-
24 able, secure method by which parents or legal guardians
25 may suspend or limit the use of the Social Security ac-

1 count number or other identifying information of a minor
2 under their care for the purposes of the employment eligi-
3 bility verification system established under 274A(d) of the
4 Immigration and Nationality Act (8 U.S.C. 1324a(d)).
5 The Secretary may implement the program on a limited
6 pilot program basis before making it fully available to all
7 individuals.

8 **SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT ELI-**
9 **GIBILITY VERIFICATION PILOT PROGRAMS.**

10 (a) IN GENERAL.—Not later than 2 years after the
11 date of the enactment of this Act, the Secretary of Home-
12 land Security, after consultation with the Commissioner
13 of Social Security and the Director of the National Insti-
14 tute of Standards and Technology, shall establish, by reg-
15 ulation, not fewer than 2 Identity Authentication Employ-
16 ment Eligibility Verification pilot programs (referred to in
17 this section as the “Authentication Pilots”), each of which
18 shall use a separate and distinct technology.

19 (b) PURPOSE.—The purpose of the Authentication
20 Pilots shall be to provide for identity authentication and
21 employment eligibility verification with respect to enrolled
22 new employees to any employer that elects to participate
23 in an Authentication Pilot.

24 (c) CANCELLATION.—Any participating employer
25 may cancel the employer’s participation in an Authentica-

1 tion Pilot after 1 year after electing to participate without
2 prejudice to future participation.

3 (d) REPORT.—Not later than 12 months after com-
4 mencement of the Authentication Pilots, the Secretary
5 shall submit a report to the Committee on the Judiciary
6 of the Senate and the Committee on the Judiciary of the
7 House of Representatives that includes the Secretary’s
8 findings on the Authentication Pilots and the authentica-
9 tion technologies chosen.

10 **TITLE III—SUCCEED ACT**

11 **SEC. 3001. SHORT TITLES.**

12 This title may be cited as the “Solution for Undocu-
13 mented Children through Careers, Employment, Edu-
14 cation, and Defending our Nation Act” or the “SUC-
15 CEED Act”.

16 **SEC. 3002. DEFINITIONS.**

17 In this title:

18 (1) IN GENERAL.—Except as otherwise specifi-
19 cally provided, any term used in this title that is also
20 used in the immigration laws shall have the meaning
21 given such term in the immigration laws.

22 (2) ALIEN ENLISTEE.—The term “alien en-
23 listee” means a conditional permanent resident that
24 seeks to maintain or extend such status by com-
25 plying with the requirements under this title relating

1 to enlistment and service in the Armed Forces of the
2 United States.

3 (3) ALIEN POSTSECONDARY STUDENT.—The
4 term “alien postsecondary student” means a condi-
5 tional permanent resident that seeks to maintain or
6 extend such status by complying with the require-
7 ments under this title relating to enrollment in, and
8 graduation from, an institution of higher education
9 in the United States.

10 (4) CONDITIONAL PERMANENT RESIDENT.—

11 (A) DEFINITION.—The term “conditional
12 permanent resident” means an alien described
13 in subparagraph (B) who is granted conditional
14 permanent resident status under this title.

15 (B) DESCRIPTION.—An alien granted con-
16 ditional permanent resident status under this
17 title—

18 (i) shall not be considered to be an
19 alien who is unlawfully present in the
20 United States for purposes of the immigra-
21 tion laws, including section 505 of the Ille-
22 gal Immigration Reform and Immigrant
23 Responsibility Act of 1996 (8 U.S.C.
24 1623);

1 (ii) shall not be considered a lawful
2 permanent resident for the purpose of—

3 (I) petitioning for relatives under
4 section 204(a) of the Immigration and
5 Nationality Act (8 U.S.C. 1154(a));
6 or

7 (II) seeking adjustment of status
8 under section 245(a) of such Act (8
9 U.S.C. 1255(a));

10 (iii) has the intention to permanently
11 reside in the United States;

12 (iv) is not required to have a foreign
13 residence which the alien has no intention
14 of abandoning; and

15 (v) shall be considered to have been
16 inspected and admitted for the purposes of
17 section 245(a) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1255(a)) after the
19 condition on the alien's permanent resident
20 status has been removed pursuant to sec-
21 tion 3005.

22 (5) FEDERAL PUBLIC BENEFIT.—The term
23 “Federal public benefit” means—

1 (A) the American Opportunity Tax Credit
2 authorized under section 25A(i) of the Internal
3 Revenue Code of 1986;

4 (B) the Earned Income Tax Credit author-
5 ized under section 32 of the Internal Revenue
6 Code of 1986;

7 (C) the Health Coverage Tax Credit au-
8 thorized under section 35 of the Internal Rev-
9 enue Code of 1986;

10 (D) Social Security benefits authorized
11 under title II of the Social Security Act (42
12 U.S.C. 401 et seq.);

13 (E) Medicare benefits authorized under
14 title XVIII of the Social Security Act (42
15 U.S.C. 1395 et seq.); and

16 (F) benefits received under the Federal-
17 State Unemployment Compensation Act of
18 1970 (26 U.S.C. 3304 note).

19 (6) IMMIGRATION LAWS.—The term “immigra-
20 tion laws” has the meaning given the term in section
21 101(a)(17) of the Immigration and Nationality Act
22 (8 U.S.C. 1101(a)(17)).

23 (7) INSTITUTION OF HIGHER EDUCATION.—The
24 term “institution of higher education” has the
25 meaning given the term in section 102 of the Higher

1 Education Act of 1965 (20 U.S.C. 1002), except
2 that the term does not include an institution of high-
3 er education outside of the United States.

4 (8) MILITARY-RELATED TERMS.—The terms
5 “active duty”, “active service”, “active status”, and
6 “armed forces” have the meanings given those terms
7 in section 101 of title 10, United States Code.

8 (9) APPLICABLE FEDERAL TAX LIABILITY.—
9 The term “applicable Federal tax liability” means li-
10 ability for Federal taxes imposed under the Internal
11 Revenue Code of 1986, including any penalties and
12 interest on such taxes.

13 (10) SECRETARY.—The term “Secretary”
14 means the Secretary of Homeland Security.

15 (11) SIGNIFICANT MISDEMEANOR.—The term
16 “significant misdemeanor” means—

17 (A) a criminal offense involving—

18 (i) domestic violence;

19 (ii) sexual abuse or exploitation, in-
20 cluding sexually explicit conduct involving
21 minors (as such terms are defined in sec-
22 tion 2256 of title 18, United States Code);

23 (iii) burglary;

24 (iv) unlawful possession or use of a
25 firearm;

1 (v) drug distribution or trafficking; or

2 (vi) driving under the influence or

3 driving while intoxicated; or

4 (B) any other misdemeanor for which the

5 individual was sentenced to a term of imprison-

6 ment of not less than 90 days (excluding a sus-

7 pended sentence).

8 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**

9 **LONG-TERM RESIDENTS WHO ENTERED THE**

10 **UNITED STATES AS CHILDREN.**

11 (a) SPECIAL RULE FOR CERTAIN LONG-TERM RESI-

12 DENTS WHO ENTERED THE UNITED STATES AS CHIL-

13 DREN.—

14 (1) IN GENERAL.—Notwithstanding any other

15 provision of law and except as otherwise provided in

16 this title, the Secretary may cancel the removal of

17 an alien who is inadmissible or deportable from the

18 United States and grant the alien conditional perma-

19 nent resident status under this title, if—

20 (A) the alien has been physically present in

21 the United States for a continuous period since

22 June 15, 2012;

23 (B) the alien was younger than 16 years of

24 age on the date on which the alien initially en-

25 tered the United States;

1 (C) on June 15, 2012, the alien—

2 (i) was younger than 31 years of age;

3 and

4 (ii) had no lawful status in the United
5 States;

6 (D) in the case of an alien who is 18 years
7 of age or older on the date of enactment of this
8 Act, the alien—

9 (i) meets the other requirements of
10 this section; and

11 (ii)(I) has, while in the United States,
12 earned a high school diploma, obtained a
13 general education development certificate
14 recognized under State law, or received a
15 high school equivalency diploma;

16 (II) has been admitted to an institu-
17 tion of higher education in the United
18 States; or

19 (III) has served, is serving, or has en-
20 listed in the Armed Forces of the United
21 States;

22 (E) in the case of an alien who is younger
23 than 18 years of age on the date of enactment
24 of this Act, the alien—

501

1 (i) meets the other requirements of
2 this section; and

3 (ii)(I) is attending, or has enrolled in,
4 a primary or secondary school; or

5 (II) is attending, or has enrolled in, a
6 postsecondary school;

7 (F) the alien has been a person of good
8 moral character (as defined in section 101(f) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1101(f))) since the date on which the alien ini-
11 tially entered the United States;

12 (G) the alien has paid any applicable Fed-
13 eral tax liability or has agreed to cure such li-
14 ability through a payment installment plan that
15 has been approved by the Internal Revenue
16 Service; and

17 (H) the alien, subject to paragraph (2)—

18 (i) is not inadmissible under para-
19 graph (1), (2), (3), (4), (6)(C), (6)(E), (8),
20 (9)(C), or (10) of section 212(a) of the Im-
21 migration and Nationality Act (8 U.S.C.
22 1182(a)), and is not inadmissible under
23 subparagraph (A) of section 212(a)(9) of
24 such Act (unless the Secretary determines
25 that the sole basis for the alien's removal

1 under such subparagraph was unlawful
2 presence under subparagraph (B) or (C) of
3 such section 212(a)(9));

4 (ii) is not deportable under paragraph
5 (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or
6 (6) of section 237(a) of the Immigration
7 and Nationality Act (8 U.S.C. 1227(a));

8 (iii) has not ordered, incited, assisted,
9 or otherwise participated in the persecution
10 of any person on account of race, religion,
11 nationality, membership in a particular so-
12 cial group, or political opinion; and

13 (iv) has not been convicted of—

14 (I) a felony under Federal or
15 State law, regardless of the sentence
16 imposed;

17 (II) any combination of offenses
18 under Federal or State law for which
19 the alien was sentenced to imprison-
20 ment for at least 1 year;

21 (III) a significant misdemeanor;
22 and

23 (I) the alien has never been under a final
24 administrative or judicial order of exclusion, de-
25 portation, or removal, unless the alien—

1 (i) has remained in the United States
2 under color of law after such final order
3 was issued; or

4 (ii) received the final order before at-
5 taining 18 years of age.

6 (2) WAIVER.—

7 (A) IN GENERAL.—The Secretary may
8 waive, on a case-by-case basis, a ground of in-
9 admissibility under paragraph (1), (4), (6)(B),
10 or (6)(E) of section 212(a) of the Immigration
11 and Nationality Act (8 U.S.C. 1182(a)), and a
12 ground of deportability under paragraph (A),
13 (B), (C), or (E) of section 237(a)(1) of such
14 Act (8 U.S.C. 1227(a)(1)) for humanitarian
15 purposes or if such waiver is otherwise in the
16 public interest.

17 (B) QUARTERLY REPORT.—Not later than
18 180 days after the date of the enactment of this
19 Act, and quarterly thereafter, the Secretary
20 shall submit a report to Congress that identi-
21 fies—

22 (i) the number of waivers under this
23 paragraph that were requested by aliens
24 during the preceding quarter;

1 (ii) the number of such requests that
2 were granted; and

3 (iii) the number of such requests that
4 were denied.

5 (3) PROCEDURES.—

6 (A) APPLICATION FOR AFFIRMATIVE RE-
7 LIEF.—

8 (i) IN GENERAL.—The Secretary shall
9 issue regulations that provide a procedure
10 for eligible individuals to affirmatively
11 apply for the relief available under this
12 subsection without being placed in removal
13 proceedings.

14 (ii) ELECTRONIC SUBMISSION.—An
15 alien shall submit electronically an applica-
16 tion for relief under this title that includes
17 all supporting documentation, in accord-
18 ance with the regulations issued under
19 clause (i).

20 (B) ACKNOWLEDGMENT TO BARS TO RE-
21 LIEF.—

22 (i) ACKNOWLEDGMENT OF NOTIFICA-
23 TION.—The regulations issued pursuant to
24 subparagraph (A) shall include a require-
25 ment that each alien applying for condi-

1 tional permanent resident status under this
2 title who is at least 18 years of age sign,
3 under penalty of perjury, an acknowledg-
4 ment confirming that the alien was notified
5 and understands that he or she will be in-
6 eligible for any form of relief or immigra-
7 tion benefit under this title or other immi-
8 gration laws other than withholding of re-
9 moval under section 241(b)(3), or relief
10 from removal based on a claim under the
11 Convention Against Torture and Other
12 Cruel, Inhuman or Degrading Treatment
13 or Punishment, done at New York, Decem-
14 ber 10, 1984, if the alien violates a term
15 for conditional permanent resident status
16 under this title.

