

1 Purpose: In the nature of a substitute.

2

3

4 H. R. 2579

5 To amend the Internal Revenue Code of 1986 to allow the
6 premium tax credit with respect to unsubsidized COBRA
7 continuation coverage.

8 Referred to the Committee on _____ and ordered to be
9 printed

10 Ordered to lie on the table and to be printed

11 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE
12 PROPOSED BY MR. ~~CORNYN~~GRASSLEY, ERNST, TILLIS,
13 LANKFORD, COTTON, PERDUE, CORNYN

14 Viz:

15 Strike all after the enacting clause and insert the following:

16 SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

17 (a) Short Titles.—This Act may be cited as the “~~Immigration Reform and Technical~~
18 ~~Corrections Act of 2018~~” or the “~~IRTCA 2018~~SECURE and SUCCEED Act”.

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

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

21 TITLE I—BUILDING AMERICA’S TRUST ACT

22 Sec.1001.Short title.

23 Subtitle A—Border Security

24 Sec.1101.Definitions.

25 Chapter 1—Infrastructure and Equipment

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

27 ~~Sec.1112.Land use or acquisition.~~

28 Sec.111~~3~~2.Air and Marine Operations flight hours.

29 Sec.111~~4~~3.Capability deployment to specific sectors and transit zone.

30 Sec.111~~5~~4.Deployment of assets.

- 1 Sec.111~~65~~.U.S. Border Patrol activities.
- 2 Sec.111~~76~~.Border security technology program management.
- 3 Sec.111~~87~~.National Guard support to secure the southern border and reimbursement of States for
- 4 deployment of the National Guard at the southern border.
- 5 Sec.111~~98~~.Operation Phalanx.
- 6 Sec.11~~2019~~.Merida Initiative.
- 7 Sec.112~~01~~.Prohibitions on actions that impede border security on certain Federal land.
- 8 Sec.112~~12~~.Landowner and rancher security enhancement.
- 9 Sec.112~~23~~.Limitation on land owner's liability.
- 10 Sec.112~~34~~.Eradication of carrizo cane and salt cedar.
- 11 Sec.112~~45~~.Prevention, detection, control, and eradication of diseases and pests.
- 12 Sec.112~~56~~.Transnational criminal organization illicit spotter prevention and detection.
- 13 Sec.112~~67~~.Southern border threat analysis.
- 14 Sec.112~~78~~.Amendments to U.S. Customs and Border Protection.
- 15 Sec.112~~89~~.Agent and officer technology use.
- 16 Sec.11~~2930~~.Integrated Border Enforcement Teams.
- 17 Sec.1130.Land use or acquisition.
- 18 Sec.1131.Tunnel Task Forces.
- 19 Sec.1132.Pilot program on use of electromagnetic spectrum in support of border security
- 20 operations.
- 21 Sec.1133.Homeland security foreign assistance.

22 Chapter 2—Personnel

- 23 Sec.1141.Additional U.S. Customs and Border Protection agents and officers.
- 24 Sec.1142.Fair labor standards for border patrol agents.
- 25 Sec.1143.U.S. Customs and Border Protection retention incentives.
- 26 Sec.1144.Anti-Border Corruption Reauthorization Act.
- 27 Sec.1145.Training for officers and agents of U.S. Customs and Border Protection.
- 28 Sec.1146.Additional U.S. Immigration and Customs Enforcement personnel.
- 29 Sec.1147.Other immigration and law enforcement personnel.
- 30 Sec.1148.Judicial resources for border security.
- 31 Sec.1149.Reimbursement to State and local prosecutors for federally initiated, immigration-
- 32 related criminal cases.

33 Chapter 3—Grants

- 1 Sec.1151.State Criminal Alien Assistance Program.
- 2 Sec.1152.Southern border security assistance grants.
- 3 Sec.1153.Operation Stonegarden.
- 4 Sec.1154.Grants for identification of victims of cross-border human smuggling.
- 5 Sec.1155.Grant accountability.

6 Subtitle B—Emergency Port of Entry Personnel and 7 Infrastructure Funding

- 8 Sec.1201.Definitions.
- 9 Sec.1202.Ports of entry infrastructure.
- 10 Sec.1203.Secure communications.
- 11 Sec.1204.Border security deployment program.
- 12 Sec.1205.Pilot and upgrade of license plate readers at ports of entry.
- 13 Sec.1206.Biometric technology.
- 14 Sec.1207.Nonintrusive inspection operational demonstration project.
- 15 Sec.1208.Biometric exit data system.
- 16 Sec.1209.Sense of Congress on cooperation between agencies.

17 Subtitle C—Border Security Enforcement Fund

- 18 Sec.1301.Border Security Enforcement Fund.

19 Subtitle D—Stop the Importation and Trafficking of Synthetic 20 Analogues Act

- 21 Sec.1401.Short titles.
- 22 Sec.1402.Establishment of Schedule A.
- 23 Sec.1403.Temporary and permanent scheduling of schedule A substances.
- 24 Sec.1404.Penalties.
- 25 Sec.1405.False labeling of schedule A controlled substances.
- 26 Sec.1406.Registration requirements for handlers of schedule A substances.
- 27 Sec.1407.Additional conforming amendments.
- 28 Sec.1408.Clarification of the definition of controlled substance analogue under the Analogue
29 Enforcement Act.
- 30 Sec.1409.Rules of construction.

31 Subtitle E—Domestic Security

1 Chapter 1—General Matters

2 Sec.1501.Ending catch and release for repeat immigration violators and criminals aliens.

3 Sec.1502.Deterring visa overstays.

4 Sec.1503.Increase in immigration detention capacity.

5 Sec.1504.Collection of DNA from criminal and detained aliens.

6 Sec.1505.Collection, use, and storage of biometric data.

7 Sec.1506.Pilot program for electronic field processing.

8 Sec.1507.Ending abuse of parole authority.

9 Sec.1508.Reports to Congress on parole.

10 Sec.1509.Limits on continuances in removal proceedings.

11 Sec.1510.Reinstatement of the Secure Communities Program.

12 Chapter 2—Protection and Due Process for Unaccompanied 13 Alien Children

14 Sec.1520.Short title.

15 Sec.1521.Repatriation of unaccompanied alien children.

16 Sec.1522.Expedited due process and screening for unaccompanied alien children.

17 Sec.1523.Child welfare and law enforcement information sharing.

18 Sec.1524.Accountability for children and taxpayers.

19 Sec.1525.Custody of unaccompanied alien children in formal removal proceeding.

20 Sec.1526.Fraud in connection with the transfer of custody of unaccompanied alien children.

21 Sec.1527.Notification of States and foreign governments, reporting, and monitoring.

22 Sec.1528.Emergency immigration judge resources.

23 Sec.1529.Reports to Congress.

24 Chapter 3—Cooperation With Mexico and Other Countries on 25 Asylum and Refugee Issues

26 Sec.1540.Strengthening internal asylum systems in Mexico and other countries.

27 Sec.1541.Expanding refugee processing in Mexico and Central America for third country
28 resettlement.

29 Subtitle F—Penalties for Smuggling, Drug Trafficking, Human 30 Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to 31 Readmission of Removed Aliens

- 1 Sec.1601.Dangerous human smuggling, human trafficking, and human rights violations.
2 Sec.1602.Putting the Brakes on Human Smuggling Act.
3 Sec.1603.Drug trafficking and crimes of violence committed by illegal aliens.
4 Sec.1604.Establishing inadmissibility and deportability.
5 Sec.1605.Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or
6 commit terrorism.
7 Sec.1606.Penalties for reentry of removed aliens.
8 Sec.1607.Laundering of monetary instruments.
9 Sec.1608.Freezing bank accounts of international criminal organizations and money launderers.
10 Sec.1609.Criminal proceeds laundered through prepaid access devices, digital currencies, or
11 other similar instruments.
12 Sec.1610.Closing the loophole on drug cartel associates engaged in money laundering.
- 13 **Subtitle G—Protecting National Security and Public Safety**
14 **Chapter 1—General Matters**
- 15 Sec.1701.Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
16 Sec.1702.Terrorist and security-related grounds of inadmissibility.
17 Sec.1703.Expedited removal for aliens inadmissible on criminal or security grounds.
18 Sec.1704.Detention of removable aliens.
19 Sec.1705.GAO study on deaths in custody.
20 Sec.1706.GAO study on migrant deaths.
21 Sec.1707.Statute of limitations for visa, naturalization, and other fraud offenses involving war
22 crimes, crimes against humanity, or human rights violations.
23 Sec.1708.Criminal detention of aliens to protect public safety.
24 Sec.1709.Recruitment of persons to participate in terrorism.
25 Sec.1710.Barring and removing persecutors, war criminals, and participants in crimes against
26 humanity from the United States.
27 Sec.1711.Child soldier recruitment ineligibility technical correction.
28 Sec.1712.Gang membership, removal, and increased criminal penalties related to gang violence.
29 Sec.1713.Barring aliens with convictions for driving under the influence or while intoxicated.
30 Sec.1714.Barring aggravated felons, border checkpoint runners, and sex offenders from
31 admission to the United States.
32 Sec.1715.Protecting immigrants from convicted sex offenders.
33 Sec.1716.Enhanced criminal penalties for high speed flight.

- 1 Sec.1717.Prohibition on asylum and cancellation of removal for terrorists.
- 2 Sec.1718.Aggravated felonies.
- 3 Sec.1719.Convictions.
- 4 Sec.1720.Failure to obey removal orders.
- 5 Sec.1721.Sanctions for countries that delay or prevent repatriation of their nationals.
- 6 Sec.1722.Enhanced penalties for construction and use of border tunnels.
- 7 Sec.1723.Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- 8 Sec.1724.Expansion of criminal alien repatriation programs.
- 9 Sec.1725. Prohibition on flight training and nuclear studies for nationals of high-risk countries.

10 Chapter 2—Strong Visa Integrity Secures America Act

- 11 Sec.1731.Short title.
- 12 Sec.1732.Visa security.
- 13 Sec.1733.Electronic passport screening and biometric matching.
- 14 Sec.1734.Reporting visa overstays.
- 15 Sec.1735.Student and exchange visitor information system verification.
- 16 Sec.1736.Social media review of visa applicants.

17 Chapter 3—Visa Cancellation and Revocation

- 18 Sec.1741.Cancellation of additional visas.
- 19 Sec.1742.Visa information sharing.
- 20 Sec.1743.Visa interviews.
- 21 Sec.1744.Judicial review of visa revocation.

22 Chapter 4—Secure Visas Act

- 23 Sec.1751.Short title.
- 24 Sec.1752.Authority of the Secretary of Homeland Security and the Secretary of State.

25 Chapter 5—Visa Fraud and Security Improvement Act of 2017

- 26 Sec.1761.Short title.
- 27 Sec.1762.Expanded usage of fraud prevention and detection fees.
- 28 Sec.1763.Inadmissibility of spouses and sons and daughters of traffickers.
- 29 Sec.1764.DNA testing.
- 30 Sec.1765.Access to NCIC criminal history database for diplomatic visas.
- 31 Sec.1766.Elimination of signed photograph requirement for visa applications.

1 Chapter 6—Other Matters

2 Sec.1771.Requirement for completion of background checks.

3 Sec.1772.Withholding of adjudication.

4 Sec.1773.Access to the National Crime Information Center Interstate Identification Index.

5 Sec.1774.Appropriate remedies for immigration litigation.

6 Sec.1775.Use of 1986 IRCA legalization information for national security purposes.

7 Sec.1776.Uniform statute of limitations for certain immigration, naturalization, and peonage
8 offenses.

9 Sec.1777.Conforming amendment to the definition of racketeering activity.

10 Sec.1778.Validity of electronic signatures.

11 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status 12 in the United States

13 Chapter 1—Prohibition on Adjustment to Lawful Permanent 14 Resident Status

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

16 Sec.1802.Date of admission for purposes of adjustment of status.

17 Sec.1803.Precluding asylee and refugee adjustment of status for certain grounds of
18 inadmissibility and deportability.

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

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

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

23 Sec.1807.Treatment of applications for adjustment of status during pending denaturalization
24 proceedings.

25 Sec.1808.Extension of time limit to permit rescission of permanent resident status.

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

27 Chapter 2—Prohibition on Naturalization and United States 28 Citizenship

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

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

31 Sec.1823.Prohibition on judicial review of naturalization applications for aliens in removal
32 proceedings.

33 Sec.1824.Limitation on judicial review when agency has not made decision on naturalization

- 1 application and on denials.
- 2 Sec.1825.Clarification of denaturalization authority.
- 3 Sec.1826.Denaturalization of terrorists.
- 4 Sec.1827.Treatment of pending applications during denaturalization proceedings.
- 5 Sec.1828.Naturalization document retention.

6 Chapter 3—Forfeiture of Proceeds From Passport and Visa 7 Offenses, and Passport Revocation.

- 8 Sec.1831.Forfeiture of proceeds from passport and visa offenses.
- 9 Sec.1832.Passport Revocation Act.

10 TITLE II—PERMANENT REAUTHORIZATION OF 11 VOLUNTARY E–VERIFY

- 12 Sec.2001.Permanent reauthorization.
- 13 Sec.2002.Preemption; liability.
- 14 Sec.2003.Information sharing.
- 15 Sec.2004.Small Business Demonstration Program.
- 16 Sec.2005.Fraud prevention.
- 17 Sec.2006.Identity authentication employment eligibility verification pilot programs.

18 TITLE III—SUCCEED ACT

- 19 Sec.3001.Short titles.
- 20 Sec.3002.Definitions.
- 21 Sec.3003.Cancellation of removal of certain long-term residents who entered the United States as
22 children.
- 23 Sec.3004.Conditional permanent resident status.
- 24 Sec.3005.Removal of conditional basis for permanent residence.
- 25 Sec.3006.Benefits for relatives of aliens granted conditional permanent resident status.
- 26 Sec.3007.Exclusive jurisdiction.
- 27 Sec.3008.Confidentiality of information.
- 28 Sec.3009.Restriction on welfare benefits for conditional permanent residents.
- 29 Sec.3010.GAO report.
- 30 Sec.3011.Military enlistment.
- 31 Sec.3012.Eligibility for naturalization.
- 32 Sec.3013.Funding.

1 TITLE IV—ENSURING FAMILY REUNIFICATION

2 Sec.4001.Short title.

3 Sec.4002.Family-Sponsored immigration priorities.

4 Sec.4003.Elimination of Diversity Visa Program.

5 TITLE V—OTHER MATTERS

6 Sec.5001.Other Immigration and Nationality Act amendments.

7 Sec.5002.Exemption from the Administrative Procedure Act.

8 Sec.5003.Exemption from the Paperwork Reduction Act.

9 Sec.5004.Ability to fill and retain Department of Homeland Security positions in United States
10 territories.

11 Sec.5005.Severability.

12 Sec.5006.Funding.

13 TITLE VI—TECHNICAL AMENDMENTS

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

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

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

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

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

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

20 Sec.6007.Other amendments.

21 Sec.6008.Repeals; rule of construction.

22 Sec.6009.Miscellaneous technical correction.

23 TITLE I—BUILDING AMERICA’S TRUST ACT

24 SEC. 1001. SHORT TITLE.

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

26 Subtitle A—Border Security

27 SEC. 1101. DEFINITIONS.

28 In this subtitle:

29 (1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term “advanced unattended
30 surveillance sensors” means sensors that utilize an onboard computer to analyze detections
31 in an effort to discern between vehicles, humans, and animals, and ultimately filter false

1 positives before transmission.

2 (2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term “appropriate congressional
3 committee” has the meaning given the term in section 2(2) of the Homeland Security Act of
4 2002 (6 U.S.C. 101(2)).

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

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

10 (5) OPERATIONAL CONTROL.—The term “operational control” has the meaning given the
11 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
12 367).

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

14 (7) SITUATIONAL AWARENESS.—The term “situational awareness” has the meaning given
15 the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year
16 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

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

21 (9) TRANSIT ZONE.—The term “transit zone” has the meaning given the term in section
22 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C.
23 223(a)(7); Public Law 114–328).

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

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

30 CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

31 SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR 32 BARRIERS ALONG THE SOUTHERN BORDER.

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

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

36 “(a) In General.—The Secretary of Homeland Security shall take such actions as may be
37 necessary (including the removal of obstacles to detection of illegal entrants) to construct, install,
38 deploy, operate, and permanently maintain physical barriers, tactical infrastructure and

1 technology in the vicinity of the United States border to achieve situational awareness and
2 operational control of the border and deter, impede, and detect illegal activity in high traffic
3 areas.”;

4 (2) in subsection (b)—

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

7 (B) in paragraph (1)—

8 (i) in subparagraph (A)—

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

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

12 (III) by striking “gain” and inserting “achieve situational awareness and”;
13 and

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

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

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

21 “(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL
22 INFRASTRUCTURE.—The deployment of physical barriers and tactical
23 infrastructure under this subparagraph shall not apply in any areas or region along
24 the border where natural terrain features, natural barriers, or the remoteness of
25 such area or region would make any such deployment ineffective, as determined
26 by the Secretary, for the purposes of gaining situational awareness or operational
27 control of such area or region ~~if, in the absence of tactical infrastructure, the~~
28 ~~Secretary deploys and permanently maintains the most practical and effective~~
29 ~~technology or personnel in order to gain situational awareness and operational~~
30 ~~control of such area or region.”;~~

31 (iii) in subparagraph (C)—

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

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

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

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

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

11 (iv) by striking subparagraph (D);

12 (IV) in clause (iii), as so redesignated –

13 (aa) in subclause (I), by striking “or” after the semicolon at the end;

14 (bb) by amending subclause (II) to read as follows:

15 “(II) delay the transfer of the possession of property to the United States or
16 affect the validity of any property acquisition by purchase or eminent domain, or
17 to otherwise affect the eminent domain laws of the United States or of any state;
18 or; and

19 (cc) by adding at the end the following new subclause:

20 “(III) create any right or liability for any party.”; and

21
22 (C) in paragraph (2)—

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

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

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

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

29 “(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security,
30 when designing, constructing, and deploying physical barriers, tactical infrastructure, or
31 technology, shall incorporate such safety features into the design, construction, or
32 deployment of such physical barriers, tactical infrastructure, or technology, as the case may
33 be, that the Secretary determines, in the Secretary’s sole discretion, are necessary to
34 maximize the safety and effectiveness of officers or agents of the Department of Homeland
35 Security or of any other Federal agency deployed in the vicinity of such physical barriers,
36 tactical infrastructure, or technology.”;

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

38 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of
39 Homeland Security shall have the authority to waive all legal requirements that the

1 Secretary, in the Secretary's sole discretion, determines necessary to ensure the expeditious
2 design, testing, construction, installation, deployment, operation, and maintenance of the
3 physical barriers, tactical infrastructure and technology under this section. Any such
4 decision by the Secretary shall be effective upon publication in the Federal Register.”; and

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

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

10 “(f) Limitation on requirements. – Nothing in this section may be construed as requiring the
11 Secretary to install tactical infrastructure, technology, and physical barriers in a particular
12 location along an international border of the United States, if the Secretary determines that the
13 use or placement of such resources is not the most appropriate means to achieve and maintain
14 situational awareness and operational control over the international border at such location.

15 “(gf) Definitions.—In this section:

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

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

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

21 “(2) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given the
22 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
23 367).

24 “(3) Physical Barriers. – The term ‘physical barriers’ includes reinforced fencing, border
25 wall system, and levee walls.

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

29 “(45) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat
30 ramps, access gates, checkpoints, lighting, and roads.

31 “(65) TECHNOLOGY.—The term ‘technology’ means border surveillance and detection
32 technology, including—

33 “(A) tower-based surveillance technology;

34 “(B) deployable, lighter-than-air ground surveillance equipment;

35 “(C) Vehicle and Dismount Exploitation Radars (VADER);

36 “(D) 3-dimensional, seismic acoustic detection and ranging border tunneling
37 detection technology;

38 “(E) advanced unattended surveillance sensors;

39 “(F) mobile vehicle-mounted and man-portable surveillance capabilities;

1 “(G) unmanned aerial vehicles; and

2 “(H) other border detection, communication, and surveillance technology ~~necessary~~
3 ~~to achieve situational awareness and operational control.~~

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

8 ~~SEC. 1112. LAND USE OR ACQUISITION.~~

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

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

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

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

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

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

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

26 ~~SEC. 1112~~23. AIR AND MARINE OPERATIONS FLIGHT 27 HOURS.

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

31 (b) Unmanned Aerial System.—The Secretary, ~~after coordination with the Administrator of~~
32 ~~the Federal Aviation Administration~~, shall ensure that Air and Marine Operations operate
33 unmanned aerial systems on the southern border of the United States for not fewer than 24 hours
34 per day for 5 days per week.

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

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

38 (1) the primary missions for Air and Marine Operations are to directly support U.S.

1 Border Patrol activities along the southern border of the United States and Joint Interagency
2 Task Force South operations in the transit zone; and

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

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

8 (1) identify critical flight hour requirements; and

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

11 (f) Small Unmanned Aerial Vehicles.—

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

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

18 (A) coordinate flight operations with the Administrator of the Federal Aviation
19 Administration to ensure the safe and efficient operation of the National Airspace
20 System; and

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

25 (3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of
26 2002 (6 U.S.C. 211(e)(3)) is amended—

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

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

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

30 “(C) carry out the small unmanned aerial vehicle requirements pursuant to section
31 111~~32~~(f) of the Building America’s Trust Act; and”.

32 (g) Savings Clause.—Nothing in this section may be construed to confer, transfer, or delegate
33 to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine
34 Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any
35 authority of the Secretary of Transportation or the Administrator of the Federal Aviation
36 Administration relating to the use of airspace or aviation safety.

37 **SEC. 111~~32~~4. CAPABILITY DEPLOYMENT TO SPECIFIC**
38 **SECTORS AND TRANSIT ZONE.**

1 (a) In General.—Not later than September 30, 2022, the Secretary, in implementing section
2 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended
3 by section 1111, and acting through the appropriate component of the Department of Homeland
4 Security, shall deploy to each sector or region of the southern border and the northern border, in
5 a prioritized manner to achieve situational awareness and operational control of such borders, the
6 following additional capabilities:

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

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

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

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

31 (3) YUMA SECTOR.—For the Yuma sector, the following:

- 32 (A) Tower-based surveillance technology.
- 33 (B) Deployable, lighter-than-air ground surveillance equipment.
- 34 (C) Ultralight aircraft detection capabilities.

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

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

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

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

1 (17) HOULTON SECTOR.—For the Houlton sector, the following:

2 (A) Increased flight hours for aerial detection, interdiction, and monitoring
3 operations capability.

4 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.

5 (C) Advanced unattended surveillance sensors.

6 (D) Ultralight aircraft detection capabilities.

7 (E) Man-portable unmanned aerial vehicles.

8 (F) Improved agent communications systems.

9 (18) TRANSIT ZONE.—For the transit zone, the following:

10 (A) Not later than 2 years after the date of the enactment of this Act, an increase in
11 the number of overall cutter, boat, and aircraft hours spent conducting interdiction
12 operations over the average number of such hours during the preceding 3 fiscal years.

13 (B) Increased maritime signals intelligence capabilities.

14 (C) To increase maritime domain awareness—

15 (i) unmanned aerial vehicles with maritime surveillance capability; and

16 (ii) increased maritime aviation patrol hours.

17 (D) Increased operational hours for maritime security components dedicated to joint
18 counter-smuggling and interdiction efforts with other Federal agencies, including the
19 Deployable Specialized Forces of the Coast Guard.

20 (E) Coastal radar surveillance systems with long range day and night cameras
21 capable of providing full maritime domain awareness of the United States territorial
22 waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island,
23 Culebra Island, Saint Thomas, Saint John, and Saint Croix.

24 (b) Reimbursement Related to the Lower Rio Grande Valley Flood Control Project.—The
25 International Boundary and Water Commission is authorized to reimburse State and local
26 governments for any expenses incurred before, on, or after the date of the enactment of this Act
27 by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley
28 Flood Control Project of the Commission.

29 (c) Tactical Flexibility.—

30 (1) SOUTHERN AND NORTHERN LAND BORDERS.—

31 (A) IN GENERAL.—Beginning on September 30, 202~~1~~², or after the Secretary has
32 deployed at least 25 percent of the capabilities required in each sector specified in
33 subsection (a), whichever comes later, the Secretary may deviate from such capability
34 deployments if the Secretary determines that such deviation is required to achieve
35 situational awareness or operational control.

36 (B) NOTIFICATION.—If the Secretary exercises the authority described in
37 subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify
38 the Committee on Homeland Security and Governmental Affairs of the Senate and the

1 Committee on Homeland Security of the House of Representatives regarding the
2 deviation under such subparagraph that is the subject of such exercise. If the Secretary
3 Not later than 90 days after the Secretary makes any changes to such deviation, the
4 Secretary shall, not later than 90 days after any such change, notify such committees
5 regarding such change.

6 (2) TRANSIT ZONE.—

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

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

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

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

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

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

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

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

30 (d) Exigent Circumstances.—

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

37 (2) NOTIFICATION.—~~Not later than 30 days after making a determination under paragraph~~
38 ~~(1),~~ ~~†~~The Secretary shall notify the Committee on Homeland Security of the House of
39 Representatives and the Committee on Homeland Security and Governmental Affairs of the
40 Senate not later than 30 days after making a determination under paragraph (1) of such
41 determination and include, in s. Such notification shall include, 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. 111~~4~~6. 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. 111~~5~~7. 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. 4345. ^[MR(1)] 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 is estimated by the Secretary
27 ~~estimates will to~~ require an eventual total ~~life cycle cost of expenditure of~~ at least \$300,000,000
28 (based on fiscal year 2017 constant dollars) over its life cycle cost.

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

31 “(1) ensure that each such program has a written acquisition program baseline approved
32 by the 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 4334 the following:

19 “Sec.4354.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 4345 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. 11178. 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 may request that the
29 Secretary of Defense support, pursuant to chapter 15 of title 10, United States Code, the
30 Secretary’s efforts to secure the southern border of the United States. The Secretary of Defense,
31 ~~the Governor of a State may order any units or personnel of the National Guard of such State to~~
32 ~~perform operations and missions~~ may authorize the provision of such support under section
33 502(f) of title 32, United States Code, ~~along the southern border for the purposes of assisting~~
34 ~~U.S. Customs and Border Protection to achieve situational awareness and operational control of~~
35 ~~the border~~including pursuant to chapter 9 of such title.

36 ~~(b) Assignment of Operations and Missions.—~~

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

40 ~~(2) NATURE OF DUTY.— The duty of National Guard personnel performing operations and~~

1 ~~missions described in paragraph (1) shall be full-time duty under title 32, United States~~
2 ~~Code.~~

3 ~~(eb) Type of Support Authorized Range of Operations and Missions.—The support provided in~~
4 ~~accordance with operations and missions assigned under subsection (ab) shall may include the~~
5 ~~temporary authority to—~~

6 (1) ~~construction of~~ reinforced fencing or other physical barriers;

7 (2) ~~operation of~~ ground-based surveillance systems;

8 (3) ~~deployment of manned aircraft, operate unmanned and manned aircraft aerial~~
9 ~~surveillance systems, and ground-based surveillance systems to support continuous~~
10 ~~surveillance of the southern border;~~

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

13 (5) ~~construct checkpoints along the Southern border to bridge the gap to long-term~~
14 ~~permanent checkpoints; and~~

15 ~~(6)(4) provide intelligence analysis~~ support.

16 ~~(dc) Materiel and Logistical Support.—The Secretary of Defense shall may~~ deploy such
17 materiel, equipment, and logistical support as may be necessary to ensure ~~the~~
18 ~~effectiveness success of the operations and missions conducted by the National Guard under this~~
19 ~~section of the assistance provided under subsection (a).~~

20 ~~(d) Readiness. — To ensure that the use of units and personnel of the National Guard of a State~~
21 ~~authorized pursuant to this section does not degrade the training and readiness of such units and~~
22 ~~personnel, the following requirements shall apply in determining the homeland defense activities~~
23 ~~that such units and personnel may perform:~~

24 ~~(1) The performance of such activities shall not affect adversely the quality of such~~
25 ~~training or readiness or otherwise interfere with the ability of a unit or personnel of the National~~
26 ~~Guard of a State to perform the military functions of such member or unit.~~

27 ~~(2) The performance of such activities shall not degrade the military skills of the units or~~
28 ~~personnel of the National Guard of a State performing such activities.~~

29 ~~(e) Reimbursement Required Notification.— Prior to providing any support in accordance with~~
30 ~~subsection (a), the Secretary of Defense shall notify the Secretary whether such support qualifies~~
31 ~~for a reimbursement waiver under chapter 15 of title 10, United States Code.~~

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

37 ~~(2) LIMITATION.—The total amount of reimbursements under this section may not exceed~~
38 ~~\$35,000,000 in any fiscal year.~~

39 Reports. —

40 (1) In General. — Not later than 180 days after the date of the enactment of this Act and

1 biannually thereafter through December 31, 2021, the Secretary of Defense shall submit to
2 the appropriate congressional defense committees (as defined in section 101(a)(16) of title
3 10, United States Code) a report regarding any support provided pursuant to subsection (a)
4 for the six month period preceding each such report.

5 (2) Elements. – Each report under paragraph (1) shall include a description of –

6 (A) the support provided; and

7 (B) the sources and amounts of funds obligated and expended to provide such support.

8 SEC. 111~~89~~. OPERATION PHALANX.

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

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

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

16 (2) intelligence analysis support.

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

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

24 (e) Reports.—

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

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

32 (A) the assistance provided;

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

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

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

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

38 (B) in the case of any subsequent report submitted under paragraph (1), the calendar

1 year for which the report is submitted.

2 **SEC. 11 ~~1920~~. MERIDA INITIATIVE.**

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

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

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

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

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

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

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

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

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

23 (c) Allocation of Funds; Report.—

24 (1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any
25 assistance appropriated in any appropriations Act to implement this section shall be
26 withheld until after the Secretary of State submits a written report to the congressional
27 committees specified in paragraph (3) certifying that the Government of Mexico is—

28 (A) significantly reducing illegal migration, drug trafficking, and cross-border
29 criminal activities on Mexico’s northern and southern borders;

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

32 (C) improving the transparency and accountability of Mexican Federal police forces
33 and working with Mexican State and municipal authorities to improve the transparency
34 and accountability of Mexican State and municipal police forces.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) the notification procedures set forth in section 634A of the Foreign Assistance Act of
18 1961 (22 U.S.C. 2394–1); and

19 (2) the notification requirements of—

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

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

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

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

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

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

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

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

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

33 **SEC. 11201. PROHIBITIONS ON ACTIONS THAT IMPEDE**
34 **BORDER SECURITY ON CERTAIN FEDERAL LAND.**

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

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

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

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

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

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

14 (A) the execution of search and rescue operations:

15 (B) the use of motorized vehicles, foot patrols, and horseback to patrol the border
16 area, apprehend illegal entrants, and rescue individuals; and

17 (CB) the design, testing, construction, installation, deployment, and operation of
18 physical barriers, tactical infrastructure, and technology pursuant to section 102 of the
19 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ~~(~~as amended
20 by section 1111 of this title).

21 (c) Clarification Relating to Waiver Authority.—

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

25 (2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this paragraph are
26 all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or
27 related to the subject of, the following laws:

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

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

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

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

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

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

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

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

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

- 1 (J) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).
2 (K) The Comprehensive Environmental Response, Compensation, and Liability Act
3 of 1980 (42 U.S.C. 9601 et seq.).
4 (L) Chapter 3125 of title 54, United States Code (formerly known as the
5 “Archeological and Historic Preservation Act”).
6 (M) The Antiquities Act (16 U.S.C. 431 et seq.).
7 (N) Chapter 3203 of title 54, United States Code (formerly known as the “Historic
8 Sites, Buildings, and Antiquities Act”).
9 (O) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).
10 (P) The Farmland Protection Policy Act (7 U.S.C. 4201 et seq.).
11 (Q) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).
12 (R) The Wilderness Act (16 U.S.C. 1131 et seq.).
13 (S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
14 (T) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C.
15 668dd et seq.).
16 (U) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).
17 (V) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).
18 (W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code
19 (commonly known as the “Administrative Procedure Act”).
20 (X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).
21 (Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994
22 (Public Law 103–433).
23 (Z) Division A of subtitle I of title 54, United States Code (formerly known as the
24 “National Park Service Organic Act”).
25 (AA) The National Park Service General Authorities Act (Public Law 91–383, 16
26 U.S.C. 1a–1 et seq.).
27 (BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of
28 1978 (Public Law 95–625).
29 (CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law
30 101–628).
31 (DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).
32 (EE) The Eagle Protection Act (16 U.S.C. 668 et seq.).
33 (FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001
34 et seq.).
35 (GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).
36 (HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

1 (II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

2 (JJ) The Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.).

3 (3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in
4 paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1,
5 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1)
6 shall apply to the provision of such title that corresponds to the provision of law specified in
7 paragraph (2) to the same extent the waiver applied to that provision of law.

8 (4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed
9 as affecting, negating, or diminishing in any manner the applicability of section 552 of title
10 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any
11 relevant matter.

12 (d) Protection of Legal Uses.—Nothing in this section may be construed to provide—

13 (1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the
14 use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or
15 the Secretary of Agriculture; or

16 (2) any additional authority to restrict legal access to such land.

17 (e) Effect on State and Private Land.—This section shall have no force or effect on State lands
18 or private lands and shall not provide authority, on or access to, State lands or private lands.

19 (f) Tribal Sovereignty.—Nothing in this section may be construed to supersede, replace,
20 negate, or diminish treaties or other agreements between the United States and Indian tribes.

21 (g) Memoranda of Understanding.—The requirements under this section shall not apply to the
22 extent that such requirements are incompatible with any memorandum of understanding or
23 similar agreement entered into between the Commissioner of U.S. Customs and Border
24 Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

25 (h) Definitions.—In this section:

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

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

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

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

34 **SEC. 112~~12~~. LANDOWNER AND RANCHER SECURITY**
35 **ENHANCEMENT.**

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

38 (1) may advise, consult with, report to, and make recommendations to the Secretary on

1 matters relating to border security matters, including—

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

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

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

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

11 (c) Membership.—The National Border Security Advisory Committee shall consist of at least
12 1 member from each State who—

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

14 (2) lives and works in the United States within 80 miles of the southern border or within
15 80 miles of the northern border.

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

18 **SEC. 112~~23~~. LIMITATION ON LAND OWNER'S**
19 **LIABILITY.**

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

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

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

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

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

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

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

38 “(B) such land owner has not already been reimbursed for the final tort judgment,

1 including outstanding attorneys' fees and costs;

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

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

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

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

12 “(B) maintaining an attractive nuisance;

13 “(C) gross negligence; or

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

16 “(i) a patrol of such landowner's land; or

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

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

23 **SEC. 11234. ERADICATION OF CARRIZO CANE AND**
24 **SALT CEDAR.**

25 Not later than September 30, 2022, the Secretary, after coordinating with the heads of the
26 relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any
27 salt cedar along the Rio Grande River.

28 **SEC. 11245. PREVENTION, DETECTION, CONTROL, AND**
29 **ERADICATION OF DISEASES AND PESTS.**

30 (a) Definitions.—In this section:

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

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

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

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

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

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

5 (A) A protozoan.

6 (B) A plant or plant part.

7 (C) An animal.

8 (D) A bacterium.

9 (E) A fungus.

10 (F) A virus or viroid.

11 (G) An infectious agent or other pathogen.

12 (H) An arthropod.

13 (I) A parasite or parasitic plant.

14 (J) A prion.

15 (K) A vector.

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

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

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

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

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

29 (2) COMPENSATION.—

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

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

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

35 (B) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary of Agriculture shall
36 compensate industry participants and State agencies that cooperate with the Secretary
37 of Agriculture in carrying out operations and measures under this subsection for up to

1 100 percent of eligible costs relating to—

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

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

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

11 (c) Cooperation.—

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

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

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

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

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

27 (e) Reimbursement.—The Secretary of Agriculture shall reimburse any Federal agency, State,
28 State agency, political subdivision of a State, national or local government of a foreign country,
29 domestic or international organization or association, domestic nonprofit corporation, Indian
30 tribe, or other person for specified costs, as prescribed by the Secretary of Agriculture, in the
31 discretion of the Secretary of Agriculture, that result from cooperation with the Secretary of
32 Agriculture in carrying out operations and measures under this section.

33 **SEC. 11256. TRANSNATIONAL CRIMINAL**
34 **ORGANIZATION ILLICIT SPOTTER PREVENTION AND**
35 **DETECTION.**

36 (a) BRINGING IN AND HARBORING OF CERTAIN ALIENS.—Section 274(a) of the
37 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

38 (1) in subsection (a)(2), by striking “brings to or attempts to” and inserting the following:
39 “brings to or attempts or conspires to”; and

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

2 “(5) In the case of a person who has brought aliens into the United States in violation of this
3 subsection, the sentence otherwise provided for may be increased by up to 10 years if that
4 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
5 crime, possessed a firearm.”.

6 (b) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—
7 Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

8 (1) by inserting after “knowingly aids or assists” the following: “or attempts to aid or assist”;
9 and

10 (2) by adding at the end the following: “In the case of a person convicted of an offense under
11 this section, the sentence otherwise provided for may be increased by up to 10 years if that
12 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
13 crime, possessed a firearm.”.

14 (c) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Section 1361 of title
15 18, United States Code, is amended—

16 (1) by striking “If the damage” and inserting the following:

17 “(1) Except as otherwise provided in this section, if the damage”; and

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

19 “(2) If the injury or depredation was made or attempted against any fence, barrier, sensor,
20 camera, or other physical or electronic device deployed by the Federal Government to control the
21 border or a port of entry or otherwise was intended to construct, excavate, or make any structure
22 intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical
23 or electronic device deployed by the Federal Government to control the border or a port of entry,
24 by a fine under this title or imprisonment for not more than 15 years, or both.

25 “(3) If the injury or depredation was described under paragraph (2) and, in the commission of
26 the offense, the offender used or carried a firearm or, in furtherance of any such offense,
27 possessed a firearm, by a fine under this title or imprisonment for not more than 20 years, or
28 both.”.

29 (ad) Unlawfully Hindering Immigration, Border, and Customs Controls.—

30 (1) ENHANCED PENALTIES.—Chapter 9 of title II of the Immigration and Nationality Act
31 (8 U.S.C. 1351 et seq.) is amended by adding at the end the following:

32 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION,**
33 **BORDER, AND CUSTOMS CONTROLS.**

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

39 **“(b) Destruction of United States Border Controls.—Any person who knowingly and without**

1 lawful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other
2 physical or electronic device deployed by the Federal Government to control the border or a port
3 of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat,
4 circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic
5 device deployed by the Federal Government to control the border or a port of entry—

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

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

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

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

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

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

19 (1) in paragraph (1)—

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

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

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

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

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

27 “(3) For purposes of this subsection—

28 “(A) the term ‘alien smuggling crime’ means any felony punishable under section 274(a),
29 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328);

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

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

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

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

38 “(D) the term ‘drug trafficking crime’ means any felony punishable under the Controlled

1 Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act
2 (21 U.S.C. 951 et seq.), or chapter 705 of title 46.”

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

5 SEC. 112~~67~~. SOUTHERN BORDER THREAT ANALYSIS.

6 (a) Threat Analysis.—

7 (1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,
8 the Secretary shall submit ~~a southern border threat analysis~~ to the Committee on Homeland
9 Security and Governmental Affairs of the Senate and the Committee on Homeland Security
10 of the House of Representatives a Southern border threat analysis.

11 (2) CONTENTS.—The ~~threat~~ analysis submitted under paragraph (1) shall include an
12 assessment of—

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

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

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

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

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

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

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

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

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

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

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

36 (C) the infrastructure needs and challenges;

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

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

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

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

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

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

11 (1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat
12 analysis under subsection (a) or June 30, 2018, and every 5 years thereafter, the Secretary,
13 acting through the Chief of the U.S. Border Patrol, ~~and in consultation with the Officer for~~
14 ~~Civil Rights and Civil Liberties of the Department of Homeland Security~~, shall issue a
15 Border Patrol Strategic Plan.

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

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

20 (B) efforts to analyze and disseminate border security and border threat information
21 between border security components of the Department of Homeland Security and
22 other appropriate Federal departments and agencies with missions associated with the
23 southern border;

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

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

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

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

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

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

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

38 (H) any technology required to maintain, support, and enhance security and facilitate
39 trade at ports of entry, including nonintrusive detection equipment, radiation detection
40 equipment, biometric technology, surveillance systems, and other sensors and

1 technology that the Secretary determines to be necessary;

2 (I) operational coordination unity of effort initiatives of the border security
3 components of the Department of Homeland Security, including any relevant task
4 forces of the Department of Homeland Security;

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

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

9 (L) border security information received from consultation with State, local, tribal,
10 territorial, and Federal law enforcement agencies that have jurisdiction on the northern
11 border or the southern border, or in the maritime environment, and from border
12 community stakeholders (including through public meetings with such stakeholders),
13 including representatives from border agricultural and ranching organizations and
14 representatives from business and civic organizations along the northern border or the
15 southern border;

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

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

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

20 (i) identifying and detecting fraudulent documents;

21 (ii) understanding the scope of enforcement authorities and the use of force
22 policies; and

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

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

26 **SEC. 11278. AMENDMENTS TO U.S. CUSTOMS AND**
27 **BORDER PROTECTION.**

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

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

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

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

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

35 “(20) administer preclearance operations under the Preclearance Authorization Act of
36 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title VIII of the Trade Facilitation
37 and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

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

5 (c) Implementation Plan.—Subparagraph (B) of section 814(e)(1)(B) of the Preclearance
6 Authorization Act of 2015 (19 U.S.C. 4433(e)(1)(B)); enacted as subtitle B of title VIII of the
7 Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.) is amended to
8 read as follows:

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

12 (d) Definitions.—Subsection (r) of section 411 ~~(r)~~ of the Homeland Security Act of 2002 (6
13 U.S.C. 211) is amended—

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

15 “(1) the terms”;

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

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

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

22 SEC. 112~~89~~. AGENT AND OFFICER TECHNOLOGY USE.

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

28 SEC. 11~~2930~~. INTEGRATED BORDER ENFORCEMENT 29 TEAMS.

30 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
31 seq.), as amended by section 111~~57~~, is further amended by adding at the end the following:

32 “SEC. 43~~56~~. INTEGRATED BORDER ENFORCEMENT 33 TEAMS.

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

37 “(b) Purpose.—The Secretary shall administer the IBET Program in a manner that results in a

1 cooperative approach between the United States and Canada to—

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

3 “(2) ~~to~~ detect, prevent, investigate, and respond to terrorism and violations of law related
4 to border security;

5 “(3) ~~to~~ facilitate collaboration among components and offices within the Department and
6 international partners;

7 “(4) ~~to~~ execute coordinated activities in furtherance of border security and homeland
8 security; and

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

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

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

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

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

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

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

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

21 “(F) appropriate State law enforcement agencies;

22 “(G) foreign law enforcement partners;

23 “(H) local law enforcement agencies from affected border cities and communities;
24 and

25 “(I) appropriate tribal law enforcement agencies.

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

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

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

33 “(C) whether, in accordance with paragraph (3), other joint cross-border initiatives
34 already take place within the region in which the IBET would be established, including
35 other Department cross-border programs such as the Integrated Cross-Border Maritime
36 Law Enforcement Operation Program established under section 711 of the Coast
37 Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border
38 Enforcement Security Task Force established under section 432.

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

8 “(d) Operation.—

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

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

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

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

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

21 “(f) Memoranda of Understanding.—The Secretary may enter into memoranda of
22 understanding with appropriate representatives of the entities specified in subsection (c)(1)
23 necessary to carry out the IBET Program. Such memoranda with entities specified in
24 subparagraph (G) of such subsection shall be entered into with the concurrence of the Secretary
25 of State.

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

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

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

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

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

1 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
2 of 2002 is amended by adding after the item relating to section 43~~54~~, as added by section
3 111~~57(b)~~, the following:

4 “Sec.43~~56~~.Integrated Border Enforcement Teams.”.

5 SEC. 1130. LAND USE OR ACQUISITION.

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

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

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

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

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

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

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

23 SEC. 1131. TUNNEL TASK FORCES.

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

26 SEC. 1132. PILOT PROGRAM ON USE OF 27 ELECTROMAGNETIC SPECTRUM IN SUPPORT OF 28 BORDER SECURITY OPERATIONS.

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

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

36 (2) automated spectrum management to enable greater efficiency and speed for U.S.
37 Customs and Border Protection in addressing emerging challenges in overall spectrum use

1 on the United States border; and

2 (3) coordinated use of spectrum resources to better facilitate interoperability and
3 interagency cooperation and interdiction efforts at or near the United States border.

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

11 ~~SEC. 1133. HOMELAND SECURITY FOREIGN-~~
12 ~~ASSISTANCE FOREIGN MIGRATION ASSISTANCE.~~

13 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
14 seq.), as amended by sections 1117~~5~~ and 1130, is further amended by adding at the end the
15 following:

16 ~~“SEC. 4367. SECURITY ASSISTANCE FOREIGN~~
17 ~~MIGRATION ASSISTANCE.~~

18 “(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide,
19 to a foreign government, financial assistance ~~and security assistance, with or without~~
20 ~~reimbursement, including equipment, training, maintenance, supplies, and sustainment~~
21 ~~support for foreign country operations to address migration flows that may affect the United~~
22 ~~States.~~

23 “(b) Determination.—~~The Secretary may only~~ Assistance ~~provided financial assistance or~~
24 ~~security assistance~~ under subsection (a) may be provided only if ~~the Secretary determines that~~
25 such assistance would enhance the recipient government’s capacity—

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

27 ~~“(2) to address irregular migration flows that may affect the United States, including any~~
28 ~~detention or removal operations of the recipient government, including procedures to screen and~~
29 ~~provide protection for certain individuals; or~~

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

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

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

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

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

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

4 ~~“(f) Reimbursement of Expenses.—~~

5 ~~“(1) IN GENERAL.—The Secretary may collect payment from the receiving entity for the~~
6 ~~provision of security assistance under this section, including equipment, training,~~
7 ~~maintenance, supplies, sustainment support, and related shipping costs.~~

8 ~~“(2) TRANSFER.—Notwithstanding any other provision of law, to the extent the Secretary does~~
9 ~~not collect payment under paragraph (1), any amounts appropriated or otherwise made available~~
10 ~~to the Department of Homeland Security may be transferred to the account that finances the~~
11 ~~security assistance provided under subsection (a). The Secretary may, if appropriate, seek~~
12 ~~reimbursement from the receiving foreign government for the provision of financial assistance~~
13 ~~under this section.~~

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

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

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

19 ~~“(eh) Effective Period. The authority provided under this section shall remain in effect until~~
20 ~~September 30, 2022Rule of Construction.—Nothing in this section may be construed as~~
21 ~~affecting, augmenting, or diminishing the authority of the Secretary of State.~~

22 ~~“(f) Development and Program Executive. – The Secretary and the Secretary of State shall~~
23 ~~jointly develop and implement any financial assistance under this section.~~

24 ~~“(g) Rule of construction. – Nothing in this section may be construed as affecting,~~
25 ~~augmenting, or diminishing the authority of the Secretary of State.~~

26 ~~“(h) Authorization of Appropriations. – In addition to amounts otherwise authorized to be~~
27 ~~appropriated for such purpose, there is authorized to be appropriated \$50,000,000,000 for fiscal~~
28 ~~years 2018 through 2022 to carry out this section.”~~

29 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
30 of 2002 is amended by inserting after the item relating to section 4356, as added by section 1130,
31 the following:

32 “Sec.4367.Security assistance.”.

33 CHAPTER 2—PERSONNEL

34 SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER 35 PROTECTION AGENTS AND OFFICERS.

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

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

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

6 (2) 350 full-time support staff distributed among all United States ports of entry.

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

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

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

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

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

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

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

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

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

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

40 (i) Office of Professional Responsibility.—Not later than September 30, 2022, the
41 Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special

1 agents to maintain an active duty presence of not fewer than 550 full-time equivalent special
2 agents.

3 (j) U.S. Customs and Border Protection Office of Intelligence. – Not later than September 30,
4 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to
5 maintain not fewer than 700 full-time equivalent employees.

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

9 SEC. 1142. FAIR LABOR STANDARDS FOR BORDER 10 PATROL AGENTS.

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

13 “(s) Employment as a Border Patrol Agent.—No public agency shall be deemed to have
14 violated subsection (a) with respect to the employment of any border patrol agent (as defined in
15 section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days,
16 the border patrol agent receives compensation at a rate that is not less than 150 percent of the
17 regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours.
18 Payments required under this section shall be in addition to any payments made under section
19 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set
20 forth in that title.”.

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

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

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

26 (3) by striking paragraph (18).

27 SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION 28 RETENTION INCENTIVES.

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

31 “SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION 32 TEMPORARY EMPLOYMENT AUTHORITIES.

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

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

37 “(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border

1 Protection;

2 “(3) the term ‘Director’ means the Director of the Office of Personnel Management;

3 “(4) the term ‘Secretary’ means the Secretary of Homeland Security; and

4 “(5) the term ‘appropriate congressional committees’ means—

5 “(A) the Committee on Oversight and Government Reform of the House of

6 Representatives;

7 “(B) the Committee on Homeland Security of the House of Representatives;

8 “(C) the Committee on Ways and Means of the House of Representatives;

9 “(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

10 and

11 “(E) the Committee on Finance of the Senate.

12 “(b) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

13 “(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to

14 allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and

15 staffing levels required under section 1141 of the ~~Solution for Undocumented Children-~~

16 ~~through Careers, Employment, Education, and Defending our Nation~~ SECURE and

17 SUCCEED Act. The Secretary may not use such authority beyond meeting the requirements

18 under such section.

19 “(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any

20 provision of sections 3309 through 3319, candidates to positions in the competitive service

21 as CBP employees if the Secretary has given public notice for the positions.

22 “(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or

23 relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP

24 employee at the beginning of the service period multiplied by the number of years

25 (including a fractional part of a year) in the required service period to an individual (other

26 than an individual described in subsection (a)(2) of section 5753(a)(2) if—

27 “(A) the Secretary determines that conditions consistent with the conditions

28 described in paragraphs (1) and (2) of subsection (b) of section 5753(b) are satisfied

29 with respect to the individual (without regard to the regulations referenced in section

30 5753(b)(2)(B)(ii)(I) or to any other provision of section 5753); and

31 “(B) the individual enters into a written service agreement with the Secretary—

32 “(i) under which the individual is required to complete a period of employment

33 as a CBP employee of not less than 2 years; and

34 “(ii) that includes—

35 “(I) the commencement and termination dates of the required service

36 period (or provisions for the determination thereof);

37 “(II) the amount of the bonus; and

38 “(III) other terms and conditions under which the bonus is payable, subject

1 to the requirements of this subsection, including—

2 “(aa) the conditions under which the agreement may be terminated
3 before the agreed-upon service period has been completed; and

4 “(bb) the effect of a termination described in item (aa).

5 “(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent
6 of basic pay to an individual CBP employee (other than an individual described in
7 subsection (a)(2) of section 5754(a)(2)) if—

8 “(A) the Secretary determines that—

9 “(i) a condition consistent with the condition described in subsection (b)(1) of
10 section 5754(b)(1) is satisfied with respect to the CBP employee (without regard
11 to any other provision of that ~~section 5754~~);

12 “(ii) in the absence of a retention bonus, the CBP employee would be likely to
13 leave—

14 “(I) the Federal service; or

15 “(II) for a different position in the Federal service, including a position in
16 another agency or component of the Department of Homeland Security; and

17 “(B) the individual enters into a written service agreement with the Secretary—

18 “(i) under which the individual is required to complete a period of employment
19 as a CBP employee of not less than 2 years; and

20 “(ii) that includes—

21 “(I) the commencement and termination dates of the required service
22 period (or provisions for the determination thereof);

23 “(II) the amount of the bonus; and

24 “(III) other terms and conditions under which the bonus is payable, subject
25 to the requirements under this subsection, including—

26 “(aa) the conditions under which the agreement may be terminated
27 before the agreed-upon service period has been completed; and

28 “(bb) the effect of a termination described in item (aa).

29 “(5) RULES FOR BONUSES.—

30 “(A) MAXIMUM BONUS.— A bonus paid to an employee under –

31 “(i) ~~RECRUITMENT AND RELOCATION BONUS.—A bonus paid to an employee~~
32 ~~under~~ paragraph (3) may not exceed 100 percent of the annual rate of basic pay of
33 the employee as of the commencement date of the applicable service period.

34 “(ii) ~~RETENTION BONUS.—A bonus paid to an employee under~~ paragraph (4)
35 may not exceed 50 percent of the annual rate of basic pay of the employee.

36 “(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph
37 (3) or (4) shall not be considered part of the basic pay of the employee for any purpose,

1 including for retirement or in computing a lump-sum payment to the covered employee
2 for accumulated and accrued annual leave under section 5551 or section 5552.

3 “(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION
4 BONUSSES.—

5 “(i) A bonus paid to an employee under paragraph (4) may not be based on any
6 period of such service which is the basis for a recruitment or relocation bonus under
7 paragraph (3).

8 “(ii) A bonus paid to an employee under paragraph (3) or (4) may not be based on
9 any period of service which is the basis for a recruitment or relocation bonus under
10 section 5753 or a retention bonus under section 5754.

11 “(c) Special Rates of Pay.—In addition to the circumstances described in subsection (b) of
12 section 5305(b), the Director may establish special rates of pay in accordance with that section to
13 assist the Secretary in meeting the requirements of section 1141 of ~~the Solution for~~
14 ~~Undocumented Children through Careers, Employment, Education, and Defending our~~
15 ~~Nation~~SECURE and SUCCEED Act. The Director shall prioritize the consideration of requests
16 from the Secretary for such special rates of pay and issue a decision as soon as practicable. The
17 Secretary shall provide such information to the Director as the Director deems necessary to
18 evaluate special rates of pay under this subsection.

19 “(d) OPM Oversight.—

20 “(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a
21 report to the Director on U.S. Customs and Border Protection’s use of authorities provided
22 under subsections (b) and (c). In

23 “(2) CONTENTS.—~~Each report, the Secretary submitted under paragraph (1) shall~~
24 ~~include—~~

25 “(A) provide such information as the Director determines is appropriate to ensure
26 appropriate use of authorities under such subsections. Each report shall also include an
27 assessment of; and —

28 ~~“(B) an assessment of—~~

29 “(iA) the impact of the use of authorities under subsections (b) and (c) on
30 implementation of section 1141 of the ~~Solution for Undocumented Children~~
31 ~~through Careers, Employment, Education, and Defending our Nation~~SECURE
32 and SUCCEED Act;

33 “(iB) solving hiring and retention challenges at the agency, including at
34 specific locations;

35 “(iC) whether hiring and retention challenges still exist at the agency or
36 specific locations; and

37 “(iD) whether the Secretary needs to continue to use authorities provided
38 under this section at the agency or at specific locations.

39 “(23) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary
40 shall consider—

1 “(A) whether any CBP employee accepted an employment incentive under
2 subsection (b) and (c) and then transferred to a new location or left U.S. Customs and
3 Border Protection; and

4 “(B) the length of time that each employee identified under subparagraph (A) stayed
5 at the original location before transferring to a new location or leaving U.S. Customs
6 and Border Protection.

7 “(34) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report
8 required under this subsection to the appropriate congressional committees.

9 “(e) OPM Action.—

10 ~~“(1) NOTIFICATION.—If the Director shall submit written notification to the Secretary and the~~
11 ~~appropriate congressional committees if the Director determines the Secretary has~~
12 ~~inappropriately used the authority under subsection (b) or a special rate of pay authorized under~~
13 ~~subsection (c), the Director shall notify -~~

14 ~~“(2) EFFECT OF NOTIFICATION.—Upon receipt of a notification under paragraph (1), the~~
15 ~~Secretary may not make any new appointments or issue any new bonuses under subsection (b) or~~
16 ~~provide CBP employees with further special rates of pay until the Director has submitted written~~
17 ~~notice to the Secretary and the appropriate congressional committees in writing. Upon receipt of~~
18 ~~the notification, the Secretary may not make any new appointments or issue any new bonuses~~
19 ~~under subsection (b), nor provide CBP employees with further special rates of pay, until the~~
20 ~~Director has provided the Secretary and the appropriate congressional committees a written~~
21 ~~notice statingeertifying that the Director is satisfied that safeguards are in place to prevent further~~
22 ~~inappropriate use.~~

23 “(f) Improving CBP Hiring and Retention.—

24 “(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the
25 enactment of this section, and in conjunction with the Chief Human Capital Officer of the
26 Department of Homeland Security, the Secretary shall develop and implement a strategy to
27 improve the education regarding hiring and human resources flexibilities (including hiring
28 and human resources flexibilities for locations in rural or remote areas) for all employees,
29 serving in agency headquarters or field offices, who are involved in the recruitment, hiring,
30 assessment, or selection of candidates for locations in a rural or remote area, as well as the
31 retention of current employees.

32 “(2) ELEMENTS.—Elements of the strategy developed under paragraph (1) shall include—

33 “(A) developing or updating training and educational materials on hiring and human
34 resources flexibilities for employees who are involved in the recruitment, hiring,
35 assessment, or selection of candidates, as well as the retention of current employees;

36 “(B) regular training sessions for personnel who are critical to filling open positions
37 in rural or remote areas;

38 “(C) ~~the developm~~enting of pilot programs or other programs, as appropriate,
39 consistent with authorities provided to the Secretary to address identified hiring
40 challenges, including in rural or remote areas;

41 “(D) developing and enhancing strategic recruiting efforts through the relationships

1 with institutions of higher education (as defined in section 102 of the Higher Education
2 Act of 1965 (20 U.S.C. 1002)), veterans transition and employment centers, and job
3 placement program in regions that could assist in filling positions in rural or remote
4 areas;

5 “(E) ~~examination~~ing of existing agency programs to determine how to most
6 effectively aid spouses and families of individuals who are candidates or new hires in a
7 rural or remote area;

8 “(F) ~~gathering~~ feedback from individuals who are candidates or new hires at
9 locations in a rural or remote area, including feedback on the quality of life in rural or
10 remote areas for new hires and their families;

11 “(G) ~~gathering~~ feedback from CBP employees, other than new hires, who are
12 stationed at locations in a rural or remote area, including feedback on the quality of life
13 in rural or remote areas for those CBP employees and their families; and

14 “(H) ~~evaluation~~ing of Department of Homeland Security internship programs and the
15 usefulness of such programs in improving hiring by the Secretary in rural or remote
16 areas.

17 “(3) EVALUATION.—

18 “(A) IN GENERAL.— Each year. ~~The~~ Secretary shall ~~annually~~—

19 “(i) evaluate the extent to which the strategy developed and implemented under
20 paragraph (1) has improved the hiring and retention ability of the Secretary; and

21 “(ii) make any appropriate updates to the strategy developed under paragraph
22 (1).

23 “(B) INFORMATION.—The evaluation under subparagraph (A) shall include—

24 “(i) any reduction in the time taken by the Secretary to fill mission-critical
25 positions, including in rural or remote areas;

26 “(ii) a general assessment of the impact of the strategy implemented under
27 paragraph (1) on hiring challenges, including in rural or remote areas; and

28 “(iii) other information the Secretary determines relevant.

29 “(g) Inspector General Review.—Not later than 2 years after the date of the enactment of this
30 section, the Inspector General of the Department of Homeland Security shall review the use of
31 hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such
32 flexibilities is helping the Secretary meet hiring and retention needs, including in rural and
33 remote areas.

34 “(h) Report on Polygraph Requests.—The Secretary shall submit a report to the appropriate
35 congressional committees that identifies the number of requests the Secretary has received from
36 any other Federal agency for the file of an applicant for a position in U.S. Customs and Border
37 Protection that includes the results of a polygraph examination.

38 “(i) Exercise of Authority.—

39 “(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to
40 the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under

1 paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining
2 agreement.

3 “(2) DELEGATION.—The Secretary may delegate any authority under this section to the
4 Commissioner.

5 “(j) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary
6 or the Director from applicability of the merit system principles under section 2301.

7 “(k) Sunset.—The authorities under subsections (b) and (c) shall terminate on September 30,
8 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may
9 continue until such bonus has been paid, subject to the conditions specified in this section.”.

10 (b) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 5,
11 United States Code, is amended by adding at the end the following:

12 “9702. U.S. Customs and Border Protection temporary employment authorities.”.

13 (c) Overtime Limitation.—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C.
14 267(c)(1)) is amended by striking “\$25,000” and inserting “\$45,000”.

15 SEC. 1144. ANTI-BORDER CORRUPTION 16 REAUTHORIZATION ACT.

17 (a) Short Title.—This section may be cited as the “Anti-Border Corruption Reauthorization
18 Act of 2018”.

19 (b) Hiring Flexibility.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221) is
20 amended by striking subsection (b) and inserting the following:

21 “(b) Waiver Authority.—The Commissioner of U.S. Customs and Border Protection may
22 waive the application of subsection (a)(1)—

23 “(1) ~~for~~ a current, full-time law enforcement officer employed by a State or local law
24 enforcement agency who—

25 “(A) has continuously served as a law enforcement officer for not fewer than 3
26 years;

27 “(B) is authorized by law to engage in or supervise the prevention, detection,
28 investigation, or prosecution of, or the incarceration of any person for, any violation of
29 law, and has statutory powers for arrest or apprehension;

30 “(C) is not currently under investigation, has not been found to have engaged in
31 criminal activity or serious misconduct, has not resigned from a law enforcement
32 officer position under investigation or in lieu of termination, and has not been
33 dismissed from a law enforcement officer position; and

34 “(D) has, during the past 10 years, successfully completed a polygraph examination
35 as a condition of employment with such officer’s current law enforcement agency;

36 “(2) ~~to for~~ a current, full-time Federal law enforcement officer who—

37 “(A) has continuously served as a law enforcement officer for not fewer than 3
38 years;

1 “(B) is authorized to make arrests, conduct investigations, conduct searches, make
2 seizures, carry firearms, and serve orders, warrants, and other processes;

3 “(C) is not currently under investigation, has not been found to have engaged in
4 criminal activity or serious misconduct, has not resigned from a law enforcement
5 officer position under investigation or in lieu of termination, and has not been
6 dismissed from a law enforcement officer position; and

7 “(D) holds a current Tier 4 background investigation or current Tier 5 background
8 investigation; and

9 “(3) ~~fortho~~ a member of the Armed Forces (or a reserve component thereof) or a veteran, if
10 such individual—

11 “(A) has served in the Armed Forces for not fewer than 3 years;

12 “(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top
13 Secret/Sensitive Compartmented Information clearance;

14 “(C) holds, or has undergone within the past 5 years, a current Tier 4 background
15 investigation or current Tier 5 background investigation;

16 “(D) received, or is eligible to receive, an honorable discharge from service in the
17 Armed Forces and has not engaged in criminal activity or committed a serious military
18 or civil offense under the Uniform Code of Military Justice; and

19 “(E) was not granted any waivers to obtain the clearance referred to subparagraph
20 (B).

21 “(c) Termination of Waiver Authority.—The authority to issue a waiver under subsection (b)
22 shall terminate on the date that is 4 years after the date of the enactment of the ~~Solution for~~
23 ~~Undocumented Children through Careers, Employment, Education, and Defending our~~
24 ~~Nation~~SECURE and SUCCEED Act.”.

25 (c) Supplemental Commissioner Authority and Definitions.—

26 (1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border
27 Corruption Act of 2010 (Public Law 111–376) is amended to read as follows:

28 “SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

29 “(a) Non-exemption.—An individual who receives a waiver under section 3(b) is not exempt
30 from other hiring requirements relating to suitability for employment and eligibility to hold a
31 national security designated position, as determined by the Commissioner of U.S. Customs and
32 Border Protection.

33 “(b) Background Investigations.—Any individual who receives a waiver under section 3(b)
34 and holds a current Tier 4 background investigation shall be subject to a Tier 5 background
35 investigation.

36 “(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and
37 Border Protection is authorized to administer a polygraph examination to an applicant or
38 employee who is eligible for, or receives a waiver under, section 3(b) if information is
39 discovered before the completion of a background investigation that results in a determination

1 that a polygraph examination is necessary to make a final determination regarding suitability for
2 employment or continued employment, as the case may be.”.

3 (2) REPORT.—The Anti-Border Corruption Act of 2010 (~~Public Law 111-376~~), as
4 amended by paragraph (1), is further amended by adding at the end the following:

5 “SEC. 5. REPORTING.

6 “(a) Annual Report.—Not later than 1 year after the date of the enactment of this section, and
7 annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner
8 of U.S. Customs and Border Protection shall submit a report to Congress that includes, with
9 respect to each such reporting period—

10 “(1) the number of waivers requested, granted, and denied under section 3(b);

11 “(2) the reasons for any denials of such waiver;

12 “(3) the percentage of applicants who were hired after receiving a waiver;

13 “(4) the number of instances that a polygraph was administered to an applicant who
14 initially received a waiver and the results of such polygraph;

15 “(5) an assessment of the current impact of the polygraph waiver program on filling law
16 enforcement positions at U.S. Customs and Border Protection; and

17 “(6) additional authorities needed by U.S. Customs and Border Protection to better utilize
18 the polygraph waiver program for its intended goals.

19 “(b) Additional Information.—The first report submitted under subsection (a) shall include—

20 “(1) an analysis of other methods of employment suitability tests that detect deception
21 and could be used in conjunction with traditional background investigations to evaluate
22 potential employees for suitability; and

23 “(2) a recommendation regarding whether a test referred to in paragraph (1) should be
24 adopted by U.S. Customs and Border Protection when the polygraph examination
25 requirement is waived pursuant to section 3(b).”.

26 (3) DEFINITIONS.—The Anti-Border Corruption Act of 2010 (~~Public Law 111-376~~), as
27 amended by paragraphs (1) and (2), is further amended by adding at the end the following:

28 “SEC. 6. DEFINITIONS.

29 “In this Act:

30 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’
31 has the meaning given the term ‘law enforcement officer’ in sections 8331(20) and
32 8401(17) of title 5, United States Code.

33 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term ‘serious military or civil offense’
34 means an offense for which—

35 “(A) a member of the Armed Forces may be discharged or separated from service in
36 the Armed Forces; and

37 “(B) a punitive discharge is, or would be, authorized for the same or a closely

1 related offense under the Manual for Court-Martial, as pursuant to Army Regulation
2 635-200 chapter 14–12.

3 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and ‘Tier 5’ with respect to background
4 investigations have the meaning given such terms under the 2012 Federal Investigative
5 Standards.

6 “(4) VETERAN.—The term ‘veteran’ has the meaning given such term in section 101(2) of
7 title 38, United States Code.”.

8 (d) Polygraph Examiners.—Not later than September 30, 2022, the Secretary shall increase to
9 not fewer than 150 the number of trained full-time equivalent polygraph examiners for
10 administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this
11 section.

12 SEC. 1145. TRAINING FOR OFFICERS AND AGENTS OF 13 U.S. CUSTOMS AND BORDER PROTECTION.

14 (a) In General.—Section 411(l) of the Homeland Security Act of 2002 (6 U.S.C. 211(l)) is
15 amended to read as follows:

16 “(l) Training and Continuing Education.—

17 “(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—The Commissioner shall
18 ensure that every agent and officer of U.S. Customs and Border Protection receives at least
19 21 weeks of training that is directly related to the mission of the U.S. Border Patrol, Air and
20 Marine, and the Office of Field Operations before the initial assignment of such agents and
21 officers.

22 “(2) FLETC.—The Commissioner shall work in consultation with the Director of the
23 Federal Law Enforcement Training Centers to establish guidelines and curriculum for the
24 training of agents and officers of U.S. Customs and Border Protection under subsection (a).

25 “(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers
26 of U.S. Customs and Border Protection who are required to undergo training under
27 subsection (a) to participate in not fewer than 8 hours of continuing education annually to
28 maintain and update understanding of Federal legal rulings, court decisions, and
29 Department policies, procedures, and guidelines related to relevant subject matters.

30 “(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the
31 Solution for Undocumented Children through Careers, Employment, Education, and
32 Defending our Nation Act, the Commissioner shall develop and require training courses
33 geared towards the development of leadership skills for mid- and senior-level career
34 employees not later than 1 year after such employees assume duties in supervisory roles.”.

35 (b) Report.—Not later than 180 days after the date of the enactment of this Act, the
36 Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee
37 on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland
38 Security of the House of Representatives, and the Committee on Ways and Means of the House
39 of Representatives that identifies the guidelines and curriculum established to carry out
40 subsection (1) of section 411(+) of the Homeland Security Act of 2002, as amended by subsection
41 (a).

1 (c) Assessment.—Not later than 4 years after the date of the enactment of this Act, the
2 Comptroller General of the United States shall submit a report to the Committee on Homeland
3 Security and the Committee on Ways and Means of the House of Representatives and the
4 Committee on Homeland Security and Governmental Affairs and the Committee on Finance of
5 the Senate that assesses the training and education, including continuing education, required
6 under subsection (1) of section 411(+) of the Homeland Security Act of 2002, as amended by
7 subsection (a).

8 SEC. 1146. ADDITIONAL U.S. IMMIGRATION AND 9 CUSTOMS ENFORCEMENT PERSONNEL.

10 (a) Enforcement and Removal Officers.—By not later than September 30, 2022, the Director
11 of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time,
12 active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Operations
13 law enforcement officers performing interior immigration enforcement functions to not fewer
14 than 8,500.

15 (b) Homeland Security Investigations Special Agents.—By not later than September 30, 2022,
16 the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained,
17 full-time, active duty Homeland Security Investigations special agents by not fewer than 1,500.

18 (c) Border Enforcement Security Task Force.—By not later than September 30, 2022, the
19 Director of U.S. Immigration and Customs Enforcement shall assign not fewer than 100
20 Homeland Security Investigations special agents to the Border Enforcement Security Task Force
21 Program established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

22 SEC. 1147. OTHER IMMIGRATION AND LAW 23 ENFORCEMENT PERSONNEL.

24 (a) Department of Justice.—

25 (1) UNITED STATES ATTORNEYS.—By not later than September 30, 2022, in addition to
26 positions authorized before the date of the enactment of this Act and any existing attorney
27 vacancies within the Department of Justice on such date of enactment, the Attorney General
28 shall—

29 (A) increase by not fewer than 100 the number of Assistant United States Attorneys;
30 and

31 (B) increase by not fewer than 50 the number of Special Assistant United States
32 Attorneys in the United States Attorneys' office to litigate denaturalization and other
33 immigration cases in the Federal courts.

34 (2) IMMIGRATION JUDGES.—

35 (A) ADDITIONAL IMMIGRATION JUDGES.—By not later than September 30, 2022, in
36 addition to positions authorized before the date of the enactment of this Act and any
37 existing vacancies within the Department of Justice on such date of enactment, the
38 Attorney General shall increase by 200 the number of trained full-time immigration
39 judges.

1 (B) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney
2 General is authorized to procure space, temporary facilities, support staff, and full-time
3 interpreters on an expedited basis, to accommodate the additional immigration judges
4 authorized under subparagraph (A).

5 (3) BOARD OF IMMIGRATION APPEALS.—

6 (A) BOARD MEMBERS.—By not later than September 30, 2022, the Attorney General
7 shall increase the number of Board Members authorized to serve on the Board of
8 Immigration Appeals to 25.

9 (B) STAFF ATTORNEYS.—By not later than September 30, 2022, in addition to
10 positions authorized before the date of the enactment of this Act and any existing staff
11 attorney vacancies within the Department of Justice on such date of enactment, the
12 Attorney General shall increase the number of staff attorneys assigned to support the
13 Board of Immigration Appeals by not fewer than 50.

14 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General is authorized to
15 procure space, temporary facilities, and required administrative support staff, on an
16 expedited basis, to accommodate the additional Board Members authorized under
17 subparagraph (A).

18 (4) OFFICE OF IMMIGRATION LITIGATION.—By not later than September 30, 2022, in
19 addition to positions authorized before the date of the enactment of this Act and any
20 existing vacancies within the Department of Justice on such date of enactment, the Attorney
21 General shall increase by not fewer than 100 the number of attorneys for the Office of
22 Immigration Litigation.

23 (b) Department of Homeland Security.—

24 (1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September
25 30, 2022, in addition to positions authorized before the date of the enactment of this Act and
26 any existing officer vacancies within the Department of Homeland Security on such date of
27 enactment, the Director of U.S. Citizenship and Immigration Services shall increase by not
28 fewer than 100 the number of trained full-time active duty Fraud Detection and National
29 Security (FDNS) officers.

30 (2) ICE HOMELAND SECURITY INVESTIGATIONS FORENSIC DOCUMENT LABORATORY
31 PERSONNEL.—By not later than September 30, 2022, in addition to positions authorized
32 before the date of the enactment of this Act and any existing officer vacancies within the
33 Department of Homeland Security on such date of enactment, the Director of U.S.
34 Immigration and Customs Enforcement shall increase—

35 (A) the number of trained, full-time Forensic Document Laboratory Examiners by
36 15;

37 (B) the number of trained, full-time Fingerprint Specialists by 15;

38 (C) the number of trained, full-time Intelligence Officers by 10; and

39 (D) the number of trained, full-time administrative staff by 3.

40 (3) IMMIGRATION ATTORNEYS.—

1 (A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than
2 September 30, 2022, in addition to positions authorized before the date of the
3 enactment of this Act and any existing attorney vacancies within the Department of
4 Homeland Security on such date of enactment, the Director of U.S. Immigration and
5 Customs Enforcement shall increase the number of trained, full-time, active duty
6 Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of
7 such attorneys shall perform duties related to litigation of removal proceedings and
8 representing the Department of Homeland Security in immigration matters before the
9 immigration courts within the Department of Justice, the Executive Office for
10 Immigration Review, and enforcement of U.S. customs and trade laws. At least 50 of
11 these additional attorney positions shall be used by the Attorney General to increase
12 the number of U.S. Immigration and Customs Enforcement attorneys serving as
13 Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the
14 U.S. Attorneys, to assist with immigration-related litigation.

15 (B) USCIS IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in
16 addition to positions authorized before the date of the enactment of this Act and any
17 existing attorney vacancies within the Department of Homeland Security on such date
18 of enactment, the Director of U.S. Citizenship and Immigration Services shall increase
19 the number of trained, full-time, active duty Office of Chief Counsel attorneys by not
20 fewer than 250. Such attorneys shall primarily handle national security and public
21 safety cases, denaturalization cases, and legal sufficiency reviews of immigration
22 benefit decisions. At least 50 of these additional attorney positions shall be used by the
23 Attorney General to increase the number of U.S. Citizenship and Immigration Service
24 attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of
25 Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

26 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General and Secretary are
27 authorized to procure space, temporary facilities, and to hire the required
28 administrative and legal support staff, on an expedited basis, to accommodate the
29 additional positions authorized under this paragraph.

30 (D) AUTHORITY TO ACQUIRE LEASEHOLD. – Notwithstanding any other provision of
31 law, the Secretary of Homeland Security may acquire a leasehold interest in real
32 property, and may provide in a lease entered into under this subsection for the
33 construction or modification of any facility on the leased property, if Secretary
34 determines that the acquisition of such interest, and such construction or modification,
35 are necessary in order to facilitate the implementation of this Act.

36 (E) USE OF USCIS FEE FUNDS.—Adjudication fees described in section 286(m) of the
37 Immigration and Nationality Act (8 U.S.C. 1356(m)) may not be used to pay for the
38 cost of employing or contracting for the services of any person who is not an employee
39 or contractor of U.S. Citizenship and Immigration Services or the Department of
40 Homeland Security's Administrative Appeals Office.

41 (c) Department of State.—

42 (1) VISA SPECIALISTS.—By not later than September 30, 2022, in addition to positions
43 authorized before the date of the enactment of this Act and any existing attorney vacancies
44 within the Department on such date of enactment, the Assistant Secretary of State for

1 Consular Affairs shall increase the number of trained, full-time analysts within the Bureau
2 of Consular Affairs by not fewer than 50. Such analysts primarily should handle and advise
3 on cases and matters involving the potential for visa denial on the basis of national security
4 and public safety concerns.

5 (2) IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to
6 positions authorized before the date of the enactment of this Act and any existing attorney
7 vacancies within the Department on such date of enactment, the Assistant Secretary of State
8 for Consular Affairs shall increase the number of trained, full-time, active attorneys adviser
9 within the Bureau of Consular Affairs by not fewer than 25. Such attorneys primarily
10 should handle and advise on cases and matters involving the potential for visa denial on the
11 basis of national security and public safety concerns.

12 (3) FOREIGN SERVICE CONSULAR FELLOWS PROGRAM.—By not later than September 30,
13 2020, the Secretary of State shall—

14 (i) increase the number of Consular Fellows to double the number of Consular Fellows
15 employed on the date of enactment of this Act;

16 (ii) offer Consular Fellows permanent career appointments; and

17 (iii) make language training available to Consular Fellows for assignment to posts outside
18 of their area of core linguistic ability.

19 (d) Authorization of Appropriations.—There are authorized to be appropriated, for each of the
20 fiscal years 2018 through 2022, such sums as may be necessary to carry out this section.

21 SEC. 1148. JUDICIAL RESOURCES FOR BORDER 22 SECURITY.

23 (a) Border Crossing Prosecutions; Criminal Consequence Initiative.—

24 (1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

25 (A) to increase the number of criminal prosecutions for unlawful border crossing in
26 each and every sector of the southern border by not less than 80 percent per day, as
27 compared to the average number of such prosecutions per day during the 12-month
28 period preceding the date of the enactment of this Act, by increasing funding for—

29 (i) attorneys and administrative support staff in offices of United States
30 attorneys;

31 (ii) support staff and interpreters in court clerks' offices;

32 (iii) pre-trial services;

33 (iv) activities of the Office of the Federal Public Defender, including payments
34 to retain appointed counsel under section 3006A of title 18, United States Code;
35 and

36 (v) additional personnel, including deputy United States marshals in the United
37 States Marshals Service, to perform intake, coordination, transportation, and court
38 security; and

39 (B) to reimburse Federal, State, local, and tribal law enforcement agencies for any

1 detention costs related to the increased border crossing prosecutions carried out
2 pursuant to subparagraph (A).

3 (2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief
4 judge of each judicial district located within a sector of the southern border is authorized to
5 appoint additional full-time magistrate judges, who, consistent with the Constitution and
6 laws of the United States, shall have the authority to hear cases and controversies in the
7 judicial district in which the magistrate judges are appointed.

8 (3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for
9 each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this
10 subsection.

11 (b) Additional Permanent District Court Judgeships in Southern Border States.—

12 (1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the
13 Senate—

14 (A) 4 additional district judges for the District of Arizona;

15 (B) 2 additional district judges for the Southern District of California;

16 (C) 4 additional district judges for the Western District of Texas; and

17 (D) 2 additional district judges for the Southern District of Texas.

18 (2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The judgeships for the
19 District of Arizona and the Central District of California authorized under section 312(c) of
20 the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133
21 note), in existence on the day before the date of the enactment of this Act, shall be
22 authorized under section 133 of title 28, United States Code, and the individuals holding
23 such judgeships on such day shall hold office under section 133 of title 28, United States
24 Code, as amended by paragraph (3).

25 (3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a)
26 of title 28, United States Code, is amended—

27 (A) by striking the item relating to the district of Arizona and inserting the
28 following:
:2,L0,tp0,p0,10/12,s190n,xs95n11

29 “Arizonal17”;

30 (B) by striking the items relating to California and inserting the following
31 :2,L0,tp0,p0,10/12,s190n,xs95n11

32 l“California:l

33 Northernl19

34 Easternl12

35 Centrall28

36 Southernl15”; and

37 (C) by striking the items relating to Texas and inserting the following
38 :2,L0,tp0,p0,10/12,s190n,xs95n11

1 l“Texas:l
2 Northernl12
3 Southernl21
4 Easternl7
5 Westernl17”.

6 (c) Increase in Filing Fees.—

7 (1) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended—

8 (A) by striking “\$350” and inserting “\$375”; and

9 (B) by striking “\$5” and inserting “\$7”.

10 (2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the
11 amendments made by paragraph (1)—

12 (A) shall be deposited as offsetting receipts in the special fund of the Treasury
13 established under section 1931 of title 28, United States Code; and

14 (B) shall be available solely for the purpose of facilitating the processing of civil
15 cases, but only to the extent specifically appropriated by an Act of Congress enacted
16 after the date of the enactment of this Act.

17 **SEC. 1149. REIMBURSEMENT TO STATE AND LOCAL**
18 **PROSECUTORS FOR FEDERALLY INITIATED,**
19 **IMMIGRATION-RELATED CRIMINAL CASES.**

20 (a) In General.—The Attorney General shall reimburse State, county, tribal, and municipal
21 governments for costs associated with the prosecution of federally initiated criminal cases
22 declined to be prosecuted by local offices of the United States attorneys, including costs relating
23 to pre-trial services, detention, clerical support, and public defenders’ services associated to such
24 prosecution.

25 (b) Exception.—Reimbursement under subsection (a) shall not be available, at the discretion
26 of the Attorney General, if the Attorney General determines that there is reason to believe that
27 the jurisdiction seeking reimbursement has engaged in unlawful conduct in connection with
28 immigration-related apprehensions.

29 **CHAPTER 3—GRANTS**

30 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE**
31 **PROGRAM.**

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

33 (1) in paragraph (1)—

34 (A) by inserting “AUTHORIZATION.—” before “If the chief”; and

35 (B) by inserting “or an alien with an unknown status” after “undocumented criminal

1 alien” each place that term appears;

2 (2) by striking paragraphs (2) and (3) and inserting the following:

3 “(2) COMPENSATION.—

4 “(A) CALCULATION OF COMPENSATION.—Compensation under paragraph (1)(A)
5 shall be the average cost of incarceration of a prisoner in the relevant State, as
6 determined by the Attorney General.

7 “(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall
8 compensate the State or political subdivision of the State, in accordance with
9 subparagraph (A), for the incarceration of an alien—

10 “(i) whose immigration status cannot be verified by the Secretary; and

11 “(ii) who would otherwise be an undocumented criminal alien if the alien is
12 unlawfully present in the United States.

13 “(3) DEFINITIONS.—In this subsection:

14 “(A) ALIEN WITH AN UNKNOWN STATUS.—The term ‘alien with an unknown status’
15 means an individual—

16 “(i) who has been incarcerated by a Federal, State, or local law enforcement
17 entity; and

18 “(ii) whose immigration status cannot be definitively identified.

19 “(B) UNDOCUMENTED CRIMINAL ALIEN.—The term ‘undocumented criminal alien’
20 means an alien who—

21 “(i) has been charged with or convicted of a felony or any misdemeanors; and

22 “(ii)(I) entered the United States without inspection or at any time or place
23 other than as designated by the Secretary;

24 “(II) was the subject of exclusion or deportation or removal proceedings at the
25 time he or she was taken into custody by the State or a political subdivision of the
26 State; or

27 “(III) was admitted as a nonimmigrant and, at the time he or she was taken into
28 custody by the State or a political subdivision of the State, has failed to maintain
29 the nonimmigrant status in which the alien was admitted or to which it was
30 changed under section 248, or to comply with the conditions of any such status.”;

31 (3) in paragraph (4), by inserting “and aliens with an unknown status” after
32 “undocumented criminal aliens” each place that term appears;

33 (4) in paragraph (5)(C), by striking “to carry out this subsection” and all that follows and
34 inserting “\$950,000,000, for each of the fiscal years 2018 through 2022, to carry out this
35 subsection.”; and

36 (5) by adding at the end the following:

37 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any amounts provided to a State or to a
38 political subdivision of a State as compensation under paragraph (1)(A) for a fiscal year

1 shall be distributed to such State or political subdivision not later than 120 days after the last
2 day of the period specified by the Attorney General for the submission of requests under
3 that paragraph for that fiscal year.”.

4 SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE 5 GRANTS.

6 (a) Authority.—

7 (1) IN GENERAL.—The Secretary, in consultation with State and local law enforcement
8 agencies, may award border security assistance grants to law enforcement agencies located
9 in the Southwest border region for the purposes described in subsection (b).

10 (2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to
11 law enforcement agencies located in a county that is located within 25 miles of the Southern
12 border.

13 (b) Purposes.—Each grant awarded under subsection (a) shall be used to address drug 14 trafficking, smuggling, and border violence—

15 (1) by obtaining law enforcement equipment and tools, including secure 2-way
16 communication devices, portable laptops and office computers, license plate readers,
17 unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night
18 viewing capabilities, and any other appropriate law enforcement equipment;

19 (2) by hiring additional personnel, including administrative support personnel,
20 dispatchers, and jailers, and to provide overtime pay for such personnel;

21 (3) by purchasing law enforcement vehicles;

22 (4) by providing high performance aircraft and helicopters for border surveillance and
23 other critical mission applications and paying for the operational and maintenance costs
24 associated with such craft;

25 (5) by providing critical power generation systems, infrastructure, and technological
26 upgrades to support State and local data management systems and fusion centers; or

27 (6) by providing specialized training and paying for the direct operating expenses
28 associated with detecting and prosecuting drug trafficking, human smuggling, and other
29 illegal activity or violence that occurs at or near the Southern border.

30 (c) Application.—

31 (1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a
32 nonprofit organization or coalition acting as an agent for 1 or more such law enforcement
33 entities, shall submit an application to the Secretary that includes the information described
34 in paragraph (2) at such time and in such manner as the Secretary may require.

35 (2) CONTENT.—Each application submitted under paragraph (1) shall include—

36 (A) a description of the activities to be carried out with a grant awarded under
37 subsection (a);

38 (B) if equipment will be purchased with the grant, a detailed description of—

- 1 (i) the type and quantity of such equipment; and
2 (ii) the personnel who will be using such equipment;
3 (C) a description of the need of the law enforcement agency or agencies for the
4 grant, including a description of the inability of the agency or agencies to carry out the
5 proposed activities without the grant; and
6 (D) an assurance that the agency or agencies will, to the extent practicable, seek,
7 recruit, and hire women and members of racial and ethnic minority groups in law
8 enforcement positions of the agency or agencies.

9 (d) Review and Award.—

10 (1) REVIEW.—Not later than 90 days after receiving an application submitted under
11 subsection (c), the Secretary shall review and approve or reject the application.

12 (2) AWARD OF FUNDS.—Subject to the availability of appropriations, not later than 45
13 days after the date an application is approved under paragraph (1), the Secretary shall
14 transmit the grant funds to the applicant.

15 (3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to
16 high-intensity areas for drug trafficking, smuggling, and border violence.

17 (e) Authorization of Appropriations.—There is authorized to be appropriated, for each of the
18 fiscal years 2018 through 2022, \$300,000,000 for grants authorized under this section.

19 **SEC. 1153. OPERATION STONEGARDEN.**

20 (a) In General.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et
21 seq.) is amended by adding at the end the following:

22 **“SEC. 2009. OPERATION STONEGARDEN.**

23 “(a) Establishment.—There is established in the Department a program to be known as
24 ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall
25 make grants to eligible law enforcement agencies, through the State administrative agency, to
26 enhance border security in accordance with this section.

27 “(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law
28 enforcement agency—

29 “(1) shall be located in—

30 “(A) a State bordering Canada or Mexico; or

31 “(B) a State or territory with a maritime border; and

32 “(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection
33 operation coordinated through a U.S. Border Patrol sector office.

34 “(c) Permitted Uses.—The recipient of a grant under this section may use such grant for—

35 “(1) equipment, including maintenance and sustainment costs;

36 “(2) personnel, including overtime and backfill, in support of enhanced border law
37 enforcement activities;

1 “(3) any activity permitted for Operation Stonegarden under the Department of
2 Homeland Security’s most recent Homeland Security Grant Program Notice of Funding
3 Opportunity; and

4 “(4) any other appropriate activity, as determined by the Administrator, in consultation
5 with the Commissioner of U.S. Customs and Border Protection.

6 “(d) Period of Performance.—The Secretary shall award grants under this section to grant
7 recipients for a period of not less than 36 months.

8 “(e) Report.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a
9 report to the Committee on Homeland Security and Governmental Affairs of the Senate and the
10 Committee on Homeland Security of the House of Representatives containing information on the
11 expenditure of grants made under this section by each grant recipient.

12 “(f) Authorization of Appropriations.—There is authorized to be appropriated \$110,000,000,
13 for each of the fiscal years 2018 through 2022, for grants under this section.”.

14 (b) Conforming Amendment.—Section 2002(a) of the Homeland Security Act of 2002 (6
15 U.S.C. 603(a)) is amended to read as follows:

16 “(a) Grants Authorized.—The Secretary, through the Administrator, may award grants under
17 sections 2003, 2004, and 2009 to State, local, and tribal governments, as appropriate.”.

18 (c) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
19 of 2002 is amended by inserting after the item relating to section 2008 the following:

20 “Sec.2009.Operation Stonegarden.”.

21 SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS 22 OF CROSS-BORDER HUMAN SMUGGLING.

23 In addition to any funding for grants made available to the Attorney General for State and
24 local law enforcement assistance, the Attorney General shall award grants to county, municipal,
25 or tribal governments in States along the southern border for costs, or reimbursement of costs,
26 associated with the transportation and processing of unidentified alien remains that have been
27 transferred to an official medical examiner’s office or an institution of higher education in the
28 area with the capacity to analyze human remains using forensic best practices, including DNA
29 testing, where such expenses may contribute to the collection and analysis of information
30 pertaining to missing and unidentified persons.

31 SEC. 1155. GRANT ACCOUNTABILITY.

32 (a) Definitions.—In this section:

33 (1) AWARDING ENTITY.—The term “awarding entity” means the Secretary, the
34 Administrator of the Federal Emergency Management Agency, the Director of the National
35 Science Foundation, or the Chief of the Office of Citizenship and New Americans.

36 (2) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an
37 organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and
38 is exempt from taxation under section 501(a) of such Code.

1 (3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding
2 in a final audit report conducted by the Inspector General of the Department of Homeland
3 Security, or the Inspector General for the National Science Foundation for grants awarded
4 by the Director of the National Science Foundation, that the audited grantee has utilized
5 grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed
6 or resolved within 1 year after the date when the final audit report is issued.

7 (b) Accountability.—All grants awarded by an awarding entity pursuant to this subtitle shall
8 be subject to the following accountability provisions:

9 (1) AUDIT REQUIREMENT.—

10 (A) AUDITS.—Beginning in the first fiscal year beginning after the date of the
11 enactment of this Act, and in each fiscal year thereafter, the Inspector General of the
12 Department of Homeland Security, or the Inspector General for the National Science
13 Foundation for grants awarded by the Director of the National Science Foundation,
14 shall conduct audits of recipients of grants under this subtitle or any amendments made
15 by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such
16 Inspectors General shall determine the appropriate number of grantees to be audited
17 each year.

18 (B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is
19 found to have an unresolved audit finding shall not be eligible to receive grant funds
20 under this subtitle or any amendment made by this subtitle during the first 2 fiscal
21 years beginning after the end of the fiscal year in which a finding described in
22 subsection (A) was discovered.

23 (C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by
24 this subtitle, the awarding entity shall give priority to eligible applicants that did not
25 have an unresolved audit finding during the 3 fiscal years immediately preceding the
26 date on which the entity submitted the application for such grant.

27 (D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any
28 amendment made by this subtitle during the 2-year period when the entity is barred
29 from receiving grants under subparagraph (B), the awarding entity shall—

30 (i) deposit an amount equal to the amount of the grant funds that were
31 improperly awarded to such entity into the general fund of the Treasury; and

32 (ii) seek to recover the costs of the repayment under clause (i) from such entity.

33 (2) NONPROFIT ORGANIZATION REQUIREMENTS.—

34 (A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or
35 any amendment made by this subtitle to a nonprofit organization that holds money in
36 offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of
37 the Internal Revenue Code of 1986.

38 (B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this
39 subtitle or any amendment made by this subtitle and uses the procedures prescribed by
40 Internal Revenue regulations to create a rebuttable presumption of reasonableness for
41 the compensation of its officers, directors, trustees, and key employees, shall disclose
42 to the awarding entity, in the application for the grant, the process for determining such

1 compensation, including the independent persons involved in reviewing and approving
2 such compensation, the comparability data used, and contemporaneous substantiation
3 of the deliberation and decision. Upon request, the awarding entity shall make the
4 information disclosed under this subparagraph available for public inspection.

5 (3) CONFERENCE EXPENDITURES.—

6 (A) LIMITATION.—Amounts authorized to be appropriated to the Department of
7 Homeland Security or the National Science Foundation for grant programs under this
8 subtitle or any amendment made by this subtitle may not be used by an awarding entity
9 to host or support any expenditure for conferences that uses more than \$20,000 in
10 funds made available by the Department of Homeland Security or the National Science
11 Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director
12 of the National Science Foundation, or their designee, provides prior written
13 authorization that the funds may be expended to host the conference.

14 (B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a
15 written estimate of all costs associated with the conference, including the cost of all
16 food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

17 (C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director
18 of the National Science Foundation shall submit an annual report to Congress that
19 identifies all conference expenditures approved under this paragraph.

20 (4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date
21 of the enactment of this Act, and annually thereafter, each awarding entity shall submit a
22 report to Congress that—

23 (A) indicates whether—

24 (i) all audits issued by the Offices of the Inspector General under paragraph (1)
25 have been completed and reviewed by the appropriate individuals;

26 (ii) all mandatory exclusions required under paragraph (1)(B) have been issued;
27 and

28 (iii) all reimbursements required under paragraph (1)(D) have been made; and

29 (B) includes a list of any grant recipients excluded under paragraph (1) during the
30 previous year.

31 **Subtitle B—Emergency Port of Entry Personnel and**
32 **Infrastructure Funding**

33 **SEC. 1201. DEFINITIONS.**

34 In this subtitle:

35 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional
36 committees” means—

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

38 (B) the Committee on Finance of the Senate;

- 1 (C) the Committee on the Judiciary of the Senate;
2 (D) the Committee on Homeland Security of the House of Representatives;
3 (E) the Committee on Ways and Means of the House of Representatives; and
4 (F) the Committee on the Judiciary of the House of Representatives.

5 (2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

6 SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.

7 (a) Additional Ports of Entry.—

8 (1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of
9 title 40, United States Code, Secretary may construct new ports of entry along the northern
10 border and along the southern border ~~and determine the at~~ locations determined by the
11 Secretary of any such new ports of entry.

12 (2) CONSULTATION.—

13 (A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of
14 State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of
15 Transportation, the Administrator of General Services, and appropriate representatives
16 of State and local governments, Indian tribes, and property owners in the United States
17 ~~before selecting prior to determining~~ a location for any new port constructed pursuant
18 to paragraph (1).

19 (B) CONSIDERATIONS.—The purpose of the consultations required under
20 subparagraph (A) shall be to minimize any negative impacts of such a new port on the
21 environment, culture, commerce, and quality of life of the communities and residents
22 located near such new port.

23 (b) Expansion and Modernization of High-volume Southern Border Ports of Entry.—Not later
24 than September 30, 2022, the Administrator of General Services, subject to section 3307 of title
25 40, United States Code, and in coordination with the Secretary, shall expand or modernize ~~the~~
26 ~~primary and secondary inspection lanes for vehicle, cargo, and pedestrian inbound and outbound~~
27 ~~inspection lanes at ports of entry on the southern border, as~~ high-priority ports of entry on the
28 southern border, as determined by the Secretary, for the purposes of reducing wait times and
29 enhancing security, ~~as determined by the Secretary.~~

30 (c) Port of Entry Prioritization.—~~Before~~ Prior to constructing any new ports of entry pursuant
31 to subsection (a), the Administrator of General Services ~~Secretary~~ shall complete the expansion
32 and modernization of ports of entry pursuant to subsection (b) to the extent practicable.

33 (d) Notifications.—

34 (1) Relating to NNEW PORTS OF ENTRY.—Not later than 15 days after determining the
35 location of any new port of entry for construction pursuant to subsection (a), the Secretary
36 and the Administrator of General Services shall jointly notify submit a report to the
37 ~~appropriate congressional committees and~~ the Members of Congress who represent the
38 State or congressional district in which such new port of entry will be located, as well as the
39 Committee on Homeland Security and Governmental Affairs, the Committee on Finance,
40 the Committee on Commerce, Science, and Transportation, and the Committee on the

1 Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways
2 and Means, the Committee on Transportation and Infrastructure, and the Committee on the
3 Judiciary of the House of Representatives. Such notification shall ~~that~~ includes—

4 (A) information relating to the location of such new port of entry;

5 (B) a description of the need for such new port of entry and associated anticipated
6 benefits;

7 (C) a description of the consultations undertaken by the Secretary and the
8 Administrator pursuant to ~~subsection (a) paragraph (2) of such subsection;~~

9 (D) any actions that will be taken to minimize negative impacts of such new port of
10 entry; and

11 (E) the anticipated time line for the construction and completion of such new port of
12 entry.

13 (2) EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after
14 the date of the enactment of this Act, the Secretary and the Administrator of General
15 Services shall jointly notify the Committee on Homeland Security and Governmental
16 Affairs, the Committee on Finance, the Committee on Commerce, Science, and
17 Transportation, and the Committee on the Judiciary of the Senate, and the Committee on
18 Homeland Security, the Committee on Ways and Means, the Committee on Transportation
19 and Infrastructure, and the Committee on the Judiciary of the House of Representatives
20 appropriate congressional committees of—

21 (A) the ports of entry on the southern border selected for expansion or
22 modernization pursuant to subsection (b); and

23 (B) the Secretary's and Administrator's plan for expanding or modernizing ~~the~~
24 ~~primary and secondary inspection lanes at~~ each such port of entry.

25 (e) SAVINGS PROVISION.—Nothing in this section may be construed to—

26 (1) create or negate any right of action for a State, local government, or other
27 person or entity affected by this section;

28 (2) delay the transfer of the possession of property to the United States or affect
29 the validity of any property acquisitions by purchase or eminent domain, or to
30 otherwise affect the eminent domain laws of the United States or of any State; or

31 (3) create any right or liability for any party.

32 (f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as
33 providing the Secretary new authority related to the construction, acquisition, or renovation of
34 real property.

35 SEC. 1203. SECURE COMMUNICATIONS.

36 (a) In General.—The Secretary shall ensure that each U.S. Customs and Border Protection and
37 U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a
38 secure radio or other 2-way communication device, supported by system interoperability, that
39 allows each such officer to communicate—

1 (1) between ports of entry and inspection stations; and

2 (2) with other Federal, State, tribal, and local law enforcement entities.

3 (b) ~~Land-U.S. Border Agents and Officers.~~—The Secretary shall ensure that each U.S.
4 Customs and Border Protection agent or officer assigned or required to patrol on foot, by
5 horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints,
6 has a multi- or dual-band encrypted portable radio.

7 SEC. 1204. BORDER SECURITY DEPLOYMENT 8 PROGRAM.

9 (a) Expansion.—Not later than September 30, 2022, the Secretary shall fully implement U.S.
10 Customs and Border Protection’s Border Security Deployment Program and expand the
11 integrated surveillance and intrusion detection system at land ports of entry along the southern
12 border and the northern border.

13 (b) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
14 appropriated for such purpose, there is authorized to be appropriated \$33,000,000, for each of the
15 fiscal year 2018 through 2022, to carry out subsection (a).

16 SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE 17 READERS AT PORTS OF ENTRY.

18 (a) Upgrade.—Not later than ~~two~~¹ years after the date of the enactment of this Act, the
19 Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate
20 readers on the northern border and on the southern border on incoming and outgoing vehicle
21 lanes.

22 (b) Pilot Program.—Not later than 90 days after the date of the enactment of this Act, the
23 Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program on
24 the southern border using license plate readers for 1 to 2 cargo lanes at the top 2 high-volume
25 southern border land ports of entry or checkpoints and at the top 2 high-volume northern border
26 land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait
27 times for commercial traffic and tractor-trailers.

28 (c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary
29 shall submit a report to the Committee on Homeland Security and Governmental Affairs, the
30 Committee on Finance, and the Committee on the Judiciary of the Senate, and the Committee on
31 Homeland Security, the Committee on Ways and Means, and the Committee on the Judiciary of
32 the House of Representatives ~~appropriate congressional committees that contains—~~

33 ~~(1)~~ the results of the pilot program under subsection (b); and

34 ~~(2)~~ make recommendations for using such technology on the southern border.

35 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
36 appropriated for such purpose, there is authorized to be appropriated \$125,000,000 for fiscal year
37 2018 through 2019 to carry out subsection (a).

38 SEC. 1206. BIOMETRIC TECHNOLOGY.

1 (a) Biometric Storage.—

2 (1) CREATION OR EXPANSION OF SYSTEM.—Not later than 180 days after the date of the
3 enactment of this Act, the Secretary shall create a system (or upgrade and expand the
4 capability and capacity of an existing system, if a Department of Homeland Security system
5 already has capability and capacity for storage) to allow for the storage of fingerprints,
6 photographs, iris scans, voice prints, and any other biometric data of aliens that can be used
7 by the Department of Homeland Security, other Federal agencies, and State and local law
8 enforcement agencies for identity verification, authentication, background checks, and
9 document production.

10 (2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system
11 created or expanded under paragraph (1) is compatible with existing State and local law
12 enforcement systems that are used for the collection and storage of biometric data for
13 criminal aliens.

14 (b) Pilot Program.—When the system created under subsection (a) is operational, U.S.
15 Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall
16 conduct a 6-month pilot program on the collection and use of iris scans and voice prints for
17 identity verification, authentication, background checks, and document production.

18 (c) Report.—Not later than 6 months after the conclusion of the pilot program under
19 subsection (b), the Secretary shall submit a report containing the results of the pilot program and
20 recommendations for using such technology to—

- 21 (1) the Committee on Homeland Security and Governmental Affairs of the Senate;
- 22 (2) the Committee on the Judiciary of the Senate;
- 23 (3) the Committee on Homeland Security of the House of Representatives; and
- 24 (4) the Committee on the Judiciary of the House of Representatives.

25 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
26 appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through
27 2022, \$10,000,000 carry out this section.

28 **SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL**
29 **DEMONSTRATION PROJECT.**

30 (a) In General.—

31 (1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act,
32 the Commissioner shall establish a 6-month operational demonstration project to deploy a
33 high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land
34 ports of entry along the United States-Mexico border with significant cross-border traffic.

35 (2) LOCATION.—The demonstration project established under paragraph (1)—

36 (A) shall be located within the pre-primary traffic flow; and

37 (B) should be scalable to span up to 26 contiguous in-bound traffic lanes without
38 reconfiguration of existing lanes.

39 (b) Report.—Not later than 90 days after the conclusion of the operational demonstration

1 project under subsection (a), the Commissioner shall submit a report to the Committee on
2 Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the
3 Senate, the Committee on Homeland Security of the House of Representatives, and the
4 Committee on Ways and Means of the House of Representatives that describes—

5 (1) the effects of the demonstration project on legitimate travel and trade;

6 (2) the effects of the demonstration project on wait times, including processing times, for
7 non-pedestrian traffic; and

8 (3) the effectiveness of the demonstration project in combating terrorism and smuggling.

9 SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

10 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et
11 seq.) is amended by inserting after section 415 the following:

12 “SEC. 416. BIOMETRIC ENTRY-EXIT.

13 “(a) Establishment.—The Secretary—

14 “(1) not later than 180 days after the date of the enactment of this section, shall submit an
15 implementation plan to the Committee on Homeland Security and Governmental Affairs of
16 the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland
17 Security of the House of Representatives, and the Committee on the Judiciary of the House
18 of Representatives for establishing a biometric exit data system to complete the integrated
19 biometric entry and exit data system required under section 7208 of the Intelligence Reform
20 and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

21 “(A) an integrated master schedule and cost estimate, including requirements and
22 design, development, operational, and maintenance costs of such a system, that takes
23 into account prior reports on such matters issued by the Government Accountability
24 Office and the Department;

25 “(B) cost-effective staffing and personnel requirements of such a system that
26 leverages existing resources of the Department that takes into account prior reports on
27 such matters issued by the Government Accountability Office and the Department;

28 “(C) a consideration of training programs necessary to establish such a system that
29 takes into account prior reports on such matters issued by the Government
30 Accountability Office and the Department;

31 “(D) a consideration of how such a system will affect arrival and departure wait
32 times that takes into account prior reports on such matter issued by the Government
33 Accountability Office and the Department;

34 “(E) information received after consultation with private sector stakeholders,
35 including the—

36 “(i) trucking industry;

37 “(ii) airport industry;

38 “(iii) airline industry;

- 1 “(iv) seaport industry;
- 2 “(v) travel industry; and
- 3 “(vi) biometric technology industry;
- 4 “(F) a consideration of how trusted traveler programs in existence as of the date of
- 5 the enactment of this section may be impacted by, or incorporated into, such a system;
- 6 “(G) defined metrics of success and milestones;
- 7 “(H) identified risks and mitigation strategies to address such risks;
- 8 “(I) a consideration of how other countries have implemented a biometric exit data
- 9 system; and
- 10 “(J) a list of statutory, regulatory, or administrative authorities needed to integrate
- 11 such a system into the operations of the Transportation Security Administration; and
- 12 “(2) not later than 2 years after the date of the enactment of this section, shall establish a
- 13 biometric exit data system at the—
- 14 “(A) ~~the~~ 15 United States airports that support the highest volume of international
- 15 air travel, as determined by available Federal flight data;
- 16 “(B) ~~the~~ 10 United States seaports that support the highest volume of international
- 17 sea travel, as determined by available Federal travel data; and
- 18 “(C) ~~the~~ 15 United States land ports of entry that support the highest volume of
- 19 vehicle, pedestrian, and cargo crossings, as determined by available Federal border
- 20 crossing data.
- 21 “(b) Implementation.—
- 22 “(1) PILOT PROGRAM AT LAND PORTS OF ENTRY ~~FOR NON-PEDESTRIAN OUTBOUND~~
- 23 ~~TRAFFIC~~.—Not later than 6 months after the date of the enactment of this section, the
- 24 Secretary, in collaboration with industry stakeholders, shall establish a 6-month pilot
- 25 program to test the biometric exit data system referred to in subsection (a)(2) on
- 26 nonpedestrian outbound traffic at not fewer than 3 land ports of entry with significant cross-
- 27 border traffic, including at not fewer than 2 land ports of entry on the southern land border
- 28 and at least 1 land port of entry on the northern land border. Such pilot program may
- 29 include a consideration of more than 1 biometric mode, and shall be implemented to
- 30 determine—
- 31 “(A) how a nationwide implementation of such biometric exit data system at land
- 32 ports of entry shall be carried out;
- 33 “(B) the infrastructure required to carry out subparagraph (A);
- 34 “(C) the effects of such pilot program on legitimate travel and trade;
- 35 “(D) the effects of such pilot program on wait times, including processing times, for
- 36 such nonpedestrian traffic;
- 37 “(E) the effects of such pilot program on combating terrorism; and
- 38 “(F) the effects of such pilot program on identifying visa holders who violate the

1 terms of their visas.