17 (ii) EXCEPTION.—Notwithstanding an
18 acknowledgment under clause (ii), the Sec-
19 retary may allow an alien who violated the
20 terms of conditional permanent resident
21 status (other than a criminal alien or an
22 alien deemed to be a national security or
23 public safety risk) to seek relief from re-
24 moval if the Secretary determines that
25 such relief is warranted for humanitarian

1 purposes or if otherwise in the public inter-
2 est.

3 (iii) JUDICIAL REVIEW.—Notwith-
4 standing any other provision of law (statu-
5 tory or nonstatutory), including section
6 2241 of title 28, United States Code, any
7 other habeas corpus provision, and sections
8 1361 and 1651 of such title, no court shall
9 have jurisdiction to review a determination
10 by the Secretary under clause (ii).

11 (4) SUBMISSION OF BIOMETRIC AND BIO-
12 GRAPHIC DATA.—

13 (A) IN GENERAL.—The Secretary may not
14 cancel the removal of, or grant conditional per-
15 manent resident status to, an alien under this
16 title before the date on which—

17 (i) the alien submits biometric and
18 biographic data, in accordance with proce-
19 dures established by the Secretary; and

20 (ii) the Secretary receives and reviews
21 the results of the background and security
22 checks of the alien under paragraph (5).

23 (B) ALTERNATIVE PROCEDURE.—The Sec-
24 retary shall provide an alternative procedure for
25 any applicant who is unable to provide the bio-

1 metric or biographic data referred to in sub-
2 paragraph (A) due to a physical disability or
3 impairment.

4 (5) BACKGROUND CHECKS.—

5 (A) REQUIREMENT FOR BACKGROUND
6 CHECKS.—The Secretary shall utilize biometric,
7 biographic, and other data that the Secretary
8 determines to be appropriate, including infor-
9 mation obtained pursuant to subparagraph
10 (C)—

11 (i) to conduct security and law en-
12 forcement background checks of an alien
13 seeking relief under this subsection; and

14 (ii) to determine whether there is any
15 criminal, national security, or other factor
16 that would render the alien ineligible for
17 such relief.

18 (B) COMPLETION OF BACKGROUND
19 CHECKS.—The security and law enforcement
20 background checks required under subpara-
21 graph (A) shall be completed, to the satisfaction
22 of the Secretary, before the date on which the
23 Secretary cancels the removal of an alien under
24 this title.

1 (C) CRIMINAL RECORD REQUESTS.—The
2 Secretary, in cooperation with the Secretary of
3 State, shall seek to obtain information about
4 any criminal activity the alien engaged in, or
5 for which the alien was convicted in his or her
6 country of nationality, country of citizenship, or
7 country of last habitual residence, from
8 INTERPOL, EUROPOL, or any other inter-
9 national or national law enforcement agency of
10 the alien’s country of nationality, country of
11 citizenship, or country of last habitual resi-
12 dence.

13 (6) MEDICAL EXAMINATION.—An alien applying
14 for relief available under this subsection shall under-
15 go a medical examination conducted by a designated
16 civil surgeon pursuant to procedures established by
17 the Secretary.

18 (7) MILITARY SELECTIVE SERVICE.—An alien
19 applying for relief available under this subsection
20 shall establish that the alien has registered for the
21 Selective Service under the Military Selective Service
22 Act (50 U.S.C. App. 451 et seq.) if the alien is sub-
23 ject to such registration requirement under such
24 Act.

1 (8) TREATMENT OF EXPUNGED CONVIC-
2 TIONS.—

3 (A) IN GENERAL.—The Secretary shall
4 evaluate expunged convictions on a case-by-case
5 basis according to the nature and severity of
6 the offense to determine whether, under the
7 particular circumstances, an alien may be eligi-
8 ble for—

9 (i) conditional permanent resident sta-
10 tus under this title;

11 (ii) removal of the conditional basis of
12 the permanent resident status under sec-
13 tion 3005; or

14 (iii) adjustment to permanent resident
15 status under this title.

16 (B) JUDICIAL REVIEW.—Notwithstanding
17 any other provision of law (statutory or non-
18 statutory), including section 2241 of title 28,
19 United States Code, any other habeas corpus
20 provision, and sections 1361 and 1651 of such
21 title, no court shall have jurisdiction to review
22 a determination by the Secretary under sub-
23 paragraph (A).

24 (b) TERMINATION OF CONTINUOUS PERIOD.—For
25 purposes of this section, any period of continuous resi-

1 dence or continuous physical presence in the United States
2 of an alien who applies for cancellation of removal under
3 subsection (a) shall not terminate when the alien is served
4 a notice to appear under section 239(a) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1229(a)).

6 (c) TREATMENT OF CERTAIN BREAKS IN PRES-
7 ENCE.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), an alien shall be considered to have failed
10 to maintain continuous physical presence in the
11 United States under subsection (a)(1)(A) if the alien
12 has departed from the United States for—

13 (A) any period exceeding 90 days; or

14 (B) any periods exceeding 180 days, in the
15 aggregate, during a 5-year period.

16 (2) EXTENSIONS FOR EXCEPTIONAL CIR-
17 CUMSTANCES.—The Secretary may extend the peri-
18 ods described in paragraph (1) by 90 days if the
19 alien demonstrates that the failure to timely return
20 to the United States was due to exceptional cir-
21 cumstances. The exceptional circumstances deter-
22 mined sufficient to justify an extension should be
23 not less compelling than the serious illness of the
24 alien, or the death or serious illness of the alien's
25 parent, grandparent, sibling, or child.

1 (3) EXCEPTION FOR MILITARY SERVICE.—Any
2 time spent outside of the United States that is due
3 to the alien’s active service in the Armed Forces of
4 the United States shall not be counted towards the
5 time limits set forth in paragraph (1).

6 (d) RULEMAKING.—

7 (1) INITIAL PUBLICATION.—Not later than 180
8 days after the date of enactment of this Act, the
9 Secretary shall publish regulations implementing this
10 section.

11 (2) INTERIM REGULATIONS.—Notwithstanding
12 section 553 of title 5, United States Code, the regu-
13 lations required under paragraph (1) shall be effec-
14 tive, on an interim basis, immediately upon publica-
15 tion but may be subject to change and revision after
16 public notice and opportunity for a period of public
17 comment.

18 (3) FINAL REGULATIONS.—Within a reasonable
19 time after publication of the interim regulations
20 under paragraph (1), the Secretary shall publish
21 final regulations implementing this section.

22 (e) REMOVAL OF ALIEN.—The Secretary may not
23 seek to remove an alien who establishes prima facie eligi-
24 bility for cancellation of removal and conditional perma-
25 nent resident status under this title until the alien has

1 been provided with a reasonable opportunity to file an ap-
2 plication for conditional permanent resident status under
3 this title.

4 **SEC. 3004. CONDITIONAL PERMANENT RESIDENT STATUS.**

5 (a) INITIAL LENGTH OF STATUS.—Conditional per-
6 manent resident status granted to an alien under this title
7 shall be valid—

8 (1) for an initial period of 7 years, subject to
9 termination under subsection (c), if applicable; and

10 (2) if the alien will not reach 18 years of age
11 before the end of the period described in paragraph
12 (1), until the alien reaches 18 years of age.

13 (b) TERMS OF CONDITIONAL PERMANENT RESIDENT
14 STATUS.—

15 (1) EMPLOYMENT.—A conditional permanent
16 resident may—

17 (A) be employed in the United States inci-
18 dent to conditional permanent resident status
19 under this title; and

20 (B) enlist in the Armed Forces of the
21 United States in accordance with section
22 504(b)(1)(D) of title 10, United States Code.

23 (2) TRAVEL.—A conditional permanent resident
24 may travel outside the United States and may be ad-
25 mitted (if otherwise admissible) upon returning to

1 the United States without having to obtain a visa
2 if—

3 (A) the alien is the bearer of valid, unex-
4 pired documentary evidence of conditional per-
5 manent resident status under this title; and

6 (B) the alien's absence from the United
7 States—

8 (i) was not for a period of 180 days
9 or longer, or for multiple periods exceeding
10 180 days in the aggregate; or

11 (ii) was due to active service in the
12 Armed Forces of the United States.

13 (c) TERMINATION OF STATUS.—The Secretary shall
14 immediately terminate the conditional permanent resident
15 status of an alien under this title—

16 (1) in the case of an alien who is 18 years of
17 age or older, if the Secretary determines that the
18 alien is a postsecondary student who was admitted
19 to an accredited institution of higher education in
20 the United States, but failed to enroll in such insti-
21 tution within 1 year after the date on which the
22 alien was granted conditional permanent resident
23 status under this title or to remain so enrolled;

24 (2) in the case of an alien who is younger than
25 18 years of age, if the Secretary determines that the

1 alien enrolled in a primary or secondary school as a
2 full-time student, but has failed to attend such
3 school for a period exceeding 1 year during the 7-
4 year period beginning on the date on which the alien
5 was granted conditional permanent resident status
6 under this title;

7 (3) in the case of an alien who was granted
8 conditional permanent resident status under this
9 title as an enlistee, if the alien—

10 (A) failed to complete basic training and
11 begin active duty service or service in Selected
12 Ready Reserve of the Ready Reserve of the
13 Armed Forces of the United States within 1
14 year after the date on which the alien was
15 granted conditional permanent resident status
16 under this title; or

17 (B) has received a dishonorable or other
18 than honorable discharge from the Armed
19 Forces of the United States;

20 (4) if the alien was granted conditional perma-
21 nent resident status under this title as a result of
22 fraud or misrepresentation;

23 (5) if the alien ceases to meet a requirement
24 under subparagraph (F), (G), (H), or (I) of section
25 3003(a)(1);

1 (6) if the alien violated a term or condition of
2 his or her conditional resident status;

3 (7) if the alien has become a public charge;

4 (8) if the alien has not maintained employment
5 in the United States for a period of at least 1 year
6 since the alien was granted conditional permanent
7 resident status under this title and while the alien
8 was not enrolled as a student in a postsecondary
9 school or institution of higher education or serving
10 in the Armed Forces of the United States; or

11 (9) if the alien has not completed a combination
12 of employment, military service, or postsecondary
13 school totaling 48 months during the 7-year period
14 beginning on the date on which the alien was grant-
15 ed conditional permanent resident status under this
16 title.

17 (d) RETURN TO PREVIOUS IMMIGRATION STATUS.—
18 The immigration status of an alien the conditional perma-
19 nent resident status of whom is terminated under sub-
20 section (c) shall return to the immigration status of the
21 alien on the day before the date on which the alien re-
22 ceived conditional permanent resident status under this
23 title.

24 (e) EXTENSION OF CONDITIONAL PERMANENT RESI-
25 DENT STATUS.—The Secretary shall extend the condi-

1 tional permanent resident status of an alien granted such
2 status under this title for an additional 5 years beyond
3 the period specified in subsection (a) if the alien—

4 (1) has demonstrated good moral character dur-
5 ing the entire period the alien has been a conditional
6 permanent resident under this title;

7 (2) is in compliance with section 3003(a)(1);

8 (3) has not abandoned the alien's residence in
9 the United States by being absent from the United
10 States for a period of 180 days, or multiple periods
11 of at least 180 days, in the aggregate, during the pe-
12 riod of conditional permanent resident status under
13 this title;

14 (4) does not have any delinquent tax liabilities;

15 (5) has not received any Federal public benefit;

16 and

17 (6) while the alien has been a conditional per-
18 manent resident under this title—

19 (A) has graduated from an accredited in-
20 stitution of higher education in the United
21 States;

22 (B) has attended a postsecondary school
23 for not less than 8 semesters;

24 (C)(i) has served as a member of a regular
25 or reserve component of the Armed Forces of

1 the United States in an active duty status for
2 at least 3 years; and

3 (ii) if discharged from such service, re-
4 ceived an honorable discharge; or

5 (D) has attended a postsecondary school,
6 served in the Armed Forces of the United
7 States, or maintained employment in the
8 United States for a cumulative total of not less
9 than 48 months.

10 **SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR PERMA-**
11 **NENT RESIDENCE.**

12 (a) IN GENERAL.—An alien who has been a condi-
13 tional permanent resident under this title for at least 7
14 years may file an application with the Secretary, in ac-
15 cordance with subsection (c), to remove the conditional
16 basis on permanent residence and to have the alien's sta-
17 tus adjusted to that of an alien lawfully admitted for per-
18 manent residence. The application shall include the re-
19 quired fee and shall be filed in accordance with the proce-
20 dures established by the Secretary.

21 (b) ADJUDICATION OF APPLICATION FOR ADJUST-
22 MENT OF STATUS.—

23 (1) ADJUSTMENT OF STATUS IF FAVORABLE
24 DETERMINATION.—If the Secretary determines that
25 an alien who filed an application under subsection

1 (a) meets the requirements described in subsection
2 (d), the Secretary shall—

3 (A) notify the alien of such determination;
4 and

5 (B) adjust the alien's status to that of an
6 alien lawfully admitted for permanent residence.

7 (2) TERMINATION IF ADVERSE DETERMINA-
8 TION.—If the Secretary determines that an alien
9 who files an application under subsection (a) does
10 not meet the requirements described in subsection
11 (d), the Secretary shall—

12 (A) notify the alien of such determination;
13 and

14 (B) terminate the conditional permanent
15 resident status of the alien.