2 “(2) EXPANSION TO LAND PORTS OF ENTRY ~~FOR NONPEDESTRIAN OUTBOUND TRAFFIC.~~—

3 “(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this
4 section, the Secretary shall expand the biometric exit data system referred to in
5 subsection (a)(2) to all land ports of entry, ~~and such system shall apply only in the case
6 of nonpedestrian outbound traffic.~~

7 “(B) EXTENSION.—The Secretary may extend for a single 2-year period the date
8 specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland
9 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
10 the Senate, the Committee on Homeland Security of the House of Representatives, and
11 the Committee on the Judiciary of the House of Representatives that the 15 land ports
12 of entry that support the highest volume of passenger vehicles, as determined by
13 available Federal data, do not have the physical infrastructure or characteristics to
14 install the systems necessary to implement a biometric exit data system. Such
15 extension shall only apply in the case of non-pedestrian outbound traffic.

16 “(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date
17 of the enactment of this section, the Secretary shall expand the biometric exit data system
18 referred to in subsection (a)(2) to all air and sea ports of entry.

19 ~~“(4) EXPANSION TO LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than 5 years
20 after the date of the enactment of this section, the Secretary shall expand the biometric exit
21 data system referred to in subsection (a)(2) to all land ports of entry, and such system shall
22 apply only in the case of pedestrians.~~

23 “(c) Effects on Air, Sea, and Land Transportation.—The Secretary, in consultation with
24 appropriate private sector stakeholders, shall ensure that the collection of biometric data under
25 this section causes the least possible disruption to the movement of people or cargo in air, sea, or
26 land transportation, while fulfilling the goals of improving counterterrorism efforts and
27 identifying visa holders who violate the terms of their visas.

28 “(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary
29 shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection
30 of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure;
31 United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”)’,
32 issued on April 24, 2008 (73 Fed. Reg. 22065).

33 “(e) Data-matching.—The biometric exit data system established under this section shall—

34 “(1) match biometric information for an individual who is departing the United States
35 against biometric data previously provided to the United States Government by such
36 individual for the purposes of international travel;

37 “(2) leverage the infrastructure and databases of the current biometric entry and exit
38 system established pursuant to section 7208 of the Intelligence Reform and Terrorism
39 Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

40 “(3) be interoperable with, and allow matching against, other Federal databases that—

41 “(A) store biometrics of known or suspected terrorists; and

1 “(B) identify visa holders who violate the terms of their visas.

2 “(f) Scope.—

3 “(1) IN GENERAL.—The biometric exit data system established under this section shall
4 include a requirement for the collection of biometric exit data at the time of departure for all
5 categories of individuals who are required by the Secretary to provide biometric entry data.

6 “(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the
7 case of an individual who exits and then enters the United States on a passenger vessel (as
8 such term is defined in section 2101 of title 46, United States Code) the itinerary of which
9 originates and terminates in the United States.

10 “(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a
11 United States or Canadian citizen who exits the United States through a land port of entry.

12 “(g) Collection of Data.—The Secretary may not require any entity that is not part of the
13 Federal Government to collect biometric data, or to contribute to the costs of collecting or
14 administering the biometric exit data system established under this section, except through a
15 mutual agreement.

16 “(h) Multi-modal Collection.—In carrying out subsections (a)(1) and (b), the Secretary shall
17 make every effort to collect biometric data using multiple modes of biometrics.

18 “(i) Facilities.—All facilities at which the biometric exit data system established under this
19 section is implemented shall provide and maintain space for Federal use that is adequate to
20 support biometric data collection and other inspection-related activity. For non-federally owned
21 facilities, such space shall be provided and maintained at no cost to the Government.

22 “(j) Northern Land Border.—In the case of the northern land border, the requirements under
23 subsections (a)(2)(C) ~~and~~; (b)(2)(A), ~~and (b)(4)~~ may be achieved through the sharing of
24 biometric data provided to ~~U.S. Customs and Border Protection~~ the Department by the Canadian
25 Border Services Agency pursuant to the 2011 Beyond the Border agreement.

26 “(k) ~~Full~~air and Open Competition.—The Secretary shall procure goods and services to
27 implement this section via ~~full~~air and open competition in accordance with the Federal
28 Acquisition Regulation.

29 “(l) Other Biometric Initiatives.—The Secretary may pursue biometric initiatives at air, land,
30 and sea ports of entry for the purposes of border security and trade facilitation distinct from the
31 biometric exit data system described in this section.

32 “(m) Congressional Review.—Not later than 90 days after the date of the enactment of this
33 section, the Secretary shall submit reports and recommendations to the Committee on Homeland
34 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate,
35 the Committee on Homeland Security of the House of Representatives, and the Committee on
36 the Judiciary of the House of Representatives regarding the Science and Technology
37 Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S.
38 Customs and Border Protection entry and exit mobility program demonstrations.

39 “(n) Savings Clause.—Nothing in this section may be construed to prohibit the collection of
40 user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of
41 1985 (19 U.S.C. 58c).”.

1 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
2 of 2002 is amended by inserting after the item relating to section 415 the following:

3 “Sec.416.Biometric entry-exit.”.

4 **SEC. 1209. SENSE OF CONGRESS ON COOPERATION**
5 **BETWEEN AGENCIES.**

6 (a) Finding.—Congress finds that personnel constraints exist at land ports of entry with regard
7 to sanitary and phytosanitary inspections for exported goods.

8 (b) Sense of Congress.—It is the sense of Congress that, in the best interest of cross-border
9 trade and the agricultural community—

10 (1) any lack of certified personnel for inspection purposes at ports of entry should be
11 addressed by seeking cooperation between agencies and departments of the United States,
12 whether in the form of a memorandum of understanding or through a certification process,
13 whereby additional existing agents are authorized for additional hours to facilitate the
14 crossing and trade of perishable goods in a manner consistent with rules of the Department
15 of Agriculture; and

16 (2) cross designation should be available for personnel who will assist more than 1
17 agency or department at land ports of entry to facilitate increased trade and commerce.

18 **Subtitle C—Border Security Enforcement Fund**

19 **SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.**

20 (a) Purpose.—It is the purpose of this section to establish a Border Security Enforcement Fund
21 (referred to in this section as the “Fund”), to be administered through the Department of
22 Homeland Security and, in fiscal year 2018 only, through the Department of State, to carry out
23 activities necessary to implement this Act and other Acts related to border security, including—

24 (1) the construction, installation, deployment, operation, and maintenance of tactical
25 infrastructure and technology in the vicinity of the United States border—

26 (A) to achieve situational awareness and operational control of such border;

27 (B) to deter, impede, and detect illegal activity in high traffic areas; and

28 (C) to implement other border security provisions under titles I and II;

29 (2) the implementation of port of entry provisions under titles I and II;

30 (3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such
31 craft; and

32 (4) hiring and recruitment.

33 (b) Funding.—There are appropriated to the Fund, out of any amounts in the Treasury not
34 otherwise appropriated, \$25,000,000,000, of which—

35 (1) \$2,947,000,000 is appropriated for fiscal year 2018, and shall remain available
36 through September 30, 2022;

1 (2) \$2,225,000,000 is appropriated for fiscal year 2019, and shall remain available
2 through September 30, 2023;

3 (3) \$2,467,000,000 is appropriated for fiscal year 2020, and shall remain available
4 through September 30, 2024;

5 (4) \$2,644,000,000 is appropriated for fiscal year 2021, and shall remain available
6 through September 30, 2025;

7 (5) \$2,862,000,000 is appropriated for fiscal year 2022, and shall remain available
8 through September 30, 2026;

9 (6) \$2,370,000,000 is appropriated for fiscal year 2023, and shall remain available
10 through September 30, 2027;

11 (7) \$2,371,000,000 is appropriated for fiscal year 2024, and shall remain available
12 through September 30, 2028;

13 (8) \$2,401,000,000 is appropriated for fiscal year 2025, and shall remain available
14 through September 30, 2029;

15 (9) \$2,371,000,000 is appropriated for fiscal year 2026, and shall remain available
16 through September 30, 2030; and

17 (10) \$2,342,000,000 is appropriated for fiscal year 2027, and shall remain available
18 through September 30, 2031.

19 (c) Physical Barriers.—

20 (1) TRANSFERS.—The Secretary shall transfer, from the Fund to the “U.S. Customs and
21 Border Protection—Procurement, Construction and Improvements” account, for the purpose
22 of constructing, replacing, or planning physical barriers along the United States land border,
23 \$18,000,000,000, of which—

24 (A) \$1,571,000,000 shall be transferred in fiscal year 2018;

25 (B) \$1,600,000,000 shall be transferred in fiscal year 2019;

26 (C) \$1,842,000,000 shall be transferred in fiscal year 2020;

27 (D) \$2,019,000,000 shall be transferred in fiscal year 2021;

28 (E) \$2,237,000,000 shall be transferred in fiscal year 2022;

29 (F) \$1,745,000,000 shall be transferred in fiscal year 2023;

30 (G) \$1,746,000,000 shall be transferred in fiscal year 2024;

31 (H) \$1,776,000,000 shall be transferred in fiscal year 2025;

32 (I) \$1,746,000,000 shall be transferred in fiscal year 2026; and

33 (J) \$1,718,000,000 shall be transferred in fiscal year 2027.

34 (2) AVAILABILITY OF FUNDS.—Notwithstanding section 1552(a) of title 31, United States
35 Code, any amounts transferred pursuant to paragraph (1) shall remain available for
36 disbursement until expended.

37 (d) Specified Technology.—During fiscal year 2018, the Secretary of Homeland Security and

1 the Secretary of State shall transfer from the Fund to accounts within their respective
2 Departments the following amounts for the following purposes:

3 (1) \$10,000,000 for the Department of Homeland Security to implement Vehicle and
4 Dismount Exploitation Radars (VADER) in border security operations.

5 (2) \$3,000,000 for the Department of Homeland Security to implement southern border
6 tunneling detection technology, including 3-dimensional, seismic, acoustic detection and
7 ranging border tunneling detection technology.

8 (3) \$200,000,000 for the Department of State to implement section 1120.

9 (4) \$200,000,000 for the United States Coast Guard to implement section 1114(a)(18).

10 (5) \$2,000,000 for the Department of Homeland Security—

11 (A) to hire additional Uniform Management Center support personnel;

12 (B) to purchase uniforms for U.S. Customs and Border Protection officers and
13 agents;

14 (C) to acquire additional motor vehicles to support vehicle mounted surveillance
15 systems;

16 (D) to hire additional motor vehicle program support personnel; and

17 (E) to contract support for customer service, vendor management, and operations
18 management.

19 (6) \$250,000,000 for the implementation of the biometric exit data system described in
20 section 419 of the Homeland Security Act of 2002, as added by section 1208.

21 (7) \$200,000,000 for the Department of Homeland Security to purchase—

22 (A) AS350, UH-60L, and UAS-Native MQ-9 aircraft;

23 (B) required support equipment for such aircraft; and

24 (C) initial spare parts for southern and northern border security and maritime
25 operations.

26 (e) Transfer Authority.—In addition to the amounts transferred by the Secretary and the
27 Secretary of State pursuant to subsections (c) and (d), the Committee on Appropriations of the
28 Senate and the Committee on Appropriations of the House of Representatives may provide for
29 the transfer of amounts in the Fund for each fiscal year to eligible activities under this section,
30 including—

31 (1) constructing, replacing, or planning for physical barriers along the United States land
32 border; or

33 (2) acquiring any of the technologies described in subsection (d).

34 (f) Use of Fund.—If the Committee on Appropriations of the Senate and the Committee on
35 Appropriations of the House of Representatives does not provide for the transfer of funds in a
36 full-year appropriation in any given fiscal year pursuant to subsection (e), the Secretary of
37 Homeland Security may transfer amounts in the Fund to accounts within the Department of
38 Homeland Security for eligible activities under this section, including—

1 (1) not less than the amounts specified in subsection (c) for the purpose of constructing,
2 replacing, or planning for physical barriers along the United States land border; and

3 (2) not less than the amounts specified in subsection (d) for the purpose of the
4 technologies described in that subsection.

5 (g) Budget Request.—A request for the transfer of amounts from the Fund pursuant to this
6 section—

7 (1) shall be included in each budget for a fiscal year submitted by the President under
8 section 1105 of title 31, United States Code; and

9 (2) shall describe planned obligations by program, project, and activity in the receiving
10 account at the same level of detail provided for in the request for other appropriations in that
11 account.

12 Subtitle D—Stop the Importation and Trafficking of Synthetic 13 Analogues Act

14 SEC. 1401. SHORT TITLES.

15 This subtitle may be cited as the “Stop the Importation and Trafficking of Synthetic Analogues
16 Act of 2018” or the “SITSA Act”.

17 SEC. 1402. ESTABLISHMENT OF SCHEDULE A.

18 Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

19 (1) in subsection (a), by striking “five schedules of controlled substances, to be known as
20 schedules I, II, III, IV, and V” and inserting “six schedules of controlled substances, to be
21 known as schedules I, II, III, IV, V, and A”;

22 (2) in subsection (b), by adding at the end the following:

23 “(6) Schedule A.—

24 “(A) IN GENERAL.—The drug or substance—

25 “(i) has—

26 “(I) a chemical structure that is substantially similar to the chemical structure of
27 a controlled substance in schedule I, II, III, IV, or V; and

28 “(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on
29 the central nervous system that is substantially similar to or greater than the
30 stimulant, depressant, or hallucinogenic effect on the central nervous system of a
31 controlled substance in schedule I, II, III, IV, or V; and

32 “(ii) is not—

33 “(I) listed or otherwise included in any other schedule in this section or by
34 regulation of the Attorney General; and

35 “(II) with respect to a particular person, subject to an exemption that is in effect
36 for investigational use, for that person, under section 505 of the Federal Food,

1 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to
2 such substance is pursuant to such exemption.

3 “(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of
4 this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central
5 nervous system may be based on—

6 “(i) the chemical structure, structure activity relationships, binding receptor assays,
7 or other relevant scientific information about the substance;

8 “(ii)(I) the current or relative potential for abuse of the substance; and

9 “(II) the clandestine importation, manufacture, or distribution, or diversion from
10 legitimate channels, of the substance; or

11 “(iii) the capacity of the substance to cause a state of dependence, including physical
12 or psychological dependence that is similar to or greater than that of a controlled
13 substance in schedule I, II, III, IV, or V.”; and

14 (3) in subsection (c)—

15 (A) in the matter preceding schedule I, by striking “IV, and V” and inserting “IV, V,
16 and A”; and

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

18 “schedule a

19 “(a) Unless specifically excepted or unless listed in another schedule, any of the following
20 substances, as scheduled in accordance with section 201(k)(5):

21 “(1) 4-fluoroisobutyryl fentanyl.

22 “(2) Valeryl fentanyl.

23 “(3) 4-methoxybutyryl fentanyl.

24 “(4) 4-methylphenethyl acetyl fentanyl.

25 “(5) 3-furanyl fentanyl.

26 “(6) Ortho-fluorofentanyl.

27 “(7) Tetrahydrofuranyl fentanyl.

28 “(8) Ocfentanil.

29 “(9) 4-fluorobutyryl fentanyl.

30 “(10) Methoxyacetyl fentanyl.

31 “(11) Meta-fluorofentanyl.

32 “(12) Isobutyryl fentanyl.

33 “(13) Acryl fentanyl.”.

34 **SEC. 1403. TEMPORARY AND PERMANENT**
35 **SCHEDULING OF SCHEDULE A SUBSTANCES.**

1 Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end
2 the following:

3 “(k) Temporary and Permanent Scheduling of Schedule A Substances.—

4 “(1) The Attorney General may issue a temporary order adding a drug or substance to
5 schedule A if the Attorney General finds that—

6 “(A) the drug or other substance satisfies the criteria for being considered a schedule
7 A substance; and

8 “(B) adding such drug or substance to schedule A will assist in preventing abuse or
9 misuse of the drug or other substance.

10 “(2)(A) A temporary scheduling order issued under paragraph (1) shall not take effect
11 until 30 days after the date on which the Attorney General publishes a notice in the Federal
12 Register of the intention to issue such order and the grounds upon which such order is to be
13 issued.

14 “(B) The Attorney General may amend, withdraw, or rescind a temporary scheduling
15 order at any time by publication of a notice in the Federal Register.

16 “(C) Subject to paragraph (B), the temporary scheduling order shall expire not later than
17 5 years after the date on which it becomes effective, except that the Attorney General may,
18 during the pendency of proceedings under paragraph (5), extend the temporary scheduling
19 order for up to 180 days.

20 “(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the
21 issuance of a permanent order issued under paragraph (5) with regard to the same substance,
22 or upon the subsequent issuance of any scheduling order under this section.

23 “(4) A temporary scheduling order issued under paragraph (1) shall not be subject to
24 judicial review.

25 “(5) The Attorney General may, by rule, issue a permanent order adding a drug or other
26 substance to schedule A if such drug or substance satisfies the criteria for being considered
27 a schedule A substance. Such rulemaking may be commenced simultaneously with the
28 issuance of the temporary scheduling order issued under paragraph (1) with regard to the
29 same substance.

30 “(6) Before initiating proceedings under paragraph (1) or (5), the Attorney General shall
31 transmit notice of an order proposed to be issued to the Secretary of Health and Human
32 Services. In issuing an order under paragraph (1) or (5), the Attorney General shall take into
33 consideration any comments submitted by the Secretary of Health and Human Services in
34 response to a notice transmitted pursuant to this paragraph.”

35 SEC. 1404. PENALTIES.

36 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
37 amended—

38 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

39 “(F)(i) In the case of any controlled substance in schedule A, such person shall be

1 sentenced to a term of imprisonment of not more than 10 years and if death or serious
2 bodily injury results from the use of such substance shall be sentenced to a term of
3 imprisonment of not more than 15 years, a fine not to exceed the greater of that
4 authorized in accordance with the provisions of title 18, United States Code, or
5 \$500,000 if the defendant is an individual or \$2,500,000 if the defendant is other than
6 an individual, or both.

7 “(ii) If any person commits such a violation after a prior conviction for a felony drug
8 offense has become final, such person shall be sentenced to a term of imprisonment of
9 not more than 20 years and if death or serious bodily injury results from the use of
10 such substance shall be sentenced to a term of imprisonment of not more than 30 years,
11 a fine not to exceed the greater of twice that authorized in accordance with the
12 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an
13 individual or \$5,000,000 if the defendant is other than an individual, or both.

14 “(iii) Any sentence imposing a term of imprisonment under this subparagraph shall,
15 in the absence of such a prior conviction, impose a term of supervised release of not
16 less than 2 years in addition to such term of imprisonment and shall, if there was such a
17 prior conviction, impose a term of supervised release of not less than 4 years in
18 addition to such term of imprisonment.”;

19 (2) in section 403(a) (21 U.S.C. 843(a))—

20 (A) in paragraph (8), by striking “or” at the end;

21 (B) in paragraph (9), by striking the period at the end and inserting “; or”; and

22 (C) by inserting after paragraph (9) the following:

23 “(10) to export a substance in violation of the controlled substance laws of the country to
24 which the substance is exported.”; and

25 (3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

26 “(b) A person shall not be subject to a criminal or civil penalty under this title or under any
27 other Federal law solely for possession of a schedule A controlled substance.”.

28 (b) Controlled Substances Import and Export Act.—Section 1010(b) of the Controlled
29 Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the
30 following:

31 “(8) In the case of a violation under subsection (a) involving a controlled substance in
32 schedule A, the person committing such violation shall be sentenced to a term of
33 imprisonment of not more than 20 years and if death or serious bodily injury results from
34 the use of such substance shall be sentenced to a term of imprisonment for any term of years
35 or for life, a fine not to exceed the greater of that authorized in accordance with the
36 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an individual or
37 \$5,000,000 if the defendant is other than an individual, or both. If any person commits such
38 a violation after a prior conviction for a felony drug offense has become final, such person
39 shall be sentenced to a term of imprisonment of not more than 30 years and if death or
40 serious bodily injury results from the use of such substance shall be sentenced to a term of
41 imprisonment for any term of years or for life, a fine not to exceed the greater of twice that
42 authorized in accordance with the provisions of title 18, United States Code, or \$2,000,000

1 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual,
2 or both. Notwithstanding section 3583 of title 18, United States Code, any sentence
3 imposing a term of imprisonment under this paragraph shall, in the absence of such a prior
4 conviction, impose a term of supervised release of not less than 3 years in addition to such
5 term of imprisonment and shall, if there was such a prior conviction, impose a term of
6 supervised release of not less than 6 years in addition to such term of imprisonment.
7 Notwithstanding the prior sentence, and notwithstanding any other provision of law, the
8 court shall not place on probation or suspend the sentence of any person sentenced under
9 the provisions of this paragraph which provide for a mandatory term of imprisonment if
10 death or serious bodily injury results.”.

11 SEC. 1405. FALSE LABELING OF SCHEDULE A 12 CONTROLLED SUBSTANCES.

13 (a) In General.—Section 305 of the Controlled Substances Act (21 U.S.C. 825) is amended by
14 adding at the end the following:

15 “(f) False Labeling of Schedule A Controlled Substances.—

16 “(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess
17 with intent to manufacture, distribute, or dispense, a schedule A substance or product
18 containing a schedule A substance, unless the substance or product bears a label clearly
19 identifying a schedule A substance or product containing a schedule A substance by the
20 nomenclature used by the International Union of Pure and Applied Chemistry.

21 “(2)(A) A product described in subparagraph (B) is exempt from the International Union
22 of Pure and Applied Chemistry nomenclature requirement of this subsection if such product
23 is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act.

24 “(B) A product is described in this subparagraph if the product—

25 “(i) is the subject of an approved application as described in section 505(b) or (j) of
26 the Federal Food, Drug, and Cosmetic Act; or

27 “(ii) is exempt from the provisions of section 505 of such Act relating to new drugs
28 because—

29 “(I) it is intended solely for investigational use as described in section 505(i) of
30 such Act; and

31 “(II) such product is being used exclusively for purposes of a clinical trial that
32 is the subject of an effective investigational new drug application.”.

33 (b) Penalties.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

34 (1) in subsection (a)(16), by inserting “or subsection (f)” after “subsection (e)”; and

35 (2) in subsection (c)(1)(D), by inserting “or a schedule A substance” after “anabolic
36 steroid”.

37 SEC. 1406. REGISTRATION REQUIREMENTS FOR 38 HANDLERS OF SCHEDULE A SUBSTANCES.

1 (a) Controlled Substances Act.—Section 303 of the Controlled Substances Act (21 U.S.C.
2 823) is amended—

3 (1) in subsection (f), in the undesignated matter following paragraph (5)—

4 (A) by inserting “or A” after “schedule I” each place it appears; and

5 (B) by adding at the end the following: “A separate registration for engaging in
6 research with a controlled substance in schedule A for practitioners already registered
7 under this part to engage in research with controlled substances in schedule I shall not
8 be required. The Secretary shall determine the merits of the research protocol
9 submitted by the practitioner registering to engage in research with a controlled
10 substance in schedule A, and the Attorney General may deny or revoke the registration
11 only on a ground specified in section 304.”; and

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

13 “(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances
14 if—

15 “(A) the applicant demonstrates that the schedule A substances will be used for research,
16 analytical, or industrial purposes approved by the Attorney General; and

17 “(B) the Attorney General determines that such registration is consistent with the public
18 interest and with the United States obligations under international treaties, conventions, or
19 protocols in effect on the date of enactment of this subsection.

20 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
21 consider—

22 “(A) maintenance of effective controls against diversion of particular controlled
23 substances and any controlled substance in schedule A compounded therefrom into other
24 than legitimate medical, scientific, research, or industrial channels, by limiting the
25 importation and bulk manufacture of such controlled substances to a number of
26 establishments which can produce an adequate and uninterrupted supply of these substances
27 under adequately competitive conditions for legitimate medical, scientific, research, and
28 industrial purposes;

29 “(B) compliance with applicable State and local law;

30 “(C) promotion of technical advances in the art of manufacturing substances described in
31 subparagraph (A) and the development of new substances;

32 “(D) prior conviction record of applicant under Federal and State laws relating to the
33 manufacture, distribution, or dispensing of substances described in paragraph (A);

34 “(E) past experience in the manufacture of controlled substances, and the existence in the
35 establishment of effective control against diversion; and

36 “(F) such other factors as may be relevant to and consistent with the public health and
37 safety.

38 “(3) If an applicant is registered to manufacture controlled substances in schedule I or II under
39 subsection (a), the applicant shall not be required to apply for a separate registration under this
40 subsection.

1 “(1)(1) The Attorney General shall register an applicant to distribute schedule A substances—

2 “(A) if the applicant demonstrates that the schedule A substances will be used for
3 research, analytical, or industrial purposes approved by the Attorney General; and

4 “(B) unless the Attorney General determines that the issuance of such registration is
5 inconsistent with the public interest.

6 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
7 consider—

8 “(A) maintenance of effective control against diversion of particular controlled
9 substances into other than legitimate medical, scientific, and industrial channels;

10 “(B) compliance with applicable State and local law;

11 “(C) prior conviction record of applicant under Federal or State laws relating to the
12 manufacture, distribution, or dispensing of substances described in subparagraph (A);

13 “(D) past experience in the distribution of controlled substances; and

14 “(E) such other factors as may be relevant to and consistent with the public health and
15 safety.

16 “(3) If an applicant is registered to distribute a controlled substance in schedule I or II under
17 subsection (b), the applicant shall not be required to apply for a separate registration under this
18 subsection.

19 “(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any
20 practitioner who was engaged in research on the substance before the placement of the substance
21 in schedule A and any manufacturer or distributor who was handling the substance before the
22 placement of the substance in schedule A shall register with the Attorney General.

23 “(2)(A) Not later than 60 days after the date on which the Attorney General receives an
24 application for registration to conduct research on a schedule A substance, the Attorney General
25 shall—

26 “(i) grant, or initiate proceedings under section 304(c) to deny, the application; or

27 “(ii) request supplemental information from the applicant.

28 “(B) Not later than 30 days after the date on which the Attorney General receives
29 supplemental information requested under subparagraph (A)(ii) in connection with an application
30 described in subparagraph (A), the Attorney General shall grant or deny the application.”.

31 (b) Controlled Substances Import and Export Act.—Section 1008 of the Controlled Substances
32 Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:

33 “(j)(1) The Attorney General shall register an applicant to import or export a schedule A
34 substance if—

35 “(A) the applicant demonstrates that the schedule A substances will be used for research,
36 analytical, or industrial purposes approved by the Attorney General; and

37 “(B) the Attorney General determines that such registration is consistent with the public
38 interest and with the United States obligations under international treaties, conventions, or
39 protocols in effect on the date of enactment of this subsection.

1 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
2 consider the factors described in subparagraphs (A) through (F) of section 303(k)(2).

3 “(3) If an applicant is registered to import or export a controlled substance in schedule I or II
4 under subsection (a), the applicant shall not be required to apply for a separate registration under
5 this subsection.”.

6 SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

7 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
8 amended—

9 (1) in section 303(c) (21 U.S.C. 823(c))—

10 (A) by striking “subsections (a) and (b)” and inserting “subsection (a), (b), (k), or
11 (l)”; and

12 (B) by striking “schedule I or II” and inserting “schedule I, II, or A”;

13 (2) in section 306 (21 U.S.C. 826)—

14 (A) in subsection (a), in the first sentence, by striking “schedules I and II” and
15 inserting “schedules I, II, and A”;

16 (B) in subsection (b), in the second sentence, by striking “schedule I or II” and
17 inserting “schedule I, II, or A”;

18 (C) in subsection (c), in the first sentence, by striking “schedules I and II” and
19 inserting “schedules I, II, and A”;

20 (D) in subsection (d), in the first sentence, by striking “schedule I or II” and
21 inserting “schedule I, II, or A”;

22 (E) in subsection (e), in the first sentence, by striking “schedule I or II” and inserting
23 “schedule I, II, or A”; and

24 (F) in subsection (f), in the first sentence, by striking “schedules I and II” and
25 inserting “schedules I, II, and A”;

26 (3) in section 308(a) (21 U.S.C. 828(a)), by striking “schedule I or II” and inserting
27 “schedule I, II, or A”;

28 (4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by
29 striking “schedule I or II” and inserting “schedule I, II, or A”;

30 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking “schedule I or II” and inserting
31 “schedule I, II, or A”; and

32 (6) in section 511(f) (21 U.S.C. 881(f)), by striking “schedule I or II” each place it
33 appears and inserting “schedule I, II, or A”.

34 (b) Controlled Substances Import Export Act.—The Controlled Substances Import and Export
35 Act (21 U.S.C. 951 et seq.) is amended—

36 (1) in section 1002(a) (21 U.S.C. 952(a))—

37 (A) in the matter preceding paragraph (1), by striking “schedule I or II” and

1 inserting “schedule I, II, or A”; and

2 (B) in paragraph (2), by striking “schedule 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 preceding paragraph (1), by striking “schedule I
6 or II” and inserting “schedule I, II, or A”; and

7 (B) in subsection (d), by striking “schedule I or II” and inserting “schedule I, II, or
8 A”;

9 (3) in section 1004(1) (21 U.S.C. 954(1)), by striking “schedule I” and inserting
10 “schedule I or A”;

11 (4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule
12 I, II, or A”; and

13 (5) in section 1009(a) (21 U.S.C. 959(a)), by striking “schedule I or II” and inserting
14 “schedule I, II, or A”.

15 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF**
16 **CONTROLLED SUBSTANCE ANALOGUE UNDER THE**
17 **ANALOGUE ENFORCEMENT ACT.**

18 Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

19 (1) in paragraph (6), by striking “or V” and inserting “V, or A”;

20 (2) in paragraph (14)—

21 (A) by striking “schedule I(c) and” and inserting “schedule I(c), schedule A, and”;
22 and

23 (B) by striking “schedule I(c),” and inserting “schedule I(c) and schedule A,”; and

24 (3) in paragraph (32)(A), by striking “(32)(A)” and all that follows through clause (iii)
25 and inserting the following:

26 “(32)(A) Except as provided in subparagraph (C), the term ‘controlled substance
27 analogue’ means a substance whose chemical structure is substantially similar to the
28 chemical structure of a controlled substance in schedule I or II—

29 “(i) which has a stimulant, depressant, or hallucinogenic effect on the central
30 nervous system that is substantially similar to or greater than the stimulant, depressant,
31 or hallucinogenic effect on the central nervous system of a controlled substance in
32 schedule I or II; or

33 “(ii) with respect to a particular person, which such person represents or intends to
34 have a stimulant, depressant, or hallucinogenic effect on the central nervous system
35 that is substantially similar to or greater than the stimulant, depressant, or
36 hallucinogenic effect on the central nervous system of a controlled substance in
37 schedule I or II.”.

1 SEC. 1409. RULES OF CONSTRUCTION.

2 Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

3 (1) the prosecution of offenses involving controlled substance analogues under the
4 Controlled Substances Act (21 U.S.C. 801 et seq.); or

5 (2) the authority of the Attorney General to temporarily or permanently schedule,
6 reschedule, or decontrol controlled substances under provisions of section 201 of the
7 Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of
8 enactment of this Act.

9 Subtitle E—Domestic Security

10 CHAPTER 1—GENERAL MATTERS

11 SEC. 1501. ENDING CATCH AND RELEASE FOR REPEAT
12 IMMIGRATION VIOLATORS AND CRIMINALS ALIENS.

13 (a) In General.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is
14 amended by striking the section designation and heading and all that follows through the period
15 at the end of subsection (c) and inserting the following:

16 “SEC. 236. APPREHENSION AND DETENTION OF
17 ALIENS.

18 “(a) Arrest, Detention, and Release.—

19 “(1) IN GENERAL.—The Secretary, on a warrant issued by the Secretary, may arrest an
20 alien and detain the alien pending a decision on whether the alien is to be removed from the
21 United States until the date on which the alien has an administratively final order of
22 removal. Except as provided in subsection (c) and pending such decision, the Secretary—

23 “(A) may—

24 “(i) continue to detain the arrested alien;

25 “(ii) release the alien on bond of at least \$5,000, with security approved by, and
26 containing conditions prescribed by, the Secretary; or

27 “(iii) release the alien on his or her own recognizance, subject to appropriate
28 conditions set forth by the Secretary, if the Secretary determines that the alien will
29 not pose a danger to the safety of other persons or of property and is likely to
30 appear for any scheduled proceeding; and

31 “(B) may not provide the alien with work authorization (including an ‘employment
32 authorized’ endorsement or other appropriate work permit) or advance parole to travel
33 outside of the United States, unless the alien is lawfully admitted for permanent
34 residence or otherwise would (without regard to removal proceedings) be provided
35 such authorization.

36 “(b) Revocation of Bond or Parole.—The Secretary, at any time, may revoke bond or parole

1 authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

2 “(c) Mandatory Detention of Criminal Aliens.—

3 “(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any
4 alien at any time after the alien is released, without regard to whether the alien is released
5 on parole, supervised release, and without regard to whether the alien may be arrested or
6 imprisoned again for the same offense, if the alien—

7 “(A)(i) has not been admitted or paroled into the United States; and

8 “(ii) was apprehended anywhere within 100 miles of the international border of the
9 United States;

10 “(B) is inadmissible by reason of having committed any offense covered in section
11 212(a)(2);

12 “(C) is deportable by reason of having committed any offense covered in section
13 237(a)(2);

14 “(D) is convicted for an offense under section 275(a);

15 “(E) is convicted for an offense under section 276;

16 “(F) is convicted for any criminal offense felony; or

17 “(G) is inadmissible under section 212(a)(3)(A) or (B) or deportable under section
18 237(a)(4)(A) or (B).

19 “(2) RELEASE.—

20 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may
21 release an alien described in paragraph (1) only if the Secretary decides pursuant to
22 section 3521 of title 18, United States Code, and in accordance with a procedure that
23 considers the severity of the offense committed by the alien, that—

24 “(i) release of the alien from custody is necessary to provide protection to—

25 “(I) a witness;

26 “(II) a potential witness;

27 “(III) a person cooperating with an investigation into major criminal
28 activity; or

29 “(IV) an immediate family member or close associate of a witness,
30 potential witness, or person cooperating with such an investigation; and

31 “(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

32 “(I) is not a flight risk;

33 “(II) poses no danger to the safety of other persons or of property;

34 “(III) is not a threat to national security or public safety; and

35 “(IV) is likely to appear at any scheduled proceeding.

36 “(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

1 “(i) RELEASE FOR PROCEEDINGS.—The Secretary may release any alien held
2 pursuant to paragraph (1) to the appropriate authority for any proceedings
3 subsequent to the arrest.

4 “(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i),
5 the Secretary shall—

6 “ (I) resume custody of the alien during any period pending the final
7 disposition of any proceedings subsequent to arrest for which the alien is not
8 in the custody of the appropriate authority referred to in clause (i); and

9 “ (II) if the alien is not convicted of the offense for which the alien was
10 arrested, the Secretary shall continue to detain the alien until the date on
11 which removal proceedings are completed.”.

12 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
13 Nationality Act is amended by striking the item relating to section 236 and inserting the
14 following:

15 “Sec.236.Apprehension and detention of aliens.”.

16 SEC. 1502. DETERRING VISA OVERSTAYS.

17 (a) Admission of Nonimmigrants.—Section 214 of the Immigration and Nationality Act (8
18 U.S.C. 1184) is amended by striking the section designation and heading and all that follows
19 through the end of subsection (a)(1) and inserting the following:

20 “SEC. 214. ADMISSION OF NONIMMIGRANTS.

21 “(a) In General.—

22 “(1) TERMS AND CONDITIONS OF ADMISSION.—

23 “ (A) IN GENERAL.—Subject to subparagraphs (B) and (C), the admission to the
24 United States of any alien as a nonimmigrant may be for such time and under such
25 conditions as the Secretary **of Homeland Security** may **in his or her sole and**
26 **unreviewable discretion** prescribe, including when the Secretary deems necessary the
27 giving of a bond with sufficient surety in such sum and containing such conditions as
28 the Secretary shall prescribe, to ensure that at the expiration of such time or upon
29 failure to maintain the status under which the alien was admitted, or to maintain any
30 status subsequently acquired under section 248, such alien will depart from the United
31 States.

32 “ (B) GUAM OR CNMI VISA WAIVER NONIMMIGRANTS.—No alien admitted to Guam or
33 the Commonwealth of the Northern Mariana Islands without a visa pursuant to section
34 212(l) may be authorized to enter or stay in the United States, other than in Guam or
35 the Commonwealth of the Northern Mariana Islands, or to remain in Guam or the
36 Commonwealth of the Northern Mariana Islands for a period exceeding 45 days after
37 the date on which the alien was admitted to Guam or the Commonwealth of the
38 Northern Mariana Islands.

39 “ (C) VISA WAIVER PROGRAM NONIMMIGRANTS.—An alien admitted to the United
40 States without a visa pursuant to section 217 shall not be authorized to remain in the

1 United States as a nonimmigrant visitor for a period exceeding 90 days from the date
2 on which the alien was admitted.

3 “(D) BAR TO IMMIGRATION BENEFITS AND TO CONTESTING REMOVAL.—

4 “(i) DEFINITION OF GOOD CAUSE.—In this subparagraph, the term ‘good cause’
5 means extreme exigent humanitarian circumstances, determined on a case-by-case
6 basis only, such as a medical emergency or force majeure.

7 “(ii) CONSEQUENCE OF OVERSTAY.—Subject to clause (iii), except for an alien
8 admitted as a nonimmigrant under of subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii),
9 or (G)(iii) of section 101(a)(15) or as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant,
10 any alien who remains in the United States for a period of more than 30 days after
11 the date on which the period of stay or parole authorized by the Secretary for the
12 alien ends, without good cause, is inadmissible and ineligible for all immigration
13 benefits or relief available under the immigration laws, including relief under
14 sections 240A(b)(1), 240B(b), 245, 248, and 249, other than—

15 “(I) asylum;

16 “(II) relief as a victim of trafficking under section 101(a)(15)(T);

17 “(III) relief as a victim of criminal activity under section 101(a)(15)(U);

18 “(IV) relief under the Violence Against Women Act of 1994 (42 U.S.C.
19 13701 et seq.) as a spouse or child who has been battered or subjected to
20 extreme cruelty;

21 “(V) relief as a battered spouse or child under section 240A(b)(2);

22 “(VI) withholding of removal under section 241(b)(3); or

23 “(VII) protection from removal based on a claim under the Convention
24 Against Torture and Other Cruel, Inhuman or Degrading Treatment or
25 Punishment, done at New York, December 10, 1984.

26 “(iii) EXCEPTION.—The Secretary may, in the Secretary’s sole and
27 unreviewable discretion, determine that a nonimmigrant is not subject to clause
28 (ii) if—

29 “(I) the alien was lawfully inspected and admitted to the United States as a
30 nonimmigrant;

31 “(II) the alien filed a nonfrivolous application for change of status to
32 another nonimmigrant category or for extension of stay before the date on
33 which the alien’s authorized period of stay as a nonimmigrant expired;

34 “(III) the alien has not been employed without authorization in the United
35 States, before or during pendency of the application referred to in subclause
36 (II);

37 “(IV) the alien has not otherwise violated the terms of the alien’s
38 nonimmigrant status; and

39 “(V) the Secretary, in the Secretary’s sole and unreviewable discretion,
40 determines that the alien is not a threat to national security or public safety.

1 “(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause (ii)
2 who remains in the United States more than 30 days after the date on which the
3 period of stay authorized by the Secretary ends, without good cause, shall be
4 detained and the Secretary shall expeditiously remove the alien from the United
5 States not later than 90 days after the date on which the alien is detained.

6 “(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision
7 of law (statutory or nonstatutory), including section 2241 of title 28, United States
8 Code, any other habeas corpus provision, or sections 1361 and 1651 of such title,
9 no court shall have jurisdiction to review any cause or claim, arising from, or
10 relating to, the detention and expedited removal of an alien pursuant to clause
11 (iv).”.

12 (b) Visa Waiver Program Waiver of Rights.—Section 217(b) of the Immigration and
13 Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

14 “(b) Waiver of Rights.—An alien may not be provided a waiver under the program unless the
15 alien has—

16 “(1) signed, under penalty of perjury, an acknowledgement confirming that the alien was
17 notified and understands that he or she will be—

18 “(A) ineligible for any form of relief or immigration benefit under the Act or any
19 other immigration laws, including sections 240A(b)(1), 240B(b), 245, 248, and 249
20 (other than a request for asylum), relief as a victim of trafficking under section
21 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under
22 the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or
23 child who has been battered or subjected to extreme cruelty, relief as a battered spouse
24 or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
25 protection from removal based on a claim under the Convention Against Torture and
26 Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York,
27 December 10, 1984; and

28 “(B) subject to detention and expedited removal from the United States, if the alien
29 fails to depart from the United States at the end of the 90-day period for admission;

30 “(2) waived any right to review or appeal under this Act of an immigration officer’s
31 determination as to the admissibility of the alien at the port of entry into the United States;
32 and

33 “(3) waived any right to contest any action for removal of the alien.”.

34 (c) Detention and Repatriation of Visa Waiver Violators.—Section 217(c)(2)(E) of the
35 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

36 “(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from
37 the United States at the end of the 90-day period for admission shall be detained
38 pending removal.”.

39 (d) Issuance of Nonimmigrant Visas.—Section 221(a) of the Immigration and Nationality Act
40 (8 U.S.C. 1201(a)) is amended by adding at the end the following:

41 “(3) The Secretary of State shall ensure that every application for a nonimmigrant visa

1 includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the
2 alien—

3 “(A) has been notified of the terms and conditions of the nonimmigrant visa, including
4 the waiver of rights under subsection (j); and

5 “(B) understands that he or she will be ineligible for all immigration benefits and any
6 form of relief or protection from removal, including relief under **sections 240A(b)(1),**
7 **240B(b),** 245, 248, and 249, other than a request for asylum, relief as a victim of trafficking
8 under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U),
9 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
10 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
11 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
12 protection from removal based on a claim under the Convention Against Torture and Other
13 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
14 1984, and from contesting removal if the alien violates any term or condition of his or her
15 nonimmigrant visa or fails to depart the United States not later than 30 days after the end of
16 the alien’s authorized period of stay.”.

17 (e) Requirement that all nonimmigrants have a specified end date for authorized period of
18 stay. – Section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended by
19 adding at the end the following:

20 “(6) Period of Stay. – An alien who an examining immigration officer has determined to be
21 admissible as a nonimmigrant, except for aliens admissible under subsection (A)(i), (A)(ii),
22 (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or who such officer has determined to be eligible
23 for parole, shall be admitted or paroled, as appropriate, into the United States for a specific
24 period of time and shall be issued documentation stating the end date of the alien’s period of stay
25 in the United States.”

26 (fe) Bars to Immigration Relief.—Section 221 of the Immigration and Nationality Act is
27 amended by adding at the end the following:

28 “(j) Waiver of Rights.—The Secretary of State may not issue a nonimmigrant visa under
29 section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or
30 (G) of section 101(a)(15), who is eligible for relief under the Violence Against Women Act of
31 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to
32 extreme cruelty, or qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant until the alien
33 has waived any right to relief under **sections 240A(b)(1), 240B(b),** 245, 248, and 249 (other than
34 relief from removal under section 241(b)(3)), or protection from removal based on a claim under
35 the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
36 Punishment, done at New York, December 10, 1984), any form of relief established after the
37 date on which the nonimmigrant visa is issued, and from contesting removal if the alien—

38 “(1) violates a term or condition of his or her nonimmigrant status; or

39 “(2) fails to depart the United States not later than the date that is 30 days after last day of
40 the alien’s authorized period of stay (as described in section 214(a)(1)).”.

41 (f) Effective Date; Applicability.—

42 (1) IN GENERAL.—This section and the amendments made by this section shall—

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

2 (B) apply only to new visas, initial admissions of nonimmigrants, and initial requests
3 for change of status from a nonimmigrant category to another nonimmigrant category
4 under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

5 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the
6 United States on a nonimmigrant visa who is present in the United States before the date of
7 the enactment of this Act shall not be subject to this section or to the amendments made by
8 this section **until the alien departs the United States or requests a change in status under**
9 **section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).**

10 SEC. 1503. INCREASE IN IMMIGRATION DETENTION 11 CAPACITY.

12 Not later than September 30, 2022, and subject to the availability of appropriations, the
13 Secretary of Homeland Security shall increase the immigration detention capacity to a daily
14 immigration detention capacity of not fewer than 48,879 detention beds.

15 SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND 16 DETAINED ALIENS.

17 Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is
18 amended—

19 (1) in subsection (a)(1), by adding at the end the following:

20 “(C) The Secretary of Homeland Security shall collect DNA samples from any alien
21 (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C.
22 1101(a)(3))) who—

23 “(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or
24 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

25 “(ii) is the subject of a final order of removal under section 240 of such Act (8
26 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8
27 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such
28 Act (8 U.S.C. 1227(a)(2)).”; and

29 (2) in subsection (b), by striking “or the probation office responsible (as applicable)” and
30 inserting “the probation office responsible, or the Secretary of Homeland Security”.

31 SEC. 1505. COLLECTION, USE, AND STORAGE OF 32 BIOMETRIC DATA.

33 (a) Collection and Use of Biometric Information for Immigration Purposes.—

34 (1) COLLECTION.—The **Secretaries of Homeland Security and State** may require any
35 **individual filing with the Department of Homeland Security or Department of State** an
36 application, petition, or other request for an immigration benefit or immigration status or
37 seeking an immigration benefit or other authorization, employment authorization, identity,

1 or travel document, or requesting relief or protection under any provision of the
2 immigration laws to submit to either the Secretary biometric information, including
3 fingerprints, photograph, signature, voice print, iris scan, or DNA.

4 (2) USE.—The Secretaries may use any biometric information submitted under
5 paragraph (1) to conduct background and security checks, verify an individual's identity,
6 adjudicate, revoke, or terminate an immigration benefit or immigration status, and perform
7 other functions related to administering and enforcing the immigration laws.

8 (b) Biometric and Biographic Information Sharing.—

9 (1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—
10 The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and
11 the Director of the Federal Bureau of Investigation—

12 (A) shall exchange appropriate biometric and biographic information to determine or
13 confirm the identity of an individual and to assess whether the individual is a threat to
14 national security or public safety; and

15 (B) may use information exchanged pursuant to subparagraph (A)—

16 (i) to compare biometric and biographic information contained in applicable
17 systems of the Department of Homeland Security, the Department of Defense, the
18 Department of State or the Federal Bureau of Investigation to determine if there is
19 a match between such information; and

20 (ii) if there is a match between such information, to relay such information to
21 the requesting agency.

22 (2) USE OF BIOMETRIC DATA BY THE DEPARTMENT OF STATE.—The Secretary of State shall
23 use biometric information from applicable systems of the Department of Homeland
24 Security, the Department of Defense, and the Federal Bureau of Investigation to screen and
25 track visa applicants and other individuals who are—

26 (A)(i) known or suspected terrorists; or

27 (ii) identified as a potential threat to national security; and

28 (B) using an alias while traveling.

29 (3) REPORT ON BIOMETRIC INFORMATION SHARING WITH MEXICO AND OTHER COUNTRIES
30 FOR IDENTITY VERIFICATION.—Not later than 180 days after the date of enactment of this
31 Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint
32 report on the status of efforts to engage with the Government of Mexico and the
33 governments of other appropriate foreign countries located in Central America or South
34 America—

35 (A) to discuss coordination on biometric information sharing between the United
36 States and such countries; and

37 (B) to enter into bilateral agreements that provide for the sharing of such biometric
38 information with the Department of State, the Department of Defense, the Department
39 of Justice, the Federal Bureau of Investigation, and the Department of Homeland
40 Security to use in—

1 (i) identifying individuals who are known or suspected terrorists or potential
2 threats to national security; and

3 (ii) verifying the entry and exit of individuals to and from the United States.

4 (4) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph
5 (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric
6 information from any individual arriving to or departing from the United States.

7 SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD 8 PROCESSING.

9 (a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary
10 of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and
11 Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S.
12 Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers
13 to electronically—

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

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

16 (3) collect biometric data for the purpose of identifying an alien and establishing both
17 immigration status and criminal history while in the field;

18 (4) enter any required data, including personal information about an alien subject and the
19 reason for issuing a document;

20 (5) apply the electronic signature of the issuing U.S. Immigration and Customs
21 Enforcement officer or agent;

22 (6) apply or capture the electronic signature of the alien on any charging document or
23 notice, including any electronic signature captured to acknowledge service of such
24 documents or notices;

25 (7) set the date on which the alien is required to appear before an immigration judge, in
26 the case of a notice to appear;

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

29 (9) interface with the ENFORCE database so that all data is collected, stored, and
30 retrievable in real-time.

31 (b) Contract Support.—The Secretary of Homeland Security may contract with commercial
32 vendors to test prototypes for electronic handheld or vehicle-mounted computers capable of
33 meeting the requirements under subsection (a).

34 (c) Rule of Construction.—The pilot program described in subsection (a) shall be designed to
35 replace, to the extent possible, the current paperwork and data entry process used for issuing
36 charging documents and detainers referred to in that subsection.

37 (d) Report.—Not later than 1 year after the date on which the pilot program described in
38 subsection (a) commences, the Comptroller General of the United States shall submit to the
39 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on

1 the Judiciary of the Senate, the Committee on Homeland Security of the House of
2 Representatives, the Committee on the Judiciary of the House of Representatives a report that
3 includes—

4 (1) the results of the pilot program; and

5 (2) recommendations for using the technology described in subsection (a) on a
6 nationwide basis.

7 SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

8 (a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C.
9 1182(d)(5)) is amended to read as follows:

10 “(5) PAROLE AUTHORITY.—

11 “(A) DEFINITIONS.—In this paragraph:

12 “(i) PUBLIC INTEREST.—With respect to a reason for parole, the term ‘public
13 interest’ means the alien has assisted the United States Government in a
14 significant matter, such as an important criminal investigation, espionage, or other
15 similar law enforcement or national security activity, and either the alien’s
16 presence in the United States is required by the Government or the alien’s life
17 would be threatened if the alien were not permitted to come to the United States.

18 “(ii) URGENT HUMANITARIAN REASON DEFINED.—With respect to an alien, the
19 term ‘urgent humanitarian reason’ means—

20 “(I) the alien has a medical emergency and the alien cannot obtain
21 necessary treatment in the foreign state in which the alien is residing or the
22 medical emergency is life-threatening and there is insufficient time for the
23 alien to be admitted through the normal visa process;

24 “(II) the alien is needed in the United States in order to donate an organ or
25 other tissue for transplant into a close family member;

26 “(III) the alien has a close family member in the United States whose
27 death is imminent and the alien could not arrive in the United States in time
28 to see such family member alive if the alien were to be admitted through the
29 normal visa process;

30 “(IV) the alien is a lawful applicant for adjustment of status under section
31 245; or

32 “(V) the alien was lawfully granted status under section 208 or lawfully
33 admitted under section 207.

34 “(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section
35 214(f), the Secretary of Homeland Security may in his or her sole and unreviewable
36 discretion may temporarily parole into the United States any alien applying for
37 admission to the United States, under such conditions as the Secretary may prescribe,
38 including requiring the posting of a bond, but only on a case-by-case basis and not
39 according to eligibility criteria describing an entire class of potential parole recipients,
40 for an urgent humanitarian reason or a reason deemed strictly in the public interest.

1 “(C) PAROLE NOT AN ADMISSION.—In accordance with section 101(a)(13)(B), parole
2 of an alien under subparagraph (B) shall not be regarded as an admission of the alien to
3 the United States. When the purposes of the parole of an alien have been served, as
4 determined by the Secretary, the alien shall immediately return to his or her country of
5 citizenship, nationality, or origin. If the alien was paroled from custody, the alien shall
6 be returned to the custody from which the alien was paroled and the alien shall be
7 considered for admission to the United States on the same basis as other similarly
8 situated applicants for admission.

9 “(D) PROHIBITED USES OF PAROLE AUTHORITY.—

10 “(i) IN GENERAL.—The Secretary may not use the authority under subparagraph
11 (B) to parole **into the United States** generalized categories of aliens or classes of
12 aliens based solely on nationality, presence, or residence in the United States,
13 family relationships, or any other criteria that would cover a broad group of
14 foreign nationals either inside or outside of the United States.

15 “(ii) ALIENS WHO ARE NATIONAL SECURITY OR PUBLIC SAFETY THREATS.—

16 “(I) DEFINITION OF EXTREME EXIGENT CIRCUMSTANCES.—In this clause,
17 the term ‘extreme exigent circumstances’ means circumstances under
18 which—

19 “(aa) the failure to parole the alien would result in the immediate
20 significant risk of loss of life or bodily function due to a medical
21 emergency;

22 “(bb) the failure to parole the alien would conflict with medical
23 advice as to the health or safety of the individual, detention facility
24 staff, or other detainees; or

25 “(cc) there is an urgent need for the alien’s presence for a law
26 enforcement purpose, including for a prosecution or securing the alien’s
27 presence to appear as a material witness, or a national security purpose.

28 “(II) PROHIBITION ON PAROLE.—The Secretary shall not parole in any alien
29 whom the Secretary, in the Secretary’s sole and unreviewable discretion,
30 determines to be a threat to national security or public safety, except in
31 extreme exigent circumstances.

32 “(E) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Secretary may not use
33 the parole authority under this paragraph to permit to come to the United States aliens
34 who have applied for and have been found to be ineligible for refugee status or any
35 alien to whom the provisions of this paragraph do not apply.

36 “(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of
37 parole of an alien has been served and, upon such determination—

38 “(i) the alien’s case shall continue to be dealt with in the same manner as that of
39 any other applicant for admission to the United States; and

40 “(ii) if the alien was previously detained, the alien shall be returned to the
41 custody from which the alien was paroled.

1 “(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

2 “(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term ‘advance
3 parole’ means advance approval for an alien **lawfully present in the United States**
4 **who is** applying for admission to the United States to request at a port of entry in
5 the United States, a pre-inspection station, or a designated field office of the
6 Department of Homeland Security, to be paroled into the United States under
7 subparagraph (B).

8 “(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary may, in the Secretary’s
9 **sole and unreviewable** discretion, grant an application for advance parole.
10 Approval of an application for advance parole shall not constitute a grant of
11 parole under subparagraph (B). A grant of parole into the United States based on
12 an approved application for advance parole shall not be considered a parole for
13 purposes of qualifying for adjustment of status to lawful permanent resident status
14 in the United States under section 245 or 245A.

15 “(iii) REVOCATION OF ADVANCE PAROLE.—The Secretary may revoke a grant of
16 advance parole to an alien at any time. Such revocation shall not be subject to
17 administrative appeal or judicial review.

18 “(iv) TEMPORARY DEPARTURE.—An alien who leaves the United States
19 temporarily pursuant to a grant of advance parole makes a departure from the
20 United States pursuant to the immigration laws.”.

21 (b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day
22 of the first month beginning more than 60 days after the date of enactment of this Act.

23 SEC. 1508. REPORTS TO CONGRESS ON PAROLE.

24 (a) Report on Number and Category of Aliens Paroled Into the United States.—Not later than
25 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the
26 Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of
27 Representatives a report that, with respect to the most recently completed fiscal year—

28 (1) describes the number and categories of aliens paroled into the United States under
29 section 212(d)(5) of the Immigration and Nationality Act; and

30 (2) contains information and data concerning—

31 (A) the number and categories of aliens paroled;

32 (B) the duration of parole granted to aliens referred to in subparagraph (A); and

33 (C) the current immigration status of the aliens referred to in subparagraph (A).

34 (b) Report on Parole Procedures.—Not later than 180 days after the date of enactment of this
35 Act, and annually thereafter, the Attorney General and the Secretary of Homeland Security shall
36 jointly—

37 (1) conduct a review regarding the effectiveness of parole and custody determination
38 procedures applicable to aliens who have established a credible fear of persecution and are
39 awaiting a final determination regarding their asylum claim by the immigration courts; and

1 (2) submit to the Committee on the Judiciary of the Senate and the Committee on the
2 Judiciary of the House of Representatives a report based on the results of such review, that
3 includes—

4 (A) an analysis of—

5 (i) the rate at which release from detention (including release on parole) is
6 granted to aliens who have established a credible fear of persecution and are
7 awaiting a final determination regarding their asylum claim by the immigration
8 courts throughout the United States; and

9 (ii) any disparity that exists between locations or geographical areas, including
10 an explanation of the reasons for this disparity and what actions are being taken to
11 have consistent and uniform application of the standards for granting parole;

12 (B) an analysis of the effect of the procedures and policies applied with respect to
13 parole and custody determinations by the Attorney General and by the Secretary of
14 Homeland Security on the alien's pursuit of an asylum claim before an immigration
15 court;

16 (C) an analysis of the effectiveness of the procedures and policies applied with
17 respect to parole and custody determinations by the Attorney General and by the
18 Secretary of Homeland Security in securing the alien's presence at the immigration
19 court proceedings;

20 (D) recommendations with respect to whether the existing parole and custody
21 determination procedures applicable to aliens who have established a credible fear of
22 persecution and are awaiting a final determination by the immigration courts with
23 respect to asylum claims—

24 (i) respect the interests of the aliens; and

25 (ii) ensure the presence of the aliens at the immigration court proceedings; and

26 (E) an assessment on corresponding failure to appear rates, in absentia orders, and
27 absconders.

28 SEC. 1509. LIMITS ON CONTINUANCES IN REMOVAL 29 PROCEEDINGS.

30 Section 240(c) of the Immigration and Nationality Act, 8 U.S.C. 1229a(c) is amended by
31 adding at the end the following:

32 “(8) MOTION FOR CONTINUANCE.—

33 “(A) IN GENERAL.—Subject to subparagraph (B), an immigration judge may grant a
34 motion for continuance in the case of a specific alien if the immigration judge
35 determines that there is an emergent or extraordinary circumstance that justifies the
36 continuance.

37 “(B) LIMITATIONS.—

38 “(i) NUMBER.—Not more than 2 continuances may be granted in the case of a
39 specific alien.

1 “(ii) DURATION.—A continuance issued under subparagraph (A) shall be
2 limited to a period of not more than 180 days.

3 “(iii) APPLICABILITY.—The limitation under clause (i) shall not apply to
4 continuances for completion of required background and security checks, law
5 enforcement investigations (civil or criminal), DNA tests, or forensic document
6 examinations needed to make a decision on a request for relief or an immigration
7 benefit in a specific case.

8 “(C) EXCEPTION.—The Attorney General shall have the discretion to grant a
9 continuance for a period of more than 180 days in a case in which—

10 “(i) the alien is a parent of a minor child, under the age of 18 years, who has
11 been granted conditional permanent resident status under the SUCCEED Act; or

12 “(ii) the alien is the primary caretaker of a severely mentally impaired or
13 physically disabled minor child, under the age of 18 years, who is—

14 “(I) in the United States; and

15 “(II) requires continued care while in the United States.”.

16 SEC. 1510. REINSTATEMENT OF THE SECURE 17 COMMUNITIES PROGRAM.

18 (a) Reinstatement.—The Secretary shall reinstate and operate the Secure Communities
19 immigration enforcement program administered by U.S. Immigration and Customs Enforcement
20 between 2008 and 2014.

21 (b) Authorization of Appropriations.—There is authorized to be appropriated \$150,000,000 to
22 carry out this section.

23 CHAPTER 2—PROTECTION AND DUE PROCESS FOR 24 UNACCOMPANIED ALIEN CHILDREN

25 SEC. 1520. SHORT TITLE.

26 This chapter may be cited as the “Protecting Children and America’s Homeland Act of 2018”.

27 SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN 28 CHILDREN.

29 Section 235(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
30 of 2008 (8 U.S.C. 1232(a)) is amended—

31 (1) in paragraph (2)—

32 (A) by amending the paragraph heading to read as follows: “RULES FOR
33 UNACCOMPANIED ALIEN CHILDREN.—”;

34 (B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a
35 national or habitual resident of a country that is contiguous with the United States shall
36 be treated in accordance with subparagraph (B)” and inserting “shall be treated in

1 accordance with subparagraph (B) or subsection (b), as appropriate”; and

2 (C) in subparagraph (C)—

3 (i) by amending the subparagraph heading to read as follows: “AGREEMENTS
4 WITH FOREIGN COUNTRIES.—”; and

5 (ii) in the matter preceding clause (i), by striking “countries contiguous to the
6 United States” and inserting “Canada, El Salvador, Guatemala, Honduras,
7 Mexico, and any other foreign country that the Secretary determines to be
8 appropriate”;

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

11 (3) inserting after paragraph (2) the following:

12 “(3) MANDATORY EXPEDITED REMOVAL OF CRIMINALS AND GANG MEMBERS.—
13 Notwithstanding any other provision of law, the Secretary of Homeland Security shall place
14 an unaccompanied alien child in a proceeding in accordance with section 235 of the
15 Immigration and Nationality Act (8 U.S.C. 1225) if, the Secretary determines or has reason
16 to believe that the alien—

17 “(A) has been convicted of any offense carrying a maximum term of imprisonment
18 of more than 180 days;

19 “(B) has been convicted of, or found to be a juvenile offender based on, an offense
20 that involved—

21 “(i) the use or attempted use of physical force, or threatened use of a deadly
22 weapon;

23 “(ii) the purchase, sale, offering for sale, exchange, use, ownership, possession,
24 or carrying, or, of attempting or conspiring to purchase, sell, offer for sale,
25 exchange, use, own, possess, or carry, any weapon, part, or accessory which is a
26 firearm or destructive device (as defined in section 921(a) of title 18, United
27 States Code) in violation of any law;

28 “(iii) child abuse and neglect (as defined in section 40002(a)(3) of the Violence
29 Against Women Act of 1994 (34 U.S.C. 12291(a)(3)));

30 “(iv) assault resulting in bodily injury (as defined in section 2266 of title 18,
31 United States Code);

32 “(v) the violation of a protection order (as defined in section 2266 of title 18,
33 United States Code);

34 “(vi) driving while intoxicated or driving under the influence (as such terms are
35 defined in section 164 of title 23, United States Code); or

36 “(vii) any offense under foreign law (except a purely political offense) that, if
37 the offense had been committed in the United States, would render the alien
38 inadmissible under section 212(a) of the Immigration and Nationality Act (8
39 U.S.C. 1182(a));

40 “(C) has been convicted of, or found to be a juvenile offender based on, more than 1

1 criminal offense (other than minor traffic offenses);

2 “(D) has been convicted of, or found to be a juvenile offender based on a crime of
3 violence or an offense under Federal, State, or Tribal law, that has, as an element, the
4 use or attempted use of physical force or the threatened use of physical force or a
5 deadly weapon;

6 “(E) has engaged in, is engaged in, or is likely to engage after entry in any terrorist
7 activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act
8 (8 U.S.C. 1182(a)(3)(B)(iii))), or intends to participate or has participated in the
9 activities of a foreign terrorist organization (as designated under section 219 of the
10 Immigration and Nationality Act (8 U.S.C. 1189));

11 “(F) has engaged in, is engaged in, or any time after a prior admission engages in
12 activity described in section 237(a)(4) of the Immigration and Nationality Act (8
13 U.S.C. 1227(a)(4));

14 “(G) is or was a member of a criminal gang (as defined in section 101(a)(53) of the
15 Immigration and Nationality Act (8 U.S.C. 1101(a)(53)));

16 “(H) provided materially false, fictitious, or fraudulent information regarding age or
17 identity to the United States Government with the intent to inaccurately classified as an
18 unaccompanied alien child; or

19 “(I) has entered the United States more than once in violation of section 275(a) of
20 the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was
21 unlawful.”; and

22 (4) in paragraph (4) (as redesignated by paragraph (2))—

23 (A) by striking “not described in paragraph (2)(A)”;

24 (B) by inserting “who choose not to withdraw their application for admission and
25 return to their country of nationality or country of last habitual residence” after “port of
26 entry”;

27 (5) in paragraph (6)(D) (as redesignated by paragraph (2))—

28 (A) by amending the subparagraph heading to read as follows: “EXPEDITED DUE
29 PROCESS AND SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—”;

30 (B) in the matter preceding clause (i), by striking “, except for an unaccompanied
31 alien child from a contiguous country subject to the exceptions under subsection (a)(2),
32 shall be—” and inserting “who meets the criteria under paragraph (2)(A) and chooses
33 not to withdraw his or her application for admission and return to the unaccompanied
34 alien child’s country of nationality or country of last habitual residence, as permitted
35 under section 235B(c)(5) of the Immigration and Nationality Act (8 U.S.C.
36 1225b(c)(5)) **or is found to not meet the criteria under paragraph (2)(A)**—”;

37 (C) by amending clause (i) to read as follows:

38 “(i) shall be placed in a proceeding in accordance with section 235B of the
39 Immigration and Nationality Act (8 U.S.C. 1225b), which shall commence not
40 later than 7 days after the date on which the screening of an unaccompanied alien

1 child described in paragraph (5) is carried out;”;
2 (D) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively;
3 (E) by inserting after clause (i) the following:

4 “(ii) may not be placed in the custody of a nongovernmental sponsor or
5 otherwise released from the immediate custody of the United States Government
6 until the child is repatriated unless the child—

7 “(I) is the subject of an order under section 235B(e)(1) of the Immigration
8 and Nationality Act (8 U.S.C. 1225b(e)(1)); and

9 “(II) is placed or released in accordance with subsection (c)(2)(C).”;

10 (F) in clause (iii) (as redesignated) by inserting “is” before “eligible”; and

11 (G) in clause (iv), as redesignated, by inserting “shall be” before “provided”.

12 SEC. 1522. EXPEDITED DUE PROCESS AND SCREENING 13 FOR UNACCOMPANIED ALIEN CHILDREN.

14 (a) Humane and Expedited Inspection and Screening for Unaccompanied Alien Children.—

15 (1) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C.
16 1221 et seq.) is amended by inserting after section 235A the following:

17 “SEC. 235B. HUMANE AND EXPEDITED INSPECTION 18 AND SCREENING FOR UNACCOMPANIED ALIEN 19 CHILDREN.

20 “(a) Definition of Asylum Officer.—In this section, the term ‘asylum officer’ means an
21 immigration officer who—

22 “(1) has had professional training in country conditions, asylum law, and interview
23 techniques comparable to that provided to full-time adjudicators of applications under
24 section 208; and

25 “(2) is supervised by an officer who—

26 “(A) meets the condition described in paragraph (1); and

27 “(B) has had substantial experience adjudicating asylum applications under section
28 208.

29 “(b) Proceeding.—

30 “(1) IN GENERAL.—Not later than 7 days after the date on which the screening of an
31 unaccompanied alien child under section 235(a)(5) of the William Wilberforce Trafficking
32 Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(5)) is carried out, an
33 immigration judge shall—

34 “(A) conduct and conclude a proceeding to inspect, screen, and determine the status
35 of the unaccompanied alien child who is an applicant for admission to the United
36 States; and

1 “(B) in the case of an unaccompanied alien child seeking asylum, conduct fact
2 finding to determine whether the unaccompanied alien child meets the definition of
3 unaccompanied alien child under section 235(g) of the William Wilberforce
4 Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(g)).

5 “(2) TIME LIMIT.—Not later than 72 hours after the conclusion of a proceeding with
6 respect to an unaccompanied alien child under this section, the immigration judge who
7 conducted such proceeding shall issue an order pursuant to subsection (e).

8 “(c) Conduct of Proceeding.—

9 “(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge conducting a
10 proceeding under this section—

11 “(A) shall administer oaths, receive evidence, and interrogate, examine, and cross-
12 examine the unaccompanied alien child and any witness;

13 “(B) is authorized to sanction by civil money penalty any action (or inaction) in
14 contempt of the judge’s proper exercise of authority under this Act; and^[MR(2)]

15 “(C) shall determine whether the unaccompanied alien child meets any of the criteria
16 described in subparagraphs (A) through (I) of section 235(a)(3) of the William
17 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C.
18 1232(a)(3)), and if so, order the alien removed under subsection (e)(2).

19 “(2) FORM OF PROCEEDING.—A proceeding under this section may take place—

20 “(A) in person;

21 “(B) at a location agreed to by the parties, in the absence of the unaccompanied alien
22 child;

23 “(C) by video conference; or

24 “(D) by telephone conference.

25 “(3) PRESENCE OF ALIEN.—If it is impracticable by reason of the mental incompetency of
26 the unaccompanied alien child for the alien to be present at the proceeding, the Attorney
27 General shall prescribe safeguards to protect the rights and privileges of the alien.

28 “(4) RIGHTS OF THE ALIEN.—In a proceeding under this section—

29 “(A) the unaccompanied alien child shall be provided access to counsel in
30 accordance with section 235(c)(5) of the William Wilberforce Trafficking Victims
31 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(5));

32 “(B) the alien shall be given a reasonable opportunity—

33 “(i) to examine the evidence against the alien;

34 “(ii) to present evidence on the alien’s own behalf; and

35 “(iii) to cross-examine witnesses presented by the Government;

36 “(C) the rights described in subparagraph (B) shall not entitle the alien—

37 “(i) to examine such national security information as the Government may
38 proffer in opposition to the alien’s admission to the United States; or

1 “(ii) to an application by the alien for discretionary relief under this Act; and
2 “(D) a complete record shall be kept of all testimony and evidence produced at the
3 proceeding.

4 “(5) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An unaccompanied alien child
5 applying for admission to the United States may, and at any time before the issuance of a
6 final order of removal, be permitted to withdraw the application and immediately be
7 returned to the alien’s country of nationality or country of last habitual residence.

8 “(6) CONSEQUENCES OF FAILURE TO APPEAR.—An unaccompanied alien child who does
9 not attend a proceeding under this section, shall be ordered removed, except under
10 exceptional circumstances in which the alien’s absence is the fault of the Government, a
11 medical emergency, or an act of nature.

12 “(d) Decision and Burden of Proof.—

13 “(1) DECISION.—

14 “(A) IN GENERAL.—Notwithstanding section 235(b), at the conclusion of a
15 proceeding under this section, the immigration judge shall determine whether an
16 unaccompanied alien child is likely—

17 “(i) to be admissible to the United States; or

18 “(ii) to be eligible for any form of relief from removal under this Act.

19 “(B) EVIDENCE.—The determination of the immigration judge under subparagraph
20 (A) shall be based only on the evidence produced at the hearing.

21 “(2) BURDEN OF PROOF.—

22 “(A) IN GENERAL.—In a proceeding under this section, an unaccompanied alien
23 child who is an applicant for admission has the burden of establishing, by clear and
24 convincing evidence, that the alien—

25 “(i) is likely to be entitled to be lawfully admitted to the United States or
26 eligible for any form of relief from removal under this Act; or

27 “(ii) is lawfully present in the United States pursuant to a prior admission.

28 “(B) ACCESS TO DOCUMENTS.—In meeting the burden of proof under subparagraph
29 (A)(ii), the alien shall be given access to—

30 “(i) the alien’s visa or other entry document, if any; and

31 “(ii) any other records and documents, not considered by the Attorney General
32 to be confidential, pertaining to the alien’s admission or presence in the United
33 States.

34 “(e) Orders.—

35 “(1) PLACEMENT IN FURTHER PROCEEDINGS.—If an immigration judge determines that the
36 unaccompanied alien child has met the burden of proof under subsection (d)(2), the
37 immigration judge shall order the alien to be placed in further proceedings in accordance
38 with section 240.

1 “(2) ORDERS OF REMOVAL.—If an immigration judge determines that the unaccompanied
2 alien child has not met the burden of proof required under subsection (d)(2), the judge shall
3 order the alien removed from the United States without further hearing or review unless the
4 alien claims—

5 “(A) an intention to apply for asylum under section 208;

6 “(B) a fear of persecution; or

7 “(C) a fear of torture.

8 “(3) CLAIMS FOR ASYLUM.—If an unaccompanied alien child described in paragraph (2)
9 claims an intention to apply for asylum under section 208, a fear of persecution, or a fear of
10 torture, the immigration judge shall order the alien referred for an interview by an asylum
11 officer under subsection (f).

12 “(f) Asylum Interviews.—

13 “(1) DEFINITION OF CREDIBLE FEAR OF PERSECUTION OR TORTURE.—In this subsection, the
14 term ‘credible fear of persecution or torture’ means that after taking into account the
15 credibility of the statements made by an unaccompanied alien child in support of the alien’s
16 claim and such other facts as are known to the asylum officer, there is a significant
17 possibility that the alien could establish eligibility for—

18 “(A) asylum under section 208; or

19 “(B) protection from removal based on Article 3 of the Convention Against Torture
20 and Other Cruel, Inhuman, or Degrading Treatment or Punishment, done at New York,
21 December 10, 1984.

22 “(2) CONDUCT BY ASYLUM OFFICER.—An asylum officer shall conduct the interviews of
23 an unaccompanied alien child referred under subsection (e)(3).

24 “(3) REFERRAL OF CERTAIN ALIENS.—If the asylum officer determines, at the time of the
25 interview, that an unaccompanied alien child has a credible fear of persecution or torture,
26 the alien shall be held in the custody of the Secretary of Health and Human Services
27 pursuant to section 235(b) of the William Wilberforce Trafficking Victims Protection
28 Reauthorization Act of 2008 (8 U.S.C. 1232(b)) during further consideration of the
29 application for asylum.

30 “(4) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

31 “(A) IN GENERAL.—Subject to subparagraph (C), if the asylum officer determines
32 that an unaccompanied alien child does not have a credible fear of persecution, the
33 asylum officer shall order the alien removed from the United States without further
34 hearing or review.

35 “(B) RECORD OF DETERMINATION.—The asylum officer shall prepare a written
36 record of a determination under subparagraph (A), which shall include—

37 “(i) a summary of the material facts as stated by the alien;

38 “(ii) such additional facts (if any) relied upon by the asylum officer;

39 “(iii) the asylum officer’s analysis of why, in light of such facts, the alien has
40 not established a credible fear of persecution; and

1 “(iv) a copy of the asylum officer’s interview notes.

2 “(C) REVIEW OF DETERMINATION.—

3 “(i) RULEMAKING.—The Attorney General shall establish, by regulation, a
4 process by which an immigration judge shall conduct a prompt review, upon the
5 alien’s request, of a determination under subparagraph (A) that the alien does not
6 have a credible fear of persecution or torture.

7 “(ii) MANDATORY COMPONENTS.—The review described in clause (i)—

8 “(I) shall include an opportunity for the alien to be heard and questioned
9 by the immigration judge, either in person or by telephonic or video
10 connection; and

11 “(II) shall be concluded as expeditiously as possible, to the maximum
12 extent practicable within 24 hours, but in no case later than 7 days after the
13 date on which a determination under subparagraph (A) is made.

14 “(D) MANDATORY PROTECTIVE CUSTODY.—Any alien subject to the procedures
15 under this paragraph shall be held in the custody of the Secretary of Health and Human
16 Services pursuant to section 235(b) of the William Wilberforce Trafficking Victims
17 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b))—

18 “(i) pending a final determination of an application for asylum under this
19 subsection; and

20 “(ii) after a determination under this subsection that the alien does not have a
21 credible fear of persecution, until the date on which the alien is removed.

22 “(g) Limitation on Administrative Review.—

23 “(1) IN GENERAL.—Except as provided in subsection (f)(4)(C) and paragraph (2), a
24 removal order entered in accordance with subsection (e)(2) or (f)(4)(A) is not subject to
25 administrative appeal.

26 “(2) RULEMAKING.—The Attorney General shall establish, by regulation, a process for
27 the prompt review of an order under subsection (e)(2) against an alien who claims under
28 oath, or as permitted under penalty of perjury under section 1746 of title 28, United States
29 Code, after having been warned of the penal ties for falsely making such claim under such
30 conditions to have been—

31 “(A) lawfully admitted for permanent residence;

32 “(B) admitted as a refugee under section 207; or

33 “(C) granted asylum under section 208.”.

34 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
35 and Nationality Act is amended by inserting after the item relating to section 235A the
36 following:

37 “Sec.235B.Humane and expedited inspection and screening for unaccompanied alien children.”.

38 (b) Judicial Review of Orders of Removal.—Section 242 of the Immigration and Nationality
39 Act (8 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “section 235(b)(1)” and inserting “section
3 235(b)(1) or an order of removal issued to an unaccompanied alien child after
4 proceedings under section 235B”; and

5 (B) in paragraph (2)—

6 (i) by inserting “or section 235B” after “section 235(b)(1)” each place such
7 term appears; and

8 (ii) in subparagraph (A)—

9 (I) in the subparagraph heading, by inserting “OR 235B” after “SECTION
10 235(B)(1)”; and

11 (II) in clause (iii), by striking “section 235(b)(1)(B),” and inserting
12 “section 235(b)(1)(B) or 235B(f);” and

13 (2) in subsection (e)—

14 (A) in the subsection heading, by inserting “or 235B” after “Section 235(b)(1)”;

15 (B) by inserting “or section 235B” after “section 235(b)(1)” each place such term
16 appears;

17 (C) in subparagraph (2)(C), by inserting “or section 235B(g)” after “section
18 235(b)(1)(C)”; and

19 (D) in subparagraph (3)(A), by inserting “or section 235B” after “section 235(b)”.

20 SEC. 1523. CHILD WELFARE AND LAW ENFORCEMENT 21 INFORMATION SHARING.

22 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
23 of 2008 (8 U.S.C. 1232(b)) is amended by adding at the end the following:

24 “(5) INFORMATION SHARING.—

25 “(A) IMMIGRATION STATUS.—If the Secretary of Health and Human Services
26 considers placement of an unaccompanied alien child with a potential sponsor, the
27 Secretary of Homeland Security shall provide to the Secretary of Health and Human
28 Services the immigration status of such potential sponsor before the placement of the
29 unaccompanied alien child.

30 “(B) OTHER INFORMATION.—The Secretary of Health and Human Services shall
31 provide to the Secretary of Homeland Security and the Attorney General, upon request,
32 any relevant information related to an unaccompanied alien child who is or has been in
33 the custody of the Secretary of Health and Human Services, including the location of
34 the child and any person to whom custody of the child has been transferred, for any
35 legitimate law enforcement objective, including the enforcement of the immigration
36 laws.”.

37 SEC. 1524. ACCOUNTABILITY FOR CHILDREN AND

1 **TAXPAYERS.**

2 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
3 of 2008 (8 U.S.C. 1232(b)) (as amended by section 1523) is amended by adding at the end the
4 following:

5 “(6) INSPECTION OF FACILITIES.—The Inspector General of the Department of Health and
6 Human Services shall conduct regular inspections of facilities utilized by the Secretary of
7 Health and Human Services to provide care and custody of unaccompanied alien children
8 who are in the immediate custody of the Secretary to ensure that such facilities are operated
9 in the most efficient manner practicable.

10 “(7) FACILITY OPERATIONS COSTS.—The Secretary of Health and Human Services shall
11 ensure that facilities utilized to provide care and custody of unaccompanied alien children
12 are operated efficiently and at a rate of cost that is not greater than \$500 per day for each
13 child housed or detained at such facility, unless the Secretary certifies that compliance with
14 this requirement is temporarily impossible due to emergency circumstances.”.

15 **SEC. 1525. CUSTODY OF UNACCOMPANIED ALIEN**
16 **CHILDREN IN FORMAL REMOVAL PROCEEDING.**

17 (a) In General.—Section 235(c) of the William Wilberforce Trafficking Victims Protection
18 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amended—

19 (1) in paragraph (2) by adding at the end the following:

20 “(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—

21 “(i) LIMITATION ON PLACEMENT.—Notwithstanding any settlement or consent
22 decree previously issued before the date of the enactment of this subparagraph,
23 and section 236.3 of title 8, Code of Federal Regulations, or a similar successor
24 regulation, an unaccompanied alien child who has been placed in a proceeding
25 under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) may
26 not be placed in the custody of a nongovernmental sponsor or otherwise released
27 from the immediate custody of the United States Government unless—

28 “(I) the nongovernmental sponsor is a biological or adoptive parent or
29 legal guardian of the unaccompanied alien child;

30 “(II) the parent or legal guardian is legally present in the United States at
31 the time of the placement;

32 “(III) the parent or legal guardian has undergone a mandatory biometric
33 criminal history check;

34 “(IV) if the nongovernmental sponsor is the biological parent, the parent’s
35 relationship to the alien child has been verified through DNA testing
36 conducted by the Secretary of Health and Human Services;

37 “(V) if the nongovernmental sponsor is the adoptive parent, the parent’s
38 relationship to the alien child has been verified with the judicial court that
39 issued the final legal adoption decree by the Secretary of Health and Human

1 Services; and

2 “(VI) the Secretary of Health and Human Services has determined that the
3 alien child is not a danger to self, a danger to the community, or at risk of
4 flight.

5 “(ii) EXCEPTIONS.—If the Secretary of Health and Human Services determines
6 that an unaccompanied alien child is a victim of severe forms of trafficking in
7 persons (as defined in section 103 of the Trafficking Victims Protection Act of
8 2000 (22 U.S.C. 7102)), a special needs child with a disability (as defined in
9 section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), a
10 child who has been a victim of physical or sexual abuse under circumstances that
11 indicate that the child’s health or welfare has been significantly harmed or
12 threatened, or a child with mental health needs that require ongoing assistance
13 from a social welfare agency, the alien child may be placed with a grandparent or
14 adult sibling if the grandparent or adult sibling meets the requirements under
15 subclauses (II), (III), and (IV) of clause (i).

16 ~~“(iii) MONITORING.—~~

17 ~~“(I) IN GENERAL.— If an unaccompanied alien child who is 15, 16, or 17~~
18 ~~years of age is placed with a nongovernmental sponsor or, if an~~
19 ~~unaccompanied alien child who is younger than 15 years of age is placed~~
20 ~~with a nongovernmental sponsor, such nongovernmental sponsor shall—~~

21 ~~“(aa) enroll in the alternative to detention program of U.S.~~
22 ~~Immigration and Customs Enforcement; and~~

23 ~~“(bb) continuously wear an electronic ankle monitor while the~~
24 ~~unaccompanied alien child is in removal proceedings.~~

25 ~~“(II) PENALTY FOR MONITOR TAMPERING.— If an electronic ankle monitor~~
26 ~~required by subelause (I) is tampered with, the sponsor of the~~
27 ~~unaccompanied alien child shall be subject to a civil penalty of \$150 for each~~
28 ~~day the monitor is not functioning due to the tampering, up to a maximum of~~
29 ~~\$3,000.~~

30 ~~“(iv) EFFECT OF VIOLATION OF CONDITIONS.— The Secretary of Health and~~
31 ~~Human Services shall remove an unaccompanied alien child from a sponsor if the~~
32 ~~sponsor violates the terms of the agreement specifying the conditions under which~~
33 ~~the alien was placed with the sponsor.~~

34 ~~“(iv) FAILURE TO APPEAR.—~~

35 ~~“(I) CIVIL PENALTY.—If an unaccompanied alien child is placed with a~~
36 ~~sponsor and fails to appear in a mandatory court appearance, the sponsor~~
37 ~~shall be subject to a civil penalty of \$250 for each day until the alien appears~~
38 ~~in court, up to a maximum of \$5,000.~~

39 ~~“(II) BURDEN OF PROOF.—The sponsor is not subject to the penalty~~
40 ~~imposed under subclause (I) if the sponsor—~~

41 ~~“(aa) appears in person and proves to the immigration court that the~~

1 failure to appear by the unaccompanied alien child was not the fault of
2 the sponsor; and

3 “(bb) supplies the immigration court with documentary evidence that
4 supports the assertion described in item (aa).

5 “(vi) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN
6 TRAFFICKERS.—The Secretary of Health and Human Services may not place an
7 unaccompanied alien child under this subparagraph in the custody of an
8 individual who has been convicted of, or the Secretary has reason to believe was
9 otherwise involved in the commission of—

10 “(I) a sex offense (as defined in section 111 of the Sex Offender
11 Registration and Notification Act (34 U.S.C. 20911));

12 “(II) a crime involving severe forms of trafficking in persons (as defined
13 in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.
14 7102)); or

15 “(III) an offense under Federal, State, or Tribal law that has, as an element
16 of the offense, the use or attempted use of physical force or the threatened
17 use of physical force or a deadly weapon.

18 “(vii) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—A biometric
19 criminal history check required under clause (i)(III) shall be conducted using a set
20 of fingerprints or other biometric identifier through—

21 “(I) the Federal Bureau of Investigation;

22 “(II) criminal history repositories of all States that the individual lists as
23 current or former residences; and

24 “(III) any other State or Federal database or repository that the Secretary
25 of Health and Human Services determines to be appropriate.”.

26 (b) Definition of Special Immigrant Juvenile.— Section 101(a)(27)(J)(i) of the Immigration and
27 Nationality Act (8 U.S.C. 1101(a)(27)(J)), is amended by striking “1 or both of the immigrant’s
28 parents” and inserting “either of the immigrant’s parents”.

29 (bc) Home Studies and Follow-up Services for Unaccompanied Alien Children.—Section
30 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of
31 2008 (8 U.S.C. 1232(c)(3)) is amended—

32 (1) by redesignating subparagraph (C) as (D); and

33 (2) by amending subparagraph (B) to read as follows:

34 “(B) HOME STUDIES.—

35 “(i) IN GENERAL.—Except as required under clause (ii), before placing a child
36 with an individual, the Secretary of Health and Human Services shall determine
37 whether a home study is necessary.

38 “(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

39 “(I) who is a victim of a severe form of trafficking in persons or is a

1 special needs child with a disability (as defined in section 3 of the Americans
2 with Disabilities Act of 1990 (42 U.S.C. 12102);

3 “(II) who has been a victim of physical or sexual abuse under
4 circumstances that indicate that the child’s health or welfare has been
5 significantly harmed or threatened; or

6 “(III) whose proposed sponsor ~~clearly presents~~ a risk of abuse,
7 maltreatment, exploitation, or trafficking to the child based on all available
8 objective evidence; ~~or~~

9 “(IV) if more than 2 other children are residing with the proposed sponsor,
10 or if such sponsor has custody of at least one other unaccompanied alien
11 child.”.

12 “(C) FOLLOW-UP SERVICES AND ADDITIONAL HOME STUDIES.—

13 “(i) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every
14 180 days until the date on which initial removal proceedings are completed and
15 the immigration judge issues an order of removal, grants voluntary departure
16 under section 240B, or grants the alien relief from removal, the Secretary of
17 Health and Human Services shall conduct follow-up services for any child for
18 whom a home study was conducted and who was placed with a nongovernmental
19 sponsor.

20 “(ii) CHILDREN WITH MENTAL HEALTH OR OTHER NEEDS.—Not less frequently
21 than every 180 days, until the date that is 2 years after the date on which a child is
22 placed with a nongovernmental sponsor, the Secretary of Health and Human
23 Services shall conduct follow-up services for any child with mental health needs
24 or other needs who could benefit from ongoing assistance from a social welfare
25 agency.

26 “(iii) CHILDREN AT RISK.—Not less frequently than every 90 days until the date
27 that is 2 years after the date on which a child is placed with a nongovernmental
28 sponsor, the Secretary of Health and Human Services shall conduct home studies
29 and follow-up services, including partnering with local community programs that
30 focus on early morning and after school programs for at-risk children who—

31 “(I) need a secure environment to engage in studying, training, and skills-
32 building programs; and

33 “(II) are at risk for recruitment by criminal gangs or other transnational
34 criminal organizations in the United States.”.

35 ~~(ed)~~ Detention of Accompanied Minors.—

36 (1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection
37 Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

38 (A) by redesignating subsections (d) through (i) as subsections (e) through (j)
39 respectively; and

40 (B) by inserting after subsection (c) the following:

1 “(d) Detention of Accompanied Minors.—

2 “(1) IN GENERAL.—Notwithstanding any other provision of law, **a judicial determination,**
3 **consent decree, or settlement agreement—**

4 “(A) ~~judicial determination, consent decree, or settlement agreement,~~ the detention
5 of any alien minor who is not described in section 462(g)(2) of the Homeland Security
6 Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections 217, 235, 236, and 241
7 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231); and

8 “(B) the decision whether to detain or release the alien minor shall be in the sole and
9 unreviewable discretion of the Secretary of Homeland Security.

10 “(2C) ~~LIMITATIONS ON RELEASE.—~~The release of an alien minor who is not
11 described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C.
12 279(g)(2)) may not be presumed and an alien minor not described in such section may
13 not be released by the Secretary to anyone other than a parent or legal guardian; ~~and-~~

14 “(D3) ~~CONDITIONS OF CONFINEMENT.—~~The conditions of confinement applicable to
15 alien minors who are not described in section 462(g) of the Homeland Security Act of
16 2002 (6 U.S.C. 279(g)(2)) shall be determined in the sole and unreviewable discretion
17 of the Secretary of Homeland Security, and specific licensing requirements may not be
18 imposed other than requirements determined appropriate by the Secretary.”.

19 **(2) No appropriated funds may be used to comply with, enforce or execute the**
20 **requirements of the settlement agreement in Flores v. Sessions, 85-4544 (C.D. Cal.).**

21 (32) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this subsection shall—

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

23 (B) apply regardless of the date on which the actions giving rise to removability or
24 detention take place.

25 **SEC. 1526. FRAUD IN CONNECTION WITH THE**
26 **TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN**
27 **CHILDREN.**

28 (a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end
29 the following:

30 **“1041. Fraud in connection with the transfer of custody of**
31 **unaccompanied alien children**

32 “(a) In General.—It shall be unlawful for a person to obtain custody of an unaccompanied
33 alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C.
34 279(g))) by—

35 “(1) making any materially false, fictitious, or fraudulent statement or representation; or

36 “(2) making or using any false writing or document knowing the same to contain any
37 materially false, fictitious, or fraudulent statement or entry.

1 “(b) Penalties.—

2 “(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, this
3 section shall be fined under this title and imprisoned for not less than 1 year.

4 “(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of the violation,
5 attempted violation, or conspiracy to violate this section was to subject the child to sexually
6 explicit activity or any other form of exploitation, the offender shall be fined under this title
7 and imprisoned for not less than 15 years.”.

8 (b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code,
9 is amended by inserting after the item relating to section 1040 the following:

10 “1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

11 **SEC. 1527. NOTIFICATION OF STATES AND FOREIGN**
12 **GOVERNMENTS, REPORTING, AND MONITORING.**

13 (a) Notification.—Section 235 of the William Wilberforce Trafficking Victims Protection
14 Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1525(c)(1)(A)) is amended
15 by adding at the end the following:

16 “(k) Notification to States.—

17 “(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of
18 Health and Human Services shall notify the Governor of a State not later than 48 hours
19 before the placement of an unaccompanied alien child in the custody of such Secretary into
20 the care of a facility or sponsor in such State.

21 “(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this
22 subsection, the Secretary of Health and Human Services shall submit a report to the
23 Governor of each State in which an unaccompanied alien child was discharged to a sponsor
24 or placed in a facility while remaining in the legal custody of the Secretary during the
25 period beginning October 1, 2013 and ending on the date of enactment of this subsection.

26 “(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a
27 monthly report to the Governor of each State in which, during the reporting period, an
28 unaccompanied alien child was discharged to a sponsor or placed in a facility while
29 remaining in the legal custody of the Secretary of Health and Human Services.

30 “(4) CONTENTS.—Each report required to be submitted to the Governor of a State under
31 paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the
32 State during the reporting period, disaggregated by—

33 “(A) the locality in which the aliens were placed; and

34 “(B) the age of such aliens.

35 “(l) Notification of Foreign Country.—The Secretary of Homeland Security shall provide
36 information regarding each unaccompanied alien child to the government of the country of
37 which the child is a national to assist such government with the identification and reunification
38 of such child with their parent or other qualifying relative.

39 “(m) Monitoring Requirement.—The Secretary of Health and Human Services shall—

1 “(1) require all sponsors to agree—

2 “(A) to receive approval from the Secretary of Health and Human Services before
3 changing the location in which the sponsor is housing an unaccompanied alien child
4 placed in the sponsor’s custody; and

5 “(B) to provide a current address for the child and the reason for the change of
6 address;

7 “(2) provide regular and frequent monitoring of the physical and emotional well-being of
8 each unaccompanied alien child who has been discharged to a sponsor or remained in the
9 legal custody of the Secretary until the child’s immigration case is resolved; and

10 “(3) not later than 60 days after the date of enactment of this subsection, submit a plan to
11 Congress for implementing the requirements under paragraphs (1) and (2).”.

12 SEC. 1528. EMERGENCY IMMIGRATION JUDGE 13 RESOURCES.

14 (a) Designation.—Not later than 14 days after the date of enactment of this Act, the Attorney
15 General shall designate not more than 100 immigration judges, including through the hiring of
16 retired immigration judges, magistrate judges, or administrative law judges, or the reassignment
17 of current immigration judges, who shall be dedicated—

18 (1) to conducting humane and expedited inspection and screening for unaccompanied
19 alien children under section 235B of the Immigration and Nationality Act; or

20 (2) to reducing existing backlogs in immigration court proceedings initiated under section
21 239 of the Immigration and Nationality Act (8 U.S.C. 1229).

22 (b) Requirement.—The Attorney General shall ensure that sufficient immigration judge
23 resources, including required legal support staff and full-time interpreters, are dedicated to the
24 purpose described in subsection (a)(1) and the Secretary of Homeland Security shall ensure that
25 sufficient immigration attorneys are dedicated to such purpose to comply with the requirement
26 under section 235B(b)(1) of the Immigration and Nationality Act.

27 (c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this
28 section \$10,000,000, for each of the fiscal years 2018 through 2022.

29 SEC. 1529. REPORTS TO CONGRESS.

30 (a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019,
31 the Secretary of Health and Human Services shall submit to Congress and make publicly
32 available a report that includes—

33 (1) a detailed summary of the contracts in effect to care for and house unaccompanied
34 alien children, including the names and locations of contractors and the facilities being
35 used;

36 (2) the cost per day to care for and house an unaccompanied alien child, including an
37 explanation of such cost;

38 (3) the number of unaccompanied alien children who have been released to a sponsor, if

- 1 any;
- 2 (4) a list of the States to which unaccompanied alien children have been released from the
3 custody of the Secretary of Health and Human Services to the care of a sponsor or
4 placement in a facility;
- 5 (5) the number of unaccompanied alien children who have been released to a sponsor
6 who is not lawfully present in the United States, including the country of nationality or last
7 habitual residence and age of such children;
- 8 (6) a determination of whether more than 1 unaccompanied alien child has been released
9 to the same sponsor, including the number of children who were released to such sponsor;
- 10 (7) an assessment of the extent to which the Secretary of Health and Human Services is
11 monitoring the release of unaccompanied alien children, including home studies done and
12 electronic monitoring devices used;
- 13 (8) an assessment of the extent to which the Secretary of Health and Human Services is
14 making efforts—
- 15 (A) to educate unaccompanied alien children about their legal rights; and
16 (B) to provide unaccompanied alien children with access to pro bono counsel; and
- 17 (9) the extent of the public health issues of unaccompanied alien children, including
18 contagious diseases, the benefits or medical services provided, and the outreach to States
19 and localities about public health issues, that could affect the public.
- 20 (b) Reports on Repatriation Agreements.—Not later than September 30, 2019, the Secretary of
21 State shall submit to Congress and make publicly available a report that—
- 22 (1) includes a copy of any repatriation agreement in effect for unaccompanied alien
23 children;
- 24 (2) describes any such repatriation agreement that is being considered or negotiated; and
- 25 (3) describes the funding provided to the 20 countries that have the highest number of
26 nationals entering the United States as unaccompanied alien children, including amounts
27 provided—
- 28 (A) to deter the nationals of each country from illegally entering the United States;
29 and
- 30 (B) to care for or reintegrate repatriated unaccompanied alien children in the country
31 of nationality or last habitual residence.
- 32 (c) Reports on Returns to Country of Nationality.—Not later than September 30, 2019, the
33 Secretary of Homeland Security shall submit to Congress and make publicly available a report
34 that describes—
- 35 (1) the number of unaccompanied alien children who have voluntarily returned to their
36 country of nationality or habitual residence, disaggregated by—
- 37 (A) country of nationality or habitual residence; and
38 (B) age of the unaccompanied alien children;

1 (2) the number of unaccompanied alien children who have been returned to their country
2 of nationality or habitual residence, including the length of time such children were present
3 in the United States;

4 (3) the number of unaccompanied alien children who have not been returned to their
5 country of nationality or habitual residence pending travel documents or other requirements
6 from such country, including how long they have been waiting to return; and

7 (4) the number of unaccompanied alien children who were granted relief in the United
8 States, whether through asylum, any other immigration benefit or status, or deferred action.

9 (d) Reports on Immigration Proceedings.—Not later than September 30, 2019, and not less
10 frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination
11 with the Director of the Executive Office for Immigration Review, shall submit to Congress and
12 make publicly available a report that describes—

13 (1) the number of unaccompanied alien children who, after proceedings under section
14 235B of the Immigration and Nationality Act were returned to their country of nationality or
15 habitual residence, disaggregated by—

16 (A) country of nationality or residence; and

17 (B) age and gender of such aliens;

18 (2) the number of unaccompanied alien children who, after proceedings under section
19 235B of the Immigration and Nationality Act, prove a claim of admissibility and are placed
20 in proceedings under section 240 of that Act (8 U.S.C. 1229a);

21 (3) the number of unaccompanied alien children who fail to appear at a removal hearing
22 that such alien was required to attend;

23 (4) the number of sponsors who were levied a penalty, including the amount and whether
24 the penalty was collected, for the failure of an unaccompanied alien child to appear at a
25 removal hearing; and

26 (5) the number of aliens that are classified as unaccompanied alien children, the ages and
27 countries of nationality of such children, and the orders issued by the immigration judge at
28 the conclusion of proceedings under section 235B of the Immigration and Nationality Act
29 for such children.

30 **CHAPTER 3—COOPERATION WITH MEXICO AND**
31 **OTHER COUNTRIES ON ASYLUM AND REFUGEE**
32 **ISSUES**

33 **SEC. 1541. STRENGTHENING INTERNAL ASYLUM**
34 **SYSTEMS IN MEXICO AND OTHER COUNTRIES.**

35 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
36 Security, shall work with international partners, including the United Nations High
37 Commissioner for Refugees, to support and provide technical assistance to strengthen the
38 domestic capacity of Mexico and other countries in the region to provide asylum to eligible

1 children and families—

2 (1) by establishing and expanding temporary and long-term in country reception centers
3 and shelter capacity to meet the humanitarian needs of those seeking asylum or other forms
4 of international protection;

5 (2) by improving the asylum registration system to ensure that all individuals seeking
6 asylum or other humanitarian protection—

7 (A) are properly screened for security, including biographic and biometric capture;

8 (B) receive due process and meaningful access to existing legal protections; and

9 (C) receive proper documents in order to prevent fraud and ensure freedom of
10 movement and access to basic social services;

11 (3) by creating or expanding a corps of trained asylum officers capable of evaluating and
12 deciding individual asylum claims consistent with international law and obligations; and

13 (4) by developing the capacity to conduct best interest determinations for unaccompanied
14 alien children to ensure that their needs are properly met, which may include family
15 reunification or resettlement based on international protection needs.

16 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
17 State, in consultation with the Secretary of Homeland Security, shall submit a report that
18 describes the plans of the Secretary of State to assist in developing the asylum processing
19 capabilities described in subsection (a) to—

20 (1) the Committee on Foreign Relations of the Senate;

21 (2) the Committee on Homeland Security and Governmental Affairs of the Senate;

22 (3) the Committee on the Judiciary of the Senate;

23 (4) the Committee on Foreign Affairs of the House of Representatives;

24 (5) the Committee on Homeland Security of the House of Representatives; and

25 (6) the Committee on the Judiciary of the House of Representatives.

26 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
27 may be necessary to carry out subsection (a).

28 **SEC. 1542. EXPANDING REFUGEE PROCESSING IN**
29 **MEXICO AND CENTRAL AMERICA FOR THIRD**
30 **COUNTRY RESETTLEMENT.**

31 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
32 Security, shall coordinate with the United Nations High Commissioner for Refugees to support
33 and provide technical assistance to the Government of Mexico and the governments of other
34 countries in the region to increase access to global resettlement for eligible children and families
35 with protection needs—

36 (1) by establishing and expanding in country refugee reception centers to meet the
37 humanitarian needs of those seeking international protection;

1 (2) by improving the refugee registration system to ensure that all refugees—

2 (A) are properly screened for security, including biographic and biometric capture;

3 (B) receive due process and meaningful access to existing legal protections; and

4 (C) receive proper documents in order to prevent fraud and ensure freedom of
5 movement and access to basic social services;

6 (3) by creating or expanding a corps of trained refugee officers capable of evaluating and
7 deciding individual claims for protection, consistent with international law and obligations;
8 and

9 (4) by developing the capacity to conduct best interest determinations for unaccompanied
10 alien children to ensure that—

11 (A) such children with international protection needs are properly registered; and

12 (B) the needs of such children are properly met, which may include family
13 reunification or resettlement based on international protection needs.

14 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
15 State, in consultation with the Secretary of Homeland Security, shall submit a report to the
16 committees listed in section 1541(b) that describes the plans of the Secretary of State to assist in
17 developing the refugee processing capabilities described in subsection (a).

18 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
19 may be necessary to carry out subsection (a).

20 **Subtitle F—Penalties for Smuggling, Drug Trafficking, Human**
21 **Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to**
22 **Readmission of Removed Aliens**

23 **SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN**
24 **TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.**

25 (a) Criminal Penalties for Human Smuggling and Trafficking.—Section 274(a) of the
26 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

27 (1) in paragraph (1)—

28 (A) in subparagraph (A), by amending clause (ii) to read as follows:

29 “(ii) knowing, or in reckless disregard of the fact, that an alien has come to,
30 entered into, or remains in the United States in violation of law—

31 “(I) transports, moves, or attempts to transport or move such alien within
32 the United States by means of transportation or otherwise, in furtherance of
33 such violation of law; or

34 “(II) transports or moves the alien with the purpose of facilitating the
35 illegal entry of the alien into Canada or Mexico;” and

36 (B) in subparagraph (B)—

1 (i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;
2 (ii) in clause (vi) (as so redesignated) by inserting “for not less than 10 years
3 and” before “not more than 20 years,”; and

4 (iii) by inserting after clause (ii) the following:

5 “(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
6 subparagraph (A) that is the third or subsequent violation committed by such
7 person under this section, shall be fined under title 18, imprisoned for not less
8 than 5 years and not more than 25 years, or both;

9 “(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
10 subparagraph (A) that recklessly, knowingly, or intentionally results in a victim
11 being involuntarily forced into labor or prostitution, shall be fined under title 18,
12 imprisoned for not less than 5 years and not more than 25 years, or both;

13 “(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph
14 (A) during and in relation to which any person is subjected to an involuntary
15 sexual act (as defined in section 2246 of title 18), be fined under title 18,
16 imprisoned for not less than 5 years and not more than 25 years, or both;” and

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

18 “(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to
19 another or on the high seas, transports, moves, harbors, conceals, or shields from detection such
20 alien outside of the United States for profit or gain when the alien is seeking to enter the United
21 States without official permission or legal authority, shall for, each alien in respect to whom a
22 violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not
23 more than 10 years, or both.”.

24 (b) Seizure and Forfeiture.—Section 274(b)(1) of the Immigration and Nationality Act (8
25 U.S.C. 1324(b)(1)) is amended to read as follows:

26 “(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the
27 commission of a violation or attempted violation of subsection (a), the gross proceeds of
28 such violation or attempted violation, and any property traceable to such property or
29 proceeds, shall be seized and subject to forfeiture.”.

30 SEC. 1602. PUTTING THE BRAKES ON HUMAN 31 SMUGGLING ACT.

32 (a) Short Title.—This section may be cited as the “Putting the Brakes on Human Smuggling
33 Act”.

34 (b) First Violation.—Section 31310(b)(1) of title 49, United States Code, is amended—

35 (1) in subparagraph (D), by striking the “or” at the end;

36 (2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

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

38 “(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal
39 entry into the United States by transporting, guiding, directing, or attempting to assist the

1 alien with the alien's entry in violation of section 275 of the Immigration and Nationality
2 Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an
3 act in violation of such section; or

4 "(G) using a commercial motor vehicle in willfully aiding or abetting the transport of
5 controlled substances, monetary instruments, bulk cash, or weapons by any individual
6 departing the United States."

7 (c) Second or Multiple Violations.—Section 31310(c)(1) of title 49, United States Code, is
8 amended—

9 (1) in subparagraph (E), by striking the "or" at the end;

10 (2) by redesignating subparagraph (F) as subparagraph (H);

11 (3) in subparagraph (H), as redesignated, by striking "(E)" and inserting "(G)"; and

12 (4) by inserting after subparagraph (E) the following:

13 "(F) using a commercial motor vehicle more than once in willfully aiding or abetting an
14 alien's illegal entry into the United States by transporting, guiding, directing and attempting
15 to assist the alien with the alien's entry in violation of section 275 of the Immigration and
16 Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or
17 imprisoned for an act in violation of such section;

18 "(G) using a commercial motor vehicle more than once in willfully aiding or abetting the
19 transport of controlled substances, monetary instruments, bulk cash, or weapons by any
20 individual departing the United States; or".