16 (c) TIME TO FILE APPLICATION.—

17 (1) IN GENERAL.—Applications for adjustment
18 of status described in subsection (a) shall be filed
19 during the period—

20 (A) beginning 180 days before the expira-
21 tion of the 7-year period of conditional perma-
22 nent resident status under this title; and

23 (B) ending—

24 (i) 7 years after the date on which
25 conditional permanent resident status was

1 initially granted to the alien under this
2 title; or

3 (ii) after the conditional basis on such
4 status has been removed.

5 (2) STATUS DURING PENDENCY.—An alien
6 shall be deemed to be in conditional permanent resi-
7 dent status in the United States during the period
8 in which an application filed by the alien under sub-
9 section (a) is pending.

10 (d) CONTENTS OF APPLICATION.—

11 (1) IN GENERAL.—Each application filed by an
12 alien under subsection (a) shall contain information
13 to permit the Secretary to determine whether the
14 alien—

15 (A) has been a conditional permanent resi-
16 dent under this title for at least 7 years;

17 (B) has demonstrated good moral char-
18 acter during the entire period the alien has
19 been a conditional permanent resident under
20 this title;

21 (C) is in compliance with section
22 3003(a)(1); and

23 (D) has not abandoned the alien's resi-
24 dence in the United States.

1 (2) PRESUMPTIONS.—For purposes of para-
2 graph (1)—

3 (A) the Secretary shall presume that an
4 alien has abandoned the alien's residence in the
5 United States if the alien is absent from the
6 United States for more than 365 days, in the
7 aggregate, during the period of conditional per-
8 manent resident status under this title, unless
9 the alien demonstrates that the alien has not
10 abandoned the alien's residence; and

11 (B) an alien who is absent from the United
12 States due to active service in the Armed
13 Forces of the United States has not abandoned
14 the alien's residence in the United States dur-
15 ing the period of such service.

16 (e) CITIZENSHIP REQUIREMENT.—

17 (1) IN GENERAL.—Except as provided in para-
18 graph (2), an alien granted conditional permanent
19 resident status under this title may not have the
20 conditional basis for permanent residency removed
21 or be adjusted to permanent resident status unless
22 the alien demonstrates to the satisfaction of the Sec-
23 retary that the alien satisfies the requirements under
24 section 312(a)(1) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1423(a)(1)).

1 (2) EXCEPTION.—Paragraph (1) shall not
2 apply to an alien whom the Secretary determines is
3 unable because of a physical or developmental dis-
4 ability or mental impairment to meet the require-
5 ments of such paragraph. The Secretary, in coordi-
6 nation with the Secretary of Health and Human
7 Services and the Surgeon General, shall establish
8 procedures for making determinations under this
9 subsection.

10 (f) PAYMENT OF FEDERAL TAXES.—Not later than
11 the date on which an application for adjustment of status
12 is filed under subsection (a), the alien shall satisfy any
13 applicable Federal tax liability due and owing on such
14 date.

15 (g) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
16 DATA.—

17 (1) IN GENERAL.—The Secretary may not ad-
18 just the status of an alien under this section unless
19 the alien submits biometric and biographic data, in
20 accordance with procedures established by the Sec-
21 retary.

22 (2) ALTERNATIVE PROCEDURE.—The Secretary
23 shall provide an alternative procedure for an appli-
24 cant who is unable to provide the biometric or bio-

1 graphic data referred to in paragraph (1) due to a
2 physical disability or impairment.

3 (h) BACKGROUND CHECKS.—

4 (1) REQUIREMENT FOR BACKGROUND
5 CHECKS.—The Secretary shall utilize biometric, bio-
6 graphic, and other data that the Secretary deter-
7 mines to be appropriate—

8 (A) to conduct security and law enforce-
9 ment background checks of an alien applying
10 for adjustment of status under this section; and

11 (B) to determine whether there is any
12 criminal, national security, or other factor that
13 would render the alien ineligible for such ad-
14 justment of status.

15 (2) COMPLETION OF BACKGROUND CHECKS.—
16 The security and law enforcement background
17 checks required under paragraph (1) shall be com-
18 pleted with respect to an alien, to the satisfaction of
19 the Secretary, before the date on which the Sec-
20 retary makes a decision on the application for ad-
21 justment of status of the alien.

22 (i) EXEMPTION FROM NUMERICAL LIMITATIONS.—
23 Nothing in this section or in any other law may be con-
24 strued to apply a numerical limitation on the number of

1 aliens who may be eligible for adjustment of status under
2 this section.

3 (j) TREATMENT OF ALIENS MEETING REQUIRE-
4 MENTS FOR EXTENSION OF CONDITIONAL PERMANENT
5 RESIDENT STATUS.—If an alien has satisfied all of the
6 requirements under section 3003(a)(1) as of the date of
7 enactment of this Act, the Secretary may cancel the re-
8 moval of the alien and permit the alien to apply for condi-
9 tional permanent resident status under this title. After the
10 initial period of conditional permanent resident status de-
11 scribed in section 3004(a), the Secretary shall extend such
12 alien’s conditional permanent resident status and permit
13 the alien to apply for adjustment of status in accordance
14 with subsection (a) if the alien has met the requirements
15 under section 3004(e) during the entire period of condi-
16 tional permanent resident status under this title.

17 **SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS GRANTED**
18 **CONDITIONAL PERMANENT RESIDENT STA-**
19 **TUS.**

20 Notwithstanding any other provision of law, nothing
21 in this title may be construed to provide a spouse, parent,
22 child, or other family member of an alien granted condi-
23 tional permanent resident status or lawful permanent resi-
24 dent status under this title with any immigration benefit

1 or special consideration for such relatives to be admitted
2 into or remain in the United States.

3 **SEC. 3007. EXCLUSIVE JURISDICTION.**

4 (a) SECRETARY OF HOMELAND SECURITY.—Except
5 as provided in subsection (b), the Secretary shall have ex-
6 clusive jurisdiction to determine eligibility for relief under
7 this title. If a final order of deportation, exclusion, or re-
8 moval is entered, the Secretary shall resume all powers
9 and duties delegated to the Secretary under this title. If
10 a final order is entered before relief is granted under this
11 title, the Attorney General shall terminate such order only
12 after the alien has been granted conditional permanent
13 resident status under this title.

14 (b) ATTORNEY GENERAL.—The Attorney General
15 shall have exclusive jurisdiction to determine eligibility for
16 relief under this title for any alien who has been placed
17 into deportation, exclusion, or removal proceedings, wheth-
18 er such placement occurred before or after the alien filed
19 an application for cancellation of removal and conditional
20 permanent resident status or adjustment of status under
21 this title. Such exclusive jurisdiction shall continue until
22 such proceedings are terminated.

23 **SEC. 3008. CONFIDENTIALITY OF INFORMATION.**

24 (a) PROHIBITION.—Except as provided in subsection
25 (b), an officer or employee of the United States may not—

1 (1) use the information provided by an indi-
2 vidual pursuant to an application filed under this
3 title to initiate removal proceedings against any per-
4 son identified in the application;

5 (2) make any publication whereby the informa-
6 tion provided by any particular individual pursuant
7 to an application under this title can be identified;
8 or

9 (3) permit anyone other than an officer or em-
10 ployee of the United States Government to examine
11 such application filed under this title.

12 (b) **REQUIRED DISCLOSURE.**—The Attorney General
13 or the Secretary shall disclose the information provided
14 by an individual under this title and any other information
15 derived from such information to—

16 (1) a Federal, State, Tribal, or local law en-
17 forcement agency, intelligence agency, national secu-
18 rity agency, component of the Department of Home-
19 land Security, court, or grand jury in connection
20 with an administrative, civil, or criminal investiga-
21 tion or prosecution, a background check conducted
22 pursuant to the Brady Handgun Violence Protection
23 Act (Public Law 103–159; 107 Stat. 1536) or an
24 amendment made by that Act, or for homeland secu-
25 rity or national security purposes, if such informa-

1 tion is requested by such entity or consistent with an
2 information sharing agreement or mechanism;

3 (2) an official coroner for purposes of affirma-
4 tively identifying a deceased individual (whether or
5 not such individual is deceased as a result of a
6 crime); or

7 (3) the Bureau of the Census in the same man-
8 ner and circumstances as the information may be
9 disclosed under section 8 of title 13, United States
10 Code.

11 (c) FRAUD IN APPLICATION PROCESS OR CRIMINAL
12 CONDUCT.—Nothing in this section may be construed to
13 prevent the disclosure and use of information provided by
14 an alien under this title to determine whether an alien
15 seeking relief under this title has engaged in fraud in an
16 application for such relief or at any time committed a
17 crime from being used or released for immigration en-
18 forcement, law enforcement, or national security purposes.

19 (d) SUBSEQUENT APPLICATIONS FOR IMMIGRATION
20 BENEFITS.—The Secretary may use the information pro-
21 vided by an individual pursuant to an application filed
22 under this title to adjudicate an application, petition, or
23 other request for an immigration benefit made by the indi-
24 vidual on a date after the date on which the individual
25 filed the application under this title.

1 (e) PENALTY.—Any person who knowingly uses, pub-
2 lishes, or permits information to be examined in violation
3 of this section shall be fined not more than \$10,000.

4 **SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR CON-**
5 **DITIONAL PERMANENT RESIDENTS.**

6 An individual who has met the requirements under
7 section 3005 for adjustment from conditional permanent
8 resident status to lawful permanent resident status shall
9 be considered, as of the date of such adjustment, to have
10 completed the 5-year eligibility waiting period under sec-
11 tion 403 of the Personal Responsibility and Work Oppor-
12 tunity Reconciliation Act of 1996 (8 U.S.C. 1613).

13 **SEC. 3010. GAO REPORT.**

14 Not later than 7 years after the date of the enact-
15 ment of this Act, the Comptroller General of the United
16 States shall submit a report to the Committee on the Judi-
17 ciary of the Senate and the Committee on the Judiciary
18 of the House of Representatives that sets forth—

19 (1) the number of aliens who were eligible for
20 cancellation of removal and grant of conditional per-
21 manent resident status under section 3003(a);

22 (2) the number of aliens who applied for can-
23 cellation of removal and grant of conditional perma-
24 nent resident status under section 3003(a);

1 (3) the number of aliens who were granted con-
2 ditional permanent resident status under section
3 3003(a); and

4 (4) the number of aliens whose status was ad-
5 justed to that of an alien lawfully admitted for per-
6 manent residence pursuant to section 3005.

7 **SEC. 3011. MILITARY ENLISTMENT.**

8 Section 504(b)(1) of title 10, United States Code, is
9 amended by adding at the end the following:

10 “(D) An alien who is a conditional perma-
11 nent resident (as defined in section 3002 of the
12 SUCCEED Act).”.

13 **SEC. 3012. ELIGIBILITY FOR NATURALIZATION.**

14 Notwithstanding sections 319(b), 328, and 329 of the
15 Immigration and Nationality Act (8 U.S.C. 1430(b),
16 1439, and 1440), an alien whose status is adjusted under
17 section 3005 to that of an alien lawfully admitted for per-
18 manent residence may apply for naturalization under
19 chapter 2 of title III of the Immigration and Nationality
20 Act (8 U.S.C. 310 et seq.) not earlier than 7 years after
21 such adjustment of status.

22 **SEC. 3013. FUNDING.**

23 (a) DEPARTMENT OF HOMELAND SECURITY IMMI-
24 GRATION REFORM IMPLEMENTATION ACCOUNT.—

1 (1) IN GENERAL.—There is established in the
2 Treasury a separate account, which shall be known
3 as the “Department of Homeland Security Immigra-
4 tion Reform Implementation Account” (referred to
5 in this section as the “Implementation Account”).

6 (2) AUTHORIZATION AND APPROPRIATIONS.—
7 There are appropriated to the Implementation Ac-
8 count, out of any funds in the Treasury not other-
9 wise appropriated, \$400,000,000, which shall remain
10 available until September 30, 2022.

11 (3) USE OF APPROPRIATIONS.—The Secretary
12 is authorized to use funds appropriated to the Im-
13 plementation Account to pay for one-time and start-
14 up costs necessary to implement this title, including,
15 but not limited to—

16 (A) personnel required to process applica-
17 tions and petitions;

18 (B) equipment, information technology sys-
19 tems, infrastructure, and human resources;

20 (C) outreach to the public, including devel-
21 opment and promulgation of any regulations,
22 rules, or other public notice; and

23 (D) anti-fraud programs and actions re-
24 lated to implementation of this title.

1 (4) REPORTING.—Not later than 180 days after
2 the date of the enactment of this Act, the Secretary
3 shall submit a plan to the Committee on Appropria-
4 tions of the Senate, the Committee on the Judiciary
5 of the Senate, the Committee on Appropriations of
6 the House of Representatives, and the Committee on
7 the Judiciary of the House of Representatives for
8 spending the funds appropriated under paragraph
9 (2) that describes how such funds will be obligated
10 in each fiscal year, by program.