21 (d) Lifetime Disqualification.—Section 31310(d) of title 49, United States Code, is amended
22 to read as follows:

23 "(d) Lifetime Disqualification.—The Secretary shall permanently disqualify an individual
24 from operating a commercial motor if the individual uses a commercial motor vehicle—

25 "(1) in committing a felony involving manufacturing, distributing, or dispensing a
26 controlled substance, or possession with intent to manufacture, distribute, or dispense a
27 controlled substance;

28 "(2) in committing an act for which the individual is convicted under—

29 "(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

30 "(B) section 277 of such Act (8 U.S.C. 1327); or

31 "(3) in willfully aiding or abetting the transport of controlled substances, monetary
32 instruments, bulk cash, and weapons by any individual departing the United States."

33 (e) Reporting Requirements.—

34 (1) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title
35 49, United States Code, is amended—

36 (A) in subparagraph (E), by striking "and" at the end;

37 (B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

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

1 “(G) whether the operator was disqualified, either temporarily or permanently, from
2 operating a commercial motor vehicle under section 31310, including under subsection
3 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

4 (2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is
5 amended by inserting “including such a disqualification, revocation, suspension, or
6 cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d)
7 of section 31310,” after “60 days.”.

8 SEC. 1603. DRUG TRAFFICKING AND CRIMES OF 9 VIOLENCE COMMITTED BY ILLEGAL ALIENS.

10 (a) In General.—Title 18, United States Code, is amended by inserting after chapter 27 the
11 following:

12 “CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF 13 VIOLENCE COMMITTED BY ILLEGAL ALIENS

14 “581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

15 “581. Enhanced penalties for drug trafficking and crimes 16 committed by illegal aliens

17 “(a) Offense.—Any alien unlawfully present in the United States, who commits, conspires to
18 commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of
19 which involves the use or attempted use of physical force or the threatened use of physical force
20 or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under
21 this title, imprisoned for not less than 5 years, or both.

22 “(b) Enhanced Penalties for Aliens Ordered Removed.—Any alien unlawfully present in the
23 United States who violates subsection (a) and was ordered removed under the Immigration and
24 Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the
25 violation of subsection (a), shall be fined under this title, imprisoned for not less than 15 years, or
26 both.

27 “(c) Requirement for Consecutive Sentences.—Any term of imprisonment imposed under this
28 section shall be consecutive to any term imposed for any other offense.”.

29 (b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United
30 States Code, is amended by inserting after the item relating to chapter 27 the following:

31 “28. Drug trafficking and crimes of violence committed by illegal aliens
32 581”.

33 SEC. 1604. ESTABLISHING INADMISSIBILITY AND 34 DEPORTABILITY.

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

1 “(iii) CONSIDERATION OF OTHER EVIDENCE.—If the statute of conviction or
2 conviction records do not conclusively establish whether a crime does or does not
3 constitute a crime involving moral turpitude, the Secretary, the Attorney General,
4 or the consular officer, as applicable, may consider other **documentary** evidence
5 related to the conviction, including **but not limited to** charging documents, plea
6 agreements, plea colloquies, jury instructions, and police reports, to determine
7 whether the other evidence clearly establishes that the conduct in which the alien
8 was engaged constitutes a crime involving moral turpitude.”.

9 (b) Deportable Aliens.—

10 (1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8
11 U.S.C. 1227(a)(2)(A)) is amended by—

12 (A) redesignating clause (vi) and clause (vii); and

13 (B) inserting after clause (v) the following:

14 “(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not
15 conclusively establish whether a crime constitutes a crime involving moral
16 turpitude, the Secretary or the Attorney General may consider other **documentary**
17 evidence related to the conviction, including **but not limited to** charging
18 documents, plea agreements, plea colloquies, jury instructions, and police reports,
19 to determine whether the other evidence clearly establishes that the conduct in
20 which the alien was engaged constitutes a crime involving moral turpitude.”.

21 (2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of Immigration and Nationality Act (8
22 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

23 “(iii) CRIME OF VIOLENCE.—If the statute of conviction or conviction records
24 do not conclusively establish whether a crime of domestic violence constitutes a
25 crime of violence or an offense under Federal, State, or Tribal law that has, as an
26 element of the crime, the use or attempted use of physical force or the threatened
27 use of physical force or a deadly weapon, the Secretary or the Attorney General
28 may consider other evidence related to the conviction, including charging
29 documents, plea agreements, plea colloquies, jury instructions, and police reports,
30 to determine whether the other evidence clearly establishes that the conduct in
31 which the alien was engaged constitutes a crime of violence or an offense under
32 Federal, State, or Tribal law that has, as an element of the crime, the use or
33 attempted use of physical force or the threatened use of physical force or a deadly
34 weapon.”.

35 (c) Effective Date; Applicability.—The amendments made by this section shall—

36 (1) take effect on the date of enactment of this Act; and

37 (2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

38 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY;**
39 **ENHANCED PENALTIES FOR ENTERING WITH INTENT**
40 **TO AID, ABET, OR COMMIT TERRORISM.**

1 (a) In General.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is
2 amended by striking the section designation and heading and all that follows through “may be
3 imposed.” in the undesignated matter following subsection (b)(2) and inserting the following:

4 “SEC. 275. ILLEGAL ENTRY.

5 “(a) In General.—

6 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all
7 immigration benefits or relief available under the immigration laws, including relief under
8 section 240B, 245, 248, and 249, other than asylum, relief as a victim of trafficking under
9 section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U),
10 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
11 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
12 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
13 protection from removal based on a claim under the Convention Against Torture and Other
14 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
15 1984, if the alien—

16 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
17 any time or place other than as designated by immigration officers;

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

21 “(C) enters or crosses the border to the United States and, upon examination or
22 inspection, makes a false or misleading representation or conceals a material fact,
23 including such representation or willful concealment in the context of arrival,
24 reporting, entry, or clearance, requirements of the customs laws, immigration laws,
25 agriculture laws, or shipping laws.

26 “(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3)
27 if the alien—

28 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
29 any time or place other than as designated by immigration officers;

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

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

38 “(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by
39 engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—

40 “(A) shall, for the first violation, be fined under title 18, United States Code,
41 imprisoned not more than 6 months, or both;

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

3 “(C) if the violation occurs after the alien has been convicted of 3 or more
4 misdemeanors (at least 1 of which involves controlled substances, abuse of a minor,
5 trafficking or smuggling, or any offense that may result in serious bodily harm or
6 injury to another person), a significant misdemeanor, or a felony, shall be fined under
7 such title, imprisoned not more than 10 years, or both;

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

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

14 “(4) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through
15 (E) of paragraph (3) are elements of the offenses described in that paragraph and the
16 penalties described in such subparagraphs shall apply only in cases in which the 1 or more
17 convictions that form the basis for the additional penalty are—

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

19 “(B) proven beyond a reasonable doubt at trial; or

20 “(C) admitted by the defendant.

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

23 “(6) ATTEMPT.—Any person who attempts to commit any offense under this section shall
24 be punished in the same manner as for a completion of such offense.

25 “(b) Improper Time or Place; Civil Penalties.—

26 “(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or
27 crossing or attempting to cross the border to the United States at a time or place other than
28 as designated by an immigration officer shall be subject to a civil penalty, in addition to any
29 criminal or other civil penalties that may be imposed under any other provision of law, in an
30 amount equal to—

31 “(A) not less than \$50 but not more than \$250 for each such entry, crossing,
32 attempted entry, or attempted crossing; or

33 “(B) twice the amount described in subparagraph (A) if the alien had previously
34 been subject to a civil penalty under this subsection.

35 “(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in
36 place of, any criminal or other civil penalties that may be imposed.”.

37 (b) Enhanced Penalties.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325)
38 is amended by adding at the end the following:

39 “(e) Enhanced Penalty for Terrorist Aliens.—Any alien who commits an offense described in
40 subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime

1 of terrorism (as defined in section 2332b(g) of title 18, United States Code) shall be imprisoned
2 for not less than 10 years and not more than 30 years.”.

3 (c) Clerical Amendment.—The table of contents in the first section of the Immigration and
4 Nationality Act is amended by striking the item relating to section 275 and inserting the
5 following:

6 “Sec.275.Illegal entry.”.

7 (d) Application.—

8 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act shall
9 apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on
10 or after the date of enactment of this Act.

11 (2) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Section 275(a)(1) of the Immigration
12 and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this
13 Act and apply to any alien who, on or after that date of enactment—

14 (A) enters or crosses, or attempts to enter or cross, the border into the United States
15 at any time or place other than as designated by immigration officers;

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

19 (C) enters or crosses the border to the United States and, upon examination or
20 inspection, makes a false or misleading representation or conceals a material fact,
21 including such representation or concealment in the context of arrival, reporting, entry,
22 or clearance, requirements of the customs laws, immigration laws, agriculture laws, or
23 shipping laws.

24 SEC. 1606. PENALTIES FOR REENTRY OF REMOVED 25 ALIENS.

26 (a) Short Titles.—This section may be cited as the “Stop Illegal Reentry Act” or “Kate’s
27 Law”.

28 (b) Increased Penalties for Reentry of Removed Alien.—

29 (1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is
30 amended to read as follows:

31 “SEC. 276. REENTRY OF REMOVED ALIEN.

32 “(a) In General.—

33 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied
34 admission, excluded, deported, or removed or has departed the United States while an order
35 of exclusion, deportation, or removal is outstanding shall be ineligible for all immigration
36 benefits or relief available under the immigration laws, including relief under **sections**
37 **240(b)(1), 240B(b),** 245, 248, and 249, other than asylum, relief as a victim of trafficking
38 under section 101(a)(15)(T), relief as a victim of criminal activity under section

1 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et
2 seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a
3 battered spouse or child under section 240A(b)(2), withholding of removal under section
4 241(b)(3), or protection from removal based on a claim under the Convention Against
5 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New
6 York, December 10, 1984, if, after such denial, exclusion, deportation, removal, or
7 departure, the alien enters, attempts to enter, crosses the border into, attempts to cross the
8 border into, or is at any time found in, the United States, unless—

9 “(A) if the alien is seeking admission more than 10 years after the date of the alien’s
10 last departure from the United States, the Secretary, before the alien’s reembarkation at
11 a place outside of the United States or the alien’s application for admission from a
12 foreign contiguous territory, has expressly consented to such alien’s reapplying for
13 admission; or

14 “(B) with respect to an alien previously denied admission and removed, such alien
15 establishes that the alien was not required to obtain such advance consent under this
16 Act or any other Act.

17 “(2) CRIMINAL OFFENSES.—Any alien who—

18 “(A) has been denied admission, deported, or removed or has departed the United
19 States while an order of deportation, or removal is outstanding; and

20 “(B) after such denial, removal or departure, enters, attempts to enter, crosses the
21 border into, attempts to cross the border into, or is at any time found in, the United
22 States, unless—

23 “(i) if the alien is seeking admission more than 10 years after the date of the
24 alien’s last departure from the United States, the Secretary, before the alien’s
25 reembarkation at a place outside the United States or the alien’s application for
26 admission from a foreign contiguous territory, has expressly consented to such
27 alien’s reapplying for admission; or

28 “(ii) with respect to an alien previously denied admission and removed, such
29 alien establishes that the alien was not required to obtain such advance consent
30 under this Act or any other Act,

31 “shall be fined under title 18, United States Code, imprisoned not more than 5 years, or
32 both.

33 “(b) Criminal Penalties for Reentry of Certain Removed Aliens.—

34 “(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2),
35 and except as provided in subsection (c)—

36 “(A) an alien described in subsection (a) who has been excluded from the United
37 States pursuant to section 235(c) because the alien was excludable under section
38 212(a)(3)(B) or who has been removed from the United States pursuant to the
39 provisions of title V, and thereafter, without the permission of the Secretary, enters the
40 United States, or attempts to enter the United States, shall be fined under title 18,
41 United States Code, and imprisoned for a period of 15 years, which sentence shall not
42 run concurrently with any other sentence;

1 “(B) an alien described in subsection (a) who was removed from the United States
2 pursuant to section 237(a)(4)(B) and thereafter, without the permission of the
3 Secretary, enters, attempts to enter, or is at any time found in, the United States (unless
4 the Secretary has expressly consented to such alien’s reentry) shall be fined under title
5 18, United States Code, imprisoned for not more than 15 years, or both; and

6 “(C) an alien described in subsection (a) who has been denied admission, excluded,
7 deported, or removed 2 or more times for any reason and thereafter enters, attempts to
8 enter, crosses the border into, attempts to cross the border into, or is at any time found
9 in, the United States, shall be fined under title 18, United States Code, imprisoned not
10 more than 15 years, or both.

11 “(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties
12 under subsection (a)(2), and except as provided in subsection (c)—

13 “(A) an alien described in subsection (a) who was convicted, on a date that is before
14 the date on which the alien was subject to removal or departure, of a significant
15 misdemeanor shall be fined under title 18, United States Code, imprisoned not more
16 than 10 years, or both;

17 “(B) an alien described in subsection (a) who was convicted, on a date that is before
18 the date on which the alien was subject to removal or departure, of 2 or more
19 misdemeanors involving drugs, crimes against the person, or both, shall be fined under
20 title 18, United States Code, imprisoned not more than 10 years, or both;

21 “(C) an alien described in subsection (a) who was convicted, on a date that is before
22 the date on which the alien was subject to removal or departure, of 3 or more
23 misdemeanors for which the alien was sentenced to a term of imprisonment of not less
24 than 90 days for each offense, or 12 months in the aggregate, shall be fined under title
25 18, United States Code, imprisoned not more than 10 years, or both;

26 “(D) an alien described in subsection (a) who was convicted, on a date that is before
27 the date on which the alien was subject to removal or departure, of a felony for which
28 the alien was sentenced to a term of imprisonment of not less than 30 months shall be
29 fined under such title, imprisoned not more than 15 years, or both;

30 “(E) 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 felony for which
32 the alien was sentenced to a term of imprisonment of not less than 5 years shall be
33 fined under such title, imprisoned not more than 20 years, or both;

34 “(F) an alien described in subsection (a) who was convicted of 3 or more felonies of
35 any kind shall be fined under such title, imprisoned not more than 25 years, or both;
36 and

37 “(G) an alien described in subsection (a) who was convicted, on a date that is before
38 the date on which the alien was subject to removal or departure or after such removal
39 or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77
40 (relating to peonage and slavery) or 113B (relating to terrorism) of such title shall be
41 fined under such title, imprisoned not more than 25 years, or both.

42 “(c) Mandatory Minimum Criminal Penalty for Reentry of Certain Removed Aliens.—

1 Notwithstanding the penalties under subsections (a) and (b), an alien described in subsection (a)
2 shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be
3 fined under title 18, United States Code, if the alien—

4 “(1) was convicted, on a date that is before the date on which the alien was subject to
5 removal or departure, of an aggravated felony; or

6 “(2) was convicted at least twice of illegal reentry under this section on 1 or more dates
7 that are before the date on which such removal or departure.

8 “(d) Proof of Prior Convictions.—The prior convictions described in subsection (b)(2) are
9 elements of the crimes described in that subsection, and the penalties in that subsection shall
10 apply only in cases in which the 1 or more convictions that form the basis for the additional
11 penalty are—

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

13 “(2)(A) proven beyond a reasonable doubt at trial; or

14 “(B) admitted by the defendant.

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

17 “(1) on a date that is before the date of the alleged violation, the alien sought and received
18 the express consent of the Secretary to reapply for admission into the United States; or

19 “(2) with respect to an alien previously denied admission and removed, the alien—

20 “(A) was not required to obtain such advance consent under this Act or any other
21 Act; and

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

24 “(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding
25 under this section, an alien may not challenge the validity of a removal order described in
26 subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

27 “(1) the alien exhausted any administrative remedies that may have been available to seek
28 relief against the order;

29 “(2) the removal or deportation proceedings at which the order was issued improperly
30 deprived the alien of the opportunity for judicial review; and

31 “(3) the entry of the order was fundamentally unfair.

32 “(g) Reentry of Alien Removed Before the Completion of the Term of Imprisonment.—Any
33 alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border
34 into, attempts to cross the border into, or is at any time found in, the United States—

35 “(1) shall be incarcerated for the remainder of the sentence of imprisonment that was
36 pending at the time of deportation or removal without any reduction for parole or supervised
37 release unless the alien affirmatively demonstrates that the Secretary has expressly
38 consented to the alien’s reentry (if a request for consent to reapply is authorized under this
39 section); and

1 “(2) shall be subject to such other penalties relating to the reentry of removed aliens as
2 may be available under this section or any other provision of law.

3 “(h) Definitions.—In this section:

4 “(1) CROSS THE BORDER.—The term ‘cross the border’ refers to the physical act of
5 crossing the border, regardless of whether the alien is free from official restraint.

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

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

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

14 “(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a
15 misdemeanor crime that—

16 “(A) involves the use or attempted use of physical force, or threatened use of a
17 deadly weapon, committed by a current or former spouse, parent, or guardian of the
18 victim, by a person with whom the victim shares a child in common, by a person who
19 is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or
20 by a person similarly situated to a spouse, parent, or guardian of the victim;

21 “(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control
22 and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

23 “(C) involved the unlawful possession of a firearm (as defined in section 921 of title
24 18, United States Code);

25 “(D) is a crime of violence (as defined in section 16 of title 18, United States Code);
26 or

27 “(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use
28 or attempted use of physical force or the threatened use of physical force or a deadly
29 weapon.

30 “(6) STATE.—The term ‘State’ means a State of the United States, the District of
31 Columbia, and any commonwealth, territory, or possession of the United States.”.

32 (c) Effective Date; Applicability.—Section 276(a)(1) of the Immigration and Nationality Act
33 (8 U.S.C. 1326(a)(1)) shall take effect on the date of enactment of this Act and shall apply to any
34 alien who, on or after that date of enactment—

35 (1) has been denied admission, excluded, deported, or removed or has departed the
36 United States while an order of exclusion, deportation, or removal is outstanding; and

37 (2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses
38 the border into, attempts to cross the border into, or is at any time found in, the United
39 States, unless—

40 (A) if the alien is seeking admission more than 10 years after the date of the alien’s

1 last departure from the United States, the Secretary of Homeland Security, before the
2 alien's reembarkation at a place outside the United States or the alien's application for
3 admission from a foreign contiguous territory, has expressly consented to such alien's
4 reapplying for admission; or

5 (B) with respect to an alien previously denied admission and removed, such alien
6 establishes that the alien was not required to obtain such advance consent under the
7 Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

8 SEC. 1607. LAUNDERING OF MONETARY 9 INSTRUMENTS.

10 Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 1590
11 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor)," after "section 1363 (relating to destruction of property within the special maritime and territorial
12 jurisdiction),".
13

14 SEC. 1608. FREEZING BANK ACCOUNTS OF 15 INTERNATIONAL CRIMINAL ORGANIZATIONS AND 16 MONEY LAUNDERERS.

17 Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

18 "(5)(A) If a person is arrested or charged in connection with an offense described in
19 subparagraph (C) involving the movement of funds into or out of the United States, the Attorney
20 General may apply to any Federal judge or magistrate judge in the district in which the arrest is
21 made or where the charges are filed for an ex parte order restraining any account held by the
22 person arrested or charged for not more than 30 days. Such 30-day period may be extended for
23 good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal
24 Rules of Civil Procedure. The court may receive and consider evidence and information
25 submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

26 "(B) The application for a restraining order under subparagraph (A) shall—

27 "(i) identify the offense for which the person has been arrested or charged;

28 "(ii) identify the location and description of the accounts to be restrained; and

29 "(iii) state that the restraining order is needed to prevent the removal of the funds in the
30 account by the person arrested or charged, or by others associated with such person, during
31 the time needed by the Government to conduct such investigation as may be necessary to
32 establish whether there is probable cause to believe that the funds in the accounts are
33 subject to forfeiture in connection with the commission of any criminal offense.

34 "(C) An offense described in this subparagraph is any offense for which forfeiture is
35 authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

36 "(D) For purposes of this section—

37 "(i) the term 'account' includes any safe deposit box and any account (as defined in
38 paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial

1 institution; and

2 “(ii) the term ‘account held by the person arrested or charged’ includes an account held in
3 the name of such person, and any account over which such person has effective control as a
4 signatory or otherwise.

5 “(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for
6 purposes of section 983(a).

7 “(F) A restraining order issued under this paragraph may be executed in any district in which
8 the subject account is found, or transmitted to the central authority of any foreign State for
9 service in accordance with any treaty or other international agreement.”.

10 **SEC. 1609. CRIMINAL PROCEEDS LAUNDERED**
11 **THROUGH PREPAID ACCESS DEVICES, DIGITAL**
12 **CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.**

13 (a) In General.—

14 (1) DEFINITIONS.—

15 (A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES
16 AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section
17 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:

18 “(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders,
19 prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital
20 currency;”.

21 (B) ADDITION OF PREPAID ACCESS DEVICES TO THE DEFINITION OF MONETARY
22 INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by
23 inserting “prepaid access devices,” after “delivery,”.

24 (C) PREPAID ACCESS DEVICE.—Section 5312 of such title is amended—

25 (i) by redesignating paragraph (6) as paragraph (7); and

26 (ii) by inserting after paragraph (5) the following:

27 “(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate,
28 code, number, electronic serial number, mobile identification number, personal
29 identification number, or other instrument that provides a portal to funds or the value of
30 funds that have been paid in advance and can be retrievable and transferable at some point
31 in the future.”.

32 (2) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the
33 Comptroller General of the United States shall submit a report to Congress that describes—

34 (A) the impact of amendments made by paragraph (1) on law enforcement, the
35 prepaid access device industry, and consumers; and

36 (B) the implementation and enforcement by the Department of the Treasury of the
37 final rule relating to “Bank Secrecy Act Regulations—Definitions and Other
38 Regulations Relating to Prepaid Access” (76 Fed. Reg. 45403 (July 29, 2011)).

1 (b) U.S. Customs and Border Protection Strategy for Prepaid Access Devices.—Not later than
2 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in
3 consultation with the Commissioner of U.S. Customs and Border Protection, shall submit to
4 Congress a report that—

5 (1) details a strategy to interdict and detect prepaid access devices, digital currencies, or
6 other similar instruments, at border crossings and other ports of entry for the United States;
7 and

8 (2) includes an assessment of the infrastructure needed to carry out the strategy detailed
9 pursuant to paragraph (1).

10 (c) Money Smuggling Through Blank Checks in Bearer Form.—Section 5316 of title 31,
11 United States Code, is amended by adding at the end the following:

12 “(e) Monetary Instruments With Amount Left Blank.—For purposes of this section, a
13 monetary instrument in bearer form that has the amount left blank, such that the amount could be
14 filled in by the bearer, shall be considered to have a value of more than \$10,000 if the monetary
15 instrument was drawn on an account that contained or was intended to contain more than
16 \$10,000 at the time the monetary instrument was—

17 “(1) transported; or

18 “(2) negotiated.”.

19 SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL 20 ASSOCIATES ENGAGED IN MONEY LAUNDERING.

21 (a) Intent to Conceal or Disguise.—Section 1956(a) of title 18, United States Code, is
22 amended—

23 (1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through
24 “Federal law,” in clause (ii) and inserting the following:

25 “(B) knowing that the transaction—

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

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

30 (2) in paragraph (2)(B), by striking “(B) knowing that” and all that follows through
31 “Federal law,” in clause (ii) and inserting the following:

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

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

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

1 (b) Proceeds of a Felony.—Section 1956(c)(1) of title 18, United States Code, is amended by
2 inserting “, and regardless of whether the person knew that the activity constituted a felony”
3 before the semicolon at the end.

4 Subtitle G—Protecting National Security and Public Safety

5 CHAPTER 1—GENERAL MATTERS

6 SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, 7 ENGAGE IN TERRORIST ACTIVITY, AND TERRORIST 8 ORGANIZATION.

9 (a) Definition of Engage in Terrorist Activity.—Section 212(a)(3)(B)(iv)(I) of the Immigration
10 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

11 “(I) to commit a terrorist activity or, under circumstances indicating an
12 intention to cause death, serious bodily harm, or substantial damage to
13 property, to incite another person to commit a terrorist activity;”.

14 (b) Definition of Terrorist Organization.—Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
15 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

16 “(III) that is a group of 2 or more individuals, whether organized or not,
17 which engages in, or has a subgroup that engages in, the activities described
18 in subclauses (I) through (VI) of clause (iv), if the group or subgroup
19 presents a threat to the national security of the United States.”.

20 SEC. 1702. TERRORIST AND SECURITY-RELATED 21 GROUNDS OF INADMISSIBILITY.

22 (a) Security and Related Grounds.—Section 212(a)(3)(A) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

24 “(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the
25 Secretary knows, or has reasonable ground to believe, seeks to enter the United States
26 to engage solely, principally, or incidentally, in, or who is engaged in—

27 “(i) any activity—

28 “(I) to violate any law of the United States relating to espionage or
29 sabotage; or

30 “(II) to violate or evade any law prohibiting the export from the United
31 States of goods, technology, or sensitive information;

32 “(ii) any other activity which would be unlawful if committed in the United
33 States; or

34 “(iii) any activity a purpose of which is the opposition to, or the control or
35 overthrow of, the Government of the United States by force, violence, or other
36 unlawful means,

1 is inadmissible.”.

2 (b) Terrorist Activities.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8
3 U.S.C. 1182(a)(3)(B)(i)) is amended—

4 (1) in subclause (III), by inserting “or substantial damage to property” before “, incited
5 terrorist activity”;

6 (2) in subclause (IV), by inserting “or has been” before “a representative”;

7 (3) in subclause (V), by inserting “or has been” before “a member”;

8 (4) in subclause (VI), by inserting “or has been” before “a member”;

9 (5) by amending subclause (VII) to read as follows:

10 “(VII) endorses or espouses, or has endorsed or espoused, terrorist activity
11 or persuades or has persuaded others to endorse or espouse terrorist activity
12 or support a terrorist organization;”;

13 (6) by amending subclause (IX) to read as follows:

14 “(IX) is the spouse or child of an alien who is inadmissible under this
15 subparagraph if—

16 “(aa) the activity causing the alien to be found inadmissible occurred
17 within the last 10 years; and

18 “(bb)(AA) the spouse or child knew, or should reasonably have
19 known, of the activity causing the alien to be found inadmissible under
20 this section; and

21 “(BB) the consular officer or Attorney General does not have
22 reasonable grounds to believe that the spouse or child has renounced the
23 activity causing the alien to be found inadmissible under this section.”;
24 and

25 (7) by striking the undesignated matter following subclause (IX).

26 (c) Palestine Liberation Organization.—Section 212(a)(3)(B) of the Immigration and
27 Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

28 “(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer,
29 official, representative, or spokesman of the Palestine Liberation Organization is
30 considered, for purposes of this Act, to be engaged in terrorist activity.”.

31 (d) Bars to Immigration Relief.— Any alien described in sections 212(a)(3)(B) or
32 237(a)(4)(B) is not eligible and may not apply for any immigration benefits or relief available
33 under this Act. Such aliens only be eligible to seek deferral of removal pursuant to the
34 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
35 done at New York, December 10, 1984.

36 SEC. 1703. EXPEDITED REMOVAL FOR ALIENS
37 INADMISSIBLE ON CRIMINAL OR SECURITY
38 GROUNDS.

1 (a) In General.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is
2 amended—

3 (1) in the section heading, by adding at the end the following: “or who are subject to
4 terrorism-related grounds for removal”;

5 (2) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) by striking “Attorney General” and inserting “Secretary, in the exercise of
8 **the Secretary’s sole and unreviewable** discretion,”; and

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

11 (B) in paragraphs (3) and (4), by striking “Attorney General” each place that term
12 appears and inserting “Secretary”;

13 (C) in paragraph (5)—

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

16 (ii) by striking “the Attorney General may grant in the Attorney General’s
17 discretion.” and inserting “the Secretary or the Attorney General may grant, in the
18 **sole and unreviewable** discretion of the Secretary or the Attorney General, in any
19 proceeding.”;

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

22 (E) by inserting after paragraph (2) the following:

23 “(3) The Secretary, in the exercise of discretion, may determine inadmissibility under
24 section 212(a)(2) and issue an order of removal pursuant to the procedures set forth in this
25 subsection, in lieu of removal proceedings under section 240, with respect to an alien
26 who—

27 “(A) has not been admitted or paroled;

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

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

31 (3) by redesignating the first subsection (c) as subsection (d);

32 (4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of
33 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of
34 Public Law 104–208; 110 Stat. 3009–720)), as subsection (e); and

35 (5) by inserting after subsection (b) the following:

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

37 “(1) IN GENERAL.—The Secretary—

1 “(A) notwithstanding section 240, shall—

2 “(i) determine the inadmissibility of every alien under subclause (I), (II), or
3 (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section
4 237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

5 “(ii) issue an order of removal pursuant to the procedures set forth in this
6 subsection to every alien determined to be inadmissible or deportable on a ground
7 described in clause (i); and

8 “(B) may—

9 “(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of
10 section 212(a)(3) (other than subclauses (I), (II), and (III) of section
11 212(a)(3)(B)(i), or the deportability of the alien under subparagraph (A) or (B) of
12 section 237(a)(4) (as a consequence of being described in subclause (I), (II), or
13 (III) of section 212(a)(3)(B)(i)); 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).

17 “(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1)
18 until 30 days after the date on which such order was issued, unless waived by the alien, to
19 give the alien an opportunity to petition for judicial review under section 242.

20 “(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings
21 under this subsection, which shall require that—

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

24 “(B) the alien has the privilege of being represented (at no expense to the
25 Government) by such counsel, authorized to practice in such proceedings, as the alien
26 shall choose;

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

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

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

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

35 “(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall
36 be eligible for any relief from removal that the Secretary may grant in the Secretary’s
37 discretion.”.

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

1 “Sec.238.Expedited removal of aliens convicted of aggravated felonies or who are subject to
2 terrorism-related grounds for removal.”.

3 (c) Effective Date and Application.—The amendments made by this section shall take effect
4 on the date of the enactment of this Act, but shall not apply to aliens who are in removal
5 proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such
6 date of enactment.

7 SEC. 1704. DETENTION OF REMOVABLE ALIENS.

8 (a) Criminal Alien Enforcement Partnerships.—Section 287 of the Immigration and
9 Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end
10 the following:

11 “(j) Criminal Alien Enforcement Partnerships.—

12 “(1) IN GENERAL.—The Secretary may enter into a written agreement with a State, or
13 with any political subdivision of a State, to authorize the temporary placement of 1 or more
14 U.S. Customs and Border Protection agents or officers or U.S. Immigration and Customs
15 Enforcement agents or investigators at a local police department or precinct—

16 “(A) to determine the immigration status of any individual arrested by a State,
17 county, or local police, enforcement, or peace officer for any criminal offense;

18 “(B) to issue charging documents and notices related to the initiation of removal
19 proceedings or reinstatement of prior removal orders under section 241(a)(5);

20 “(C) to enter information directly into the National Crime Information Center
21 (NCIC) database, Immigration Violator File, including—

22 “(i) the alien’s address;

23 “(ii) the reason for the arrest;

24 “(iii) the legal cite of the State law violated or for which the alien is charged;

25 “(iv) the alien’s driver’s license number and State of issuance, if the alien has a
26 driver’s license;

27 “(v) any other identification document held by the alien and issuing entity for
28 such identification documents; and

29 “(vi) any identifying marks, such as tattoos, birthmarks, and scars;

30 “(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of
31 the alien and to enter such information into the Automated Biometric Identification
32 System (IDENT) and any other Department of Homeland Security or law enforcement
33 database authorized for storage of biometric information for aliens; and

34 “(E) to make advance arrangements for the immediate transfer from State to Federal
35 custody of any criminal alien when the alien is released, without regard to whether the
36 alien is released on parole, supervised release, or probation, and without regard to
37 whether the alien may be arrested and imprisoned again for the same offense.

38 “(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary
39 duty assignment authorized under this subsection shall be 1 year. The temporary duty

1 assignment may be extended for additional periods of time as agreed to by the Secretary and
2 the State or political subdivision of the State to ensure continuity of operations, cooperation,
3 and coverage.

4 “(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border
5 Protection and U.S. Immigration and Customs Enforcement agents, officers, and
6 investigators on a temporary duty assignment under this subsection mobile access to Federal
7 databases containing alien information, live scan technology for collection of biometrics,
8 and video-conferencing capability for use at local police departments or precincts in remote
9 locations.

10 “(4) REPORT.—Not later than 1 year after the date of the enactment of the ~~Immigration~~
11 ~~Reform and Technical Corrections Act of 2018~~ **SECURE and SUCCEED Act**, the Secretary
12 shall submit a report to the Committee on the Judiciary of the Senate, the Committee on
13 Homeland Security and Governmental Affairs of the Senate, the Committee on the
14 Judiciary of the House of Representatives, and the Committee on Homeland Security of the
15 House of Representatives that identifies—

16 “(A) the number of States that have entered into an agreement under this subsection;

17 “(B) the number of criminal aliens processed by the U.S. Customs and Border
18 Protection agent or officer or U.S. Immigration and Customs Enforcement agent or
19 investigator during the temporary duty assignment; and

20 “(C) the number of criminal aliens transferred from State to Federal custody during
21 the agreement period.”.

22 (b) Detention, Release, and Removal of Aliens Ordered Removed.—

23 (1) REMOVAL PERIOD.—

24 (A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8
25 U.S.C. 1231(a)(1)(A)) is amended by striking “Attorney General” and inserting
26 “Secretary”.

27 (B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C.
28 1231(a)(1)(B)) is amended to read as follows:

29 “(B) BEGINNING OF PERIOD.—

30 “(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date
31 that is the latest of the following:

32 ~~“(I) If a court, the Board of Immigration Appeals, or an immigration~~
33 ~~judge orders a stay of the removal of the alien, the date on which the stay of~~
34 ~~removal ends.~~

35 “(II) If the alien is ordered removed, the date pursuant to an
36 administratively final removal order and the Secretary takes the alien into
37 custody for removal.

38 “(III) If the alien is detained or confined (except under an immigration
39 process), the date on which the alien is released from detention or
40 confinement.

1 “(i) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If
2 the Secretary transfers custody of the alien pursuant to law to another Federal
3 agency or to an agency of a State or local government in connection with the
4 official duties of such agency, the removal period for the alien—

5 “(I) shall be tolled; and

6 “(II) shall resume on the date on which the alien is returned to the custody
7 of the Secretary.”.

8 (C) SUSPENSION OF PERIOD.—Section 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 removal period shall be extended beyond a
11 period of 90 days and the alien may remain in detention during such extended period ~~if~~
12 ~~the alien~~—

13 “(i) if the alien fails or refuses to make all reasonable efforts to comply with the
14 order of removal or to fully cooperate with the efforts of the Secretary to establish
15 the alien’s identity and carry out the order of removal, including making timely
16 application in good faith for travel or other documents necessary to the alien’s
17 departure; ~~or~~

18 “(ii) if the alien conspires or acts to prevent the alien’s removal subject to an
19 order of removal; or

20 “(iii) if the court, the Board of Immigration Appeals, or an immigration judge
21 orders a stay of the removal of the alien.”.

22 (2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C.
23 1231(a)(2)) is amended—

24 (A) by inserting “(A) IN GENERAL.—” before “During”;

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

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

27 “(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration
28 Appeals, or an immigration judge orders a stay of removal of an alien who is subject to
29 an order of removal, the Secretary, in the Secretary’s sole and unreviewable exercise of
30 discretion, and notwithstanding any provision of law, including section 2241 of title
31 28, United States Code, may detain the alien during the pendency of such stay of
32 removal.”.

33 (3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and
34 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

35 (A) in the matter preceding subparagraph (A), by striking “Attorney General” and
36 inserting “Secretary”;

37 (B) in subparagraph (C), by striking “Attorney General” and inserting “Secretary”;
38 and

39 (C) by amending subparagraph (D) to read as follows:

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

5 (4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR
6 PROBATION.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C.
7 1231(a)(4)) is amended—

8 (A) in subparagraph (A), by striking “Attorney General” and inserting “Secretary”;
9 and

10 (B) in subparagraph (B)—

11 (i) in the matter preceding clause (i), by striking “Attorney General” and
12 inserting “Secretary”;

13 (ii) in clause (i), by striking “if the Attorney General” and inserting “if the
14 Secretary”; and

15 (iii) in clause (ii)(III), by striking “Attorney General” and inserting “Secretary”.

16 (5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

17 (A) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8
18 U.S.C. 1231(a)(5)) is amended to read as follows:

19 “(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If
20 the Secretary determines that an alien has entered the United States illegally after having
21 been removed, deported, or excluded, or having departed voluntarily, under an order of
22 removal, deportation, or exclusion, regardless of the date of the original order or the date of
23 the illegal entry—

24 “(A) the order of removal, deportation, or exclusion is reinstated from its original
25 date and is not subject to being reopened or reviewed notwithstanding section
26 242(a)(2)(D);

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

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

32 “(D) reinstatement under subparagraph (A) shall not require proceedings under
33 section 240 or other proceedings before an immigration judge.”.

34 (B) JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended by—

35 (i) in subsection (g), by inserting “grant, rescind, or deny any form of
36 discretionary relief under this title, or to” before “commence”; and

37 (ii) by adding at the end the following:

38 “(h) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION
39 241(A)(5).—

1 “(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—Judicial review of
2 determinations under section 241(a)(5) is available in an action under subsection (a).

3 “(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law
4 (statutory or nonstatutory), including section 2241 of title 28, United States Code, any
5 other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall
6 have jurisdiction to review any cause or claim, arising from, or relating to, any
7 challenge to the original order.”.

8 (C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs
9 (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders
10 reinstated or after that date by the Secretary of Homeland Security (or by the Attorney
11 General before March 1, 2003), regardless of the date of the original order.

12 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and
13 Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

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

15 (B) by striking “removal period and, if released,” and inserting “removal period, in
16 the discretion of the Secretary, without any limitations other than those specified in this
17 section, until the alien is removed,”.

18 (7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration
19 and Nationality Act (8 U.S.C. 1231(a)) is amended—

20 (A) in paragraph (7), by striking “Attorney General” and inserting “Secretary”;

21 (B) by redesignating paragraph (7) as paragraph (15); and

22 (C) by inserting after paragraph (6) the following:

23 “(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens
24 subject to detention under section 236(c), 236A, or 238, if an alien who is detained is an
25 applicant for admission, the Secretary, in the Secretary’s **sole and unreviewable** discretion,
26 may parole the alien under section 212(d)(5) and may provide, notwithstanding section
27 212(d)(5), that the alien shall not be returned to custody unless the alien violates the
28 conditions of such parole or the alien’s removal becomes reasonably foreseeable, provided
29 that in no circumstance shall such alien be considered admitted.

30 “(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE
31 PREVIOUSLY ADMITTED TO THE UNITED STATES.—

32 “(A) APPLICATION.—The procedures set out under this paragraph—

33 “(i) apply only to an alien who was previously admitted to the United States;
34 and

35 “(ii) do not apply to any other alien, including an alien detained pursuant to
36 paragraph (6).

37 “(B) ESTABLISHMENT OF DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY
38 COOPERATE WITH REMOVAL.—

39 “(i) REQUIREMENT TO ESTABLISH.—If an alien has made all reasonable efforts
40 to comply with a removal order and to cooperate fully with the efforts of the

1 Secretary to establish the alien’s identity and carry out the removal order,
2 including making timely application in good faith for travel or other documents
3 necessary to the alien’s departure, and has not conspired or acted to prevent
4 removal, the Secretary shall establish an administrative review process to
5 determine whether the alien should be detained or released on conditions.

6 “(ii) DETERMINATIONS.—The Secretary shall—

7 “(I) make a determination whether to release an alien described in clause
8 (i) after the end of the alien’s removal period; and

9 “(II) in making a determination under subclause (I), consider any evidence
10 submitted by the alien, and may consider any other evidence, including any
11 information or assistance provided by the Department of State or other
12 Federal agency and any other information available to the Secretary
13 pertaining to the ability to remove the alien.

14 “(9) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—The Secretary, in the
15 exercise of discretion, without any limitations other than those specified in this section, may
16 continue to detain an alien for 90 days beyond the removal period (including any extension
17 of the removal period as provided in paragraph (1)(C)—

18 “(A) until the alien is removed, if the Secretary determines that—

19 “(i) there is a significant likelihood that the alien will be removed in the
20 reasonably foreseeable future;

21 “(ii) the alien would be removed in the reasonably foreseeable future, or would
22 have been removed, but for the alien’s failure or refusal to make all reasonable
23 efforts to comply with the removal order, or to cooperate fully with the
24 Secretary’s efforts to establish the alien’s identity and carry out the removal order,
25 including making timely application in good faith for travel or other documents
26 necessary to the alien’s departure, or conspiracies or acts to prevent removal;

27 “(iii) the government of the foreign country of which the alien is a citizen,
28 subject, national, or resident is denying or unreasonably delaying accepting the
29 return of the alien after the Secretary asks whether the government will accept an
30 alien under section 243(d); or

31 “(iv) the government of the foreign country of which the alien is a citizen,
32 subject, national, or resident is refusing to issue any required travel or identity
33 documents to allow the alien to return to that country;

34 “(B) until the alien is removed, if the Secretary certifies in writing—

35 “(i) in consultation with the Secretary of Health and Human Services, that the
36 alien has a highly contagious disease that poses a threat to public safety;

37 “(ii) after receipt of a written recommendation from the Secretary of State, that
38 release of the alien is likely to have serious adverse foreign policy consequences
39 for the United States;

40 “(iii) based on information available to the Secretary (including classified,
41 sensitive, or other information, and without regard to the grounds upon which the

1 alien was ordered removed), that there is reason to believe that the release of the
2 alien would threaten the national security of the United States;

3 “(iv) that the release of the alien will threaten the safety of the community or
4 any person, conditions of release cannot reasonably be expected to ensure the
5 safety of the community or any person, and either—

6 “(I) the alien has been convicted of 1 or more aggravated felonies (as
7 defined in section 101(a)(43)), 1 or more crimes identified by the Secretary
8 by regulation, or 1 or more attempts or conspiracies to commit any such
9 aggravated felonies or such identified crimes, provided that the aggregate
10 term of imprisonment for such attempts or conspiracies is at least 5 years; or

11 “(II) the alien has committed 1 or more violent offenses (but not including
12 a purely political offense) and, because of a mental condition or personality
13 disorder and behavior associated with that condition or disorder, the alien is
14 likely to engage in acts of violence in the future; or

15 “(v) that the release of the alien will threaten the safety of the community or
16 any person, conditions of release cannot reasonably be expected to ensure the
17 safety of the community or any person, and the alien has been convicted of at
18 least one aggravated felony (as defined in section 101(a)(43)); and

19 “(C) pending a determination under subparagraph (B), if the Secretary has initiated
20 the administrative review process not later than 30 days after the expiration of the
21 removal period (including any extension of the removal period as provided in
22 paragraph (1)(C)).

23 “(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

24 “(A) RENEWAL.—The Secretary may renew a certification under paragraph
25 (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the
26 alien to request reconsideration of the certification and to submit documents or other
27 evidence in support of that request. If the Secretary does not renew a certification, the
28 Secretary may not continue to detain the alien under paragraph (9)(B).

29 “(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate
30 the authority to make or renew a certification described in clause (ii), (iii), or (iv) of
31 paragraph (9)(B) to an official below the level of the Director of U.S. Immigration and
32 Customs Enforcement.

33 “(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be
34 released from detention, the Secretary, in the exercise of discretion, may impose conditions
35 on release as provided in paragraph (3).

36 “(12) REDETENTION.—The Secretary, in the exercise of discretion, without any
37 limitations other than those specified in this section, may again detain any alien subject to a
38 final removal order who is released from custody if the alien fails to comply with the
39 conditions of release or to continue to satisfy the conditions described in paragraph (8), or
40 if, upon reconsideration, the Secretary determines that the alien can be detained under
41 paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody
42 pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

1 “(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States,
2 but has not been lawfully admitted nor physically present in the United States continuously
3 for the 2-year period immediately preceding the commencement of removal proceedings
4 under this Act against the alien, the Secretary, in the exercise of discretion, may decide not
5 to apply paragraph (8) and detain the alien without any limitations except those which the
6 Secretary shall adopt by regulation.

7 “(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of
8 any action or decision pursuant to paragraph (6) through (14) shall be available exclusively
9 in habeas corpus proceedings instituted in the United States District Court for the District of
10 Columbia, and only if the alien has exhausted all administrative remedies (statutory and
11 regulatory) available to the alien as of right.”.

12 (c) Detention of Aliens During Removal Proceedings.—

13 (1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is
14 amended by adding at the end the following:

15 “(e) Length of Detention.—

16 “(1) IN GENERAL.—An alien may be detained under this section while proceedings are
17 pending, without limitation, until the alien is subject to an administratively final order of
18 removal.

19 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
20 section shall not affect the validity of any detention under section 241.

21 “(f) Judicial Review.—Without regard to the place of confinement, judicial review of any
22 action or decision made pursuant to subsection (e) shall be available exclusively in a habeas
23 corpus proceeding instituted in the United States District Court for the District of Columbia and
24 only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available
25 to the alien as of right.”.

26 (2) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8
27 U.S.C. 1226) is amended—

28 (A) by redesignating subsection (e) as subsection (f);

29 (B) by inserting after subsection (d) the following new subsection (e):

30 “(e) Length of Detention.—

31 “(1) IN GENERAL.—An alien may be detained under this section, without limitation, until
32 the alien is subject to an administratively final order of removal.

33 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
34 section shall not affect the validity of any detention under section 241.”; and

35 (C) in subsection (f), as so redesignated, by adding at the end the following:

36 “Without regard to the place of confinement, judicial review of any action or decision
37 made pursuant to subsection (e) shall be available exclusively in a habeas corpus
38 proceeding instituted in the United States District Court for the District of Columbia,
39 and only if the alien has exhausted all administrative remedies (statutory and
40 nonstatutory) available to the alien as of right.”.

1 (d) Attorney General’s Discretion in Determining Countries of Removal.—Section 241(b) of
2 the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

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

6 (2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing
7 the alien to 1 or more of such countries is prejudicial to the interests of the United States,”
8 after “this subparagraph.”.

9 (e) Effective Dates and Application.—

10 (1) AMENDMENTS MADE BY SUBSECTION (B).—The amendments made by subsection (b)
11 shall take effect on the date of the enactment of this Act. Section 241 of the Immigration
12 and Nationality Act, as amended by subsection (b), shall apply to—

13 (A) all aliens subject to a final administrative removal, deportation, or exclusion
14 order that was issued before, on, or after the date of the enactment of this Act; and

15 (B) acts and conditions occurring or existing before, on, or after the date of the
16 enactment of this Act.

17 (2) AMENDMENTS MADE BY SUBSECTION (C).—The amendments made by subsection (c)
18 shall take effect upon the date of the enactment of this Act. Sections 235 and 236 of the
19 Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in
20 detention under provisions of such sections on or after the date of the enactment of this Act.

21 SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

22 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
23 United States shall submit a report to Congress on the deaths in custody of detainees held by the
24 Department of Homeland Security, which shall include, with respect to any such deaths—

25 (1) whether such death could have been prevented by the delivery of medical treatment
26 administered while the detainee was in the custody of the Department of Homeland
27 Security;

28 (2) whether Department practices and procedures were properly followed and obeyed;

29 (3) whether such practices and procedures are sufficient to protect the health and safety of
30 such detainees; and

31 (4) whether reports of such deaths were made to the Deaths in Custody Reporting
32 Program.

33 SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

34 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
35 United States shall submit to the Committee on the Judiciary of the Senate, the Committee on
36 Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
37 the House of Representatives, and the Committee on Homeland Security of the House of
38 Representatives a report that describes—

39 (1) the total number of migrant deaths along the southern border during the previous 7

- 1 years;
- 2 (2) the total number of unidentified deceased migrants found along the southern border in
3 the previous 7 years;
- 4 (3) the level of cooperation between U.S. Customs and Border Protection, State and local
5 law enforcement agencies, foreign diplomatic and consular posts, nongovernmental
6 organizations, and family members to accurately identify deceased individuals;
- 7 (4) the use of DNA testing and sharing of such data between U.S. Customs and Border
8 Protection, State and local law enforcement agencies, foreign diplomatic and consular posts,
9 and nongovernmental organizations to accurately identify deceased individuals;
- 10 (5) the comparison of DNA data with information on Federal, State, and local missing
11 person registries; and
- 12 (6) the procedures and processes U.S. Customs and Border Protection has in place for
13 notification of relevant authorities or family members after missing persons are identified
14 through DNA testing.

15 **SEC. 1707. STATUTE OF LIMITATIONS FOR VISA,**
16 **NATURALIZATION, AND OTHER FRAUD OFFENSES**
17 **INVOLVING WAR CRIMES, CRIMES AGAINST**
18 **HUMANITY, OR HUMAN RIGHTS VIOLATIONS.**

19 (a) Statute of Limitations for Visa Fraud and Other Offenses.—Chapter 213 of title 18, United
20 States Code, is amended by adding at the end the following:

21 **“3302. Fraud in connection with certain human rights violations,**
22 **crimes against humanity, or war crimes**

23 **“(a) In General.—No person shall be prosecuted, tried, or punished for violation of any**
24 **provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to**
25 **violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment,**
26 **or fraudulent, fictitious, or false statement concerns the alleged offender’s—**

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

30 **“(2) membership in, service in, or authority over a military, paramilitary, or law**
31 **enforcement organization that participated in such conduct during any part of any period in**
32 **which the alleged offender was a member of, served in, or had authority over the**
33 **organization, unless the indictment is found or the information is instituted within 20 years**
34 **after the commission of the offense.**

35 **“(b) Definitions.—In this section—**

36 **“(1) the term ‘extrajudicial killing under color of law’ means conduct described in section**
37 **212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));**

- 1 “(2) the term ‘female genital mutilation’ means conduct described in section 116;
2 “(3) the term ‘genocide’ means conduct described in section 1091(a);
3 “(4) the term ‘human rights violation or war crime’ means genocide, incitement to
4 genocide, war crimes, torture, female genital mutilation, extrajudicial killing under color of
5 law, persecution, particularly severe violations of religious freedom, the use or recruitment
6 of child soldiers, or other serious violation of human rights;
7 “(5) the term ‘incitement to genocide’ means conduct described in section 1091(c);
8 “(6) the term ‘particularly severe violation of religious freedom’ means conduct
9 described in section 3(3) of the International Religious Freedom Act of 1998 (22 U.S.C.
10 6402(13));
11 “(7) the term ‘persecution’ means conduct that is a bar to relief under section
12 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));
13 “(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2340;
14 “(9) the term ‘use or recruitment of child soldiers’ means conduct described in
15 subsections (a) and (d) of section 2442;
16 “(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section
17 2441; and
18 “(11) the term ‘crimes against humanity’ means conduct described in section
19 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(iii)).”
20 (b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States
21 Code, is amended by adding at the end the following:
22 “3302. Fraud in connection with certain human rights violations, crimes against humanity, or war
23 crimes.”
24 (c) Application.—The amendments made by this section shall apply to fraudulent conduct,
25 misrepresentations, concealments, and fraudulent, fictitious, or false statements made or
26 committed before, on, or after the date of enactment of this Act.

27 SEC. 1708. CRIMINAL DETENTION OF ALIENS TO 28 PROTECT PUBLIC SAFETY.

- 29 (a) In General.—Section 3142(e) of title 18, United States Code, is amended to read as
30 follows:
31 “(e) Detention.—
32 “(1) IN GENERAL.—If, after a hearing pursuant to the provisions of subsection (f), the
33 judicial officer finds that no condition or combination of conditions will reasonably assure
34 the appearance of the person as required and the safety of any other person and the
35 community, such judicial officer shall order the detention of the person before trial.
36 “(2) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case
37 described in subsection (f)(1), a rebuttable presumption arises that no condition or
38 combination of conditions will reasonably assure the safety of any other person and the

1 community if the judicial officer finds that—

2 “(A) the person has been convicted of a Federal offense that is described in
3 subsection (f)(1), or of a State or local offense that would have been an offense
4 described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had
5 existed;

6 “(B) the offense described in subparagraph (A) was committed while the person was
7 on release pending trial for a Federal, State, or local offense; and

8 “(C) not more than 5 years has elapsed since the later of the date of conviction or the
9 date of the release of the person from imprisonment for the offense described in
10 subparagraph (A).

11 “(3) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES,
12 FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed
13 that no condition or combination of conditions will reasonably assure the appearance of the
14 person as required and the safety of the community if the judicial officer finds that there is
15 probable cause to believe that the person committed—

16 “(A) an offense for which a maximum term of imprisonment of 10 years or more is
17 prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled
18 Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

19 “(B) an offense under section 924(c), 956(a), or 2332b;

20 “(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of
21 imprisonment of 10 years or more is prescribed; or

22 “(D) an offense involving a minor victim under section 1201, 1591, 2241, 2242,
23 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
24 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

25 “(4) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to
26 rebuttal by the person, it shall be presumed that no condition or combination of conditions
27 will reasonably assure the appearance of the person as required if the judicial officer finds
28 that there is probable cause to believe that the person is an alien and that the person—

29 “(A) has no lawful immigration status in the United States;

30 “(B) is the subject of a final order of removal; or

31 “(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015,
32 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or
33 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327,
34 1328).”.

35 (b) Immigration Status as Factor in Determining Conditions of Release.—Section 3142(g)(3)
36 of title 18, United States Code, is amended—

37 (1) in subparagraph (A), by striking “and” at the end; and

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

39 “(C) whether the person is in a lawful immigration status, has previously entered the
40 United States illegally, has previously been removed from the United States, or has

1 otherwise violated the conditions of his or her lawful immigration status; and”.