11 (b) DEPOSIT AND USE OF PROCESSING FEES.—

12 (1) REPAYMENT OF STARTUP COSTS.—Notwith-
13 standing section 286(m) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1356(m)), 75 percent of fees
15 collected under this title shall be deposited monthly
16 in the general fund of the Treasury until the fund-
17 ing provided by subsection (a)(2) has been repaid.

18 (2) DEPOSIT IN THE IMMIGRATION EXAMINA-
19 TIONS FEE ACCOUNT.—Fees collected under this
20 title in excess of the amount referenced in paragraph
21 (1) shall be deposited in the Immigration Examina-
22 tions Fee Account, pursuant to section 286(m) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1356(m)), and shall remain available until expended

1 pursuant to section 286(n) of such Act (8 U.S.C.
2 1356(n)).

3 **TITLE IV—ENSURING FAMILY**
4 **REUNIFICATION**

5 **SEC. 4001. SHORT TITLE.**

6 This title may be cited as the “Ensuring Family Re-
7 unification Act of 2018”.

8 **SEC. 4002. FAMILY-SPONSORED IMMIGRATION PRIORITIES.**

9 (a) REDEFINITION OF IMMEDIATE RELATIVE.—The
10 Immigration and Nationality Act (8 U.S.C. 1101 et seq.)
11 is amended—

12 (1) in section 101(b)(1), in the matter pre-
13 ceding subparagraph (A), by striking “under twenty-
14 one years of age who” and inserting “who is younger
15 than 18 years of age and”; and

16 (2) in section 201 (8 U.S.C. 1151)—

17 (A) in subsection (b)(2)(A)—

18 (i) in clause (i), by striking “children,
19 spouses, and parents of a citizen of the
20 United States, except that, in the case of
21 parents, such citizens shall be at least 21
22 years of age.” and inserting “children and
23 spouse of a citizen of the United States.”;
24 and

1 (ii) in clause (ii), by striking “such an
2 immediate relative” and inserting “the im-
3 mediate relative spouse of a United States
4 citizen”;

5 (B) by amending subsection (c) to read as
6 follows:

7 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED
8 IMMIGRANTS.—(1) The worldwide level of family-spon-
9 sored immigrants under this subsection for a fiscal year
10 is equal to 39 percent of 226,000 minus the number com-
11 puted under paragraph (2).

12 “(2) The number computed under this paragraph for
13 a fiscal year is the number of aliens who were paroled into
14 the United States under section 212(d)(5) in the second
15 preceding fiscal year who—

16 “(A) did not depart from the United States
17 (without advance parole) within 1 year; and

18 “(B)(i) did not acquire the status of an alien
19 lawfully admitted to the United States for perma-
20 nent residence during the 2 preceding fiscal years;
21 or

22 “(ii) acquired such status during such period
23 under a provision of law (other than subsection (b))
24 that exempts adjustment to such status from the nu-

1 merical limitation on the worldwide level of immigra-
2 tion under this section.”; and

3 (C) in subsection (f)—

4 (i) in paragraph (2), by striking “sec-
5 tion 203(a)(2)(A)” and inserting “section
6 203(a)”;

7 (ii) by striking paragraph (3);

8 (iii) by redesignating paragraph (4) as
9 paragraph (3); and

10 (iv) in paragraph (3), as redesignated,
11 by striking “(1) through (3)” and inserting
12 “(1) and (2)”.

13 (b) FAMILY-BASED VISA PREFERENCES.—Section
14 203(a) of the Immigration and Nationality Act (8 U.S.C.
15 1153(a)) is amended to read as follows:

16 “(a) SPOUSES AND MINOR CHILDREN OF PERMA-
17 NENT RESIDENT ALIENS.—Family-sponsored immigrants
18 described in this subsection are qualified immigrants who
19 are the spouse or a child of an alien lawfully admitted
20 for permanent residence.”.

21 (c) CONFORMING AMENDMENTS.—

22 (1) DEFINITION OF V NONIMMIGRANT.—Section
23 101(a)(15)(V) of the Immigration and Nationality
24 Act (8 U.S.C. 1101(a)(15)(V)) is amended by strik-

1 ing “section 203(a)(2)(A)” each place such term ap-
2 pears and inserting “section 203(a)”.

3 (2) NUMERICAL LIMITATION TO ANY SINGLE
4 FOREIGN STATE.—Section 202 of such Act (8
5 U.S.C. 1152) is amended—

6 (A) in subsection (a)(4)—

7 (i) by striking subparagraphs (A) and
8 (B) and inserting the following:

9 “(A) 75 PERCENT OF FAMILY-SPONSORED
10 IMMIGRANTS NOT SUBJECT TO PER COUNTRY
11 LIMITATION.—Of the visa numbers made avail-
12 able under section 203(a) in any fiscal year, 75
13 percent shall be issued without regard to the
14 numerical limitation under paragraph (2).

15 “(B) TREATMENT OF REMAINING 25 PER-
16 CENT FOR COUNTRIES SUBJECT TO SUB-
17 SECTION (e).—

18 “(i) IN GENERAL.—Of the visa num-
19 bers made available under section 203(a)
20 in any fiscal year, 25 percent shall be
21 available, in the case of a foreign state or
22 dependent area that is subject to sub-
23 section (e) only to the extent that the total
24 number of visas issued in accordance with
25 subparagraph (A) to natives of the foreign

1 state or dependent area is less than the
2 subsection (e) ceiling.

3 “(ii) SUBSECTION (e) CEILING DE-
4 FINED.—In clause (i), the term ‘subsection
5 (e) ceiling’ means, for a foreign state or
6 dependent area, 77 percent of the max-
7 imum number of visas that may be made
8 available under section 203(a) to immi-
9 grants who are natives of the state or area,
10 consistent with subsection (e).”; and

11 (ii) by striking subparagraphs (C) and
12 (D); and
13 (B) in subsection (e)—

14 (i) in paragraph (1), by adding “and”
15 at the end;

16 (ii) by striking paragraph (2);

17 (iii) by redesignating paragraph (3) as
18 paragraph (2); and

19 (iv) in the undesignated matter after
20 paragraph (2), as redesignated, by striking
21 “, respectively,” and all that follows and
22 inserting a period.

23 (3) RULES FOR DETERMINING WHETHER CER-
24 TAIN ALIENS ARE CHILDREN.—Section 203(h) of the
25 Immigration and Nationality Act (8 U.S.C. 1153(h))

1 is amended by striking “(a)(2)(A)” each place such
2 term appears and inserting “(a)(2)”.

3 (4) PROCEDURE FOR GRANTING IMMIGRANT
4 STATUS.—Section 204 of such Act (8 U.S.C. 1154)
5 is amended—

6 (A) in subsection (a)(1)—

7 (i) in subparagraph (A)(i), by striking
8 “to classification by reason of a relation-
9 ship described in paragraph (1), (3), or (4)
10 of section 203(a) or”;

11 (ii) in subparagraph (B), by striking
12 “203(a)(2)(A)” each place such term ap-
13 pears and inserting “203(a)”; and

14 (iii) in subparagraph (D)(i)(I), by
15 striking “a petitioner” and all that follows
16 through “(a)(1)(B)(iii).” and inserting “an
17 individual younger than 21 years of age for
18 purposes of adjudicating such petition and
19 for purposes of admission as an immediate
20 relative under section 201(b)(2)(A)(i) or a
21 family-sponsored immigrant under section
22 203(a), as appropriate, notwithstanding
23 the actual age of the individual.”;

24 (B) in subsection (f)(1), by striking “,
25 203(a)(1), or 203(a)(3), as appropriate”; and

1 (C) by striking subsection (k).

2 (5) WAIVERS OF INADMISSIBILITY.—Section
3 212 of the Immigration and Nationality Act (8
4 U.S.C. 1182) is amended—

5 (A) in subsection (a)(6)(E)(ii), by striking
6 “section 203(a)(2)” and inserting “section
7 203(a)”;

8 (B) in subsection (d)(11), by striking
9 “(other than paragraph (4) thereof)”.

10 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Sec-
11 tion 214(q)(1)(B)(i) of such Act (8 U.S.C.
12 1184(q)(1)(B)(i)) is amended by striking “section
13 203(a)(2)(A)” each place such term appears and in-
14 serting “section 203(a)”.

15 (7) DEFINITION OF ALIEN SPOUSE.—Section
16 216(h)(1)(C) of such Act (8 U.S.C. 1186a(h)(1)(C))
17 is amended by striking “section 203(a)(2)” and in-
18 serting “section 203(a)”.

19 (8) CLASSES OF DEPORTABLE ALIENS.—Sec-
20 tion 237(a)(1)(E)(ii) of such Act (8 U.S.C.
21 1227(a)(1)(E)(ii)) is amended by striking “section
22 203(a)(2)” and inserting “section 203(a)”.

23 (d) CREATION OF NONIMMIGRANT CLASSIFICATION
24 FOR ALIEN PARENTS OF ADULT UNITED STATES CITI-
25 ZENS.—

1 (1) IN GENERAL.—Section 101(a)(15) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(15)) is amended—

4 (A) in subparagraph (T)(ii)(III), by strik-
5 ing the period at the end and inserting a semi-
6 colon;

7 (B) in subparagraph (U)(iii), by striking
8 “or” at the end;

9 (C) in subparagraph (V)(ii)(II), by striking
10 the period at the end and inserting “; or”; and

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

12 “(W) Subject to section 214(s), an alien who is
13 a parent of a citizen of the United States, if the cit-
14 izen is at least 21 years of age.”.

15 (2) CONDITIONS ON ADMISSION.—Section 214
16 of the Immigration and Nationality Act (8 U.S.C.
17 1184) is amended by adding at the end the fol-
18 lowing:

19 “(s)(1) The initial period of authorized admission for
20 a nonimmigrant described in section 101(a)(15)(W) shall
21 be 5 years, but may be extended by the Secretary of
22 Homeland Security for additional 5-year periods if the
23 United States citizen son or daughter of the nonimmigrant
24 is still residing in the United States.

1 “(2) A nonimmigrant described in section
2 101(a)(15)(W)—

3 “(A) is not authorized to be employed in the
4 United States; and

5 “(B) is not eligible for any Federal, State, or
6 local public benefit.

7 “(3) Regardless of the resources of a nonimmigrant
8 described in section 101(a)(15)(W), the United States cit-
9 izen son or daughter who sponsored the nonimmigrant
10 parent shall be responsible for the nonimmigrant’s support
11 while the nonimmigrant resides in the United States.

12 “(4) An alien is ineligible to receive a visa or to be
13 admitted into the United States as a nonimmigrant de-
14 scribed in section 101(a)(15)(W) unless the alien provides
15 satisfactory proof that the United States citizen son or
16 daughter has arranged for health insurance coverage for
17 the alien, at no cost to the alien, during the anticipated
18 period of the alien’s residence in the United States.”.

19 (e) EFFECTIVE DATE; APPLICABILITY.—

20 (1) EFFECTIVE DATE.—The amendments made
21 by this section shall take effect on the date of enact-
22 ment of this Act.

23 (2) NEW PETITIONS.—

24 (A) IN GENERAL.—The Director of U. S.
25 Citizenship and Immigration Services shall only

1 accept new family-based petitions for spouses
2 and minor children of United States citizens
3 and lawful permanent residents under—

4 (i) section 201(b)(1)(A) of the Immi-
5 gration and Nationality Act (8 U.S.C.
6 1151(b)(1)(A)); or

7 (ii) subsection (a) or (b) of section
8 203 of such Act (8 U.S.C. 1153).

9 (B) LIMITATION.—The Director of U. S.
10 Citizenship and Immigration Services may not
11 accept any new family-based petition other than
12 a petition described in subparagraph (A).

13 (3) GRANDFATHERED PETITIONS AND VISAS.—
14 Notwithstanding the termination by this title of the
15 family-sponsored immigrant visa categories under
16 section 203(a) of the Immigration and Nationality
17 Act (8 U.S.C. 1153(a)) (as of the date before the
18 date of enactment of this Act), the amendments
19 made by this section shall not apply, and visas shall
20 remain available to, any alien who has—

21 (A) an approved family-based petition that
22 has not been terminated or revoked, or

23 (B) a properly-filed family-based petition
24 that is—

1 (i) pending with U.S. Citizenship and
2 Immigration Services; and

3 (ii) based on subsection (a) of section
4 203 of the Immigration and Nationality
5 Act (8 U.S.C. 1153(a)) (as in effect on the
6 day before the date of enactment of this
7 Act).

8 (4) AVAILABILITY OF VISAS FOR GRAND-
9 FATHERED PETITIONS.—The Secretary shall con-
10 tinue to allocate a sufficient number of visas in fam-
11 ily-sponsored immigrant visa categories until the
12 date on which a visa has been made available, in
13 conformance with the numeric and per country limi-
14 tations in effect on the day before the date of enact-
15 ment of this Act, to each beneficiary of an approved
16 or pending petition described in subparagraph (A) or
17 (B) of paragraph (3), if the beneficiary—

18 (A) indicates an intent to pursue the immi-
19 grant visa not later than 1 year after the date
20 on which the Secretary of State notifies the
21 beneficiary of the availability of the visa; and

22 (B) is otherwise qualified to receive a visa
23 under this Act.

1 (f) TERMINATION OF REGISTRATION.—Section
2 203(g) of the Immigration and Nationality Act (8 U.S.C.
3 1153(g)) is amended—

4 (1) by striking the second sentence;

5 (2) by striking the subsection designation and
6 heading and all that follows through “For purposes”
7 in the first sentence and inserting the following:

8 “(g) LISTS.—

9 “(1) IN GENERAL.—For purposes”; and

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

11 “(2) TERMINATION OF REGISTRATION.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (B), the Secretary of State shall
14 terminate the registration of any alien who fails
15 to apply for an immigrant visa within the 1-
16 year period beginning on the date on which the
17 Secretary of State notifies the alien of the avail-
18 ability of the immigrant visa.

19 “(B) EXCEPTION.—The Secretary of State
20 shall not terminate the registration of an alien
21 under subparagraph (A) if the alien dem-
22 onstrates that the failure of the alien to apply
23 for an immigrant visa during the period de-
24 scribed in that subparagraph was due to an ex-

1 tenuating circumstance beyond the control of
2 the alien.”.

3 **SEC. 4003. ELIMINATION OF DIVERSITY VISA PROGRAM.**

4 (a) IN GENERAL.—Section 203 of the Immigration
5 and Nationality Act (8 U.S.C. 1153) is amended—

6 (1) by striking subsection (c);

7 (2) by redesignating subsections (d), (e), (f),
8 (g), and (h) as subsections (c), (d), (e), (f), and (g),
9 respectively;

10 (3) in subsection (c), as redesignated, by strik-
11 ing “subsection (a), (b), or (c)” and inserting “sub-
12 section (a) or (b)”;

13 (4) in subsection (d), as redesignated—

14 (A) by striking paragraph (2); and

15 (B) by redesignating paragraph (3) as
16 paragraph (2);

17 (5) in subsection (e), as redesignated, by strik-
18 ing “subsection (a), (b), or (c) of this section” and
19 inserting “subsection (a) or (b)”;

20 (6) in subsection (f), as redesignated, by strik-
21 ing “subsections (a), (b), and (c)” and inserting
22 “subsections (a) and (b)”;

23 (7) in subsection (g), as redesignated—

24 (A) by striking “(d)” each place it appears
25 and inserting “(c)”;

1 (B) in paragraph (2)(B), by striking “sub-
2 section (a), (b), or (c)” and inserting “sub-
3 section (a) or (b)”.

4 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

5 (1) IMMIGRATION AND NATIONALITY ACT.—The
6 Immigration and Nationality Act (8 U.S.C. 1101 et
7 seq.) is amended—

8 (A) in section 101(a)(15)(V), by striking
9 “section 203(d)” and inserting “section
10 203(e)”;

11 (B) in section 201—

12 (i) in subsection (a)—

13 (I) in paragraph (1), by adding
14 “and” at the end;

15 (II) in paragraph (2), by striking
16 “; and” and inserting a period; and

17 (III) by striking paragraph (3);

18 (ii) by striking subsection (e); and

19 (iii) by redesignating subsection (f) as
20 subsection (e);

21 (C) in section 203(b)(2)(B)(ii)(IV), by
22 striking “section 203(b)(2)(B)” each place such
23 term appears and inserting “clause (i)”;

24 (D) in section 204—

25 (i) in subsection (a)(1)—

545

1 (I) by striking subparagraph (I);

2 and

3 (II) by redesignating subpara-
4 graphs (J) through (L) as subpara-
5 graphs (I) through (K), respectively;

6 (ii) in subsection (e), by striking “sub-
7 section (a), (b), or (c) of section 203” and
8 inserting “subsection (a) or (b) of section
9 203”; and

10 (iii) in subsection (l)(2)—

11 (I) in subparagraph (B), by
12 striking “section 203 (a) or (d)” and
13 inserting “subsection (a) or (c) of sec-
14 tion 203”; and

15 (II) in subparagraph (C), by
16 striking “section 203(d)” and insert-
17 ing “section 203(c)”;

18 (E) in section 214(q)(1)(B)(i), by striking
19 “section 203(d)” and inserting “section
20 203(c)”;

21 (F) in section 216(h)(1), in the undesign-
22 ated matter following subparagraph (C), by
23 striking “section 203(d)” and inserting “section
24 203(c)”;

1 (G) in section 245(i)(1)(B), by striking
2 “section 203(d)” and inserting “section
3 203(e)”.

4 (2) IMMIGRANT INVESTOR PILOT PROGRAM.—
5 Section 610(d) of the Departments of Commerce,
6 Justice, and State, the Judiciary, and Related Agen-
7 cies Appropriations Act, 1993 (Public Law 102–
8 395) is amended by striking “section 203(e) of such
9 Act (8 U.S.C. 1153(e))” and inserting “section
10 203(d) of such Act (8 U.S.C. 1153(d))”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the first day of the first
13 fiscal year beginning on or after the date of the enactment
14 of this Act.

15 (d) REALLOCATION OF VISAS; GRANDFATHERED PE-
16 TITIONS.—

17 (1) GRANDFATHERED PETITIONS AND VISAS.—
18 Notwithstanding the elimination under this section
19 of the diversity visa program described in sections
20 201(e) and 203(e) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1151(e); 1153(e)) (as in effect
22 on the day before the date of enactment of this Act),
23 the amendments made by this section shall not
24 apply, and visas shall remain available, to any alien

1 whom the Secretary of State has selected to partici-
2 pate in the diversity visa lottery for fiscal year 2018.

3 (2) REALLOCATION OF VISAS.—

4 (A) REALLOCATION.—

5 (i) IN GENERAL.—Beginning in fiscal
6 year 2019 and ending on the date on
7 which the number of visas allocated for
8 aliens who qualify for visas under the Nic-
9 araguan Adjustment and Central American
10 Relief Act (Public Law 105–100; 8 U.S.C.
11 1153 note) is exhausted, the Secretary of
12 Homeland Security shall make available
13 the annual allocation of diversity visas as
14 follows:

15 (I) 25,000 visas shall be made
16 available to aliens who have an ap-
17 proved family-based petition based on
18 section 203(a) of the Immigration and
19 Nationality Act (8 U.S.C. 1153(a))
20 that has not been terminated or re-
21 voked as of the date of enactment of
22 this Act.

23 (II) 25,000 visas shall be made
24 available to qualified aliens who have
25 an approved employment-based peti-

1 tion based on paragraphs (1), (2), or
2 (3) of section 203(b) of the Immigra-
3 tion and Nationality Act (8 U.S.C.
4 1153) that has not been terminated or
5 revoked as of the date of enactment of
6 this Act.

7 (ii) NACARA VISAS.—On the exhaus-
8 tion of 5,000 visas made available under
9 the Nicaraguan Adjustment and Central
10 American Relief Act (Public Law 105–100;
11 8 U.S.C. 1153 note), the remainder of the
12 visas made available under that Act shall
13 be equally divided and added to the visas
14 provided under subclauses (I) and (II) of
15 clause (i).

16 (B) NOTIFICATION.—

17 (i) FEDERAL REGISTER.—The Sec-
18 retary of Homeland Security, in consulta-
19 tion with the Secretary of State, shall pub-
20 lish a notice in the Federal Register to no-
21 tify affected aliens with respect to—

22 (I) the availability of visas under
23 subparagraph (A);

24 (II) the manner in which the
25 visas shall be allocated.

1 (ii) VISA BULLETIN.—The Secretary
2 of State shall publish a notice in the
3 monthly visa bulletin of the Department of
4 State with respect to—

5 (I) the availability of visas under
6 subparagraph (A);

7 (II) the manner in which the
8 visas shall be allocated.

9 **TITLE V—OTHER MATTERS**

10 **SEC. 5001. OTHER IMMIGRATION AND NATIONALITY ACT**

11 **AMENDMENTS.**

12 (a) NOTICE OF ADDRESS CHANGE.—Section 265(a)
13 of the Immigration and Nationality Act (8 U.S.C.
14 1305(a)) is amended to read as follows:

15 “(a) Each alien required to be registered under this
16 Act who is physically present in the United States shall
17 notify the Secretary of Homeland Security of each change
18 of address and new address not later than 10 days after
19 the date of such change and shall furnish such notice in
20 the manner prescribed by the Secretary.”.

21 (b) PHOTOGRAPHS FOR NATURALIZATION CERTIFI-
22 CATES.—Section 333 of the Immigration and Nationality
23 Act (8 U.S.C. 1444) is amended—

24 (1) in subsection (b)—

1 (A) by redesignating paragraphs (1)
2 through (7) as subparagraphs (A) through (G);
3 (B) by inserting “(1)” after “(b)”; and
4 (C) by striking the undesignated matter at
5 the end and inserting the following:

6 “(2) Of the photographs furnished pursuant to para-
7 graph (1)—

8 “(A) 1 shall be affixed to each certificate issued
9 by the Attorney General; and

10 “(B) 1 shall be affixed to the copy of such cer-
11 tificate retained by the Department.”; and

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

13 “(c) The Secretary may modify the technical require-
14 ments under this section in the Secretary’s discretion and
15 as the Secretary may consider necessary to provide for
16 photographs to be furnished and used in a manner that
17 is efficient, secure, and consistent with the latest develop-
18 ments in technology.”.

19 **SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE PRO-**
20 **CEDURE ACT.**

21 Except for regulations promulgated pursuant to this
22 Act, section 552 of title 5, United States Code (commonly
23 known as the “Freedom of Information Act” (5 U.S.C.
24 522)), and section 552a of such title (commonly known
25 as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title

1 5, United States Code (commonly known as the “Adminis-
2 trative Procedures Act”), and any other law relating to
3 rulemaking, information collection, or publication in the
4 Federal Register, shall not apply to any action to imple-
5 ment this Act or the amendments made by this Act, to
6 the extent the Secretary of Homeland Security, the Sec-
7 retary of State, or the Attorney General determines that
8 compliance with any such law would impede the expedi-
9 tious implementation of this Act or the amendments made
10 by this Act.

11 **SEC. 5003. EXEMPTION FROM THE PAPERWORK REDUC-**
12 **TION ACT.**

13 Chapter 35 of title 44, United States Code, shall not
14 apply to any action to implement this Act or the amend-
15 ments made by this Act to the extent the Secretary of
16 Homeland Security, the Secretary of State, or the Attor-
17 ney General determines that compliance with such law
18 would impede the expeditious implementation of this Act
19 or the amendments made by this Act.

20 **SEC. 5004. ABILITY TO FILL AND RETAIN DEPARTMENT OF**
21 **HOMELAND SECURITY POSITIONS IN UNITED**
22 **STATES TERRITORIES.**

23 (a) IN GENERAL.—Section 530C of title 28, United
24 States Code, is amended—

1 (1) in subsection (a), in the matter preceding
2 paragraph (1)—

3 (A) by inserting “or the Department of
4 Homeland Security” after “Department of Jus-
5 tice”; and

6 (B) by inserting “or the Secretary of
7 Homeland Security” after “Attorney General”;

8 (2) in subsection (b)—

9 (A) in paragraph (1)—

10 (i) in the matter preceding subpara-
11 graph (A), by inserting “or to the Sec-
12 retary of Homeland Security” after “At-
13 torney General”; and

14 (ii) in subparagraph (K)—

15 (I) in clause (i)—

16 (aa) by inserting “or within
17 United States territories or com-
18 monwealths” after “outside
19 United States”; and

20 (bb) by inserting “or the
21 Secretary of Homeland Security”
22 after “Attorney General”;

23 (II) in clause (ii), by inserting
24 “or the Secretary of Homeland Secu-
25 rity” after “Attorney General”;

1 (B) in paragraph (2)—

2 (i) in subparagraph (A), by striking
3 “for the Drug Enforcement Administra-
4 tion, and for the Immigration and Natu-
5 ralization Service” and inserting “and for
6 the Drug Enforcement Administration”;
7 and

8 (ii) in subparagraph (B), in the mat-
9 ter preceding clause (i), by striking “the
10 Immigration and Naturalization Service”
11 and inserting “the Department of Home-
12 land Security”;

13 (C) in paragraph (5), by striking “IMMI-
14 GRATION AND NATURALIZATION SERVICE.—
15 Funds available to the Attorney General” and
16 replacing with “DEPARTMENT OF HOMELAND
17 SECURITY.—Funds available to the Secretary of
18 Homeland Security”; and

19 (D) in paragraph (7)—

20 (i) by inserting “or the Secretary of
21 Homeland Security” after “Attorney Gen-
22 eral”; and

23 (ii) by striking “the Immigration and
24 Naturalization Service” and inserting

1 “U.S. Immigration and Customs Enforce-
2 ment”; and

3 (3) in subsection (d), by inserting “or the De-
4 partment of Homeland Security” after “Department
5 of Justice”.