2 **SEC. 1709. RECRUITMENT OF PERSONS TO**
3 **PARTICIPATE IN TERRORISM.**

4 (a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after
5 section 2332b the following:

6 **“2332c. Recruitment of persons to participate in terrorism**

7 **“(a) Offenses.—**

8 **“(1) IN GENERAL.—**It shall be unlawful for any person to employ, solicit, induce,
9 command, or cause another person to commit an act of domestic terrorism or international
10 terrorism or a Federal crime of terrorism, with the intent that the other person commit such
11 act or crime of terrorism.

12 **“(2) ATTEMPT AND CONSPIRACY.—**It shall be unlawful for any person to attempt or
13 conspire to commit an offense under paragraph (1).

14 **“(b) Penalties.—**Any person who violates subsection (a)—

15 **“(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not**
16 **more than 10 years, or both;**

17 **“(2) if death of an individual results, shall be fined under this title, punished by death or**
18 **imprisoned for any term of years or for life, or both;**

19 **“(3) if serious bodily injury to any individual results, shall be fined under this title,**
20 **imprisoned not less than 10 years nor more than 25 years, or both; and**

21 **“(4) in any other case, shall be fined under this title, imprisoned not more than 10 years,**
22 **or both.**

23 **“(c) Rule of Construction.—**Nothing in this section may be construed or applied to abridge the
24 exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

25 **“(d) Lack of Consummated Terrorist Act Not a Defense.—**It is not a defense under this section
26 that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is
27 the object of the employment, solicitation, inducement, commanding, or causing has not been
28 carried out.

29 **“(e) Definitions.—**In this section—

30 **“(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section**
31 **2332b; and**

32 **“(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h).”.**

33 (b) Clerical Amendment.—The table of sections for chapter 113B of title 18, United States
34 Code, is amended by inserting after the item relating to section 2332b the following:

35 “2332c. Recruitment of persons to participate in terrorism.”.

36 **SEC. 1710. BARRING AND REMOVING PERSECUTORS,**

1 WAR CRIMINALS, AND PARTICIPANTS IN CRIMES
2 AGAINST HUMANITY FROM THE UNITED STATES.

3 (a) Inadmissibility of Persecutors, War Criminals, and Participants in Crimes Against
4 Humanity.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C.
5 1182(a)(3)(E)) is amended—

6 (1) by striking the subparagraph heading and inserting “PARTICIPANTS IN PERSECUTION
7 (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR
8 THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—”;

9 (2) in clause (iii)(II)—

10 (A) by striking “of any foreign nation” and inserting “(including acts taken as part of
11 an armed group exercising de facto authority)”; and

12 (3) by adding after clause (iii) the following:

13 “(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST
14 HUMANITY.—Any alien, including an alien who has or had superior responsibility,
15 who committed, ordered, incited, assisted, or otherwise participated in a war
16 crime (as defined in section 2441(c) of title 18, United States Code) or a crime
17 against humanity, or in the persecution of any person on account of race, religion,
18 nationality, membership in a particular social group, or political opinion, is
19 inadmissible.

20 “(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term
21 ‘crime against humanity’ means conduct that is part of a widespread or systematic
22 attack targeting any civilian population, with knowledge that the conduct was part
23 of the attack or with the intent that the conduct be part of the attack—

24 “(I) that, if such conduct occurred in the United States or in the special
25 maritime and territorial jurisdiction of the United States, would violate—

26 “(aa) section 1111 of title 18, United States Code (relating to
27 murder);

28 “(bb) section 1201(a) of such title (relating to kidnapping);

29 “(cc) section 1203(a) of such title (relating to hostage taking),
30 notwithstanding any exception under subsection (b) of such section
31 1203;

32 “(dd) section 1581(a) of such title (relating to peonage);

33 “(ee) section 1583(a)(1) of such title (relating to kidnapping or
34 carrying away individuals for involuntary servitude or slavery);

35 “(ff) section 1584(a) of such title (relating to sale into involuntary
36 servitude);

37 “(gg) section 1589(a) of such title (relating to forced labor);

38 “(hh) section 1590(a) of such title (relating to trafficking with respect
39 to peonage, slavery, involuntary servitude, or forced labor);

1 “(ii) section 1591(a) of such title (relating to sex trafficking of
2 children or by force, fraud, or coercion);

3 “(jj) section 2241(a) of such title (relating to aggravated sexual abuse
4 by force or threat); or

5 “(kk) section 2242 of such title (relating to sexual abuse);

6 “(II) that would constitute torture (as defined in section 2340(1) of such
7 title);

8 “(III) that would constitute cruel or inhuman treatment, as described in
9 section 2441(d)(1)(B) of such title;

10 “(IV) that would constitute performing biological experiments, as
11 described in section 2441(d)(1)(C) of such title;

12 “(V) that would constitute mutilation or maiming, as described in section
13 2441(d)(1)(E) of such title; or

14 “(VI) that would constitute intentionally causing serious bodily injury, as
15 described in section 2441(d)(1)(F) of such title.

16 “(vi) DEFINITIONS.—In this subparagraph—

17 “(I) the term ‘superior responsibility’ means—

18 “(aa) a leader, a member of a military, or a person with effective
19 control of military forces, or a person with de facto or de jure control of
20 an armed group;

21 “(bb) who knew or should have known that a subordinate or someone
22 under his or her de facto or de jure control is committing acts described
23 in subsection (a), is about to commit such acts, or had committed such
24 acts; and

25 “(cc) who fails to take the necessary and reasonable measures to
26 prevent such acts or, for acts that have been committed, to punish the
27 perpetrators of such acts;

28 “(II) the term ‘systematic’ means the commission of a series of acts
29 following a regular pattern and occurring in an organized, non-random
30 manner; and

31 “(III) the term ‘widespread’ means a single, large scale act or a series of
32 acts directed against a substantial number of victims.”.

33 (b) Removal of Persecutors.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8
34 U.S.C. 1227(a)(4)(D)) is amended—

35 (1) in the subparagraph heading, by striking “NAZI”; and

36 (2) by striking “or (iii)” and inserting “(iii), or (iv)”.

37 (c) Severe Violations of Religious Freedom.—Section 212(a)(2)(G) of the Immigration and
38 Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended—

1 (1) in the subparagraph heading, by striking “FOREIGN GOVERNMENT OFFICIALS” and
2 inserting “ANY PERSONS”; and

3 (2) by striking “, while serving as a foreign government official.”.

4 (d) Barring Persecutors From Establishing Good Moral Character.—Section 101(f) of the
5 Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

6 (1) in paragraph (8), by striking “or” at the end;

7 (2) in paragraph (9), by striking “killings) or 212(a)(2)(G) (relating to severe violations of
8 religious freedom).” and inserting “killings), 212(a)(2)(G) (relating to severe violations of
9 religious freedom), or 212(a)(3)(G) (relating to recruitment and use of child soldiers); or”;
10 and

11 (3) by inserting after paragraph (9) the following:

12 “(10) one who at any time committed, ordered, incited, assisted, or otherwise participated
13 in the persecution of any person on account of race, religion, nationality, membership in a
14 particular social group, or political opinion.”.

15 (e) Increasing Criminal Penalties for Anyone Who Aids and Abets the Entry of a
16 Persecutor.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by
17 striking “(other than subparagraph (E) thereof)”.

18 (f) Increasing Criminal Penalties for Female Genital Mutilation.—Section 116 of title 18,
19 United States Code, is amended—

20 (1) in subsection (a), by striking “shall be fined under this title or imprisoned not more
21 than 5 years, or both” and inserting “has engaged in a violent crime against children under
22 section 3559(f)(3), shall be imprisoned for life or for 10 years or longer”; and

23 (2) in subsection (d), by striking “shall be fined under this title or imprisoned not more
24 than 5 years, or both.” and inserting “shall be imprisoned for life or for 10 years or longer.”.

25 (g) Technical Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is
26 amended—

27 (1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting “committed,” before
28 “ordered”;

29 (2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting “committed,”
30 before “ordered”; and

31 (3) in section 241(b)(3)(B)(i) (8 U.S.C. 1231(b)(3)(B)(i)), by inserting “committed,”
32 before “ordered”.

33 (h) Application.—The amendments made by this section shall apply to any offense committed
34 before, on, or after the date of the enactment of this Act.

35 SEC. 1711. CHILD SOLDIER RECRUITMENT 36 INELIGIBILITY TECHNICAL CORRECTION.

37 Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is
38 amended by striking “section 2442” and inserting “section 2442(a)”.

1 SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND
2 INCREASED CRIMINAL PENALTIES RELATED TO GANG
3 VIOLENCE.

4 (a) Definition of Criminal Gang.—Section 101(a) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

6 “(53)(A) The term ‘criminal gang’ means any ongoing group, club, organization, or
7 association, inside or outside the United States, of 2 or more persons that—

8 “(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal
9 offenses described in subparagraph (B) and the members of which engage, or have engaged
10 within the past 5 years, in a continuing series of such offenses; or

11 “(ii) has been designated as a criminal gang by the Secretary, in consultation with the
12 Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

13 “(B) The offenses described in this subparagraph, whether in violation of Federal or State law
14 or the law of a foreign country and regardless of whether the offenses occurred before, on, or
15 after the date of the enactment of the ~~Immigration Reform and Technical Corrections~~SECURE
16 and SUCCEED Act ~~of 2018~~, are the following:

17 “(i) Any aggravated felony.

18 “(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act
19 (21 U.S.C. 802)).

20 “(iii) Any criminal offense described in section 212 or 237.

21 “(iv) An offense involving illicit trafficking in a controlled substance (as defined in
22 section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking
23 crime (as defined in section 924(c) of title 18, United States Code).

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

27 “(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the
28 offense, the use or attempted use of physical force or the threatened use of physical force or
29 a deadly weapon.

30 “(vii) Any offense that has, as an element of the offense, the use, attempted use, or
31 threatened use of any physical object to inflict or cause (either directly or indirectly) serious
32 bodily injury, including an injury that may ultimately result in the death of a person.

33 “(viii) An offense involving obstruction of justice or tampering with or retaliating against
34 a witness, victim, or informant.

35 “(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code
36 (relating to fraud and related activity in connection with identification documents or access
37 devices), sections 1581 through 1594 of such title (relating to peonage, slavery and
38 trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or
39 transportation in aid of racketeering enterprises), section 1956 of such title (relating to the

1 laundering of monetary instruments), section 1957 of such title (relating to engaging in
2 monetary transactions in property derived from specified unlawful activity), or sections
3 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles
4 or stolen property).

5 “(x) A conspiracy to commit an offense described in clauses (i) through (v).

6 “(C) Notwithstanding any other provision of law (including any effective date), a group, club,
7 organization, or association shall be considered a criminal gang regardless of whether the
8 conduct occurred before, on, or after the date of the enactment of the ~~Immigration Reform and~~
9 ~~Technical Corrections Act of 2018~~ **SECURE and SUCCEED Act**.”

10 (b) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
11 1182(a)(2)) is amended by adding at the end the following:

12 “(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

13 “(i) IN GENERAL.—Any alien who a consular officer, the Secretary, or the
14 Attorney General knows or has reasonable ground to believe—

15 “(I) to be or to have been a member of a criminal gang; or

16 “(II) to have participated in the activities of a criminal gang, knowing or
17 having reason to know that such activities promoted or will promote, further,
18 aid, or support the illegal activity of the criminal gang,

19 is inadmissible.

20 “(ii) EXCEPTION.—~~Clause (i) shall not apply to an alien—~~

21 ~~“(I) who did not know, or should not reasonably have known, of the activity~~
22 ~~causing the alien to be found inadmissible under this section; or~~

23 ~~“(II) whom the consular officer, the Secretary, or the Attorney General has~~
24 ~~reasonable grounds to believe has renounced the activity causing the alien to~~
25 ~~be found inadmissible under this section.”.~~”.

26 (c) Designation of Criminal Gangs.—

27 (1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C.
28 1181 et seq.) is amended by adding at the end the following:

29 “SEC. 220. DESIGNATION OF CRIMINAL GANGS.

30 “(a) In General.—The Secretary, in consultation with the Attorney General, and the Secretary
31 of State, may designate a group or association as a criminal gang if their conduct is described in
32 section 101(a)(53) or if the group’s or association’s conduct poses a significant risk that threatens
33 the security and the public safety of United States nationals or the national security, homeland
34 security, or economy of the United States.

35 “(b) Effective Date.—A designation under subsection (a) shall remain in effect until the
36 designation is revoked, after consultation between the Secretary, the Attorney General, and the
37 Secretary of State, or is terminated in accordance with Federal law.”.

38 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
39 and Nationality Act is amended by inserting after the item relating to section 219 the

1 following:

2 “220. Designation of criminal gangs.”

3 (d) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
4 1227(a)(2)) is amended by adding at the end the following:

5 “(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

6 “(i) IN GENERAL.—Any alien who the Secretary or the Attorney General knows
7 or has reason to believe—

8 “(I) is or has been a member of a criminal gang; or

9 “(II) has participated in the activities of a criminal gang, knowing or
10 having reason to know that such activities will promote, further, aid, or
11 support the illegal activity of the criminal gang,

12 is deportable.

13 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

14 “(I) who did not know, or should not reasonably have known, of the
15 activity causing the alien to be found deportable under this section; or

16 “(II) whom the Secretary or the Attorney General has reasonable grounds
17 to believe has renounced the activity causing the alien to be found deportable
18 under this section.”.

19 (e) Cancellation of Removal.—Section 240A(c) of the Immigration and Nationality Act (8
20 U.S.C. 1229b(c)) is amended by adding at the end the following:

21 “(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
22 (relating to participation in criminal gangs).”.

23 (f) Voluntary Departure.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C.
24 1229c(c)) is amended to read as follows:

25 “(c) Limitation on Voluntary Departure.—The Attorney General shall not permit an alien to
26 depart voluntarily under this section if the alien—

27 “(1) was previously permitted to depart voluntarily after having been found inadmissible
28 under section 212(a)(6)(A); or

29 “(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in
30 criminal gangs).”.

31 (g) Asylum Claims Based on Gang Affiliation.—

32 (1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section
33 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended
34 in the matter preceding clause (i) by inserting “who is described in section 212(a)(2)(J)(i) or
35 section 237(a)(2)(G)(i) or who is” after “to an alien”.

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

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

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

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

3 “(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
4 (relating to participation in criminal gangs); or”; and

5 (D) by amending clause (vii), as redesignated, to read as follows:

6 “(vii) the alien was firmly resettled in another country before arriving in the
7 United States, which shall be considered evidence that the alien can live in such
8 country (in any legal status) without fear of persecution.”.

9 (h) Good Moral Character Bar for Criminal Gang Members.—Section 101(f) of the
10 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d),
11 and 1822(a) of this Act, is further amended by inserting after paragraph (10) the following:

12 “(11) is a member of one or more classes of persons described in section 212(a)(2)(J) or
13 237(a)(2)(G) and has been convicted of any offense ~~under described under section~~
14 101(a)(43), section 212(a)(2), ~~or~~ section 237(a)(2); or”.

15 (i) Annual Report on Detention of Criminal Gang Members.—Not later than March 1 of the
16 first calendar year beginning at least 1 year after the date of the enactment of this Act, and
17 annually thereafter, the Secretary of Homeland Security, after consultation with the heads of
18 appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and
19 Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
20 Committee on Homeland Security of the House of Representatives, and the Committee on the
21 Judiciary of the House of Representatives that identifies the number of aliens detained described
22 in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as
23 added by subsections (b) and (d).

24 (j) Effective Date and Application.—The amendments made by this section shall take effect
25 on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the
26 date of the enactment of this Act.

27 SEC. 1713. BARRING ALIENS WITH CONVICTIONS FOR 28 DRIVING UNDER THE INFLUENCE OR WHILE 29 INTOXICATED.

30 (a) Aggravated Felony Driving While Intoxicated.—

31 (1) DEFINITIONS.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C.
32 1101(a)(43)) is amended—

33 (A) in subparagraph (T), by striking “and” at the end;

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

35 (C) by inserting after subparagraph (U) the following:

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

1 or a second or subsequent conviction for driving while intoxicated (including a
2 conviction for driving under the influence of or impaired by alcohol or illicit drugs),
3 without regard to whether the conviction is classified as a misdemeanor or felony
4 under State law. For purposes of this paragraph, the Secretary or the Attorney General
5 are not required to prove the first conviction for driving while intoxicated (including a
6 conviction for driving while under the influence of or impaired by alcohol or illicit
7 drugs) as a predicate offense and need only make a factual determination that the alien
8 was previously convicted for driving while intoxicated (including a conviction for
9 driving while under the influence of or impaired by alcohol or illicit drugs).”.

10 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by this subsection shall
11 take effect on the date of the enactment of this Act and shall apply to any conviction entered
12 on or after such date.

13 (b) Inadmissibility for Driving While Intoxicated or Under the Influence.—

14 (1) IN GENERAL.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)), as amended by section 1712(b) of this Act, is further amended by adding at the
16 end the following:

17 “(K) DRIVING WHILE INTOXICATED AND UNLAWFULLY PRESENT IN THE UNITED
18 STATES.—An alien who is convicted of driving while intoxicated, driving under the
19 influence, or a similar violation of State law is inadmissible.”.

20 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
21 take effect on the date of the enactment of this Act and shall apply to any conviction entered
22 on or after such date.

23 (c) Deportation for Driving While Intoxicated or Under the Influence.—

24 (1) IN GENERAL.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
25 1227(a)), as amended by section 1712(c) of this Act, is further amended by adding at the
26 end the following:

27 “(H) DRIVING WHILE INTOXICATED AND WHILE UNLAWFULLY PRESENT IN THE UNITED
28 STATES.—An alien who is convicted of driving while intoxicated, driving under the
29 influence, or a similar violation of State law is deportable.”.

30 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
31 take effect on the date of the enactment of this Act and shall apply to any conviction entered
32 on or after such date.

33 (d) Good Moral Character Bar for DUI or DWI Convictions.—Section 101(f) of the
34 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by sections 1710(d) and
35 1711(h) of this Act, is further amended by inserting after paragraph (1) the following:

36 “(2) inadmissible under section 212(a)(2)(K) or deportable under section 237(a)(2)(H);”.

37 (e) Technical and Conforming Amendments.—

38 (1) IN GENERAL.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C.
39 1182(h)) is amended—

40 (A) by inserting “or the Secretary” after “the Attorney General” each place it

1 appears; and

2 (B) in the matter preceding paragraph (1), by striking “and (E)” and inserting “(E),
3 and (K)”.

4 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraph (1) shall
5 take effect on the date of the enactment of this Act and apply to any conviction entered on
6 or after such date.

7 **SEC. 1714. BARRING AGGRAVATED FELONS, BORDER**
8 **CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM**
9 **ADMISSION TO THE UNITED STATES.**

10 (a) Inadmissibility on Criminal and Related Grounds; Waivers.—Section 212 of the
11 Immigration and Nationality Act (8 U.S.C. 1182) is amended—

12 (1) in subsection (a)(2)—

13 (A) in subparagraph (A)(i)—

14 (i) in subclause (I), by striking “, or” at the end and inserting a semicolon;

15 (ii) in subclause (II), by striking the comma at the end and inserting “; or”; and

16 (iii) by inserting after subclause (II) the following:

17 “(III) a violation of (or a conspiracy or attempt to violate) any statute
18 relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to
19 social security account numbers or social security cards) or section 1028 of
20 title 18, United States Code (relating to fraud and related activity in
21 connection with identification documents, authentication features, and
22 information)”;

23 (B) by inserting after subparagraph (K), as added by section 1713(b) of this Act, the
24 following:

25 “(L) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having
26 committed, or who admits committing acts which constitute the essential elements of, a
27 violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section
28 1425 of title 18, United States Code (relating to the procurement of citizenship or
29 naturalization unlawfully), is inadmissible.

30 “(M) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted
31 under any law of, admits having committed, or admits committing acts which
32 constitute the essential elements of, any law relating to, purchasing, selling, offering
33 for sale, exchanging, using, owning, possessing, or carrying, or of attempting or
34 conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any
35 weapon, part, or accessory which is a firearm or destructive device (as defined in
36 section 921(a) of title 18, United States Code) in violation of any law, is inadmissible.

37 **For purposes of this subparagraph “any law” includes State laws that do not contain an**
38 **exception for antique firearms. If the State law does not contain an exception for**
39 **antique firearms, the Secretary or the Attorney General may consider documentary**

1 evidence related to the conviction, including but not limited to charging documents,
2 plea agreements, plea colloquies, jury instructions, and police reports, to establish that
3 the offense involved at least one firearm that is not an antique firearm.

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

6 “(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of
7 section 758 of title 18, United States Code (relating to high speed flight from an
8 immigration checkpoint) is inadmissible.

9 “(P) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted under section
10 2250 of title 18, United States Code, is inadmissible.

11 “(Q) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION
12 ORDERS; CRIMES AGAINST CHILDREN.—

13 “(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—

14 “(I) IN GENERAL.—Except as provided in section 212 (v), any alien who at
15 any time is or has been convicted of a crime involving the use or attempted
16 use of physical force, or threatened use of a deadly weapon, a crime of
17 domestic violence, a crime of stalking, or a crime of child abuse, child
18 neglect, or child abandonment is inadmissible.

19 “(II) CRIME OF DOMESTIC VIOLENCE DEFINED.—For purposes of this
20 clause, the term ‘crime of domestic violence’ has the same meaning as it
21 does in section 237(a)(2)(E)(i), as implemented by section
22 237(a)(2)(E)(iii) means any crime of violence or any offense under Federal,
23 State, or Tribal law that has, as an element, the use or attempted use of
24 physical force or the threatened use of physical force or a deadly weapon
25 against a person committed by a current or former spouse of the person, by
26 an individual with whom the person shares a child in common, by an
27 individual who is cohabiting with or has cohabited with the person as a
28 spouse, by an individual similarly situated to a spouse of the person under
29 the domestic or family violence laws of the jurisdiction where the offense
30 occurs, or by any other individual against a person who is protected from that
31 individual’s acts under the domestic or family violence laws of the United
32 States or any State, Indian tribal government, or unit of local government.

33 “(ii) VIOLATORS OF PROTECTION ORDERS.—

34 “(I) IN GENERAL.—Except as provided in subsection 212(v), any alien who
35 at any time is or has been enjoined under a protection order issued by a court
36 and whom the court determines has engaged in conduct that violates the
37 portion of a protection order that involves protection against credible threats
38 of violence, repeated harassment, or bodily injury to the person or persons
39 for whom the protection order was issued is inadmissible.

40 “(II) PROTECTIVE ORDER DEFINED.—In this clause, the term ‘protection
41 order’ has the same meaning as it does in section 237(a)(2)(E)(ii) means any
42 injunction issued for the purpose of preventing violent or threatening acts of

1 violence that involve the use or attempted use of physical force, or
2 threatened use of a deadly weapon, committed by a current or former spouse,
3 parent, or guardian of the victim, by a person with whom the victim shares a
4 child in common, by a person who is cohabiting with or has cohabited with
5 the victim as a spouse, parent, or guardian, or by a person similarly situated
6 to a spouse, parent, or guardian of the victim, including temporary or final
7 orders issued by civil or criminal courts (other than support or child custody
8 orders or provisions) whether obtained by filing an independent action or as
9 an independent order in another proceeding.”;

10 (2) in subsection (h)—

11 (A) in the matter preceding paragraph (1), as amended by section 1713(e) of this
12 Act, by striking “, and (K)”, and inserting “(K), and (M)”;

13 (B) by designating in the undesignated matter following paragraph (2) as paragraph
14 (3); and

15 (C) by amending paragraph (3) as redesignated by striking the first two sentences
16 and inserting the following:

17 “No waiver shall be provided under this subsection in the case of an alien:

18 “(A) who has been convicted of (or who has admitted committing acts that
19 constitute):

20 “(i) murder or criminal acts of torture, or;

21 “(ii) an attempt or conspiracy to commit murder or a criminal act involving torture;

22 “(B) who has been convicted of an aggravated felony; or

23 “(C) who has been lawfully admitted for permanent residence and who since the
24 date of such admission has not lawfully resided continuously in the United States for at
25 least seven years immediately preceding the date of initiation of proceedings to remove
26 the alien from the United States.”—

27 (i) by striking “torture.” and inserting “torture, or has been convicted of an
28 aggravated felony.”; and

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

32 (3) by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–
33 449, as subsection (u); and

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

35 “(v) Waiver for Victims of Domestic Violence.—

36 “(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal
37 court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to
38 crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case
39 of an alien who has been battered or subjected to extreme cruelty and who is not and was
40 not the primary perpetrator of violence in the relationship, upon a determination that—

1 “(A) the alien was acting in self-defense;
2 “(B) the alien was found to have violated a protection order intended to protect the
3 alien; or

4 “(C) the alien committed or, ~~was arrested for, was convicted of, or pled guilty to~~
5 committing a crime—

6 “(i) that did not result in serious bodily injury; and

7 “(ii) where there was a connection between the crime and the alien’s having
8 been battered or subjected to extreme cruelty.

9 “(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this
10 subsection, the Secretary or the Attorney General shall consider any credible evidence
11 relevant to the application. The determination of what evidence is credible and the weight to
12 be given that evidence shall be within the sole discretion of the Secretary or the Attorney
13 General.”.

14 (b) Deportability; Criminal Offenses.—Section 237(a)(2) of the Immigration and Nationality
15 Act (8 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and 1713(c) of this Act, is further
16 amended by adding at the end the following:

17 “(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a
18 conspiracy or attempt to violate) an offense relating to section 208 of the Social
19 Security Act (42 U.S.C. 408) (relating to social security account numbers or social
20 security cards) or section 1028 of title 18, United States Code (relating to fraud and
21 related activity in connection with identification) is deportable.”.

22 (c) Deportability; Criminal Offenses.—Section 237(a)(3)(B) of the Immigration and
23 Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

24 (1) in clause (i), by striking the comma at the end and inserting a semicolon;

25 (2) in clause (ii), by striking “, or” at the end and inserting a semicolon;

26 (3) in clause (iii), by striking the comma at the end and inserting “; or”; and

27 (4) by inserting after clause (iii) the following:

28 “(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or
29 (b) of section 1425 of title 18, United States Code (relating to the unlawful
30 procurement of citizenship or naturalization),”.

31 (d) Applicability.—The amendments made by this section shall apply to—

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

33 (2) all aliens who are required to establish admissibility on or after such date of
34 enactment; and

35 (3) all removal, deportation, or exclusion proceedings that are filed, pending, or
36 reopened, on or after such date of enactment.

37 (e) Rule of Construction.—The amendments made by this section may not be construed to
38 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
39 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if

1 such eligibility did not exist before such date of enactment.

2 SEC. 1715. PROTECTING IMMIGRANTS FROM 3 CONVICTED SEX OFFENDERS.

4 (a) Immigrants.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C.
5 1154(a)(1)) is amended—

6 (1) in subparagraph (A), by amending clause (viii) to read as follows:

7 “(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an
8 offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense
9 against a minor (as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act
10 of 2006 (34 U.S.C. 20911(7))) unless the Secretary, in the Secretary’s sole and unreviewable
11 discretion, determines that the citizen poses no risk to the alien with respect to whom a petition
12 described in clause (i) is filed.”; and

13 (2) in subparagraph (B)(i)—

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

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

16 “(II) Subclause (I) shall not apply to an alien lawfully admitted for permanent residence who
17 has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43)
18 or a specified offense against a minor as defined in section 111(7) of the Adam Walsh Child
19 Protection and Safety Act of 2006 (34 U.S.C. 20911(7)) unless the Secretary, in the Secretary’s
20 sole and unreviewable discretion, determines that the alien lawfully admitted for permanent
21 residence poses no risk to the alien with respect to whom a petition described in subclause (I) is
22 filed.”.

23 (b) Nonimmigrants.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C.
24 1101(a)(15)(K)) is amended by striking “204(a)(1)(A)(viii)(I)” each place it appears and
25 inserting “204(a)(1)(A)(viii)”.

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

28 SEC. 1716. ENHANCED CRIMINAL PENALTIES FOR 29 HIGH SPEED FLIGHT.

30 (a) In General.—Section 758 of title 18, United States Code, is amended to read as follows:

31 “758. Unlawful flight from immigration or customs controls

32 “(a) Evading a Checkpoint.—Any person who, while operating a motor vehicle or vessel,
33 knowingly flees or evades a checkpoint operated by the Department of Homeland Security or
34 any other Federal law enforcement agency, and then knowingly or recklessly disregards or
35 disobeys the lawful command of any law enforcement agent, shall be fined under this title,
36 imprisoned not more than 5 years, or both.

37 “(b) Failure to Stop.—Any person who, while operating a motor vehicle, aircraft, or vessel,

1 knowingly or recklessly disregards or disobeys the lawful command of an officer of the
2 Department of Homeland Security engaged in the enforcement of the immigration, customs, or
3 maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall
4 be fined under this title, imprisoned not more than 2 years, or both.

5 “(c) Alternative Penalties.—Notwithstanding the penalties provided in subsection (a) or (b),
6 any person who violates such subsection—

7 “(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the
8 violation involved the operation of a motor vehicle, aircraft, or vessel—

9 “(A) in excess of the applicable or posted speed limit;

10 “(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel; or

11 “(C) in an otherwise dangerous or reckless manner;

12 “(2) shall be fined under this title, imprisoned not more than 20 years, or both, if the
13 violation created a substantial and foreseeable risk of serious bodily injury or death to any
14 person;

15 “(3) shall be fined under this title, imprisoned not more than 30 years, or both, if the
16 violation caused serious bodily injury to any person; or

17 “(4) shall be fined under this title, imprisoned for any term of years or life, or both, if the
18 violation resulted in the death of any person.

19 “(d) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense
20 under this section shall be punished in the same manner as a person who completes the offense.

21 “(e) Forfeiture.—Any property, real or personal, constituting or traceable to the gross proceeds
22 of the offense and any property, real or personal, used or intended to be used to commit or
23 facilitate the commission of the offense shall be subject to forfeiture.

24 “(f) Forfeiture Procedures.—Seizures and forfeitures under this section shall be governed by
25 the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that
26 such duties as are imposed upon the Secretary of the Treasury under the customs laws described
27 in that section shall be performed by such officers, agents, and other persons as may be
28 designated for that purpose by the Secretary of Homeland Security or the Attorney General.
29 Nothing in this section may be construed to limit the authority of the Secretary of Homeland
30 Security to seize and forfeit motor vehicles, aircraft, or vessels under the customs laws or any
31 other laws of the United States.

32 “(g) Definitions.—For purposes of this section—

33 “(1) the term ‘checkpoint’ includes any customs or immigration inspection at a port of
34 entry or immigration inspection at a U.S. Border Patrol checkpoint;

35 “(2) the term ‘law enforcement agent’ means—

36 “(A) any Federal, State, local or tribal official authorized to enforce criminal law;
37 and

38 “(B) when conveying a command described in subsection (b), an air traffic
39 controller;

1 “(3) the term ‘lawful command’ includes a command to stop, decrease speed, alter
2 course, or land, whether communicated orally, visually, by means of lights or sirens, or by
3 radio, telephone, or other communication;

4 “(4) the term ‘motor vehicle’ means any motorized or self-propelled means of terrestrial
5 transportation; and

6 “(5) the term ‘serious bodily injury’ has the meaning given in section 2119(2).”.

7 (b) Clerical Amendment.—The table of sections for chapter 35 of title 18, United States Code,
8 is amended by striking the item relating to section 758 and inserting the following:

9 “758. Unlawful flight from immigration or customs controls.”.

10 (c) Rule of Construction.—The amendments made by subsection (a) may not be construed to
11 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
12 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
13 such eligibility did not exist before such date of enactment.

14 SEC. 1717. PROHIBITION ON ASYLUM AND 15 CANCELLATION OF REMOVAL FOR TERRORISTS.

16 (a) Asylum.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C.
17 1158(b)(2)(A)), as amended by 1712(f) of this Act, is further amended—

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

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

20 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),
21 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
22 Secretary or the Attorney General determines, in his or her sole and unreviewable
23 discretion, that there are not reasonable grounds for regarding the alien as a
24 danger to the security of the United States;”.

25 (b) Cancellation of Removal.—Section 240A(c)(4) of the Immigration and Nationality Act (8
26 U.S.C. 1229b(c)(4)) is amended—

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

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

29 (c) Restriction on Removal.—

30 (1) IN GENERAL.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C.
31 1231(b)(3)(A)) is amended—

32 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

33 (B) by striking “Notwithstanding” and inserting the following:

34 “(i) IN GENERAL.—Notwithstanding”; and

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

36 “(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the
37 alien’s life or freedom would be threatened in such country, and that race,

1 religion, nationality, membership in a particular social group, or political opinion
2 would be at least 1 central reason for such threat.”.

3 (2) EXCEPTION.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
4 amended—

5 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

6 (B) in clause (iii), striking “or” at the end;

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

8 (D) inserting after clause (iv) the following:

9 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B),
10 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
11 Secretary or the Attorney General determines, in his or her sole and unreviewable
12 discretion, that there are not reasonable grounds for regarding the alien as a
13 danger to the security of the United States; or

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

15 (E) by striking the undesignated matter at the end.

16 (3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C)
17 of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking “In determining whether an
18 alien has demonstrated that the alien’s life or freedom would be threatened for a reason
19 described in subparagraph (A),” and inserting “For purposes of this paragraph,”.

20 (4) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraphs (1) and
21 (2) shall take effect as if enacted on May 11, 2005, and shall apply to applications for
22 withholding of removal made on or after such date.

23 (d) Effective Dates; Applications.—Except as provided in subsection (c)(4), the amendments
24 made by this section shall take effect on the date of the enactment of this Act and sections
25 208(b)(2)(A), 240A(c), and 241(b)(3) of the Immigration and Nationality Act, as amended by
26 this section, shall apply to—

27 (1) all aliens in removal, deportation, or exclusion proceedings;

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

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

32 SEC. 1718. AGGRAVATED FELONIES.

33 (a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality
34 Act (8 U.S.C. 1101(a)(43)), as amended by section 1713(a) of this Act, is further amended—

35 (1) in subparagraph (A), by striking “sexual abuse of a minor;” and inserting “any
36 conviction for a sex offense, including an offense described in sections 2241 and 2243 of
37 title 18, United States Code, or an offense in which the alien abused or was involved in the
38 abuse of any individual younger than 18 years of age, or in which the victim was, at the
39 time the offense was committed, younger than 18 years of age, regardless of the reason and

1 extent of the act, the sentence imposed, or the elements in the offense that are required for
2 conviction;”;

3 (2) in subparagraph (F), by striking “at least one year” and inserting “is at least 1 year,
4 except that if the conviction records do not conclusively establish whether a crime
5 constitutes a crime of violence or an offense under Federal, State, or Tribal law, that has, as
6 an element, the use or attempted use of physical force or the threatened use of physical
7 force or a deadly weapon, the Attorney General or the Secretary may consider other
8 evidence related to the conviction, including police reports and witness statements, that
9 clearly establishes that the conduct leading to the alien’s conviction constitutes a crime of
10 violence or an offense under Federal, State, or Tribal law, that has, as an element, the use or
11 attempted use of physical force or the threatened use of physical force or a deadly
12 weapon;”;

13 (3) by amending subparagraph (G) to read as follows:

14 “(G) a theft offense under State or Federal law (including theft by deceit, theft by
15 fraud, and receipt of stolen property) or burglary offense under State or Federal law for
16 which the term of imprisonment is at least 1 year, except that if the conviction records
17 do not conclusively establish whether a crime constitutes a theft or burglary offense,
18 the Attorney General or Secretary may consider other evidence related to the
19 conviction, including police reports and witness statements, that clearly establishes that
20 the conduct for which the alien was engaged constitutes a theft or burglary offense;”;

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

22 (5) in subparagraph (N)—

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

24 (B) by adding a semicolon at the end;

25 (6) by amending subparagraph (O) to read as follows:

26 “(O) an offense described in section 275 or 276 for which the term of imprisonment
27 is at least 1 year;”;

28 (7) in subparagraph (P) by striking “(i) which either is falsely making, forging,
29 counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543
30 of title 18, United States Code, or is described in section 1546(a) of such title (relating to
31 document fraud) and (ii)” and inserting “which is described in the first paragraph of section
32 1541, 1542, 1543, 1544, 1546(a), or 1547 of title 18, United States Code, and”;

33 (8) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense
34 described in this paragraph” and inserting “an attempt to commit, conspiracy to commit, or
35 facilitation of an offense described in this paragraph, or aiding, abetting, procuring,
36 commanding, inducing, or soliciting the commission of such an offense”; and

37 (9) by striking the undesignated material at end and inserting the following:

38 “The term applies to an offense described in this paragraph, whether in violation of Federal or
39 State law, or a law of a foreign country, for which the term of imprisonment was completed
40 within the previous 20 years, and even if the length of the term of imprisonment for the offense
41 is based on recidivist or other enhancements. Notwithstanding any other provision of law

1 (including any effective date), the term applies regardless of whether the conviction was entered
2 before, on, or after September 30, 1996.”.

3 (b) Definition of Conviction.—Section 101(a)(48) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

5 “(C)(i) Any reversal, vacatur, expungement, or modification of a conviction, sentence, or
6 conviction that was granted to ameliorate the consequences of the conviction, sentence, or
7 conviction, or was granted for rehabilitative purposes, shall have no effect on the immigration
8 consequences resulting from the original conviction.

9 “(ii) The alien shall have the burden of demonstrating that any reversal, vacatur, expungement,
10 or modification, including modification to any sentence for an offense, was not granted to
11 ameliorate the consequences of the conviction, sentence, or conviction record, or for
12 rehabilitative purposes.”.

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 and apply to any act that occurred before, on, or after
15 such date of enactment.

16 SEC. 1719. CONVICTIONS.

17 (a) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
18 1182(a)(2)), as amended by sections 1712(b), 1713(b), and 1714(a) of this Act, is further
19 amended by adding at the end the following:

20 “(R) CONVICTIONS.—

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

25 “(ii) OTHER EVIDENCE.—If the conviction records, such as charging documents,
26 plea agreements, plea colloquies, and jury instructions, do not conclusively
27 establish whether a crime constitutes a ground of inadmissibility, the Attorney
28 General, the Secretary of State, or the Secretary may consider other evidence
29 related to the conviction, including police reports and witness statements, that
30 clearly establishes that the conduct leading to the alien’s conviction constitutes a
31 ground of inadmissibility.”.

32 (b) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
33 1227(a)(2)), as amended by sections 1712(c), 1713(c), and 1714(c) of this Act, is further
34 amended by adding at the end the following:

35 “(J) CRIMINAL OFFENSES.—

36 “(i) IN GENERAL.—For purposes of determining whether an underlying criminal
37 offense constitutes a ground of deportability under this subsection, all statutes or
38 common law offenses are divisible if any of the conduct encompassed by the
39 statute constitutes an offense that is a ground of deportability.

40 “(ii) OTHER EVIDENCE.—If the conviction records, such as charging documents,

1 plea agreements, plea colloquies, and jury instructions, do not conclusively
2 establish whether a crime constitutes a ground of deportability, the Attorney
3 General or the Secretary may consider other evidence related to the conviction,
4 including police reports and witness statements, that clearly establishes that the
5 conduct leading to the alien's conviction constitutes a ground of deportability.”.

6 SEC. 1720. FAILURE TO OBEY REMOVAL ORDERS.

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

9 (1) in subsection (a)—

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

12 (B) by striking paragraph (3);

13 (2) by striking subsection (b); and

14 (3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

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

19 SEC. 1721. SANCTIONS FOR COUNTRIES THAT DELAY 20 OR PREVENT REPATRIATION OF THEIR NATIONALS.

21 Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) (as amended by section
22 1720(a)(3)) is amended by ~~striking subsection (e) and adding at the end~~inserting a new paragraph
23 (e) to read as the following:

24 “(ee) Listing of Countries Who Delay Repatriation of Removed Aliens.—

25 “(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the
26 enactment of the ~~Immigration Reform and Technical Corrections Act of 2018~~SECURE and
27 SUCCEED Act, and every 6 months thereafter, the Secretary shall publish a report in the
28 Federal Register that includes a list of—

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

32 “(B) countries that have an excessive repatriation failure rate; and

33 “(C) each country that was reported as noncompliant in the most recent reporting
34 period.

35 “(2) EXEMPTION.—The Secretary, in the Secretary's sole and unreviewable discretion,
36 and in consultation with the Secretary of State, may exempt a country from inclusion on the
37 list under paragraph (1) if there are significant foreign policy or security concerns that
38 warrant such an exemption.

1 “(d) Discontinuing Granting of Visas to Nationals of Countries Denying or Delaying
2 Accepting Alien.—

3 “(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action
4 described in paragraph (2)(A), and may take an action described in paragraph (2)(B), if the
5 Secretary determines that—

6 “(A) an alien who is a national of a foreign country is inadmissible under section
7 212 or deportable under section 237, or has been ordered removed from the United
8 States; and

9 “(B) the government of the foreign country referred to in subparagraph (A) is—

10 “(i) denying or unreasonably delaying accepting aliens who are citizens,
11 subjects, nationals, or residents of that country after the Secretary asks whether
12 the government will accept an alien under this section; or

13 “(ii) refusing to issue any required travel or identity documents to allow the
14 alien who is citizen, subject, national, or resident of that country to return to that
15 country.

16 “(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

17 “(A) Direct the Secretary of State to authorize consular officers in the foreign
18 country referred to in paragraph (1) to deny visas under section 101(a)(15)(A)(iii) to
19 attendants, servants, personal employees, and members of their immediate families, of
20 the officials and employees of that country who receive nonimmigrant status under
21 clause (i) or (ii) of section 101(a)(15)(A).

22 “(B) In consultation with the Secretary of State, deny admission to any citizens,
23 subjects, nationals, ~~or~~ residents from the foreign country referred to in paragraph
24 (1), consistent with other international obligations, and the imposition of any
25 limitations, conditions, or additional fees on the issuance of visas or travel from that
26 country, or the imposition of any other sanctions against that country that are
27 authorized by law.

28 “(3) RESUMPTION OF VISA ISSUANCE.—Consular officers in the foreign country that
29 refused or unreasonably delayed repatriation or refused to issue required identity or travel
30 documents may resume visa issuance after the Secretary notifies the Secretary of State that
31 the country has accepted the aliens.”.

32 SEC. 1722. ENHANCED PENALTIES FOR 33 CONSTRUCTION AND USE OF BORDER TUNNELS.

34 Section 555 of title 18, United States Code, is amended—

35 (1) in subsection (a), by striking “not more than 20 years.” and inserting “not less than 7
36 years and not more than 20 years.”; and

37 (2) in subsection (b), by striking “not more than 10 years.” and inserting “not less than 3
38 years and not more than 10 years.”.

39 SEC. 1723. ENHANCED PENALTIES FOR FRAUD AND

1 MISUSE OF VISAS, PERMITS, AND OTHER
2 DOCUMENTS.

3 Section 1546(a) of title 18, United States Code, is amended—

4 (1) by striking “Commissioner of the Immigration and Naturalization Service” each place
5 it appears and inserting “Secretary of Homeland Security”; and

6 (2) by striking “Shall be fined” and all that follows and inserting “Shall be fined under
7 this title or imprisoned for not less than 12 years and not more than 25 years (if the offense
8 was committed to facilitate an act of international terrorism (as defined in section 2331)),
9 not less than 10 years and not more than 20 years (if the offense was committed to facilitate
10 a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more
11 than 10 years (for the first or second such offense, if the offense was not committed to
12 facilitate such an act of international terrorism or a drug trafficking crime), or not less than
13 7 years and not more than 15 years (for any other offense), or both.”.

14 SEC. 1724. EXPANSION OF CRIMINAL ALIEN
15 REPATRIATION PROGRAMS.

16 (a) Expansion of Criminal Alien Repatriation Flights.—Not later than 90 days after the date of
17 the enactment of this Act, the Secretary of Homeland Security shall increase the number of
18 criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs
19 and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not
20 less than 15 percent compared to the number of such flights operated, and authorized to be
21 operated, under existing appropriations and funding on the date of the enactment of this Act.

22 (b) U.S. Immigration and Customs Enforcement Air Operations.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive
24 to expand U.S. Immigration and Customs Enforcement Air Operations (referred to in this
25 subsection as “ICE Air Ops”) so that ICE Air Ops provides additional services with respect to
26 aliens who are illegally present in the United States. Such expansion shall include—

27 (1) increasing the daily operations of ICE Air Ops with buses and air hubs in the top 5
28 geographic regions along the southern border;

29 (2) allocating a set number of seats for such aliens for each metropolitan area; and

30 (3) allowing a metropolitan area to trade or give some of seats allocated to such area
31 under paragraph (2) for such aliens to other areas in the region of such area based on the
32 transportation needs of each area.

33 (c) Authorization of Appropriations.—In addition to the amounts otherwise authorized to be
34 appropriated, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2018
35 through 2022 to carry out this section.

36 SEC. 1725. PROHIBITION ON FLIGHT TRAINING AND
37 NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK
38 COUNTRIES.

1 (a) IN GENERAL.--The Secretary of State shall deny a visa to, and the Secretary of
2 Homeland Security shall not admit or parole into the United States, any alien who is a citizen of
3 Libya, Iran, Syria, or any country designated by the Secretary of State as a state sponsor of
4 terrorism--

5 (1) who is an applicant for a visa and who the Secretary of State determines seeks to enter the
6 United States--

7 (A) to participate in coursework at an institution of higher education (as defined in
8 section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the
9 alien for a career in nuclear science, nuclear engineering, or a related field;

10 (B) to participate in coursework or training or otherwise engage in aviation maintenance
11 or flight operations;

12 (2) who is applying for admission to the United States and who the Secretary of Homeland
13 Security determines seeks to participate in coursework, training, or activities described in
14 paragraph (1);

15 (3) who is in the United States and who the Secretary of Homeland Security determines is
16 applying to change status to participate in such coursework, training, or activities; or

17 (4) who is lawfully present in the United States, either as a nonimmigrant student or otherwise
18 authorized to study at an institution of higher education, and who the Secretary of Homeland
19 Security determines is participating in such coursework, training, or activities or seeks to change
20 his or her field of study to participate in such coursework, training, or activities.

21 (b) TERMINATION OF STATUS. The Secretary of Homeland Security shall terminate the
22 nonimmigrant status or otherwise revoke the authorization to remain in the United States of any
23 alien currently in the United States and described in subsection (a).

24 (c) HIGH-RISK COUNTRIES. The Secretary of Homeland Security may in his discretion
25 designate additional countries whose nationals are subject to the restrictions described in
26 subsection (a) where he determines that it is in the national interest to do so.

27 CHAPTER 2—STRONG VISA INTEGRITY SECURES 28 AMERICA ACT

29 SEC. 1731. SHORT TITLE.

30 This chapter may be cited as the “Strong Visa Integrity Secures America Act”.

31 SEC. 1732. VISA SECURITY.

32 (a) Visa Security Units at High Risk Posts.—Section 428(e)(1) of the Homeland Security Act
33 of 2002 (6 U.S.C. 236(e)(1)) is amended—

34 (1) by striking “The Secretary” and inserting the following:

35 “(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph
36 (B), the Secretary”; and

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

1 “(B) RISK-BASED ASSIGNMENTS.—

2 “(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign,
3 in a risk-based manner, and considering the criteria described in clause (ii),
4 employees of the Department to not fewer than 5075 diplomatic and consular
5 posts at which visas are issued. Such assignments shall be made —

6 “(I) in a risk-based manner;

7 “(II) considering the criteria described in clause (iii); and

8 “(III) in accordance with Nationality Security Decision Directive 38 of June 2,
9 1982, or any superseding presidential directive concerning staffing at diplomatic
10 and consular posts.

11 “(ii) Priority Consideration. — In carrying out National Security Decision
12 Directive 38 of June 2, 1982, the Secretary of State shall ensure priority
13 consideration of any staffing assignment pursuant to this subparagraph.

14 “(iii) CRITERIA DESCRIBED.—The criteria referred to described in this clause (i)
15 are the following:

16 “(I) The number of nationals of a country in which any of the diplomatic
17 and consular posts referred to in clause (i) are located who were identified in
18 United States Government databases related to the identities ofas known or
19 suspected terrorists during the previous year.

20 “(II) Information on cooperation of the country referred to in subclause (I)
21 with the counterterrorism efforts of the United States.

22 “(III) Information analyzing the presence, activity, or movement of
23 terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi)
24 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or
25 through suchthe country referred to in subclause (I).

26 “(IV) The number of formal objections based on derogatory information
27 issued by the Visa Security Advisory Opinion Unit pursuant to paragraph
28 (10) regarding nationals of a country in which any of the diplomatic and
29 consular posts referred to in clause (i) are located.

30 “(V) The adequacy of the border and immigration control of suchthe
31 country referred to in subclause (I).

32 “(VI) Any other criteria the Secretary determines appropriate.

33 “(iii) RULE OF CONSTRUCTION.—The Secretary has the final authority to
34 assign employees of the Department pursuant to this subparagraph. The
35 Secretary may consult with the Chief of Mission regarding placement and
36 locations for assigned personnel at relevant diplomatic or consular posts but
37 the Secretary’s decision on assignment may not be altered or rejected by the
38 Secretary of State.”.

39 (b) State Department Accommodation of Visa Security Units.—Section 428 of the Homeland
40 Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

1 “(j) Expedited clearance and placement of Department of Homeland Security personnel at
2 overseas embassies and consular posts.—Notwithstanding any other provision of law, and the
3 processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any
4 successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security
5 has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the
6 date on which the Secretary of Homeland Security communicates such assignment to the
7 Secretary of State, that such personnel have been stationed and accommodated at post and are
8 able to carry out their duties.”.

9 (c) Funding for the visa security program.

10 (1) In general.—The Department of State and Related Agency Appropriations Act, 2005 (title
11 IV of division B of Public Law 108–447) is amended, in the fourth paragraph under the heading
12 “Diplomatic and Consular Programs”, by striking “Beginning” and all that follows through the
13 period at the end and inserting the following: “Beginning in fiscal year 2005 and thereafter, the
14 Secretary of State is authorized to charge surcharges related to consular services in support of
15 enhanced border security that are in addition to the immigrant visa fees in effect on January 1,
16 2004: Provided, That funds collected pursuant to this authority shall be credited to the
17 appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the
18 fees were collected, and shall be available until expended for the funding of the Visa Security
19 Program established by the Secretary of Homeland Security under section 428(e) of the
20 Homeland Security Act of 2002 (Public Law 107–296): Provided further, That such surcharges
21 shall be 10 percent of the fee assessed on immigrant visa applications.”.

22 (2) Repayment of appropriated funds.—Twenty percent of the funds collected each fiscal year
23 under the heading “Diplomatic and Consular Programs” in the Department of State and Related
24 Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447), as amended by
25 subsection (a), shall be deposited into the general fund of the Treasury as repayment of funds
26 appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been
27 repaid.

28 (bd) Counterterrorism Vetting and Screening.—Section 428(e)(2) of the Homeland Security
29 Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

30 (1) by redesignating subparagraph (C) as subparagraph (D); and

31 (2) by inserting after subparagraph (B) the following:

32 “(C) Screen any such applications against the appropriate criminal, national security,
33 and terrorism databases maintained by the Federal Government.”.

34 (ee) Training and Hiring.—Section 428(e)(6)(A) of the Homeland Security Act of 2002 (6
35 U.S.C. 236(e)(6)(A)) is amended—

36 (1) by striking “The Secretary shall ensure, to the extent possible, that any employees”
37 and inserting “The Secretary, acting through the Commissioner of U.S. Customs and Border
38 Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide
39 training to any employees”; and

40 (2) by striking “shall be provided the necessary training”.

41 (fd) Pre-adjudicated Visa Security Assistance and Visa Security Advisory Opinion Unit.—
42 Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended by adding at

1 the end the following:

2 “(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at
3 which employees of the Department are not assigned pursuant to paragraph (1), the
4 Secretary shall, in a risk-based manner, assign employees of the Department to remotely
5 perform the functions required under paragraph (2) at not fewer than 50 of such posts.

6 “(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S.
7 Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond
8 to requests from the Secretary of State to conduct a visa security review using information
9 maintained by the Department on visa applicants, including terrorism association, criminal
10 history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

11 (g) DEADLINES.—The requirements established under paragraphs (1) and (9) of section
12 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this
13 section, shall be implemented not later than three years after the date of the enactment of this
14 Act.

15 ~~(e) Schedule of Implementation.—The requirements established under paragraphs (1) and (10)~~
16 ~~of section 428(e) of the Homeland Security Act of 2002, as amended and added by this section,~~
17 ~~shall be implemented not later than 3 years after the date of the enactment of this Act.~~

18 ~~(f) Authorization of Appropriations.—There are authorized to be appropriated \$30,000,000 to~~
19 ~~implement this section and the amendments made by this section.~~

20 SEC. 1733. ELECTRONIC PASSPORT SCREENING AND 21 BIOMETRIC MATCHING.

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

24 “SEC. 420. ELECTRONIC PASSPORT SCREENING AND 25 BIOMETRIC MATCHING.