6 **SEC. 5005. SEVERABILITY.**

7 If any provision of this Act or any amendment made
8 by this Act, or any application of such provision or amend-
9 ment to any person or circumstance, is held to be uncon-
10 stitutional, the remainder of the provisions of this Act and
11 the amendments made by this Act and the application of
12 the provision or amendment to any other person or cir-
13 cumstance shall not be affected.

14 **SEC. 5006. FUNDING.**

15 (a) IMPLEMENTATION.—The Director of the Office of
16 Management and Budget shall determine and identify—

17 (1) the appropriation accounts which have un-
18 obligated funds that could be rescinded and used to
19 fund the provisions of this Act; and

20 (2) the amount of the rescission that shall be
21 applied to each such account.

22 (b) REPORT.—Not later than 60 days after the date
23 of enactment of this Act, the Director of the Office of
24 Management and Budget shall submit to Congress and to
25 the Secretary of the Treasury a report that describes the

1 accounts and amounts determined and identified for re-
2 scission pursuant to subsection (a).

3 (c) EXCEPTIONS.—This section shall not apply to un-
4 obligated funds of—

5 (1) the Department of Homeland Security;

6 (2) the Department of Defense; or

7 (3) the Department of Veterans Affairs.

8 **TITLE VI—TECHNICAL**
9 **AMENDMENTS**

10 **SEC. 6001. REFERENCES TO THE IMMIGRATION AND NA-**
11 **TIONALITY ACT.**

12 Except as otherwise expressly provided, whenever in
13 this title an amendment or repeal is expressed in terms
14 of an amendment to, or repeal of, a section or other provi-
15 sion, the reference shall be considered to be made to a
16 section or other provision of the Immigration and Nation-
17 ality Act (8 U.S.C. 1101 et seq.).

18 **SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF THE**
19 **IMMIGRATION AND NATIONALITY ACT.**

20 (a) SECTION 101.—

21 (1) DEPARTMENT.—Section 101(a)(8) (8
22 U.S.C. 1101(a)(8)) is amended to read as follows:

23 “(8) The term ‘Department’ means the Department
24 of Homeland Security.”.

1 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C.
2 1101(a)(15)) is amended—

3 (A) in subparagraph (F)(i)—

4 (i) by striking the term “Attorney
5 General” each place that term appears and
6 inserting “Secretary”; and

7 (ii) by striking “214(l)” and inserting
8 “214(m)”;

9 (B) in subparagraph (H)(i)—

10 (i) in subclause (b), by striking “cer-
11 tifies to the Attorney General that the in-
12 tending employer has filed with the Sec-
13 retary” and inserting “certifies to the Sec-
14 retary of Homeland Security that the in-
15 tending employer has filed with the Sec-
16 retary of Labor”; and

17 (ii) in subclause (c), by striking “cer-
18 tifies to the Attorney General” and insert-
19 ing “certifies to the Secretary of Homeland
20 Security”; and

21 (C) in subparagraph (M)(i), by striking the
22 term “Attorney General” each place that term
23 appears and inserting “Secretary”.

24 (3) IMMIGRATION OFFICER.—Section
25 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by

1 striking “Service or of the United States designated
2 by the Attorney General,” and inserting “Depart-
3 ment or of the United States designated by the Sec-
4 retary,”.

5 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C.
6 1101(a)(34)) is amended to read as follows:

7 “(34) The term ‘Secretary’ means the Secretary of
8 Homeland Security, except as provided in section
9 219(d)(4).”.

10 (5) SPECIAL IMMIGRANT.—Section
11 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
12 amended by adding “; or” at the end.

13 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPAC-
14 ITY.—Section 101(a)(44)(C) (8 U.S.C.
15 1101(a)(44)(C)) is amended by striking “Attorney
16 General” and inserting “Secretary”.

17 (7) ORDER OF REMOVAL.—Section
18 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amend-
19 ed to read as follows:

20 “(A) The term ‘order of removal’ means the
21 order of the immigration judge, or other such ad-
22 ministrative officer to whom the Attorney General or
23 the Secretary has delegated the responsibility for de-
24 termining whether an alien is removable, concluding
25 that the alien is removable or ordering removal.”.

1 (8) TITLE I AND II DEFINITIONS.—Section
2 101(b) (8 U.S.C. 1101(b)) is amended—

3 (A) in paragraph (1)(F)(i), by striking
4 “Attorney General” and inserting “Secretary”;
5 and

6 (B) in paragraph (4), by striking “Immi-
7 gration and Naturalization Service.” and insert-
8 ing “Department.”.

9 (b) SECTION 103.—

10 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103)
11 is amended by striking the section heading and sub-
12 section (a)(1) and inserting the following:

13 **“SEC. 103. POWERS AND DUTIES.**

14 “(a)(1) The Secretary shall be charged with the ad-
15 ministration and enforcement of this Act and all other
16 laws relating to the immigration and naturalization of
17 aliens, except insofar as this Act or such laws relate to
18 the powers, functions, and duties conferred upon the
19 President, the Attorney General, the Secretary of Labor,
20 the Secretary of Agriculture, the Secretary of Health and
21 Human Services, the Commissioner of Social Security, the
22 Secretary of State, the officers of the Department of
23 State, or diplomatic or consular officers. A determination
24 and ruling by the Attorney General with respect to all
25 questions of law shall be controlling.”.

1 (2) TECHNICAL AND CONFORMING CORREC-
2 TIONS.—Section 103 (8 U.S.C. 1103), as amended
3 by paragraph (1), is further amended—

4 (A) in subsection (a)—

5 (i) in paragraph (2), by striking “He”
6 and inserting “The Secretary”;

7 (ii) in paragraph (3)—

8 (I) by striking “He” and insert-
9 ing “The Secretary”;

10 (II) by striking “he” and insert-
11 ing “the Secretary”; and

12 (III) by striking “his authority”
13 and inserting “the authority of the
14 Secretary”;

15 (iii) in paragraph (4)—

16 (I) by striking “He” and insert-
17 ing “The Secretary”; and

18 (II) by striking “Service or the
19 Department of Justice” and insert the
20 “Department”;

21 (iv) in paragraph (5)—

22 (I) by striking “He” and insert-
23 ing “The Secretary”;

560

1 (II) by striking “his discretion,”
2 and inserting “the discretion of the
3 Secretary,” and

4 (III) by striking “him” and in-
5 serting “the Secretary”;

6 (v) in paragraph (6)—

7 (I) by striking “He” and insert-
8 ing “The Secretary”;

9 (II) by striking “Department”
10 and inserting “agency, department,”;
11 and

12 (III) by striking “Service.” and
13 inserting “Department or upon con-
14 sular officers with respect to the
15 granting or refusal of visas”;

16 (vi) in paragraph (7)—

17 (I) by striking “He” and insert-
18 ing “The Secretary”;

19 (II) by striking “countries;” and
20 inserting “countries”;

21 (III) by striking “he” and insert-
22 ing “the Secretary”; and

23 (IV) by striking “his judgment”
24 and inserting “the judgment of the
25 Secretary”;

1 (vii) in paragraph (8), by striking
2 “Attorney General” and inserting “Sec-
3 retary”;

4 (viii) in paragraph (10), by striking
5 “Attorney General” each place that term
6 appears and inserting “Secretary”; and

7 (ix) in paragraph (11), by striking
8 “Attorney General,” and inserting “Sec-
9 retary,”;

10 (B) by amending subsection (c) to read as
11 follows:

12 “(c) SECRETARY; APPOINTMENT.—The Secretary
13 shall be a citizen of the United States and shall be ap-
14 pointed by the President, by and with the advice and con-
15 sent of the Senate. The Secretary shall be charged with
16 any and all responsibilities and authority in the adminis-
17 tration of the Department and of this Act. The Secretary
18 may enter into cooperative agreements with State and
19 local law enforcement agencies for the purpose of assisting
20 in the enforcement of the immigration laws.”;

21 (C) in subsection (e)—

22 (i) in paragraph (1), by striking
23 “Commissioner” and inserting “Sec-
24 retary”; and

1 (ii) in paragraph (2), by striking
2 “Service” and inserting “U.S. Citizenship
3 and Immigration Services”;

4 (D) in subsection (f)—

5 (i) by striking “Attorney General”
6 and inserting “Secretary”;

7 (ii) by striking “Immigration and
8 Naturalization Service” and inserting “De-
9 partment”; and

10 (iii) by striking “Service,” and insert-
11 ing “Department,”; and

12 (E) in subsection (g)(1), by striking “Im-
13 migration Reform, Accountability and Security
14 Enhancement Act of 2002” and inserting
15 “Homeland Security Act of 2002 (Public Law
16 107–296; 116 Stat. 2135)”.

17 (3) CLERICAL AMENDMENT.—The table of con-
18 tents in the first section is amended by striking the
19 item relating to section 103 and inserting the fol-
20 lowing:

“Sec. 103. Powers and duties.”.

21 (c) SECTION 105.—Section 105(a) is amended (8
22 U.S.C. 1105(a)) by striking “Commissioner” each place
23 that term appears and inserting “Secretary”.

1 **SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF THE**
2 **IMMIGRATION AND NATIONALITY ACT.**

3 (a) SECTION 202.—Section 202(a)(1)(B) (8 U.S.C.
4 1152(a)(1)(B)) is amended by inserting “the Secretary
5 or” after “the authority of”.

6 (b) SECTION 203.—Section 203 (8 U.S.C. 1153) is
7 amended—

8 (1) in subsection (b)(2)(B)(ii)—

9 (A) in subclause (II)—

10 (i) by inserting “the Secretary or” be-
11 fore “the Attorney General”; and

12 (ii) by moving such subclause 4 ems
13 to the left; and

14 (B) by moving subclauses (III) and (IV) 4
15 ems to the left; and

16 (2) in subsection (f) (as redesignated by section
17 4003(a)(2))—

18 (A) by striking “Secretary’s” and inserting
19 “Secretary of State’s”; and

20 (B) by inserting “of State” after “but the
21 Secretary”.

22 (c) SECTION 204.—Section 204 (8 U.S.C. 1154) is
23 amended—

24 (1) in subsection (a)(1)(G)(ii), by inserting “of
25 State” after “by the Secretary”;

1 (2) in subsection (c), by inserting “the Sec-
2 retary or” before “the Attorney General” each place
3 that term appears; and

4 (3) in subsection (e), by inserting “to” after
5 “admitted”.

6 (d) SECTION 208.—Section 208 (8 U.S.C. 1158) is
7 amended—

8 (1) in subsection (a)(2)—

9 (A) by inserting “the Secretary or” before
10 “Attorney General” in subparagraph (A);

11 (B) by inserting “the Secretary or” before
12 “Attorney General” in subparagraph (D);

13 (2) in subsection (b)(2)—

14 (A) in subparagraph (B)(ii), by inserting
15 “the Secretary or” before “Attorney General”;

16 (B) in subparagraph (C), by inserting “the
17 Secretary or” before “Attorney General”; and

18 (C) in subparagraph (D), by inserting “the
19 Secretary or” before “Attorney General”.

20 (3) in subsection (c)—

21 (A) in paragraph (1), by striking “the At-
22 torney General” and inserting “the Secretary”;

23 (B) in paragraphs (2) and (3), by inserting
24 “the Secretary or” before “Attorney General”
25 each place that term appears; and

1 (4) in subsection (d)—

2 (A) in paragraph (1), by inserting “the
3 Secretary or” before “the Attorney General”,

4 (B) in paragraph (2), by striking “Attor-
5 ney General” and inserting “Secretary”;

6 (C) in paragraph (3)—

7 (i) by striking “Attorney General”
8 each place that term appears and inserting
9 “Secretary”; and

10 (ii) by striking “Attorney General’s”
11 and inserting “Secretary’s”; and

12 (D) in paragraphs (4) through (6), by in-
13 serting “the Secretary or” before “the Attorney
14 General”; and

15 (e) SECTION 209.—Section 209(a)(1)(A) (8 U.S.C.
16 1159(a)(1)(A)) is amended by striking “Secretary of
17 Homeland Security or the Attorney General” each place
18 that term appears and inserting “Secretary”.

19 (f) SECTION 212.—Section 212 (8 U.S.C. 1182) is
20 amended—

21 (1) in subsection (a)—

22 (A) in paragraph (2), in subparagraphs
23 (C), (H)(ii), and (I), by inserting “, the Sec-
24 retary,” before “or the Attorney General” each
25 place that term appears;

1 (B) in paragraph (3)—

2 (i) in subparagraph (B)(ii)(II), by in-
3 serting “, the Secretary,” before “or the
4 Attorney General” each place that term
5 appears; and

6 (ii) in subparagraph (D), by inserting
7 “the Secretary or” before “the Attorney
8 General” each place that term appears;

9 (C) in paragraph (4)—

10 (i) in subparagraph (A), by inserting
11 “the Secretary or” before “the Attorney
12 General”; and

13 (ii) in subparagraph (B), by inserting
14 “, the Secretary,” before “or the Attorney
15 General” each place that term appears;

16 (D) in paragraph (5)(C), by striking “or,
17 in the case of an adjustment of status, the At-
18 torney General, a certificate from the Commis-
19 sion on Graduates of Foreign Nursing Schools,
20 or a certificate from an equivalent independent
21 credentialing organization approved by the At-
22 torney General” and inserting “or, in the case
23 of an adjustment of status, the Secretary or the
24 Attorney General, a certificate from the Com-
25 mission on Graduates of Foreign Nursing

1 Schools, or a certificate from an equivalent
2 independent credentialing organization ap-
3 proved by the Secretary”;

4 (E) in paragraph (9)—

5 (i) in subparagraph (B)(v)—

6 (I) by inserting “or the Sec-
7 retary” after “Attorney General” each
8 place that term appears; and

9 (II) by striking “has sole discre-
10 tion” and inserting “have discretion”;
11 and

12 (ii) in subparagraph (C)(iii), by in-
13 sserting “or the Attorney General” after
14 “Secretary of Homeland Security”; and

15 (F) in paragraph (10)(C), in clauses
16 (ii)(III) and (iii)(II), by striking “Secretary’s”
17 and inserting “Secretary of State’s”;

18 (2) in subsection (d), in paragraphs (11) and
19 (12), by inserting “or the Secretary” after “Attor-
20 ney General” each place that term appears;

21 (3) in subsection (e), by striking the first pro-
22 viso and inserting the following: “Provided, That
23 upon the favorable recommendation of the Director,
24 pursuant to the request of an interested United
25 States Government agency (or, in the case of an

1 alien described in clause (iii), pursuant to the re-
2 quest of a State Department of Public Health, or its
3 equivalent), or of the Secretary after the Secretary
4 has determined that departure from the United
5 States would impose exceptional hardship upon the
6 alien's spouse or child (if such spouse or child is a
7 citizen of the United States or a lawfully resident
8 alien), or that the alien cannot return to the country
9 of his or her nationality or last residence because the
10 alien would be subject to persecution on account of
11 race, religion, or political opinion, the Secretary may
12 waive the requirement of such two-year foreign resi-
13 dence abroad in the case of any alien whose admis-
14 sion to the United States is found by the Secretary
15 to be in the public interest except that in the case
16 of a waiver requested by a State Department of
17 Public Health, or its equivalent, or in the case of a
18 waiver requested by an interested United States
19 Government agency on behalf of an alien described
20 in clause (iii), the waiver shall be subject to the re-
21 quirements under section 214(l):”;

22 (4) in subsections (g), (h), (i), and (k), by in-
23 serting “or the Secretary” after “Attorney General”
24 each place that term appears;

1 (5) in subsection (m)(2)(E)(iv), by inserting “of
2 Labor” after “Secretary” the second and third place
3 that term appears;

4 (6) in subsection (n), by inserting “of Labor”
5 after “Secretary” each place that term appears, ex-
6 cept that this amendment shall not apply to ref-
7 erences to the “Secretary of Labor”; and

8 (7) in subsection (s), by inserting “, the Sec-
9 retary,” before “or the Attorney General”.

10 (g) SECTION 213A.—Section 213A (8 U.S.C. 1183a)
11 is amended—

12 (1) in subsection (a)(1), in the matter pre-
13 ceeding paragraph (1), by inserting “, the Secretary,”
14 after “the Attorney General”; and

15 (2) in subsection (f)(6)(B), by inserting “the
16 Secretary,” after “The Secretary of State,”.

17 (h) SECTION 214.—Section 214(c)(9)(A) (8 U.S.C.
18 1184(c)(9)(A) is amended, in the matter preceding clause
19 (i), by striking “before”.

20 (i) SECTION 217.—Section 217 (8 U.S.C. 1187) is
21 amended—

22 (1) in subsection (e)(3)(A), by inserting a
23 comma after “Regulations”;

1 (2) in subsection (f)(2)(A), by striking “section
2 (c)(2)(C),” and inserting “subsection (c)(2)(C),”;
3 and

4 (3) in subsection (h)(3)(A), by striking “the
5 alien” and inserting “an alien”.

6 (j) SECTION 218.—Section 218 (8 U.S.C. 1188) is
7 amended—

8 (1) by inserting “of Labor” after “Secretary”
9 each place that term appears, except that this
10 amendment shall not apply to references to the
11 “Secretary of Labor” or to the “Secretary of Agri-
12 culture”;

13 (2) in subsection (c)(3)(B)(iii), by striking
14 “Secretary’s” and inserting “Secretary of Labor’s”;
15 and

16 (3) in subsection (g)(4), by striking “Sec-
17 retary’s” and inserting “Secretary of Agriculture’s”.

18 (k) SECTION 219.—Section 219 (8 U.S.C. 1189) is
19 amended—

20 (1) in subsection (a)(1)(B)—

21 (A) by inserting a close parenthesis after
22 “section 212(a)(3)(B)”; and

23 (B) by striking the close parenthesis before
24 the semicolon;

1 (2) in subsection (c)(3)(D), by striking “(2),”
2 and inserting “(2);”; and

3 (3) in subsection (d)(4), by striking “the Sec-
4 retary of the Treasury” and inserting “the Secretary
5 of Homeland Security, the Secretary of the Treas-
6 ury,”.

7 (l) SECTION 222.—Section 222 (8 U.S.C. 1202)—

8 (1) by inserting “or the Secretary” after “Sec-
9 retary of State” each place that term appears; and

10 (2) in subsection (f)—

11 (A) in the matter preceding paragraph (1),
12 by inserting “, the Department,” after “De-
13 partment of State”; and

14 (B) in paragraph (2), by striking “Sec-
15 retary’s” and inserting “their”.

16 (m) SECTION 231.—Section 231 (8 U.S.C. 1221) is
17 amended—

18 (1) in subsection (c)(10), by striking “Attorney
19 General,” and inserting “Secretary,”;

20 (2) in subsection (f), by striking “Attorney
21 General” each place that term appears and inserting
22 “Secretary”;

23 (3) in subsection (g)—

1 (A) by striking “Attorney General” each
2 places that term appears and inserting “Sec-
3 retary”;

4 (B) by striking “Commissioner” each place
5 that term appears and inserting “Secretary”;
6 and

7 (4) in subsection (h), by striking “Attorney
8 General” each place that term appears and inserting
9 “Secretary”.

10 (n) SECTION 236.—Section 236(e) (8 U.S.C.
11 1226(e)) is amended—

12 (1) by striking “review.” and inserting “review,
13 other than administrative review by the Attorney
14 General pursuant to the authority granted under
15 section 103(g).”; and

16 (2) by inserting “the Secretary or” before “the
17 Attorney General under”.

18 (o) SECTION 236A.—Section 236A(a)(4) (8 U.S.C.
19 1226a(a)(4)) is amended by striking “Deputy Attorney
20 General” both places that term appears and inserting
21 “Deputy Secretary of Homeland Security”.

22 (p) SECTION 237.—Section 237(a) (8 U.S.C.
23 1227(a)) is amended—

24 (1) in the matter preceding paragraph (1), by
25 inserting “following the initiation by the Secretary

1 of removal proceedings” after “upon the order of the
2 Attorney General”; and

3 (2) in paragraph (2)(E), in the subparagraph
4 heading, by striking “, CRIMES AGAINST CHILDREN
5 AND” and inserting “; CRIMES AGAINST CHILDREN”.

6 (q) SECTION 238.—Section 238 (8 U.S.C. 1228) is
7 amended—

8 (1) in subsection (a)—

9 (A) in paragraph (2), by striking “Attor-
10 ney General” each place that term appears and
11 inserting “Secretary”; and

12 (B) in paragraphs (3) and (4)(A), by in-
13 serting “and the Secretary” after “Attorney
14 General” each place that term appears; and

15 (2) in subsection (e) (as redesignated by section
16 1703(a)(4))—

17 (A) by striking “Commissioner” each place
18 that term appears and inserting “Secretary”;

19 (B) by striking “Attorney General” each
20 place that term appears and inserting “Sec-
21 retary”; and

22 (C) in subparagraph (D)(iv), by striking
23 “Attorney General” and inserting “United
24 States Attorney”.

1 (r) SECTION 239.—Section 239(a)(1) (8 U.S.C.
2 1229(a)(1)) is amended by inserting “and the Secretary”
3 after “Attorney General” each place that term appears.

4 (s) SECTION 240.—Section 240 (8 U.S.C. 1229a) is
5 amended—

6 (1) in subsection (b)—

7 (A) in paragraph (1), by inserting “, with
8 the concurrence of the Secretary with respect to
9 employees of the Department” after “Attorney
10 General”; and

11 (B) in paragraph (5)(A), by inserting “the
12 Secretary or” before “the Attorney General”;
13 and

14 (2) in subsection (c)—

15 (A) in paragraph (2), by inserting “, the
16 Secretary of State, or the Secretary” before “to
17 be confidential”; and

18 (B) in paragraph (7)(C)(iv)(I), by striking
19 “240A(b)(2)” and inserting “section
20 240A(b)(2)”.

21 (t) SECTION 240A.—Section 240A(b) (8 U.S.C.
22 1229b(b)) is amended—

23 (1) in paragraph (3), by striking “Attorney
24 General shall” and inserting “Secretary shall”; and

1 (2) in paragraph (4)(A), by striking “Attorney
2 General” and inserting “Secretary”.

3 (u) SECTION 240B.—Section 240B(a) (8 U.S.C.
4 1229c(a)) is amended in paragraphs (1) and (3), by in-
5 sserting “or the Secretary” after “Attorney General” each
6 place that term appears.

7 (v) SECTION 241.—Section 241 (8 U.S.C. 1231) is
8 amended—

9 (1) in subsection (a)(4)(B)(i), by inserting a
10 close parenthesis after “(L)”;

11 (2) in subsection (g)(2)—

12 (A) by striking the paragraph heading and
13 inserting “DETENTION FACILITIES OF THE DE-
14 PARTMENT OF HOMELAND SECURITY.—”; and

15 (B) by striking “Service, the Commis-
16 sioner” and inserting “Department, the Sec-
17 retary”.

18 (w) SECTION 242.—Section 242(g) (8 U.S.C.
19 1252(g)) is amended by inserting “the Secretary or” be-
20 fore “the Attorney General”.

21 (x) SECTION 243.—Section 243 (8 U.S.C. 1253) (as
22 amended by section 1720) is amended in subsection
23 (b)(1)—

24 (1) by striking “Attorney General” each place
25 that term appears and inserting “Secretary”; and

1 (2) by striking “Commissioner” each place that
2 term appears and inserting “Secretary”.

3 (y) SECTION 244.—Section 244 (8 U.S.C. 1254a) is
4 amended—

5 (1) in subsection (c)(2), by inserting “or the
6 Secretary” after “Attorney General” each place the
7 term appears; and

8 (2) in subsection (g), by inserting “or the Sec-
9 retary” after “Attorney General”.

10 (z) SECTION 245.—Section 245 (8 U.S.C. 1255) is
11 amended—

12 (1) by inserting “or the Secretary” after “At-
13 torney General” each place that term appears except
14 in subsections (j) (other than the first reference), (l),
15 and (m);

16 (2) in subsection (k)(1), adding an “and” at
17 the end; and

18 (3) in subsection (l)—

19 (A) in paragraph (1), by inserting a
20 comma after “appropriate”; and

21 (B) in paragraph (2)—

22 (i) in the matter preceding paragraph
23 (1), by striking “Attorney General’s” and
24 inserting “Secretary’s”; and

1 (ii) in subparagraph (B), by striking
2 “(10(E))” and inserting “(10)(E)”.

3 (aa) SECTION 245A.—Section 245A (8 U.S.C.
4 1255a) is amended—

5 (1) in subsection (c)(7), by striking subpara-
6 graph (C); and

7 (2) in subsection (h)—

8 (A) in paragraph (4)(C), by striking “The
9 The” and inserting “The”; and

10 (B) in paragraph (5), by striking “(Public
11 Law 96–122),” and inserting “(8 U.S.C. 1522
12 note),”.

13 (bb) SECTION 251.—Section 251(d) (8 U.S.C.
14 1281(d)) is amended—

15 (1) by striking “Attorney General” each place
16 that term appears and inserting “Secretary”; and

17 (2) by striking “Commissioner” each place that
18 term appears and inserting “Secretary”.

19 (cc) SECTION 254.—Section 254(a) (8 U.S.C.
20 1284(a)) is amended by striking “Commissioner” each
21 place that term appears and inserting “Secretary”.

22 (dd) SECTION 255.—Section 255 (8 U.S.C. 1285) is
23 amended by striking “Commissioner” each place that term
24 appears and inserting “Secretary”.

1 (ee) SECTION 256.—Section 256 (8 U.S.C. 1286) is
2 amended—

3 (1) by striking “Commissioner” each place that
4 term appears and inserting “Secretary”;

5 (2) in the first and second sentences, by strik-
6 ing “Attorney General” each place that term ap-
7 pears and inserting “Secretary”.