26 “(a) In General.—Not later than 1 year after the date of the enactment of the Strong Visa
27 Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection
28 shall—

29 “(1) screen electronic passports at airports of entry by reading each such passport’s
30 embedded chip; and

31 “(2) to the greatest extent practicable, utilize facial recognition technology or other
32 biometric technology, as determined by the Commissioner, to inspect travelers at United
33 States airports of entry.

34 “(b) Applicability.—

35 “(1) ELECTRONIC PASSPORT SCREENING.—Paragraph (1) of Subsubsection (a)(1) shall
36 apply to passports belonging to individuals who are United States citizens, individuals who
37 are nationals of a program country pursuant to section 217 of the Immigration and
38 Nationality Act (8 U.S.C. 1187), and individuals who are nationals of any other foreign
39 country that issues electronic passports.

1 “(2) FACIAL RECOGNITION MATCHING.—Paragraph (2) of subsection (a)~~(2)~~ shall apply,
2 at a minimum, to individuals who are nationals of a program country pursuant to section
3 217 of such Act.

4 “(c) Annual Report.—

5 “(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in
6 collaboration with the Chief Privacy Officer of the Department, shall submit an annual
7 report, through fiscal year 2022, to the Committee on Homeland Security and Governmental
8 Affairs of the Senate and the Committee on Homeland Security of the House of
9 Representatives that describes the utilization of facial recognition technology and other
10 biometric technology pursuant to subsection (a)(2).

11 “(2) REPORT CONTENTS.—Each report submitted pursuant to paragraph (1) shall
12 include—

13 “(A) information on the type of technology used at each airport of entry;

14 “(B) the number of individuals who were subject to inspection using either of such
15 technologies at each airport of entry;

16 “(C) within the group of individuals subject to such inspection, the number of those
17 individuals who were United States citizens and lawful permanent residents;

18 “(D) information on the disposition of data collected during the year covered by
19 such report; and

20 “(E) information on protocols for the management of collected biometric data,
21 including time frames and criteria for storing, erasing, destroying, or otherwise
22 removing such data from databases utilized by the Department.

23 “SEC. 420A. CONTINUOUS SCREENING BY U.S. 24 CUSTOMS AND BORDER PROTECTION.

25 “The Commissioner of U.S. Customs and Border Protection shall, in a risk-based manner,
26 continuously screen individuals issued any visa, and individuals who are nationals of a program
27 country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are
28 present, or expected to arrive within 30 days, in the United States, against the appropriate
29 criminal, national security, and terrorism databases maintained by the Federal Government.”.

30 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
31 of 2002 is amended by inserting after the item relating to section 419 the following:

32 “Sec.420.Electronic passport screening and biometric matching.

33 “Sec.420A.Continuous screening by U.S. Customs and Border Protection.”.

34 SEC. 1734. REPORTING VISA OVERSTAYS.

35 Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

36 (1) in subsection (a)—

37 (A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
38 and

1 (B) by inserting “, and any additional information that the Secretary determines
2 necessary for purposes of the report under subsection (b)” before the period at the end;
3 and

4 (2) by amending subsection (b) to read as follows:

5 “(b) Annual Report.—Not later than September 30, 2018, and annually thereafter, the
6 Secretary of Homeland Security shall submit a report to the Committee on Homeland Security
7 and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
8 Committee on Homeland Security of the House of Representatives, and the Committee on the
9 Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical
10 estimates (including information on the methodology utilized to develop such numerical
11 estimates) of—

12 “(1) for each country, the number of aliens from the country who are described in
13 subsection (a), including—

14 “(A) the total number of such aliens within all classes of nonimmigrant aliens
15 described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
16 1101(a)(15)); and

17 “(B) the number of such aliens within each of the classes of nonimmigrant aliens, as
18 well as the number of such aliens within each of the subclasses of such classes of
19 nonimmigrant aliens, as applicable;

20 “(2) for each country, the percentage of the total number of aliens from the country who
21 were present in the United States and were admitted to the United States as nonimmigrants
22 who are described in subsection (a);

23 “(3) the number of aliens described in subsection (a) who arrived by land at a port of
24 entry into the United States;

25 “(4) the number of aliens described in subsection (a) who entered the United States using
26 a border crossing identification card (as defined in section 101(a)(6) of the Immigration and
27 Nationality Act (8 U.S.C. 1101(a)(6)); and

28 “(5) the number of Canadian nationals who entered the United States without a visa and
29 whose authorized period of stay in the United States terminated during the previous fiscal
30 year, but who remained in the United States.”.

31 **SEC. 1735. STUDENT AND EXCHANGE VISITOR**
32 **INFORMATION SYSTEM VERIFICATION.**

33 Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland
34 Security shall ensure that the information collected under the program established under section
35 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
36 1372) is available to officers of U.S. Customs and Border Protection conducting primary
37 inspections of aliens seeking admission to the United States at each port of entry of the United
38 States.

39 **SEC. 1736. SOCIAL MEDIA REVIEW OF VISA**

1 **APPLICANTS.**

2 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et.
3 seq.), as amended by sections 1117~~5~~ and 1730 of this Act, is further amended by adding at the
4 end the following:

5 **“SEC. 438~~6~~. SOCIAL MEDIA SCREENING.**

6 “(a) In General.—Not later than 180 days after the date of the enactment of the Strong Visa
7 Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk
8 based manner and on an individualized basis, review the social media accounts of visa applicants
9 who are citizens of, or who reside in, high risk countries, as determined by the Secretary based
10 on the criteria described in subsection (b).

11 “(b) High-risk Criteria Described.—In determining whether a country is high-risk pursuant to
12 subsection (a), the Secretary shall consider the following criteria:

13 “(1) The number of nationals of the country who were identified in United States
14 Government databases related to the identities of known or suspected terrorists during the
15 previous year.

16 “(2) The level of cooperation of the country with the counter-terrorism efforts of the
17 United States.

18 “(3) Any other criteria the Secretary determines appropriate.

19 “(c) Collaboration.—To develop the technology and procedures required to carry out the
20 requirements under subsection (a), the Secretary shall collaborate with—

21 “(1) the head of a national laboratory within the Department’s laboratory network with
22 relevant expertise;

23 “(2) the head of a relevant university-based center within the Department’s centers of
24 excellence network; and

25 “(3) the heads of other appropriate Federal agencies, including the Secretary of State, the
26 Director of National Intelligence, and the Attorney General.

27 “(d) Waiver. – The Secretary, in collaboration with the Secretary of State, is authorized to waive
28 the requirements of subsection (a) as necessary to comply with international obligations of the
29 United States.

30 “(e) Rule of Construction. The screening of social information under paragraph (a) shall not
31 limit the authority of the Secretaries of Homeland Security or State to screen social media
32 information from any individual filing with the Department of Homeland Security or the
33 Department of State an application, petition, or other request for an immigration benefit or
34 immigration status or seeking an immigration benefit or other authorization, employment
35 authorization, identity, or travel document, or requesting relief or protection under any
36 provision of the immigration laws.”

37 **“SEC. 439~~7~~. OPEN SOURCE SCREENING.**

38 “The Secretary shall, to the greatest extent practicable, and in a risk-based manner, review

1 open source information of visa applicants.”.

2 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
3 of 2002, as amended by this Act, is further amended by inserting after the item relating to section
4 435 the following:

5 “Sec.43~~86~~.Social media screening.

6 “Sec.43~~97~~.Open source screening.”.

7 CHAPTER 3—VISA CANCELLATION AND REVOCATION

8 SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

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

11 (1) in paragraph (1)—

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

13 (B) by inserting “and any other nonimmigrant visa issued by the United States that is
14 in the possession of the alien” after “such visa”; and

15 (2) in paragraph (2)(A), by adding “or foreign residence” after “the alien’s nationality”.

16 (b) Effective Date and Application.—The amendments made by subsection (a) shall take
17 effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after
18 such date.

19 SEC. 1742. VISA INFORMATION SHARING.

20 (a) In General.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is
21 amended—

22 (1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting
23 “issuance, refusal, or revocation”; and

24 (2) in paragraph (2)—

25 (A) in the matter preceding subparagraph (A), by striking “and on the basis of
26 reciprocity” and all that follows and inserting “may provide to a foreign government
27 information in a Department of State computerized visa database and, when necessary
28 and appropriate, other records covered by this section related to information in such
29 database”;

30 (B) by amending subparagraph (A) to read as follows:

31 “(A) on the basis of reciprocity, with regard to individual aliens, at any time on a
32 case-by-case basis for the purpose of—

33 “(i) preventing, investigating, or punishing acts that would constitute a crime in
34 the United States, including, but not limited to, terrorism or trafficking in
35 controlled substances, persons, or illicit weapons; or

36 “(ii) determining a person’s removability or eligibility for a visa, admission, or

1 other immigration benefit;”;

2 (C) in subparagraph (B)—

3 (i) by inserting “on basis of reciprocity,” before “with regard to”;

4 (ii) by striking “in the database” and inserting “such database”;

5 (iii) by striking “for the purposes” and inserting “for 1 of the purposes”; and

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

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

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

13 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that
14 is 60 days after the date of the enactment of the Act.

15 SEC. 1743. VISA INTERVIEWS.

16 (a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is
17 amended—

18 (1) in paragraph (1)—

19 (A) in subparagraph (B), by striking “or” at the end;

20 (B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

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

22 “(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable
23 discretion, determines upon review of the application, that an interview is unnecessary
24 because the alien is ineligible for a visa; and”.

25 (2) in paragraph (2)—

26 (A) in subparagraph (E), by striking “or” at the end;

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

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

29 “(G) is an individual within a class of aliens that the Secretary of State, in his or her
30 sole and unreviewable discretion, has determined may pose a threat to national security
31 or public safety.”.

32 SEC. 1744. VISA REVOCATION AND LIMITS ON 33 JUDICIAL REVIEW OF VISA REVOCATION.

34 (a) In General. — Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is
35 amended—

1 ~~(1) (4)~~ by inserting “(1)” after “(i)”;

2 **(2) In subparagraph (i)(1),**

3 **(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;**

4 **(B) by striking “shall invalidate the visa or other documentation from the date of**
5 **issuance” and inserting “of any visa or documentation shall take effect**
6 **immediately.”; and**

7 **(C) “There shall be no means of judicial review” and all that follows and inserting**
8 **the following:**

9 **“Notwithstanding any other provision of law, including section 2241 of title 28,**
10 **United States Code, any other habeas corpus provision, and sections 1361 and**
11 **1651 of such title, a revocation under this subsection may not be reviewed by any**
12 **court, and no court shall have jurisdiction to hear any claim arising from, or any**
13 **challenge to, such a revocation, provided that the revocation is executed by the**
14 **Secretary.”; and and**

15 ~~(32)~~ by adding at the end the following:

16 “(2) A revocation under this subsection of a visa or other documentation from an
17 alien shall automatically cancel any other valid visa that is in the alien’s possession.”.

18 **(b) EFFECTIVE DATE- The amendment made by subsection (a) shall--**

19 **(1) take effect on the date of the enactment of this Act; and**

20 **(2) apply to all revocations made on or after such date.**

21 CHAPTER 4—SECURE VISAS ACT

22 SEC. 1751. SHORT TITLE.

23 This chapter may be cited as the “Secure Visas Act”.

24 SEC. 1752. AUTHORITY OF THE SECRETARY OF 25 HOMELAND SECURITY AND THE SECRETARY OF 26 STATE.

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

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

30 “(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality
31 Act (8 U.S.C. 1104(a)) and any other provision of law, and except for the authority of the
32 Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the
33 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

34 “(A) shall have exclusive authority to issue regulations, establish policy, and
35 administer and enforce the provisions of the Immigration and Nationality Act (8
36 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the

1 functions of consular officers of the United States in connection with the granting and
2 refusal of a visa; and

3 “(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or
4 his or her designee, determines that such refusal or revocation is necessary or advisable
5 in the security interests of the United States.

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

7 “(A) shall take effect immediately; and

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

9 “(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section
10 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361
11 and 1651 of such title, no United States court has jurisdiction to review a decision by the
12 Secretary or a consular officer to refuse or revoke a visa.

13 “(c) Visa Refusal Authority of the Secretary of State.—

14 “(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse or
15 revoke a visa to an alien if the Secretary determines that such refusal or revocation is
16 necessary or advisable in the foreign policy interests of the United States.

17 “(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override
18 a decision by the Secretary under subsection (b).”.

19 (b) Visa Revocation.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended
20 by adding at the end the following:

21 “(j) Visa Revocation Information.—If the Secretary or the Secretary of State revokes a visa—

22 “(1) the relevant consular, law enforcement, and terrorist screening databases shall be
23 immediately updated on the date of the revocation; and

24 “(2) look-out notices shall be posted to all Department port inspectors and Department of
25 State consular officers.”.

26 (c) Conforming Amendment.—Section 104(a)(1) of the Immigration and Nationality Act (8
27 U.S.C. 1104(a)(1)) is amended by inserting “and the power authorized under section 428(c) of
28 the Homeland Security Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

29 CHAPTER 5—VISA FRAUD AND SECURITY 30 IMPROVEMENT ACT OF 2017

31 SEC. 1761. SHORT TITLE.

32 This chapter may be cited as the “Visa Fraud and Security Improvement Act of 2018”.

33 SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION 34 AND DETECTION FEES.

35 Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is
36 amended—

1 (1) in the matter preceding clause (i), by striking “at United States embassies and
2 consulates abroad”;

3 (2) by amending clause (i) to read as follows:

4 “(i) to increase the number of diplomatic security personnel assigned
5 exclusively or primarily to the function of preventing and detecting visa fraud;”;
6 and

7 (3) in clause (ii), by striking “, including primarily fraud by applicants for visas described
8 in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)”.

9 SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS 10 AND DAUGHTERS OF TRAFFICKERS.

11 Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

12 (1) in subparagraph (C)(ii), by inserting “, or has been,” after “is”; and

13 (2) in subparagraph (H)(ii), by inserting “, or has been,” after “is”.

14 SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.

15 (a) DNA Testing for Visa Applicants.—Section 222(b) of the Immigration and Nationality Act
16 (8 U.S.C. 1202(b)) is amended by inserting after the second sentence the following: “If
17 considered necessary by the consular officer ~~or immigration official of the Department of~~
18 ~~Homeland Security~~ to establish the bona fides of a family relationship, the immigrant shall
19 provide DNA evidence of such relationship in accordance with procedures established for
20 submitting such evidence. The ~~Secretary and the~~ Secretary of State may, ~~in consultation,~~
21 issue regulations to require the submission of DNA evidence to establish family
22 relationship from applicants for certain visa classifications.”

23 (b) Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as amended by
24 sections 1806 and 1807, is further amended by adding at the end a new paragraph (o) to
25 read as follows:

26 “(o) Required Documentary Evidence and DNA Testing for Adjustment of Status.

27 “(1) Required Documentary Evidence. —Any alien applying for adjustment of status
28 under the immigration laws shall present a valid unexpired passport or other suitable
29 travel document, or document of identity and nationality, if such documentation is
30 required under the regulations issued by the Secretary of Homeland Security. The
31 alien shall furnish with his or her application a copy of a certification by the
32 appropriate police authorities stating what their records show concerning the alien; a
33 certified copy of any existing prison record, military record, and record of his or her
34 birth; and a certified copy of all other records or documents concerning him or her or
35 his or her case which may be required by the Secretary or Attorney General.

36 “(2) DNA Testing. — Where considered necessary by the Secretary or the Attorney
37 General to establish the bona fides of a family relationship, the immigrant shall
38 provide DNA evidence of such relationship in accordance with procedures
39 established for submitting such evidence. The Secretary may issue regulations to

1 require the submission of DNA evidence to establish family relationship from
2 applicants for certain visa classifications. In the event that the alien establishes to the
3 satisfaction of the Secretary or Attorney General that any document or record
4 required by this subsection is unobtainable, the Secretary or Attorney General may
5 permit the alien to submit in lieu of such document or record other satisfactory
6 evidence of the fact to which such document or record, if obtainable, pertain.”.

7 **SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY**
8 **DATABASE FOR DIPLOMATIC VISAS.**

9 Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy
10 Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting “, except for diplomatic
11 visa applications for which only full biographical information is required” before the period at
12 the end.

13 **SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH**
14 **REQUIREMENT FOR VISA APPLICATIONS.**

15 Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by
16 striking the first sentence and insert the following: “Each alien who applies for a visa shall be
17 registered in connection with his or her application and shall furnish copies of his or her
18 photograph for such use as may be required by regulation.”.

19 **CHAPTER 6—OTHER MATTERS**

20 **SEC. 1771. REQUIREMENT FOR COMPLETION OF**
21 **BACKGROUND CHECKS.**

22 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103) is amended
23 by adding at the end the following:

24 “(h) Completion of Background and Security Checks.—

25 “(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law
26 (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa
27 Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
28 States Code, and section 706(1) of title 5, United States Code, the Secretary and the
29 Attorney General may not approve or grant to an alien any status, relief, protection from
30 removal, employment authorization, or any other benefit under the immigration laws,
31 including an adjustment of status to lawful permanent residence or a grant of United States
32 citizenship or issue to the alien any documentation evidencing a status or grant of any
33 status, relief, protection from removal, employment authorization, or other benefit under the
34 immigration laws until—

35 “(A) all background and security checks required by statute or regulation or deemed
36 necessary by the Secretary or the Attorney General, in his or her sole and unreviewable
37 discretion, for the alien have been completed; and

38 “(B) the Secretary or the Attorney General has determined that the results of such

1 checks do not preclude the approval or grant of any status, relief, protection from
2 removal, employment authorization, or any other benefit under the immigration laws
3 or approval, grant, or the issuance of any documentation evidencing such status, relief,
4 protection, authorization, or benefit.

5 “(2) PROHIBITION ON JUDICIAL ACTION.—No court shall have authority to order the
6 approval of, grant, mandate, or require any action in a certain time period, or award any
7 relief for the Secretary’s or Attorney General’s failure to complete or delay in completing
8 any action to provide any status, relief, protection from removal, employment authorization,
9 or any other benefit under the immigration laws, including an adjustment of status to lawful
10 permanent residence, naturalization, or a grant of United States citizenship for an alien
11 until—

12 “(A) all background and security checks for the alien have been completed; and

13 “(B) the Secretary or the Attorney General has determined that the results of such
14 checks do not preclude the approval or grant of such status, relief, protection,
15 authorization, or benefit, or issuance of any documentation evidencing such status,
16 relief, protection, authorization, or benefit.”.

17 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
18 on the date of the enactment of this Act and shall apply to any application, petition, or request for
19 any benefit or relief or any other case or matter under the immigration laws pending with on or
20 filed with the Secretary of Homeland Security, the Attorney General, the Secretary of State, the
21 Secretary of Labor, or a consular officer on or after such date of enactment.

22 SEC. 1772. WITHHOLDING OF ADJUDICATION.

23 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103), as amended
24 by section 1771 of this Act, is further amended by adding at the end the following:

25 “(i) Withholding of Adjudication.—

26 “(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any
27 other law, including sections 1361 and 1651 of title 28, United States Code, may be
28 construed to require, and no court can order, the Secretary, the Attorney General, the
29 Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other
30 application, approve any petition, or grant or continue any relief, protection from removal,
31 employment authorization, or any other status or benefit under the immigration laws by, to,
32 or on behalf of any alien with respect to whom a criminal proceeding or investigation is
33 open or pending (including the issuance of an arrest warrant or indictment), if such
34 proceeding or investigation is deemed by such official to be material to the alien’s eligibility
35 for the status, relief, protection, or benefit sought.

36 “(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the
37 Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold
38 adjudication any application, petition, request for relief, request for protection from
39 removal, employment authorization, status or benefit under the immigration laws pending
40 final resolution of the criminal or other proceeding or investigation.

41 “(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or
42 nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry

1 Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States
2 Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to
3 review a decision to withhold adjudication pursuant to this subsection.

4 “(4) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This subsection does not
5 limit or modify the applicability of section 241(b)(3) or the United Nations Convention
6 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject
7 to any reservations, understandings, declarations and provisos contained in the United
8 States Senate resolution of ratification of the Convention, as implemented by section 2242
9 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with
10 respect to an alien otherwise eligible for protection under such provisions.”.

11 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
12 on the date of the enactment of this Act and shall apply to any application, petition, or request for
13 any benefit or relief or any other case or matter under the immigration laws pending with or filed
14 with the Secretary of Homeland Security on or after such date of enactment.

15 SEC. 1773. ACCESS TO THE NATIONAL CRIME 16 INFORMATION CENTER INTERSTATE IDENTIFICATION 17 INDEX.

18 (a) Criminal Justice Activities.—Section 104 of the Immigration and Nationality Act (8 U.S.C.
19 1104) is amended by adding at the end the following:

20 “(f) Notwithstanding any other provision of law, any Department of State personnel with
21 authority to grant or refuse visas or passports may carry out activities that have a criminal justice
22 purpose.”.

23 (b) Liaison With Internal Security Officers; Data Exchange.—Section 105 of the Immigration
24 and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting
25 the following:

26 “(b) Access to NCIC-III.—

27 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General
28 and the Director of the Federal Bureau of Investigation shall provide to the Department of
29 Homeland Security and the Department of State access to the criminal history record
30 information contained in the National Crime Information Center’s Interstate Identification
31 Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the
32 National Crime Information Center for the purpose of determining whether an applicant or
33 petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws,
34 or any beneficiary of an application, petition, relief, or status under the immigration laws,
35 has a criminal history record indexed in the file.

36 “(2) AUTHORIZED ACTIVITIES.—

37 “(A) IN GENERAL.—The Secretary and the Secretary of State—

38 “(i) shall have direct access, without any fee or charge, to the information
39 described in paragraph (1) to conduct name-based searches, file number searches,
40 and any other searches that any criminal justice or other law enforcement officials

1 are entitled to conduct; and

2 “(ii) may contribute to the records maintained by the National Crime
3 Information Center.

4 “(B) SECRETARY OF HOMELAND SECURITY.—The Secretary shall receive, upon
5 request, access to the information described in paragraph (1) by means of extracts of
6 the records for placement in the appropriate database without any fee or charge.

7 “(c) Criminal Justice and Law Enforcement Purposes.—Notwithstanding any other provision
8 of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and
9 other purposes relating to citizenship and immigration services, shall be considered to be
10 criminal justice or law enforcement purposes with respect to access to or use of any information
11 maintained by the National Crime Information Center or other criminal history information or
12 records.”.

13 SEC. 1774. APPROPRIATE REMEDIES FOR 14 IMMIGRATION LITIGATION.

15 (a) Limitation on Class Actions.—

16 (1) IN GENERAL.—Except as provided in paragraph (2), no court may certify **or continue**
17 **the certification of** a class under Rule 23 of the Federal Rules of Civil Procedure in any civil
18 action that—

19 (A) is **pending or** filed **on or** after the date of the enactment of this Act; and

20 (B) pertains to the administration or enforcement of the immigration laws.

21 (2) EXCEPTION.—A court may certify a class upon a motion by the Government if the
22 Government is requesting such a certification to ensure efficiency in case management or
23 uniformity in application of precedent decisions or interpretations of laws when there is a
24 nationwide class.

25 (b) Requirements for an Order Granting Prospective Relief Against the Government.—

26 (1) IN GENERAL.—If a court determines that prospective relief should be ordered against
27 the Government in any civil action pertaining to the administration or enforcement of the
28 immigration laws, the court shall—

29 (A) limit the relief to the minimum necessary to correct the violation of law;

30 (B) adopt the least intrusive means to correct the violation of law;

31 (C) minimize, to the greatest extent practicable, the adverse impact on national
32 security, border security, immigration administration and enforcement, and public
33 safety; and

34 (D) provide for the expiration of the relief on a specific date, which is not later than
35 the earliest date necessary for the Government to remedy the violation.

36 (2) WRITTEN EXPLANATION.—The requirements described in paragraph (1) shall be
37 discussed and explained in writing in the order granting prospective relief and shall be
38 sufficiently detailed to allow review by another court.

1 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief
2 granted under paragraph (1) shall automatically expire on the date that is 90 days after the
3 date on which such relief is entered, unless the court—

4 (A) finds that such relief meets the requirements described in subparagraphs (A)
5 through (D) of paragraph (1) for the entry of permanent prospective relief; and

6 (B) orders the preliminary relief to become a final order granting prospective relief
7 before the expiration of such 90-day period.

8 (c) Procedure for Motion Affecting Order Granting Prospective Relief Against the
9 Government.—

10 (1) IN GENERAL.—A court shall promptly rule on a motion made by the United States
11 Government to vacate, modify, dissolve, or otherwise terminate an order granting
12 prospective relief in any civil action pertaining to the administration or enforcement of the
13 immigration laws.

14 (2) AUTOMATIC STAYS.—

15 (A) IN GENERAL.—A motion to vacate, modify, dissolve, or otherwise terminate an
16 order granting prospective relief made by the United States Government in any civil
17 action pertaining to the administration or enforcement of the immigration laws shall
18 automatically, and without further order of the court, stay the order granting
19 prospective relief on the date that is 15 days after the date on which such motion is
20 filed unless the court previously has granted or denied the Government’s motion.

21 (B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A)
22 shall continue until the court enters an order granting or denying the Government’s
23 motion.

24 (C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay
25 under subparagraph (A) for not longer than 15 days.

26 (D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending,
27 delaying, or otherwise barring the effective date of the automatic stay described in
28 subparagraph (A), other than an order to postpone the effective date of the automatic
29 stay for not longer than 15 days under subparagraph (C)—

30 (i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise
31 terminate an injunction; and

32 (ii) shall be immediately appealable under section 1292(a)(1) of title 28, United
33 States Code.

34 (d) Settlements.—

35 (1) CONSENT DECREES.—In any civil action pertaining to the administration or
36 enforcement of the immigration laws of the United States, the court may not enter, approve,
37 or continue a consent decree that does not comply with the requirements under subsection
38 (b)(1).

39 (2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection may be construed to
40 preclude parties from entering into a private settlement agreement that does not comply

1 with subsection (b)(1).

2 (e) Expedited Proceedings.—It shall be the duty of every court to advance on the docket and
3 to expedite the disposition of any civil action or motion considered under this section.

4 (f) Consent Decree Defined.—In this section, the term “consent decree”—

5 (1) means any relief entered by the court that is based in whole or in part on the consent
6 or acquiescence of the parties; and

7 (2) does not include private settlements.

8 (g) Costs and Fees. — Section 2412(d)(2)(B) of title 28, U.S. Code, is amended —

9 (1) by striking “an individual” and inserting “a United States citizen”; and

10 (2) by inserting “United States citizen” before “owner”.

11 SEC. 1775. USE OF 1986 IRCA LEGALIZATION 12 INFORMATION FOR NATIONAL SECURITY PURPOSES.

13 (a) Special Agricultural Workers.—Section 210(b)(6) of the Immigration and Nationality Act
14 (8 U.S.C. 1160(b)(6)) is amended—

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

16 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
17 inserting “Homeland Security”;

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

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

21 “(C) AUTHORIZED DISCLOSURES.—

22 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
23 discretion, for the furnishing of information furnished under this section in the
24 same manner and circumstances as census information may be disclosed under
25 section 8 of title 13, United States Code.”.

26 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
27 Secretary’s discretion, for the furnishing, use, publication, or release of
28 information furnished under this section in any investigation, case, or matter, or
29 for any purpose, relating to terrorism, national intelligence or the national
30 security.

31 “(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary
32 may use the information furnished under this section to adjudicate subsequent
33 applications, petitions, or requests for immigration benefits filed by the alien.

34 “(iv) ALIEN CONSENT.—The Secretary may use the information furnished under
35 this section for any purpose when the alien consents to its disclosure or use by the
36 Secretary.

37 “(v) OTHER CIRCUMSTANCES.—The Secretary may use the information

1 furnished under this section for other purposes and in other circumstances in
2 which disclosure of the information is not related to removal of the alien from the
3 United States.”; and

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

6 (b) Adjustment of Status.—Section 245A(c)(5) of the Immigration and Nationality Act (8
7 U.S.C. 1255a(c)(5)) is amended—

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

9 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
10 inserting “Homeland Security”; and

11 (3) by amending subparagraph (C) to read as follows:

12 “(C) AUTHORIZED DISCLOSURES.—

13 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
14 discretion, for the furnishing of information furnished under this section in the
15 same manner and circumstances as census information may be disclosed under
16 section 8 of title 13, United States Code.

17 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
18 Secretary’s discretion, for the furnishing, use, publication, or release of
19 information furnished under this section in any investigation, case, or matter, or
20 for any purpose, relating to terrorism, national intelligence or the national
21 security.”.

22 SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR 23 CERTAIN IMMIGRATION, NATURALIZATION, AND 24 PEONAGE OFFENSES.

25 Section 3291 of title 18, United States Code, is amended to read as follows:

26 “3291. Nationality, citizenship and passports

27 “No person shall be prosecuted, tried, or punished for a violation of any section of chapter 69
28 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration
29 offenses), for a violation of any criminal provision of section 243, 274, 275, 276, 277, or 278 of
30 the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
31 attempt or conspiracy to violate any such section, unless the indictment is returned or the
32 information is filed within 10 years after the commission of the offense.”.

33 SEC. 1777. CONFORMING AMENDMENT TO THE 34 DEFINITION OF RACKETEERING ACTIVITY.

35 Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all
36 that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other
37 documents)” and inserting “sections 1541 through 1547 (relating to passports and visas)”.

1 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

2 (a) Civil Cases.—

3 (1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C.
4 1351 et seq.), as amended by section 1126(a) of this Act, is further amended by adding at
5 the end the following:

6 **“SEC. 296. VALIDITY OF SIGNATURES.**

7 “(a) In General.—In any proceeding, adjudication, or any other matter arising under the
8 immigration laws, an individual’s hand written or electronic signature on any petition,
9 application, or any other document executed or provided for any purpose under the immigration
10 laws establishes a rebuttable presumption that the signature executed is that of the individual
11 signing, that the individual is aware of the contents of the document, and intends to sign it.”.

12 “(b) Record Integrity.—The Secretary shall establish procedures to ensure that when any
13 electronic signature is captured for any petition, application, or other document submitted for
14 purposes of obtaining an immigration benefit, the identity of the person is verified and
15 authenticated, and the record of such identification and verification is preserved for litigation
16 purposes.”.

17 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
18 and Nationality Act is amended by inserting after the item relating to section 295, as added
19 by section 1126(a)(2) of this Act, the following:

20 “Sec.296.Validity of signatures.”.

21 (b) Criminal Cases.—

22 (1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at
23 the end the following:

24 **“3513. Signatures relating to immigration matters**

25 “In a criminal proceeding in a court of the United States, if an individual’s handwritten or
26 electronic signature appears on a petition, application, or other document executed or provided
27 for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration
28 and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was
29 signed by that individual, and that the individual knew the contents of the document and intended
30 to sign the document.”.

31 (2) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United
32 States Code, is amended by inserting after the item relating to section 3512 the following:

33 “3513. Signatures relating to immigration matters.”.

34 **Subtitle H—Prohibition on Terrorists Obtaining Lawful Status**
35 **in the United States**

36 **CHAPTER 1—PROHIBITION ON ADJUSTMENT TO**

1 **LAWFUL PERMANENT RESIDENT STATUS**

2 **SEC. 1801. LAWFUL PERMANENT RESIDENTS AS**
3 **APPLICANTS FOR ADMISSION.**

4 Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is
5 amended—

6 (1) in clauses (i), (ii), (iii), and (iv), by striking the comma at the end of each clause and
7 inserting a semicolon;

8 (2) in clause (v), by striking the “, or” and inserting a semicolon;

9 (3) in clause (vi), by striking the period at the end and inserting “; or” and

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

11 “(vii) is described in section 212(a)(3) or 237(a)(4).”.

12 **SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF**
13 **ADJUSTMENT OF STATUS.**

14 (a) Applicants for Admission.—Section 101(a)(13) of the Immigration and Nationality Act (8
15 U.S.C. 1101(a)(13)), as amended by section 1801, is further amended by adding at the end the
16 following:

17 “(D) Notwithstanding subparagraph (A), adjustment of status of an alien to that of an alien
18 lawfully admitted for permanent residence under section 245 or under any other provision of law
19 is an admission of the alien.”.

20 (b) Eligibility to Be Removed for a Crime Involving Moral Turpitude.—Section
21 237(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking “date of
22 admission,” inserting “alien’s most recent date of admission;”.

23 **SEC. 1803. PRECLUDING ASYLEE AND REFUGEE**
24 **ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF**
25 **INADMISSIBILITY AND DEPORTABILITY.**

26 (a) Grounds of Inadmissibility.—Section 209(c) of the Immigration and Nationality Act (8
27 U.S.C. 1159(c)) is amended by striking “(other than paragraph (2)(C) or subparagraph (A), (B),
28 (C), or (E) of paragraph (3))”, and inserting “(other than subparagraph (C) or (G) of paragraph
29 (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3))”.

30 (b) Grounds of Deportability.—Section 209 of such Act, as amended by subsection (a), is
31 further amended by adding at the end the following:

32 “(d) An alien’s status may not be adjusted under this section if the alien **is in removal**
33 **proceedings under section 238 or 240 and is charged with deportability under any**
34 **subparagraph(s) of section 237(a)(2), (a)(30), (a)(4), or (a)(6).”—**

35 ~~“(1) is in removal proceedings under section 238 or 240; and~~

~~“(2) is charged with a deportable offense under paragraph (2), (3), (4), or (6) of section 237.”.~~

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

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

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

SEC. 1804. REVOCATION OF LAWFUL PERMANENT RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)) is amended by adding at the end the following:

“(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through (E) shall apply to any alien placed in proceedings under this section who—

“(i) is outside of the United States;

“(ii) has been provided written notice in accordance with section 239(a) (whether the alien is within or outside the United States); and

“(iii) is described in section 212(a)(2)(G) (persons who have committed particularly severe violations of religious freedom), 212(a)(3)(E) (Nazi and other persecution, genocide, war crimes, crimes against humanity, extrajudicial killing, torture, or specified human rights violations), or 212(a)(3)(G) (recruitment or use of child soldiers).”.

SEC. 1805. REMOVAL OF CONDITION ON LAWFUL PERMANENT RESIDENT STATUS PRIOR TO NATURALIZATION.

Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended—

(1) in section 216(e) (8 U.S.C. 1186a(e)), by inserting “, if the alien has had the conditional basis removed pursuant to this section” before the period at the end; and

(2) in section 216A(e) (8 U.S.C. 1186b(e)), by inserting “, if the alien has had the conditional basis removed pursuant to this section” before the period at the end.

SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS WHO POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT OF STATUS.

1 (a) Application for Adjustment of Status in the United States.—

2 (1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is
3 amended by striking the section heading and subsection (a) and inserting the following:

4 “SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A
5 PERSON ADMITTED FOR PERMANENT RESIDENCE.

6 “(a) In General.—

7 “(1) ELIGIBILITY FOR ADJUSTMENT.—The status of an alien who was inspected and
8 admitted or paroled into the United States or the status of any other alien having an
9 approved petition for classification under the Violence Against Women Act of 1994 (42
10 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme
11 cruelty may be adjusted by the Secretary or by the Attorney General, in the discretion of the
12 Secretary or the Attorney General, and under such regulations as the Secretary or the
13 Attorney General may prescribe, to that of an alien lawfully admitted for permanent
14 residence if—

15 “(A) the alien files an application for such adjustment;

16 “(B) the alien is eligible to receive an immigrant visa and; is admissible to the
17 United States for permanent residence, and is not subject to exclusion, deportation, or
18 removal from the United States; and

19 “(C) an immigrant visa is immediately available to the alien at the time the alien’s
20 application is filed.

21 “(2) IMMEDIATELY AVAILABLE.—For purposes of this section, the term ‘immediately
22 available’ means that on the date on which the application for adjustment of status is filed,
23 the visa category under which the alien is seeking permanent residence is current, as
24 determined by the Secretary of State and reflected in the Department of State’s visa bulletin
25 for the month in which the application for adjustment of status is filed.

26 “(23) REQUIREMENT TO OBTAIN AN IMMIGRANT VISA OUTSIDE OF THE UNITED STATES.—
27 Notwithstanding any other provision of this section, if the Secretary determines that an alien
28 may be a threat to national security or public safety or if the Secretary determines that a
29 favorable exercise of discretion to allow an alien to seek to adjust his or her status in the
30 United States ~~rather than to obtain an immigrant visa outside of the United States~~ is not
31 warranted, the Secretary, in the Secretary’s sole and unreviewable discretion, may ~~prohibit~~
32 ~~the alien from seeking an adjustment of status under paragraph (1) while the alien is present~~
33 ~~in the United States.~~ deny the application for adjustment of status. If the Secretary denies
34 adjustment of status on the authority of this paragraph, the Secretary shall communicate that
35 determination to the Attorney General, in which case the Attorney General must deny any
36 application for adjustment of status filed by the alien in immigration proceedings.”.

37 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
38 and Nationality Act is amended by striking the item relating to section 245 and inserting the
39 following:

40 “Sec.245.Adjustment of status to that of a person admitted for permanent residence.”.

1 (b) Prohibition on Terrorists and Aliens Who Pose a Threat to National Security or Public
2 Safety on Adjustment to Lawful Permanent Resident Status.—Section 245(c) of the Immigration
3 and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

4 “(c) Except for an alien who has an approved petition for classification as a VAWA self-
5 petitioner, subsection (a) shall not apply to—

6 “(1) an alien crewman;

7 “(2) subject to subsection (k), any alien (other than an immediate relative (as defined in
8 section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of
9 section 101(a)(27))) who—

10 “(A) continues in or accepts unauthorized employment before filing an application
11 for adjustment of status;

12 “(B) is in unlawful immigration status on the date he or she files an application for
13 adjustment of status; or

14 “(C) has failed (other than through no fault of his or her own or for technical
15 reasons) to maintain continuously a lawful status since entry into the United States;

16 “(3) any alien admitted in transit without a visa under section 212(d)(4)(C);

17 “(4) an alien (other than an immediate relative (as defined in section 201(b))) who was
18 admitted as a nonimmigrant visitor without a visa under section 212(l) or 217;

19 “(5) an alien who was admitted as a nonimmigrant under section 101(a)(15)(S);

20 “(6) an alien described in subparagraph (B) of section 212, or subparagraph (B), (F), or
21 (G) of section 237(a)(4);

22 “(7) any alien who seeks adjustment of status to that of an immigrant under section
23 203(b) and is not in a lawful nonimmigrant status;

24 “(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in
25 the persecution of any person on account of race, religion, nationality, membership in a
26 particular social group, or political opinion; or

27 “(9) any alien who—

28 “(A) was employed while the alien was an unauthorized alien (as defined in section
29 274A(h)(3)); or

30 “(B) has otherwise violated the terms of a nonimmigrant visa.”.

31 **SEC. 1807. TREATMENT OF APPLICATIONS FOR**
32 **ADJUSTMENT OF STATUS DURING PENDING**
33 **DENATURALIZATION PROCEEDINGS.**

34 (a) Visa Issuance.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g))
35 is amended—

36 (1) by inserting “(1)” before “No visa”;

37 (2) by striking “if (1) it appears” and inserting the following: “if—

1 “(A) it appears”;
2 (3) by striking “law, (2) the application” and inserting the following: “law;
3 “(B) the application”;
4 (4) by striking “thereunder, or (3) the consular officer” and inserting the following:
5 “thereunder;
6 “(C) the consular officer”;
7 (5) by striking “provision of law: Provided, That a visa” and inserting the following:
8 “provision of law; or
9 “(D) the approved petition for classification under section 203 or 204 that is the
10 underlying basis for the application for a visa was filed by an individual who has a judicial
11 proceeding pending against him or her that would result in the individual’s denaturalization
12 under section 340.
13 “(2) A visa”; and
14 (6) by striking “section 213: Provided further, That a visa” and inserting the following:
15 “section 213.
16 “(3) A visa”.
17 (b) Adjustment of Status.—Section 245 of the Immigration and Nationality Act (8 U.S.C.
18 1451), as amended by 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 for
21 adjustment of status if the approved petition for classification under section 204 that is the
22 underlying basis for the application for adjustment of status was filed by an individual who has a
23 judicial proceeding pending against him or her that would result in the revocation of the
24 individual’s naturalization under section 340.”.

25 **SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT**
26 **RESCISSION OF PERMANENT RESIDENT STATUS.**
27 Section 246 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—
28 (1) in subsection (a)—
29 (A) by inserting “(1)” after “(a)”;
30 (B) by striking “within five years” and inserting “within 10 years”;
31 (C) by striking “Attorney General” each place that term appears and inserting
32 “Secretary”; and
33 (D) by adding at the end the following:
34 “(2) In any removal proceeding involving an alien whose status has been rescinded under this
35 subsection, the determination by the Secretary that the alien was not eligible for adjustment of
36 status is not subject to review or reconsideration during such proceedings.”.
37 (2) by redesignating subsection (b) as subsection (c); and

1 (3) by inserting after subsection (a) the following:

2 “(b) Nothing in subsection (a) may be construed to require the Secretary to rescind the alien’s
3 status before the commencement of removal proceedings under section 240. The Secretary may
4 commence removal proceedings at any time against any alien who is removable, including aliens
5 whose status was adjusted to that of an alien lawfully admitted for permanent residence under
6 section 245 or 249 or under any other provision of law. There is no statute of limitations with
7 respect to the commencement of removal proceedings under section 240. An order of removal
8 issued by an immigration judge shall be sufficient to rescind the alien’s status.”.

9 **SEC. 1809. BARRING PERSECUTORS AND TERRORISTS**
10 **FROM REGISTRY.**

11 Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as
12 follows:

13 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT**
14 **RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO**
15 **ENTERED THE UNITED STATES PRIOR TO JANUARY 1,**
16 **1972.**

17 “(a) In General.—The Secretary, in the discretion of the Secretary and under such regulations
18 as the Secretary may prescribe, may enter a record of lawful admission for permanent residence
19 in the case of any alien, if no such record is otherwise available and the alien—

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

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

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

23 “(4) is not ineligible for citizenship;

24 “(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), (8), or (9)(C) of
25 section 212(a);

26 “(6) is not described in paragraph (1)(E), (1)(G), (2), (4) of section 237(a); and

27 “(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in
28 attendance at a proceeding to determine the alien’s inadmissibility or deportability.

29 “(b) Recordation Date of Permanent Residence.—The record of an alien’s lawful admission
30 for permanence residence shall be the date on which the Secretary approves the application for
31 such status under this section.”.

32 **CHAPTER 2—PROHIBITION ON NATURALIZATION AND**
33 **UNITED STATES CITIZENSHIP**

34 **SEC. 1821. BARRING TERRORISTS FROM BECOMING**
35 **NATURALIZED UNITED STATES CITIZENS.**

1 (a) In General.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is
2 amended by adding at the end the following:

3 “(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the
4 Secretary determines, in the discretion of the Secretary, that the alien is described in section
5 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an
6 application for naturalization.

7 “(B) Subparagraph (A) shall not apply to an alien described in section 212(a)(3) if—

8 “(i) the alien received an exemption under section 212(d)(3)(B)(i); and

9 “(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and
10 would bar the alien from naturalization under this paragraph) are specifically covered by the
11 exemption referred to in clause (i).

12 “(2) A determination under paragraph (1) may be based upon any relevant information or
13 evidence, including classified, sensitive, or national security information.”.

14 (b) Applicability to Citizenship Through Naturalization of Parent or Spouse.—Section 340(d)
15 of such Act (8 U.S.C. 1451(d)) is amended—

16 (1) by striking the first sentence and inserting the following:

17 “(1) A person who claims United States citizenship through the naturalization of a parent or
18 spouse shall be deemed to have lost his or her citizenship, and any right or privilege of
19 citizenship which he or she may have acquired, or may hereafter acquire by virtue of the
20 naturalization of such parent or spouse, if the order granting citizenship to such parent or spouse
21 is revoked and set aside under the provisions of—

22 “(A) subsection (a) on the ground that the order and certificate of naturalization were
23 procured by concealment of a material fact or by willful misrepresentation; or

24 “(B) subsection (e) pursuant to a conviction under section 1425 of title 18, United States
25 Code.”.

26 (2) in the second sentence, by striking “Any person” and inserting the following:

27 “(2) Any person”.

28 SEC. 1822. TERRORIST BAR TO GOOD MORAL 29 CHARACTER.

30 (a) Definition of Good Moral Character.—Section 101(f) of the Immigration and Nationality
31 Act (8 U.S.C. 1101(f)), as amended by sections 1710(d), 1712(h), and 1713(d), is further
32 amended—

33 (1) in paragraph (8), by inserting “, regardless of whether the crime was classified as an
34 aggravated felony at the time of conviction” before the semicolon at the end;

35 (2) by inserting after paragraph (11), the following:

36 “(12) one who the Secretary or the Attorney General determines, in the unreviewable
37 discretion of the Secretary or the Attorney General, to have been an alien described in
38 section 212(a)(3) or 237(a)(4), which determination—

1 “(A) may be based upon any relevant information or evidence, including classified,
2 sensitive, or national security information; and

3 “(B) shall be binding upon any court regardless of the applicable standard of
4 review.”; and

5 (3) in the undesignated matter at the end, by striking the first sentence and inserting
6 following:

7 “The fact that a person is not within any of the foregoing classes shall not preclude a
8 discretionary finding for other reasons that such a person is or was not of good moral character.
9 The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the
10 period for which good moral character is required, but may take into consideration as a basis for
11 determination the applicant’s conduct and acts at any time. The Secretary or the Attorney
12 General, in the unreviewable discretion of the Secretary or the Attorney General, may determine
13 that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder,
14 manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a
15 minor) for which completion of the term of imprisonment or the sentence (whichever is later)
16 occurred 15 years or longer before the date on which the person filed an application under this
17 Act.”.

18 (b) Aggravated Felons.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note;
19 Public Law 101–649) is amended by striking “convictions” and all that follows and inserting
20 “convictions occurring before, on, or after such date.”.

21 (c) Effective Dates; Application.—

22 (1) SUBSECTION (A).—The amendments made by subsection (a) shall take effect on the
23 date of the enactment of this Act, shall apply to any act that occurred before, on, or after
24 such date of enactment, and shall apply to any application for naturalization or any other
25 benefit or relief, or any other case or matter under the immigration laws pending on or filed
26 after such date of enactment.

27 (2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect as if
28 included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004
29 (Public Law 108–458).

30 **SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF**
31 **NATURALIZATION APPLICATIONS FOR ALIENS IN**
32 **REMOVAL PROCEEDINGS.**

33 Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read as
34 follows:

35 **“SEC. 318. PREREQUISITE TO NATURALIZATION;**
36 **BURDEN OF PROOF.**

37 “(a) In General.—Except as otherwise provided in this chapter, no person may be naturalized
38 unless he or she has been lawfully admitted to the United States for permanent residence in
39 accordance with all applicable provisions of this chapter.

1 “(b) Burden of Proof.—A person described in subsection (a) shall have the burden of proof to
2 show that he or she entered the United States lawfully, and the time, place, and manner of such
3 entry into the United States. In presenting such proof, the person is entitled to the production of
4 his or her immigrant visa, if any, or of other entry document, if any, and of any other documents
5 and records, not considered by the Secretary to be confidential, pertaining to such entry, in the
6 custody of the Department.

7 “(c) Limitations on Review.—Notwithstanding section 405(b), and except as provided in
8 sections 328 and 329—

9 “(1) a person may not be naturalized against whom there is outstanding a final finding of
10 removal, exclusion, or deportation;

11 “(2) an application for naturalization may not be considered by the Secretary or by any
12 court if there is pending against the applicant any removal proceeding or other proceeding
13 to determine whether the applicant’s lawful permanent resident status should be rescinded,
14 regardless of when such proceeding was commenced; and

15 “(3) the findings of the Attorney General in terminating removal proceedings or in
16 cancelling the removal of an alien pursuant to this Act may not be deemed binding in any
17 way upon the Secretary with respect to the question of whether such person has established
18 his or her eligibility for naturalization under this Act.”.

19 **SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN**
20 **AGENCY HAS NOT MADE DECISION ON**
21 **NATURALIZATION APPLICATION AND ON DENIALS.**

22 (a) Limitation on Review of Pending Naturalization Applications.—Section 336 of the
23 Immigration and Nationality Act (8 U.S.C. 1447) is amended—

24 (1) in subsection (a), by striking “If,” and inserting the following:

25 “(b) In General.—If,”; and

26 (2) by amending subsection (b) to read as follows:

27 “(b) Request for Hearing Before District Court.—If a final administrative determination is not
28 made on an application for naturalization under section 335 before the end of the 180-day period
29 beginning on the date on which the Secretary completes all examinations and interviews under
30 such section (as such terms are defined by the Secretary, by regulation), the applicant may apply
31 to the district court for the district in which the applicant resides for a hearing on the matter.
32 Such court shall only have jurisdiction to review the basis for delay and remand the matter to the
33 Secretary for the Secretary’s determination on the application.”.

34 (b) Limitations on Review of Denial.—Section 310 of the Immigration and Nationality Act (8
35 U.S.C. 1421) is amended—

36 (1) by amending subsection (c) to read as follows:

37 “(c) Judicial Review.—

38 “(1) JUDICIAL REVIEW OF DENIAL.—A person whose application for naturalization under
39 this title is denied may, not later than 120 days after the date of the Secretary’s

1 administratively final determination on the application and after a hearing before an
2 immigration officer under section 336(a), seek review of such denial before the United
3 States district court for the district in which such person resides in accordance with chapter
4 7 of title 5, United States Code.

5 “(2) BURDEN OF PROOF.—The petitioner shall have burden of proof to show that the
6 Secretary’s denial of the application for naturalization was not supported by facially
7 legitimate and bona fide reasons.

8 “(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and
9 notwithstanding any other provision of law, including section 2241 of title 28, United States
10 Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court
11 shall have jurisdiction to determine, or to review a determination of the Secretary made at
12 any time regarding, whether, for purposes of an application for naturalization, an alien—

13 “(A) is a person of good moral character;

14 “(B) understands and is attached to the principles of the Constitution of the United
15 States; or

16 “(C) is well disposed to the good order and happiness of the United States.”;

17 (2) in subsection (d)—

18 (A) by inserting “subpoenas.—” before “The immigration officer”;

19 (B) by striking “subpena” and inserting “subpoena”; and

20 (C) by striking “subpenas” each place such term appears and inserting “subpoenas”;
21 and

22 (3) in subsection (e), by inserting “Name Change.—” before “It shall”.

23 (c) Effective Date; Application.—The amendments made by this section—

24 (1) shall take effect on the date of the enactment of this Act;

25 (2) shall apply to any act that occurred before, on, or after such date of enactment; and

26 (3) shall apply to any application for naturalization or any other case or matter under the
27 immigration laws that is pending on, or filed after, such date of enactment.

28 SEC. 1825. CLARIFICATION OF DENATURALIZATION 29 AUTHORITY.

30 Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451) is amended—

31 (1) in subsection (a), by striking “United States attorneys for the respective districts” and
32 inserting “Attorney General”; and

33 (2) by amending subsection (c) to read as follows:

34 “(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and
35 convincing evidence, that an order granting citizenship to an alien should be revoked and a
36 certificate of naturalization cancelled because such order and certificate were illegally procured
37 or were procured by concealment of a material fact or by willful misrepresentation.”.

1 SEC. 1826. DENATURALIZATION OF TERRORISTS.

2 (a) Denaturalization for Terrorists Activities.—Section 340 of the Immigration and Nationality
3 Act, as amended by section 1825, is further amended—

4 (1) by redesignating subsections (d) through (h) as subsections (f) through (j),
5 respectively; and

6 (2) by inserting after subsection (c) the following:

7 “(d)(1) If a person who has been naturalized, during the 15-year period after such
8 naturalization, participates in any act described in paragraph (2)—

9 “(A) such act shall be considered prima facie evidence that such person was not attached
10 to the principles of the Constitution of the United States and was not well disposed to the
11 good order and happiness of the United States at the time of naturalization; and

12 “(B) in the absence of countervailing evidence, such act shall be sufficient in the proper
13 proceeding to authorize the revocation and setting aside of the order admitting such person
14 to citizenship and the cancellation of the certificate of naturalization as having been
15 obtained by concealment of a material fact or by willful misrepresentation; and

16 “(C) such revocation and setting aside of the order admitting such person to citizenship
17 and such canceling of certificate of naturalization shall be effective as of the original date of
18 the order and certificate, respectively.

19 “(2) The acts described in this paragraph that shall subject a person to a revocation and setting
20 aside of his or her naturalization under paragraph (1)(B) are—

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

23 “(B) engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section
24 212(a)(3)(B));

25 “(C) ~~incitement of terrorist activity under circumstances indicating an intention to cause~~
26 ~~death, serious bodily harm, or substantial damage to property~~ endorsing or espousing
27 ~~terrorist activity, or persuading others to endorse or espouse terrorist activity or a terrorist~~
28 ~~organization~~; and

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

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

34 SEC. 1827. TREATMENT OF PENDING APPLICATIONS 35 DURING DENATURALIZATION PROCEEDINGS.

36 (a) In General.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is
37 amended—

38 (1) by striking “After” and inserting “(1) Except as provided in paragraph (2), after”; and

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

2 “(2) The Secretary may not adjudicate or approve any petition filed under this section by an
3 individual who has a judicial proceeding pending against him or her that would result in the
4 individual’s denaturalization under section 340 until—

5 “(A) such proceedings have concluded; and

6 “(B) the period for appeal has expired or any appeals have been finally decided, if
7 applicable.”.