8 (ff) SECTION 258.—Section 258 (8 U.S.C. 1288) is
9 amended—

10 (1) by inserting “of Labor” after “Secretary”
11 each place that term appears (except for in sub-
12 section (e)(2)), except that this amendment shall not
13 apply to references to the “Secretary of Labor”,
14 “the Secretary of State”;

15 (2) in subsection (d)(2)(A), by striking “at”
16 after “while”; and

17 (3) in subsection (e)(2), by striking “the Sec-
18 retary shall” and inserting “the Secretary of State
19 shall”.

20 (gg) SECTION 264.—Section 264(f) (8 U.S.C.
21 1304(f)) is amended by striking “Attorney General is”
22 and inserting “Attorney General and the Secretary are”.

23 (hh) SECTION 272.—Section 272 (8 U.S.C. 1322) is
24 amended by striking “Commissioner” each place that term
25 appears and inserting “Secretary”.

1 (ii) SECTION 273.—Section 273 (8 U.S.C. 1323) is
2 amended—

3 (1) by striking “Commissioner” each place that
4 term appears and inserting “Secretary”; and

5 (2) by striking “Attorney General” each place
6 that term appears (except in subsection (e), in the
7 matter preceding paragraph (1)) and inserting “Sec-
8 retary”.

9 (jj) SECTION 274.—Section 274(b)(2) (8 U.S.C.
10 1324(b)(2)) is amended by striking “Secretary of the
11 Treasury” and inserting “Secretary”.

12 (kk) SECTION 274B.—Section 274B(f)(2) (8 U.S.C.
13 1324b(f)(2)) is amended by striking “subsection” and in-
14 serting “section”.

15 (ll) SECTION 274C.—Section 274C(d)(2)(A) (8
16 U.S.C. 1324c(d)(2)(A)) is amended by inserting “or the
17 Secretary” after “subsection (a), the Attorney General”.

18 (mm) SECTION 274D.—Section 274D(a)(2) (8
19 U.S.C. 1324d(a)(2)) is amended by striking “Commis-
20 sioner” and inserting “Secretary”.

21 (nn) SECTION 286.—Section 286 (8 U.S.C. 1356) is
22 amended—

23 (1) in subsection (q)(1)(B), by striking “, in
24 consultation with the Secretary of the Treasury,”;

1 (2) in subsection (r)(2), by striking “section
2 245(i)(3)(b)” and inserting “section 245(i)(3)(B”;
3 and

4 (3) in subsection (s)(5)—

5 (A) by striking “5 percent” and inserting
6 “USE OF FEES FOR DUTIES RELATING TO PETI-
7 TIONS.—Five percent”; and

8 (B) by striking “paragraph (1) (C) or (D)
9 of section 204” and inserting “subparagraph
10 (C) or (D) of section 204(a)(1)”.

11 (oo) SECTION 294.—Section 294 (8 U.S.C. 1363a)
12 is amended—

13 (1) in subsection (a), in the undesignated mat-
14 ter following paragraph (4), by striking “Commis-
15 sioner, in consultation with the Deputy Attorney
16 General,” and inserting “Secretary”; and

17 (2) in subsection (d), by striking “Deputy At-
18 torney General” and inserting “Secretary”.

19 **SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF THE**
20 **IMMIGRATION AND NATIONALITY ACT.**

21 (a) SECTION 316.—Section 316 (8 U.S.C. 1427) is
22 amended—

23 (1) in subsection (d), by inserting “or by the
24 Secretary” after “Attorney General”; and

1 (2) in subsection (f)(1), by striking “Intel-
2 ligence, the Attorney General and the Commissioner
3 of Immigration” and inserting “Intelligence and the
4 Secretary”.

5 (b) SECTION 322.—Section 322(a)(1) (8 U.S.C.
6 1433(a)(1)) is amended—

7 (1) by inserting “is” before “(or,”; and

8 (2) by striking “is” before “a citizen”.

9 (c) SECTION 342.—

10 (1) SECTION HEADING.—

11 (A) IN GENERAL.—Section 342 (8 U.S.C.
12 1453) is amended by striking the section head-
13 ing and inserting “**CANCELLATION OF CER-**
14 **TIFICATES; ACTION NOT TO AFFECT CITI-**
15 **ZENSHIP STATUS**”.

16 (B) CLERICAL AMENDMENT.—The table of
17 contents in the first section is amended by
18 striking the item relating to section 342 and in-
19 serting the following:

“Sec. 342. Cancellation of certificates; action not to affect citizenship status.”.

20 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453)
21 is amended—

22 (A) by striking “heretofore issued or made
23 by the Commissioner or a Deputy Commis-
24 sioner or hereafter made by the Attorney Gen-
25 eral”; and

1 (B) by striking “practiced upon, him or
2 the Commissioner or a Deputy Commissioner;”.

3 **SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF THE**
4 **IMMIGRATION AND NATIONALITY ACT.**

5 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i))
6 is amended by striking “insure” and inserting “ensure”.

7 **SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF THE**
8 **IMMIGRATION AND NATIONALITY ACT.**

9 (a) SECTION 504.—Section 504 (8 U.S.C. 1534) is
10 amended—

11 (1) in subsection (a)(1)(A), by striking “a” be-
12 fore “removal proceedings”;

13 (2) in subsection (i), by striking “Attorney Gen-
14 eral” inserting “Government”; and

15 (3) in subsection (k)(2), by striking “by”.

16 (b) SECTION 505.—Section 505(e)(2) (8 U.S.C.
17 1535(e)(2)) is amended by inserting “and the Secretary”
18 after “Attorney General”.

19 **SEC. 6007. OTHER AMENDMENTS.**

20 (a) CORRECTION OF COMMISSIONER OF IMMIGRA-
21 TION AND NATURALIZATION.—

22 (1) IN GENERAL.—The Immigration and Na-
23 tionality Act (8 U.S.C. 1101 et seq.) as amended by
24 this Act, is further amended by striking “Commis-
25 sioner” and “Commissioner of Immigration and

1 Naturalization” each place those terms appear and
2 inserting “Secretary”.

3 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL
4 SECURITY.—The amendment made by paragraph (1)
5 shall not apply to any reference to the “Commis-
6 sioner of Social Security”.

7 (b) CORRECTION OF IMMIGRATION AND NATU-
8 RALIZATION SERVICE.—The Immigration and Nationality
9 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is
10 further amended by striking “Service” and “Immigration
11 and Naturalization Service” each place those terms appear
12 and inserting “Department”.

13 (c) CORRECTION OF DEPARTMENT OF JUSTICE.—

14 (1) IN GENERAL.—The Immigration and Na-
15 tionality Act (8 U.S.C. 1101 et seq.), as amended by
16 this Act, is further amended by striking “Depart-
17 ment of Justice” each place that term appears and
18 inserting “Department”.

19 (2) EXCEPTIONS.—The amendment made by
20 paragraph (1) shall not apply in—

21 (A) subsections (d)(3)(A) and (r)(5)(A) of
22 section 214 (8 U.S.C. 1184);

23 (B) section 274B(c)(1) (8 U.S.C.
24 1324b(c)(1)); or

25 (C) title V (8 U.S.C. 1531 et seq.).

1 (d) CORRECTION OF ATTORNEY GENERAL.—The Im-
2 migration and Nationality Act (8 U.S.C. 1101 et seq.) as
3 amended by this Act, is further amended by striking “At-
4 torney General” each place that term appears and insert-
5 ing “Secretary”, except for in the following:

6 (1) Any joint references to the “Attorney Gen-
7 eral and the Secretary of Homeland Security” or
8 “the Secretary of Homeland Security and the Attor-
9 ney General”.

10 (2) Section 101(a)(5).

11 (3) Subparagraphs (S), (T), and (V) of section
12 101(a)(15).

13 (4) Section 101(a)(47)(A).

14 (5) Section 101(b)(4).

15 (6) Subsections (a)(1) and (g) of section 103.

16 (7) Subsections (b)(1) and (c) of section 105.

17 (8) Section 204(c).

18 (9) Section 208.

19 (10) Subparagraphs (C), (H), and (I) of section
20 212(a)(2).

21 (11) Subparagraphs (A), (B)(ii)(II), and (D) of
22 section 212(a)(3).

23 (12) Section 212(a)(9)(C)(iii).

24 (13) Paragraphs (11) and (12) of section
25 212(d).

- 1 (14) Subsections (g), (h), (i), (k), and (s) of
2 section 212.
- 3 (15) Subsections (a)(1) and (f)(6)(B) of section
4 213A.
- 5 (16) Section 216(d)(2)(c).
- 6 (17) Section 219(d)(4).
- 7 (18) Section 235(b)(1)(B)(iii)(III).
- 8 (19) The second sentence of section 236(e).
- 9 (20) Section 237.
- 10 (21) Paragraphs (1), (3), and (4)(A) of section
11 238(a).
- 12 (22) Paragraphs (1) and (5) of section 238(b).
- 13 (23) Section 238(e)(2)(D)(iv).
- 14 (24) Subsections (a) and (b) of section 239.
- 15 (25) Section 240.
- 16 (26) Section 240A.
- 17 (27) Subsections (a)(1), (a)(3), (b), and (c) of
18 section 240B.
- 19 (28) The first reference in section
20 241(a)(4)(B)(i).
- 21 (29) Section 241(b)(3) (except for the first ref-
22 erence in subparagraph (A), to which the amend-
23 ment shall apply).
- 24 (30) Section 241(i) (except for paragraph
25 (3)(B)(i), to which the amendment shall apply).

- 1 (31) Section 242(a)(2)(B).
- 2 (32) Section 242(b) (except for paragraph (8),
3 to which the amendment shall apply).
- 4 (33) Section 242(g).
- 5 (34) Subsections (a)(3)(C), (c)(2), (e), and (g)
6 of section 244.
- 7 (35) Section 245 (except for subsection
8 (i)(1)(B)(i), subsection (i)(3)) and the first reference
9 to the Attorney General in subsection 245(j)).
- 10 (36) Section 245A(a)(1)(A).
- 11 (37) Section 246(a).
- 12 (38) Section 249.
- 13 (39) Section 264(f).
- 14 (40) Section 274(e).
- 15 (41) Section 274A.
- 16 (42) Section 274B.
- 17 (43) Section 274C.
- 18 (44) Section 292.
- 19 (45) Subsections (d) and (f)(1) of section 316.
- 20 (46) Section 342.
- 21 (47) Section 412(f)(1)(A).
- 22 (48) Title V (except for subsections 506(a)(1)
23 and 507(b), (c), and (d) (first reference), to which
24 the amendment shall apply).

1 **SEC. 6008. REPEALS; RULE OF CONSTRUCTION.**

2 (a) REPEALS.—

3 (1) IMMIGRATION AND NATURALIZATION SERV-
4 ICE.—

5 (A) IN GENERAL.—Section 4 of the Act of
6 February 14, 1903 (32 Stat. 826, chapter 552;
7 8 U.S.C. 1551) is repealed.

8 (B) 8 U.S.C. 1551.—The language of the
9 compilers set out in section 1551 of title 8 of
10 the United States Code shall be removed from
11 the compilation of such title 8.

12 (2) COMMISSIONER OF IMMIGRATION AND NAT-
13 URALIZATION; OFFICE.—

14 (A) IN GENERAL.—Section 7 of the Act of
15 March 3, 1891 (26 Stat. 1085, chapter 551; 8
16 U.S.C. 1552) is repealed.

17 (B) 8 U.S.C. 1552.—The language of the
18 compilers set out in section 1552 of title 8 of
19 the United States Code shall be removed from
20 the compilation of such title 8.

21 (3) ASSISTANT COMMISSIONERS AND DISTRICT
22 DIRECTOR; COMPENSATION AND SALARY GRADE.—
23 Title II of the Department of Justice Appropriation
24 Act, 1957 (70 Stat. 307, chapter 414; 8 U.S.C.
25 1553) is amended, in the matter under the heading
26 “Immigration and Naturalization Service” and

1 under the subheading “SALARIES AND EX-
2 PENSES”, by striking “That the compensation of
3 the five assistant commissioners and one district di-
4 rector shall be at the rate of grade GS-16: Provided
5 further”.

6 (4) SPECIAL IMMIGRANT INSPECTORS AT WASH-
7 INGTON.—The Act of March 2, 1895 (28 Stat. 780,
8 chapter 177; 8 U.S.C. 1554) is amended in the mat-
9 ter following the heading “Bureau of Immigration:”
10 by striking “That hereafter special immigrant in-
11 spectors, not to exceed three, may be detailed for
12 duty in the Bureau at Washington: And provided
13 further,”.

14 (b) RULE OF CONSTRUCTION.—Nothing in this title
15 may be construed to repeal or limit the applicability of
16 sections 462 and 1512 of the Homeland Security Act of
17 2002 (6 U.S.C. 279 and 552) with respect to any provi-
18 sion of law or matter not specifically addressed by the
19 amendments made by this title.

20 **SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.**

21 Section 7 of the Central Intelligence Agency Act of
22 1949 (50 U.S.C. 3508) is amended by striking “Commis-
23 sioner of Immigration” and inserting “Secretary of Home-
24 land Security”.