8 (b) Withholding of Immigration Benefits.—Section 340 of such Act (8 U.S.C. 1451), as
9 amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as
10 added by section 1826(a)(2), the following:

11 “(e) The Secretary may not approve any application, petition, or request for any immigration
12 benefit from an individual against whom there is a judicial proceeding pending that would result
13 in the individual’s denaturalization under this section until—

14 “(1) such proceedings have concluded; and

15 “(2) the period for appeal has expired or any appeals have been finally decided, if
16 applicable.”.

17 SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

18 (a) In General.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421
19 et seq.) is amended by inserting after section 344 the following:

20 “SEC. 345. NATURALIZATION DOCUMENT RETENTION.

21 “(a) In General.—The Secretary shall retain all documents described in subsection (b) for a
22 minimum of 7 years for law enforcement and national security investigations and for litigation
23 purposes, regardless of whether such documents are scanned into U.S. Citizenship and
24 Immigration Services’ electronic immigration system or stored in any electronic format.

25 “(b) Documents to Be Retained.—The documents described in this subsection are—

26 “(1) the original paper naturalization application and all supporting paper documents
27 submitted with the application at the time of filing, subsequent to filing, and during the
28 course of the naturalization interview; and

29 “(2) any paper documents submitted in connection with an application for naturalization
30 that is filed electronically.”.

31 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
32 Nationality Act is amended by inserting after the item relating to section 344 the following:

33 “Sec.345.Naturalization document retention.”.

34 CHAPTER 3—FORFEITURE OF PROCEEDS FROM 35 PASSPORT AND VISA OFFENSES, AND PASSPORT 36 REVOCATION.

1 **SEC. 1831. FORFEITURE OF PROCEEDS FROM**
2 **PASSPORT AND VISA OFFENSES.**

3 Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the
4 following:

5 “(J) Any real or personal property that has been used to commit, or to facilitate the
6 commission of, a violation of chapter 75, the gross proceeds of such violation, and any
7 property traceable to any such property or proceeds.”.

8 **SEC. 1832. PASSPORT REVOCATION ACT.**

9 (a) Short Title.—This section may be cited as the “Passport Revocation Act”.

10 (b) Revocation or Denial of Passports and Passport Cards to Individuals Who Are Affiliated
11 With Foreign Terrorist Organizations.—The Act entitled “An Act to regulate the issue and
12 validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.),
13 which is commonly known as the “Passport Act of 1926”, is amended by adding at the end the
14 following:

15 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT**
16 **AND PASSPORT CARD.**

17 “(a) Ineligibility.—

18 “(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall
19 refuse to issue a passport or a passport card to any individual—

20 “(A) who has been convicted of a violation of chapter 113B of title 18, United States
21 Code; or

22 “(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated
23 with an organization the Secretary has designated as a foreign terrorist organization
24 pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

25 “(ii) has aided, abetted, or provided material support to an organization described in
26 clause (i).

27 “(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to
28 any individual described in paragraph (1).

29 “(b) Exceptions.—

30 “(1) EMERGENCY CIRCUMSTANCES, HUMANITARIAN REASONS, AND LAW ENFORCEMENT
31 PURPOSES.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to
32 revoke, a passport of an individual described in such subsection in emergency
33 circumstances, for humanitarian reasons, or for law enforcement purposes.

34 “(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the
35 Secretary of State, before revocation, may—

36 “(A) limit a previously issued passport for use only for return travel to the United
37 States; or

1 “(B) issue a limited passport that only permits return travel to the United States.

2 “(c) Right of Review.—Any individual who, in accordance with this section, is denied
3 issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise
4 limited by the Secretary of State, may request a hearing before the Secretary of State not later
5 than 60 days after receiving notice of such denial, revocation, or limitation.

6 “(d) Report.—If the Secretary of State denies, issues, limits, or declines to revoke a passport
7 or passport card under subsection (b), the Secretary, not later than 30 days after such denial,
8 issuance, limitation, or revocation, shall submit a report to Congress that describes such denial,
9 issuance, limitation, or revocation, as appropriate.”.

10 TITLE II—PERMANENT REAUTHORIZATION OF 11 VOLUNTARY E-VERIFY

12 SEC. 2001. PERMANENT REAUTHORIZATION.

13 Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
14 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking “Unless the
15 Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program
16 on September 30, 2015.”.

17 SEC. 2002. PREEMPTION; LIABILITY.

18 Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
19 U.S.C. 1324a note) is amended by adding at the end the following:

20 “(g) Limitation on State Authority.—

21 “(1) PREEMPTION.—A State or local government may not prohibit a person or other entity
22 from verifying the employment authorization of new hires or current employees through E-
23 Verify.

24 “(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held
25 liable under any Federal, State, or local law for any employment-related action taken with
26 respect to the wrongful termination of an individual in good faith reliance on information
27 provided through E-Verify.”.

28 SEC. 2003. INFORMATION SHARING.

29 The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary
30 of the Treasury shall jointly establish a program to share information among their respective
31 agencies that could lead to the identification of unauthorized aliens (as defined in section
32 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match
33 letters and any information in the earnings suspense file.

34 SEC. 2004. SMALL BUSINESS DEMONSTRATION 35 PROGRAM.

36 Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
37 U.S.C. 1324a note) is amended—

1 (1) by redesignating subsection (d) as subsection (e); and

2 (2) by inserting after subsection (c) the following:

3 “(d) Small Business Demonstration Program.—Not later than 9 months after the date of
4 enactment of the ~~Immigration Reform and Technical Corrections Act of 2018~~SECURE and
5 SUCCEED Act, the Director of U.S. Citizenship and Immigration Services shall establish a
6 demonstration program that assists small businesses in rural areas or areas without internet
7 capabilities to verify the employment eligibility of newly hired employees solely through the use
8 of publicly accessible internet terminals.”.

9 SEC. 2005. FRAUD PREVENTION.

10 (a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland
11 Security, in consultation with the Commissioner of Social Security, shall establish a program in
12 which Social Security account numbers that have been identified to be subject to unusual
13 multiple use in the employment eligibility verification system established under section 274A(d)
14 of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or
15 determined to have been compromised by identity fraud or other misuse, shall be blocked from
16 use for such system purposes unless the individual using such number is able to establish,
17 through secure and fair additional security procedures, that the individual is the legitimate holder
18 of the number.

19 (b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary
20 of Homeland Security, in consultation with the Commissioner of Social Security, shall establish
21 a program that provides a reliable, secure method by which victims of identity fraud and other
22 individuals may suspend or limit the use of their Social Security account number or other
23 identifying information for purposes of the employment eligibility verification system
24 established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)).
25 The Secretary may implement the program on a limited pilot program basis before making it
26 fully available to all individuals.

27 (c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland
28 Security, in consultation with the Commissioner of Social Security, shall establish a program that
29 provides a reliable, secure method by which parents or legal guardians may suspend or limit the
30 use of the Social Security account number or other identifying information of a minor under their
31 care for the purposes of the employment eligibility verification system established under
32 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may
33 implement the program on a limited pilot program basis before making it fully available to all
34 individuals.

35 SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT 36 ELIGIBILITY VERIFICATION PILOT PROGRAMS.

37 (a) In General.—Not later than 2 years after the date of the enactment of this Act, the
38 Secretary of Homeland Security, after consultation with the Commissioner of Social Security
39 and the Director of the National Institute of Standards and Technology, shall establish, by
40 regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot
41 programs (referred to in this section as the “Authentication Pilots”), each of which shall use a

1 separate and distinct technology.

2 (b) Purpose.—The purpose of the Authentication Pilots shall be to provide for identity
3 authentication and employment eligibility verification with respect to enrolled new employees to
4 any employer that elects to participate in an Authentication Pilot.

5 (c) Cancellation.—Any participating employer may cancel the employer’s participation in an
6 Authentication Pilot after 1 year after electing to participate without prejudice to future
7 participation.

8 (d) Report.—Not later than 12 months after commencement of the Authentication Pilots, the
9 Secretary shall submit a report to the Committee on the Judiciary of the Senate and the
10 Committee on the Judiciary of the House of Representatives that includes the Secretary’s
11 findings on the Authentication Pilots and the authentication technologies chosen.

12 TITLE III—SUCCEED ACT

13 SEC. 3001. SHORT TITLES.

14 This title may be cited as the “Solution for Undocumented Children through Careers,
15 Employment, Education, and Defending our Nation Act” or the “SUCCEED Act”.

16 SEC. 3002. DEFINITIONS.

17 In this title:

18 (1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title
19 that is also used in the immigration laws shall have the meaning given such term in the
20 immigration laws.

21 (2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional **permanent**
22 **temporary** resident that seeks to maintain or extend such status by complying with the
23 requirements under this title relating to enlistment and service in the Armed Forces of the
24 United States.

25 (3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a
26 conditional **temporarypermanent** resident that seeks to maintain or extend such status by
27 complying with the requirements under this title relating to enrollment in, and graduation
28 from, an institution of higher education in the United States.

29 (4) CONDITIONAL **temporaryPERMANENT** RESIDENT.—

30 (A) DEFINITION.—The term “conditional **temporarypermanent** resident” means an
31 alien described in subparagraph (B) who is granted conditional permanent resident
32 status under this title.

33 (B) DESCRIPTION.—An alien granted conditional **temporarypermanent** resident
34 status under this title—

35 (i) shall not be considered to be an alien who is unlawfully present in the
36 United States for purposes of the immigration laws, including section 505 of the
37 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
38 1623);

1 (ii) shall not be ~~permitted to apply for adjustment of status under section 245(a)~~
2 ~~of the Immigration and Nationality Act (8 U.S.C. 1255(a)) until permitted to do so~~
3 ~~under section 3005~~ ~~considered a lawful permanent resident for the purpose of—~~

4 ~~(I) petitioning for relatives under section 204(a) of the Immigration and~~
5 ~~Nationality Act (8 U.S.C. 1154(a)); or~~

6 ~~(II) seeking adjustment of status under section 245(a) of such Act (8 U.S.C.~~
7 ~~1255(a));~~

8 (iii) has the intention to permanently reside in the United States;

9 (iv) is not required to have a foreign residence which the alien has no intention
10 of abandoning; and

11 (v) shall be considered to have been inspected and admitted for the purposes of
12 section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) ~~once the~~
13 ~~alien is eligible to apply for adjustment of status to that of an alien lawfully~~
14 ~~admitted for permanent residence~~ ~~after the condition on the alien's permanent-~~
15 ~~resident status has been removed~~ pursuant to section 3005.

16 (5) FEDERAL PUBLIC BENEFIT.—~~For purposes of this Act, T~~he term “Federal public
17 benefit” means—

18 (A) the American Opportunity Tax Credit authorized under section 25A(i) of the
19 Internal Revenue Code of 1986;

20 (B) the Earned Income Tax Credit authorized under section 32 of the Internal
21 Revenue Code of 1986;

22 (C) the Health Coverage Tax Credit authorized under section 35 of the Internal
23 Revenue Code of 1986;

24 (D) Social Security benefits authorized under title II of the Social Security Act (42
25 U.S.C. 401 et seq.);

26 (E) Medicare benefits authorized under title XVIII of the Social Security Act (42
27 U.S.C. 1395 et seq.); and

28 (F) benefits received under the Federal-State Unemployment Compensation Act of
29 1970 (26 U.S.C. 3304 note).

30 (6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term
31 in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

32 (7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has
33 the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C.
34 1002), except that the term does not include an institution of higher education outside of the
35 United States.

36 (8) MILITARY-RELATED TERMS.—The terms “active duty”, “active service”, “active
37 status”, and “armed forces” have the meanings given those terms in section 101 of title 10,
38 United States Code.

39 (9) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability”
40 means liability for Federal taxes imposed under the Internal Revenue Code of 1986,

1 including any penalties and interest on such taxes.

2 (10) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

3 (11) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means—

4 (A) a criminal offense involving—

5 (i) domestic violence;

6 (ii) sexual abuse or exploitation, including sexually explicit conduct involving
7 minors (as such terms are defined in section 2256 of title 18, United States Code);

8 (iii) burglary;

9 (iv) unlawful possession or use of a firearm;

10 (v) drug distribution or trafficking; or

11 (vi) driving under the influence or driving while intoxicated; or

12 (B) any other misdemeanor for which the individual was sentenced to a term of
13 imprisonment of not less than 90 days (excluding a suspended sentence).

14 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**
15 **LONG-TERM RESIDENTS WHO ENTERED THE UNITED**
16 **STATES AS CHILDREN.**

17 (a) Special Rule for Certain Long-term Residents Who Entered the United States as
18 Children.—

19 (1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise
20 provided in this title, the Secretary may cancel the removal of an alien who is inadmissible
21 or deportable from the United States and grant the alien conditional ~~temporary~~ permanent
22 resident status under this title, if—

23 (A) the alien has been physically present in the United States for a continuous period
24 since June 15, 2012;

25 (B) the alien was younger than 16 years of age on the date on which the alien
26 initially entered the United States;

27 (C) on June 15, 2012, the alien—

28 (i) was younger than ~~31~~26 years of age; and

29 (ii) had no lawful status in the United States;

30 (D) in the case of an alien who is 18 years of age or older on the date of enactment
31 of this Act, the alien—

32 (i) meets the other requirements of this section; and

33 (ii)(I) has, while in the United States, earned a high school diploma, obtained a
34 general education development certificate recognized under State law, or received
35 a high school equivalency diploma;

1 (II) has been admitted to an institution of higher education in the United States;
2 or

3 (III) has served, is serving, or has enlisted in the Armed Forces of the United
4 States;

5 (E) in the case of an alien who is younger than 18 years of age on the date of
6 enactment of this Act, the alien—

7 (i) meets the other requirements of this section; and

8 (ii)(I) is attending, or has enrolled in, a primary or secondary school; or

9 (II) is attending, or has enrolled in, a postsecondary school;

10 (F) the alien has been a person of good moral character (as defined in section 101(f)
11 of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date on which the
12 alien initially entered the United States;

13 (G) the alien has paid any applicable Federal tax liability or has agreed to cure such
14 liability through a payment installment plan that has been approved by the Internal
15 Revenue Service; and

16 (H) the alien, subject to paragraph (2)—

17 (i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8),
18 (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C.
19 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of
20 such Act (unless the Secretary determines that the sole basis for the alien's
21 removal under such subparagraph was unlawful presence under subparagraph (B)
22 or (C) of such section 212(a)(9));

23 (ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or
24 (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

25 (iii) has not ordered, incited, assisted, or otherwise participated in the
26 persecution of any person on account of race, religion, nationality, membership in
27 a particular social group, or political opinion; ~~and~~

28 (iv) does not, in the Secretary's sole and unreviewable discretion, pose a threat
29 to national security or public safety.

30 (v) is not a person who the Secretary knows or has reason to believe —

31 (I) is a member of a criminal gang; or

32 (II) has participated in the activities of a criminal gang, knowing or
33 having reason to believe that such activities promoted or will promote,
34 further, aid, or support the illegal activity of the criminal gang; and

35 (vi) has not been convicted of—

36 (I) a felony under Federal or State law, regardless of the sentence
37 imposed;

38 (II) any combination of offenses under Federal or State law for which the
39 alien was sentenced to imprisonment for at least 1 year;

1 (III) a significant misdemeanor;

2 (IV) three or more misdemeanors; and

3 (I) the alien has never been under a final administrative or judicial order of
4 exclusion, deportation, or removal, unless the alien—

5 (i) has remained in the United States under color of law after such final order
6 was issued; or

7 (ii) received the final order before attaining 18 years of age.

8 (2) WAIVER.—

9 (A) IN GENERAL.—The Secretary in the Secretary's discretion may waive, on a case-
10 by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of
11 section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and a
12 ground of deportability under paragraph (A), (B), (C), or (E) of section 237(a)(1) of
13 such Act (8 U.S.C. 1227(a)(1)) for humanitarian purposes or if such waiver is
14 otherwise in the public interest.

15 (B) QUARTERLY REPORT.—Not later than 180 days after the date of the enactment of
16 this Act, and quarterly thereafter, the Secretary shall submit a report to Congress that
17 identifies—

18 (i) the number of waivers under this paragraph that were requested by aliens
19 during the preceding quarter;

20 (ii) the number of such requests that were granted; and

21 (iii) the number of such requests that were denied.

22 (C) Judicial review. – Notwithstanding any other provision of law (statutory or
23 nonstatutory), including sections 2241 of title 28, United States Code, any other
24 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
25 jurisdiction to review a determination by the Secretary under subparagraph (A).

26 (3) PROCEDURES.—

27 (A) APPLICATION FOR AFFIRMATIVE RELIEF.—

28 (i) IN GENERAL.—The Secretary shall issue regulations that provide a procedure
29 for eligible individuals to affirmatively apply for the relief available under this
30 subsection without being placed in removal proceedings. Such regulations must
31 establish an end-date during which relief under this Act may be sought and may
32 not permit affidavits or sworn statements to be considered sufficient evidence to
33 establish any claim for relief under this Act.

34 (ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an
35 application for relief under this title that includes all supporting documentation, in
36 accordance with the regulations issued under clause (i).

37 (iii) Judicial review. – Notwithstanding any other provision of law (statutory or
38 nonstatutory), including sections 2241 of title 28, United States Code, any other
39 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
40 jurisdiction to review a determination by the Secretary under subparagraph (A).

1 (iv) Deadline for Application. — Applications shall be accepted by the Secretary
2 only during a one-year period beginning on the date that is one year from the date of
3 enactment of this Act.

4 (v) Fee. — the Secretary shall collect a fee from applicants set at a level that will
5 ensure recovery of the full costs of administering the process.

6
7 (B) ACKNOWLEDGMENT TO BARS TO RELIEF.—

8 (i) ACKNOWLEDGMENT OF NOTIFICATION.—The regulations issued pursuant to
9 subparagraph (A) shall include a requirement that each alien applying for
10 conditional permanent resident status under this title who is at least 18 years of
11 age sign, under penalty of perjury, an acknowledgment confirming that the alien
12 was notified and understands that he or she will be ineligible for any form of
13 relief or immigration benefit under this title or other immigration laws other than
14 withholding of removal under section 241(b)(3), or relief from removal based on
15 a claim under the Convention Against Torture and Other Cruel, Inhuman or
16 Degrading Treatment or Punishment, done at New York, December 10, 1984, if
17 the alien violates a term for conditional permanent resident status under this title.

18 (ii) EXCEPTION.—Notwithstanding an acknowledgment under clause (i), the
19 Secretary, in the Secretary's discretion, may allow an alien who violated the terms
20 of conditional permanent resident status (other than a criminal alien or an alien
21 deemed to be a national security or public safety risk) to seek relief from removal
22 if the Secretary determines that such relief is warranted for humanitarian purposes
23 or if otherwise in the public interest.

24 (iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory
25 or nonstatutory), including section 2241 of title 28, United States Code, any other
26 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall
27 have jurisdiction to review a determination by the Secretary under clause (i).

28 (4) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

29 (A) IN GENERAL.—The Secretary may not cancel the removal of, or grant
30 conditional permanent temporary resident status to, an alien under this title before the
31 date on which—

32 (i) the alien submits biometric and biographic data, in accordance with
33 procedures established by the Secretary; and

34 (ii) the Secretary receives and reviews the results of the background and
35 security checks of the alien under paragraph (5).

36 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
37 procedure for any applicant who is unable to provide the biometric or biographic data
38 referred to in subparagraph (A) due to a physical disability or impairment.

39 (5) BACKGROUND CHECKS.—

40 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize
41 biometric, biographic, and other data that the Secretary determines to be appropriate,

1 including information obtained pursuant to subparagraph (C)—

2 (i) to conduct security and law enforcement background checks of an alien
3 seeking relief under this subsection; and

4 (ii) to determine whether there is any criminal, national security, or other factor
5 that would render the alien ineligible for such relief.

6 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
7 background checks required under subparagraph (A) shall be completed, to the
8 satisfaction of the Secretary, before the date on which the Secretary cancels the
9 removal of an alien under this title.

10 (C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary
11 of State, shall seek to obtain information about any criminal activity the alien engaged
12 in, or for which the alien was convicted in his or her country of nationality, country of
13 citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any
14 other international or national law enforcement agency of the alien’s country of
15 nationality, country of citizenship, or country of last habitual residence.

16 (6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection
17 shall undergo a medical examination conducted by a designated civil surgeon pursuant to
18 procedures established by the Secretary.

19 (7) Interview. – The Secretary may conduct an in-person interview of each applicant for
20 conditional temporary resident status as part of the determination as to whether the alien
21 meets the eligibility requirements set forth in this section.

22 (78) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this
23 subsection shall establish that the alien has registered for the Selective Service under the
24 Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such
25 registration requirement under such Act.

26 (98) TREATMENT OF EXPUNGED CONVICTIONS.—

27 (A) IN GENERAL.—The Secretary shall evaluate expunged convictions on a case-by-
28 case basis according to the nature and severity of the offense to determine whether,
29 under the particular circumstances, an alien may be eligible for—

30 (i) conditional ~~permanent~~ temporary resident status under this title;

31 (ii) ~~removal of the conditional basis of adjustment to that of an alien lawfully~~
32 ~~admitted for the~~ permanent resident ~~cet~~ status under section 3005; or

33 (iii) adjustment to permanent resident status under this title.

34 (B) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or
35 nonstatutory), including section 2241 of title 28, United States Code, any other habeas
36 corpus provision, and sections 1361 and 1651 of such title, no court shall have
37 jurisdiction to review a determination by the Secretary under subparagraph (A).

38 (b) Termination of Continuous Period.—For purposes of this section, any period of continuous
39 residence or continuous physical presence in the United States of an alien who applies for
40 cancellation of removal under subsection (a) shall not terminate when the alien is served a notice

1 to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

2 (c) Treatment of Certain Breaks in Presence.—

3 (1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to
4 have failed to maintain continuous physical presence in the United States under subsection
5 (a)(1)(A) if the alien has departed from the United States for—

6 (A) any period exceeding 90 days; or

7 (B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

8 (2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the
9 periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to
10 timely return to the United States was due to exceptional circumstances. The exceptional
11 circumstances determined sufficient to justify an extension should be not less compelling
12 than the serious illness of the alien, or the death or serious illness of the alien’s parent,
13 grandparent, sibling, or child.

14 (3) EXCEPTION FOR MILITARY SERVICE.—Any time spent outside of the United States that
15 is due to the alien’s active service in the Armed Forces of the United States shall not be
16 counted towards the time limits set forth in paragraph (1).

17 (d) Rulemaking.—

18 (1) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this
19 Act, the Secretary shall publish regulations implementing this section.

20 (2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
21 the regulations required under paragraph (1) shall be effective, on an interim basis,
22 immediately upon publication but may be subject to change and revision after public notice
23 and opportunity for a period of public comment.

24 (3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim
25 regulations under paragraph (1), the Secretary shall publish final regulations implementing
26 this section.

27 (e) Removal of Alien.—The Secretary may not seek to remove an alien who establishes prima
28 facie eligibility for cancellation of removal and conditional permanent-temporary resident status
29 under this title until the alien has been provided with a reasonable opportunity to file an
30 application for conditional permanent-temporary resident status under this title.

31 **SEC. 3004. CONDITIONAL PERMANENT-TEMPORARY**
32 **RESIDENT STATUS.**

33 (a) Initial Length of Status.—Conditional permanent-temporary resident status granted to an
34 alien under this title shall be valid—

35 (1) for an initial period of 7 years, subject to termination under subsection (c), if
36 applicable; and

37 (2) if the alien will not reach 18 years of age before the end of the period described in
38 paragraph (1), until the alien reaches 18 years of age.

39 (b) Terms of Conditional Permanent-Temporary Resident Status.—

1 (1) EMPLOYMENT.—A conditional ~~permanent~~ temporary resident may—

2 (A) be employed in the United States incident to conditional ~~permanent~~ temporary
3 resident status under this title; and

4 (B) enlist in the Armed Forces of the United States in accordance with section
5 504(b)(1)(D) of title 10, United States Code.

6 (2) TRAVEL.—A conditional ~~temporary~~ permanent resident may travel outside the United
7 States and may be admitted (if otherwise admissible) upon returning to the United States
8 without having to obtain a visa if—

9 (A) the alien is the bearer of valid, unexpired documentary evidence of conditional
10 ~~temporary~~ permanent resident status under this title; and

11 (B) the alien's absence from the United States—

12 (i) was not for a period of 180 days or longer, or for multiple periods exceeding
13 180 days in the aggregate; or

14 (ii) was due to active service in the Armed Forces of the United States.

15 (c) Termination of Status.—The Secretary shall immediately terminate the conditional
16 ~~temporary~~ permanent resident status of an alien under this title—

17 (1) in the case of an alien who is 18 years of age or older, if the Secretary determines that
18 the alien is a postsecondary student who was admitted to an accredited institution of higher
19 education in the United States, but failed to enroll in such institution within 1 year after the
20 date on which the alien was granted conditional ~~temporary~~ permanent resident status under
21 this title or to remain so enrolled;

22 (2) in the case of an alien who is younger than 18 years of age, if the Secretary
23 determines that the alien enrolled in a primary or secondary school as a full-time student,
24 but has failed to attend such school for a period exceeding 1 year during the 7-year period
25 beginning on the date on which the alien was granted conditional ~~temporary~~ permanent
26 resident status under this title;

27 (3) in the case of an alien who was granted conditional ~~temporary~~ permanent resident
28 status under this title as an enlistee, if the alien—

29 (A) failed to complete basic training and begin active duty service or service in
30 Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United
31 States within 1 year after the date on which the alien was granted conditional
32 permanent resident status under this title; or

33 (B) has received a dishonorable or other than honorable discharge from the Armed
34 Forces of the United States;

35 (4) if the alien was granted conditional ~~temporary~~ permanent resident status under this
36 title as a result of fraud or misrepresentation;

37 (5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of
38 section 3003(a)(1);

39 (6) if the alien violated a term or condition of his or her conditional resident status;

1 (7) if the alien has become a public charge;

2 (8) if the alien has not maintained employment in the United States for a period of at least
3 1 year since the alien was granted conditional ~~temporary~~ permanent resident status under this
4 title and while the alien was not enrolled as a student in a postsecondary school or
5 institution of higher education or serving in the Armed Forces of the United States; or

6 (9) if the alien has not completed a combination of employment, military service, or
7 postsecondary school totaling 4862 months during the 7-year period beginning on the date
8 on which the alien was granted conditional ~~temporary~~ permanent resident status under this
9 title.

10 (d) Return to Previous Immigration Status.—The immigration status of an alien the
11 conditional ~~temporary~~ permanent resident status of whom is terminated under subsection (c)
12 shall return to the immigration status of the alien on the day before the date on which the alien
13 received conditional ~~temporary~~ permanent resident status under this title.

14 (e) Extension of Conditional ~~Temporary~~ Permanent Resident Status.—The Secretary shall
15 extend the conditional ~~temporary~~ permanent resident status of an alien granted such status under
16 this title for an additional 5 years beyond the period specified in subsection (a) if the alien—

17 (1) has demonstrated good moral character during the entire period the alien has been a
18 conditional ~~temporary~~ permanent resident under this title;

19 (2) is in compliance with section 3003(a)(1);

20 (3) has not abandoned the alien's residence in the United States by being absent from the
21 United States for a period of 180 days, or multiple periods of at least 180 days, in the
22 aggregate, during the period of conditional ~~temporary~~ permanent resident status under this
23 title, unless the absence was due to active service in the Armed Forces of the United States;

24 (4) does not have any delinquent tax liabilities;

25 (5) has not received any Federal public benefit; and

26 (6) while the alien has been a conditional ~~temporary~~ permanent resident under this title—

27 (A) has graduated from an accredited institution of higher education in the United
28 States;

29 (B) has attended an accredited institution of higher education in the United States on
30 a full-time basis postsecondary school for not less than 8 semesters;

31 (C)(i) has served as a member of a regular or reserve component of the Armed
32 Forces of the United States in an active duty status for at least 3 years; and

33 (ii) if discharged from such service, received an honorable discharge; or

34 (D) has for a cumulative total of not less than 48 months —

35 (i) attended an accredited institution of higher education in the United States on a
36 full-time basis a postsecondary school,

37 (ii) honorably served in the Armed Forces of the United States, or maintained
38 employment in the United States,

39 (iii) attended an accredited institution of higher education in the United States,

1 ~~honorably served in the Armed Forces of the United States, and otherwise maintained~~
2 ~~lawful employment in the United States for a cumulative total of not less than 48~~
3 ~~months.~~

4 SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR
5 ~~PERMANENT-TEMPORARY~~ RESIDENCE.

6 (a) In General.—An alien who has been a conditional ~~permanent-temporary~~ resident under this
7 title for at least 7 years may file an application with the Secretary, in accordance with subsection
8 (c), to ~~remove the conditional basis on~~ ~~adjust status to that of~~ ~~permanent residence and to have~~
9 ~~the alien's status adjusted to that of~~ an alien lawfully admitted for permanent residence. The
10 application shall include the required fee and shall be filed in accordance with the procedures
11 established by the Secretary.

12 (b) Adjudication of Application for Adjustment of Status.—

13 (1) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines
14 that an alien who filed an application under subsection (a) meets the requirements described
15 in subsection (d), the Secretary shall—

16 (A) notify the alien of such determination; and

17 (B) adjust the alien's status to that of an alien lawfully admitted for permanent
18 residence.

19 (2) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that an alien
20 who files an application under subsection (a) does not meet the requirements described in
21 subsection (d), the Secretary shall—

22 (A) notify the alien of such determination; and

23 (B) terminate the conditional ~~permanent-temporary~~ resident status of the alien.

24 (c) Time to File Application.—

25 (1) IN GENERAL.—Applications for adjustment of status described in subsection (a) shall
26 be filed during the period—

27 (A) beginning 180 days before the expiration of the 7-year period of conditional
28 ~~permanent-temporary~~ resident status under this title; and

29 (B) ending—

30 (i) 7 years after the date on which conditional ~~permanent-temporary~~ resident
31 status was initially granted to the alien under this title; or

32 (ii) after the conditional ~~temporary resident~~ ~~basis on such~~ status has been
33 ~~terminated~~ ~~removed~~.

34 (2) STATUS DURING PENDENCY.—An alien shall be deemed to be in conditional
35 permanent resident status in the United States during the period in which an application
36 filed by the alien under subsection (a) is pending.

37 (d) Contents of Application.—

38 (1) IN GENERAL.—Each application filed by an alien under subsection (a) shall contain

1 information to permit the Secretary to determine whether the alien—

2 (A) has been a conditional permanent temporary resident under this title for at least
3 7 years;

4 (B) has demonstrated good moral character during the entire period the alien has
5 been a conditional permanent temporary resident under this title;

6 (C) is in compliance with section 3003(a)(1); and

7 (D) has not abandoned the alien's residence in the United States.

8 (2) PRESUMPTIONS.—For purposes of paragraph (1)—

9 (A) the Secretary shall presume that an alien has abandoned the alien's residence in
10 the United States if the alien is absent from the United States for more than 365 days,
11 in the aggregate, during the period of conditional permanent resident status under this
12 title, unless the alien demonstrates that the alien has not abandoned the alien's
13 residence; and

14 (B) an alien who is absent from the United States due to active service in the Armed
15 Forces of the United States has not abandoned the alien's residence in the United
16 States during the period of such service.

17 (e) Citizenship Requirement.—

18 (1) IN GENERAL.—Except as provided in paragraph (2), an alien granted conditional
19 permanent temporary resident status under this title may not ~~have the conditional basis for~~
20 ~~permanent residency removed or~~ be adjusted to permanent resident status unless the alien
21 demonstrates to the satisfaction of the Secretary that the alien satisfies the requirements
22 under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

23 (2) EXCEPTION.—Paragraph (1) shall not apply to an alien whom the Secretary
24 determines is unable because of a physical or developmental disability or mental
25 impairment to meet the requirements of such paragraph. The Secretary, in coordination with
26 the Secretary of Health and Human Services and the Surgeon General, shall establish
27 procedures for making determinations under this subsection.

28 (f) Payment of Federal Taxes.—Not later than the date on which an application for adjustment
29 of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability
30 due and owing on such date as determined and verified by the Internal Revenue Service,
31 notwithstanding section 6103 of title 26, United States Code, or any other law.

32 (g) Submission of Biometric and Biographic Data.—

33 (1) IN GENERAL.—The Secretary may not adjust the status of an alien under this section
34 unless the alien submits biometric and biographic data, in accordance with procedures
35 established by the Secretary.

36 (2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for
37 an applicant who is unable to provide the biometric or biographic data referred to in
38 paragraph (1) due to a physical disability or impairment.

39 (h) Background Checks.—

40 (1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric,

1 biographic, and other data that the Secretary determines to be appropriate—

2 (A) to conduct security and law enforcement background checks of an alien
3 applying for adjustment of status under this section; and

4 (B) to determine whether there is any criminal, national security, or other factor that
5 would render the alien ineligible for such adjustment of status.

6 (2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
7 background checks required under paragraph (1) shall be completed with respect to an alien,
8 to the satisfaction of the Secretary, before the date on which the Secretary makes a decision
9 on the application for adjustment of status of the alien.

10 (i) Exemption From Numerical Limitations.—Nothing in this section or in any other law may
11 be construed to apply a numerical limitation on the number of aliens who may be eligible for
12 adjustment of status under this section.

13 (j) Treatment of Aliens Meeting Requirements for Extension of Conditional **Permanent**
14 **Temporary** Resident Status.—If an alien has satisfied all of the requirements under section
15 3003(a)(1) as of the date of enactment of this Act, the Secretary may cancel the removal of the
16 alien and permit the alien to apply for conditional **permanent-temporary** resident status under this
17 title. After the initial period of conditional **permanent-temporary** resident status described in
18 section 3004(a), the Secretary shall extend such alien's conditional **permanent-temporary** resident
19 status and permit the alien to apply for adjustment of status in accordance with subsection (a) if
20 the alien has met the requirements under section 3004(e) during the entire period of conditional
21 **permanent-temporary** resident status under this title.

22 SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS 23 GRANTED CONDITIONAL PERMANENT RESIDENT 24 STATUS.

25 Notwithstanding any other provision of law, **nothing in this title may be construed to provide**
26 **ano natural parent, prior adoptive parent, spouse, parent, child, or other family member of an**
27 **alien provided temporary or lawful permanent resident status granted conditional permanent**
28 **resident status or lawful permanent resident status shall thereafter, by virtue of parentage or**
29 **familial relationship, be accorded any right, privilege, or status under the immigration laws under**
30 **this title with any immigration benefit or special consideration for such relatives to be admitted**
31 **into or remain in the United States.**

32 SEC. 3007. EXCLUSIVE JURISDICTION.

33 (a) Secretary of Homeland Security.—Except as provided in subsection (b), the Secretary shall
34 have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of
35 deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties
36 delegated to the Secretary under this title. If a final order is entered before relief is granted under
37 this title, the Attorney General shall terminate such order only after the alien has been granted
38 conditional **permanent-temporary** resident status under this title.

39 (b) Attorney General.—The Attorney General shall have exclusive jurisdiction to determine
40 eligibility for relief under this title for any alien who has been placed into deportation, exclusion,

1 or removal proceedings, whether such placement occurred before or after the alien filed an
2 application for cancellation of removal and conditional permanent resident status or adjustment
3 of status under this title. Such exclusive jurisdiction shall continue until such proceedings are
4 terminated.

5 SEC. 3008. CONFIDENTIALITY OF INFORMATION.

6 (a) Prohibition.—Except as provided in subsection (b), an officer or employee of the United
7 States may not—

8 (1) use the information provided by an individual pursuant to an application filed under
9 this title to initiate removal proceedings against any person identified in the application;

10 (2) make any publication whereby the information provided by any particular individual
11 pursuant to an application under this title can be identified; or

12 (3) permit anyone other than an officer or employee of the United States Government to
13 examine such application filed under this title.

14 (b) Required Disclosure.—The Attorney General or the Secretary shall disclose the
15 information provided by an individual under this title and any other information derived from
16 such information to—

17 (1) a Federal, State, Tribal, or local law enforcement agency, intelligence agency,
18 national security agency, component of the Department of Homeland Security, court, or
19 grand jury in connection with an administrative, civil, or criminal investigation or
20 prosecution, a background check conducted pursuant to the Brady Handgun Violence
21 Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act,
22 or for homeland security or national security purposes, if such information is requested by
23 such entity or consistent with an information sharing agreement or mechanism;

24 (2) an official coroner for purposes of affirmatively identifying a deceased individual
25 (whether or not such individual is deceased as a result of a crime); or

26 (3) the Bureau of the Census in the same manner and circumstances as the information
27 may be disclosed under section 8 of title 13, United States Code.

28 (c) Fraud in Application Process or Criminal Conduct.—Nothing in this section may be
29 construed to prevent the disclosure and use of information provided by an alien under this title to
30 determine whether an alien seeking relief under this title has engaged in fraud in an application
31 for such relief or at any time committed a crime from being used or released for immigration
32 enforcement, law enforcement, or national security purposes.

33 (d) Subsequent Applications for Immigration Benefits.—The Secretary may use the
34 information provided by an individual pursuant to an application filed under this title to
35 adjudicate an application, petition, or other request for an immigration benefit made by the
36 individual on a date after the date on which the individual filed the application under this title.

37 (e) Penalty.—Any person who knowingly uses, publishes, or permits information to be
38 examined in violation of this section shall be fined not more than \$10,000.

39 SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR

1 CONDITIONAL PERMANENT-TEMPORARY RESIDENTS.

2 An individual who has met the requirements under section 3005 for adjustment from
3 conditional permanent-temporary resident status to lawful permanent resident status shall be
4 considered, as of the date of such adjustment, to have completed the 5-year eligibility waiting
5 period under section 403 of the Personal Responsibility and Work Opportunity Reconciliation
6 Act of 1996 (8 U.S.C. 1613).

7 SEC. 3010. GAO REPORT.

8 Not later than 7 years 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 and the
10 Committee on the Judiciary of the House of Representatives that sets forth—

11 (1) the number of aliens who were eligible for cancellation of removal and grant of
12 conditional permanent-temporary resident status under section 3003(a);

13 (2) the number of aliens who applied for cancellation of removal and grant of conditional
14 permanent-temporary resident status under section 3003(a);

15 (3) the number of aliens who were granted conditional permanent-temporary resident
16 status under section 3003(a); and

17 (4) the number of aliens whose status was adjusted to that of an alien lawfully admitted
18 for permanent residence pursuant to section 3005.

19 SEC. 3011. MILITARY ENLISTMENT.

20 Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the
21 following:

22 “(D) An alien who is a conditional permanent-temporary resident (as defined in
23 section 3002 of the SUCCEED Act).”.

24 SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

25 Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8
26 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of
27 an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2
28 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years
29 after such adjustment of status.

30 SEC. 3013. FUNDING.

31 (a) Department of Homeland Security Immigration Reform Implementation Account.—

32 (1) IN GENERAL.—There is established in the Treasury a separate account, which shall be
33 known as the “Department of Homeland Security Immigration Reform Implementation
34 Account” (referred to in this section as the “Implementation Account”).

35 (2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the
36 Implementation Account, out of any funds in the Treasury not otherwise appropriated,
37 \$400,000,000, which shall remain available until September 30, 2022.

1 (3) USE OF APPROPRIATIONS.—The Secretary is authorized to use funds appropriated to
2 the Implementation Account to pay for one-time and startup costs necessary to implement
3 this title, including, but not limited to—

4 (A) personnel required to process applications and petitions;

5 (B) equipment, information technology systems, infrastructure, and human
6 resources;

7 (C) outreach to the public, including development and promulgation of any
8 regulations, rules, or other public notice; and

9 (D) anti-fraud programs and actions related to implementation of this title.

10 (4) REPORTING.—Not later than 180 days after the date of the enactment of this Act, the
11 Secretary shall submit a plan to the Committee on Appropriations of the Senate, the
12 Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of
13 Representatives, and the Committee on the Judiciary of the House of Representatives for
14 spending the funds appropriated under paragraph (2) that describes how such funds will be
15 obligated in each fiscal year, by program.

16 (b) Deposit and Use of Processing Fees.—

17 (1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration
18 and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be
19 deposited monthly in the general fund of the Treasury until the funding provided by
20 subsection (a)(2) has been repaid.

21 (2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected under
22 this title in excess of the amount referenced in paragraph (1) shall be deposited in the
23 Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and
24 Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to
25 section 286(n) of such Act (8 U.S.C. 1356(n)).

26 TITLE IV—ENSURING FAMILY REUNIFICATION

27 SEC. 4001. SHORT TITLE.

28 This title may be cited as the “Ensuring Family Reunification Act of 2018”.

29 SEC. 4002. FAMILY-SPONSORED IMMIGRATION 30 PRIORITIES.

31 (a) Redefinition of Immediate Relative.—The Immigration and Nationality Act (8 U.S.C.
32 1101 et seq.) is amended—

33 (1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking “under
34 twenty-one years of age who” and inserting “who is younger than 18 years of age and”; and

35 (2) in section 201 (8 U.S.C. 1151)—

36 (A) in subsection (b)(2)(A)—

37 (i) in clause (i), by striking “children, spouses, and parents of a citizen of the

1 United States, except that, in the case of parents, such citizens shall be at least 21
2 years of age.” and inserting “children and spouse of a citizen of the United
3 States.”; and

4 (ii) in clause (ii), by striking “such an immediate relative” and inserting “the
5 immediate relative spouse of a United States citizen”;

6 (B) by amending subsection (c) to read as follows:

7 “(c) Worldwide Level of Family-Sponsored Immigrants.—(1) The worldwide level of family-
8 sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000
9 minus the number computed under paragraph (2).

10 “(2) The number computed under this paragraph for a fiscal year is the number of aliens who
11 were paroled into the United States under section 212(d)(5) in the second preceding fiscal year
12 who—

13 “(A) did not depart from the United States (without advance parole) within 1 year; and

14 “(B)(i) did not acquire the status of an alien lawfully admitted to the United States for
15 permanent residence during the 2 preceding fiscal years; or

16 “(ii) acquired such status during such period under a provision of law (other than
17 subsection (b)) that exempts adjustment to such status from the numerical limitation on the
18 worldwide level of immigration under this section.”; and

19 (C) in subsection (f)—

20 (i) in paragraph (2), by striking “section 203(a)(2)(A)” and inserting “section
21 203(a)”;

22 (ii) by striking paragraph (3);

23 (iii) by redesignating paragraph (4) as paragraph (3); and

24 (iv) in paragraph (3), as redesignated, by striking “(1) through (3)” and
25 inserting “(1) and (2)”.

26 (b) Family-Based Visa Preferences.—Section 203(a) of the Immigration and Nationality Act
27 (8 U.S.C. 1153(a)) is amended to read as follows:

28 “(a) Spouses and Minor Children of Permanent Resident Aliens.—Family-sponsored
29 immigrants described in this subsection are qualified immigrants who are the spouse or a child of
30 an alien lawfully admitted for permanent residence.”.

31 (c) Conforming Amendments.—

32 (1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and
33 Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking “section 203(a)(2)(A)”
34 each place such term appears and inserting “section 203(a)”.

35 (2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8
36 U.S.C. 1152) is amended—

37 (A) in subsection (a)(4)—

38 (i) by striking subparagraphs (A) and (B) and inserting the following:

1 “(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY
2 LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal
3 year, 75 percent shall be issued without regard to the numerical limitation under
4 paragraph (2).

5 “(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO
6 SUBSECTION (E).—

7 “(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in
8 any fiscal year, 25 percent shall be available, in the case of a foreign state or
9 dependent area that is subject to subsection (e) only to the extent that the total
10 number of visas issued in accordance with subparagraph (A) to natives of the
11 foreign state or dependent area is less than the subsection (e) ceiling.

12 “(ii) SUBSECTION (E) CEILING DEFINED.—In clause (i), the term ‘subsection (e)
13 ceiling’ means, for a foreign state or dependent area, 77 percent of the maximum
14 number of visas that may be made available under section 203(a) to immigrants
15 who are natives of the state or area, consistent with subsection (e).’; and

16 (ii) by striking subparagraphs (C) and (D); and

17 (B) in subsection (e)—

18 (i) in paragraph (1), by adding “and” at the end;

19 (ii) by striking paragraph (2);

20 (iii) by redesignating paragraph (3) as paragraph (2); and

21 (iv) in the undesignated matter after paragraph (2), as redesignated, by striking
22 “, respectively,” and all that follows and inserting a period.

23 (3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 203(h)
24 of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by striking
25 “(a)(2)(A)” each place such term appears and inserting “(a)(2)”.

26 (4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C.
27 1154) is amended—

28 (A) in subsection (a)(1)—

29 (i) in subparagraph (A)(i), by striking “to classification by reason of a
30 relationship described in paragraph (1), (3), or (4) of section 203(a) or”;

31 (ii) in subparagraph (B), by striking “203(a)(2)(A)” each place such term
32 appears and inserting “203(a)”; and

33 (iii) in subparagraph (D)(i)(I), by striking “a petitioner” and all that follows
34 through “(a)(1)(B)(iii).” and inserting “an individual younger than 21 years of age
35 for purposes of adjudicating such petition and for purposes of admission as an
36 immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant
37 under section 203(a), as appropriate, notwithstanding the actual age of the
38 individual.”;

39 (B) in subsection (f)(1), by striking “, 203(a)(1), or 203(a)(3), as appropriate”; and

1 (C) by striking subsection (k).

2 (5) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act
3 (8 U.S.C. 1182) is amended—

4 (A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section
5 203(a)”; and

6 (B) in subsection (d)(11), by striking “(other than paragraph (4) thereof)”.

7 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C.
8 1184(q)(1)(B)(i)) is amended by striking “section 203(a)(2)(A)” each place such term
9 appears and inserting “section 203(a)”.

10 (7) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C.
11 1186a(h)(1)(C)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

12 (8) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C.
13 1227(a)(1)(E)(ii)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

14 (d) Creation of Nonimmigrant Classification for Alien Parents of Adult United States
15 Citizens.—

16 (1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
17 1101(a)(15)) is amended—

18 (A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a
19 semicolon;

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

21 (C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”;
22 and

23 (D) by adding at the end the following:

24 “(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States,
25 if the citizen is at least 21 years of age.”.

26 (2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8
27 U.S.C. 1184) is amended by adding at the end the following:

28 “(s)(1) The initial period of authorized admission for a nonimmigrant described in section
29 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for
30 additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still
31 residing in the United States.

32 “(2) A nonimmigrant described in section 101(a)(15)(W)—

33 “(A) is not authorized to be employed in the United States; and

34 “(B) is not eligible for any Federal, State, or local public benefit.

35 “(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the
36 United States citizen son or daughter who sponsored the nonimmigrant parent shall be
37 responsible for the nonimmigrant’s support while the nonimmigrant resides in the United States.

38 “(4) An alien is ineligible to receive a visa or to be admitted into the United States as a

1 nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof
2 that the United States citizen son or daughter has arranged for health insurance coverage for the
3 alien, at no cost to the alien, during the anticipated period of the alien's residence in the United
4 States.”.

5 (e) Effective Date; Applicability.—

6 (1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date
7 of enactment of this Act.

8 (2) NEW PETITIONS.—

9 (A) IN GENERAL.—The Director of U. S. Citizenship and Immigration Services shall
10 only accept new family-based petitions for spouses and minor children of United States
11 citizens and lawful permanent residents under—

12 (i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C.
13 1151(b)(1)(A)); or

14 (ii) subsection (a) or (b) of section 203 of such Act (8 U.S.C. 1153).

15 (B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services may
16 not accept any new family-based petition other than a petition described in
17 subparagraph (A).

18 (3) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the termination by this
19 title of the family-sponsored immigrant visa categories under section 203(a) of the
20 Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of
21 enactment of this Act), the amendments made by this section shall not apply, and visas shall
22 remain available to, any alien who has—

23 (A) an approved family-based petition that has not been terminated or revoked, or

24 (B) a properly-filed family-based petition that is—

25 (i) pending with U.S. Citizenship and Immigration Services; and

26 (ii) based on subsection (a) of section 203 of the Immigration and Nationality
27 Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this
28 Act).

29 (4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall
30 continue to allocate a sufficient number of visas in family-sponsored immigrant visa
31 categories until the date on which a visa has been made available, in conformance with the
32 numeric and per country limitations in effect on the day before the date of enactment of this
33 Act, to each beneficiary of an approved or pending petition described in subparagraph (A)
34 or (B) of paragraph (3), if the beneficiary—

35 (A) indicates an intent to pursue the immigrant visa not later than 1 year after the
36 date on which the Secretary of State notifies the beneficiary of the availability of the
37 visa; and

38 (B) is otherwise qualified to receive a visa under this Act.

39 (f) Termination of Registration.—Section 203(g) of the Immigration and Nationality Act (8
40 U.S.C. 1153(g)) is amended—

- 1 (1) by striking the second sentence;
2 (2) by striking the subsection designation and heading and all that follows through “For
3 purposes” in the first sentence and inserting the following:

4 “(g) Lists.—

5 “(1) IN GENERAL.—For purposes”; and

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

7 “(2) TERMINATION OF REGISTRATION.—

8 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State
9 shall terminate the registration of any alien who fails to apply for an immigrant visa
10 within the 1-year period beginning on the date on which the Secretary of State notifies
11 the alien of the availability of the immigrant visa.

12 “(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an
13 alien under subparagraph (A) if the alien demonstrates that the failure of the alien to
14 apply for an immigrant visa during the period described in that subparagraph was due
15 to an extenuating circumstance beyond the control of the alien.”.

16 SEC. 4003. ELIMINATION OF DIVERSITY VISA 17 PROGRAM.

18 (a) In General.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is
19 amended—

20 (1) by striking subsection (c);

21 (2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f),
22 and (g), respectively;

23 (3) in subsection (c), as redesignated, by striking “subsection (a), (b), or (c)” and inserting
24 “subsection (a) or (b)”;

25 (4) in subsection (d), as redesignated—

26 (A) by striking paragraph (2); and

27 (B) by redesignating paragraph (3) as paragraph (2);

28 (5) in subsection (e), as redesignated, by striking “subsection (a), (b), or (c) of this
29 section” and inserting “subsection (a) or (b)”;

30 (6) in subsection (f), as redesignated, by striking “subsections (a), (b), and (c)” and
31 inserting “subsections (a) and (b)”;

32 (7) in subsection (g), as redesignated—

33 (A) by striking “(d)” each place it appears and inserting “(c)”;

34 (B) in paragraph (2)(B), by striking “subsection (a), (b), or (c)” and inserting
35 “subsection (a) or (b)”.

36 (b) Technical and Conforming Amendments.—

1 (1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8
2 U.S.C. 1101 et seq.) is amended—

3 (A) in section 101(a)(15)(V), by striking “section 203(d)” and inserting “section
4 203(c)”;

5 (B) in section 201—

6 (i) in subsection (a)—

7 (I) in paragraph (1), by adding “and” at the end;

8 (II) in paragraph (2), by striking “; and” and inserting a period; and

9 (III) by striking paragraph (3);

10 (ii) by striking subsection (e); and

11 (iii) by redesignating subsection (f) as subsection (e);

12 (C) in section 203(b)(2)(B)(ii)(IV), by striking “section 203(b)(2)(B)” each place
13 such term appears and inserting “clause (i)”;

14 (D) in section 204—

15 (i) in subsection (a)(1)—

16 (I) by striking subparagraph (I); and

17 (II) by redesignating subparagraphs (J) through (L) as subparagraphs (I)
18 through (K), respectively;

19 (ii) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and
20 inserting “subsection (a) or (b) of section 203”; and

21 (iii) in subsection (l)(2)—

22 (I) in subparagraph (B), by striking “section 203 (a) or (d)” and inserting
23 “subsection (a) or (c) of section 203”; and

24 (II) in subparagraph (C), by striking “section 203(d)” and inserting
25 “section 203(c)”;

26 (E) in section 214(q)(1)(B)(i), by striking “section 203(d)” and inserting “section
27 203(c)”;

28 (F) in section 216(h)(1), in the undesignated matter following subparagraph (C), by
29 striking “section 203(d)” and inserting “section 203(c)”;

30 (G) in section 245(i)(1)(B), by striking “section 203(d)” and inserting “section
31 203(c)”.

32 ~~(2) IMMIGRANT INVESTOR PILOT PROGRAM.—Section 610(d) of the Departments of~~
33 ~~Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act,~~
34 ~~1993 (Public Law 102–395) is amended by striking “section 203(e) of such Act (8 U.S.C.~~
35 ~~1153(e))” and inserting “section 203(d) of such Act (8 U.S.C. 1153(d))”.~~

36 (c) Effective Date.—The amendments made by this section shall take effect on the first day of
37 the first fiscal year beginning on or after the date of the enactment of this Act.

1 (d) Reallocation of Visas; Grandfathered Petitions.—

2 (1) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this
3 section of the diversity visa program described in sections 201(e) and 203(c) of the
4 Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before
5 the date of enactment of this Act), the amendments made by this section shall not apply, and
6 visas shall remain available, to any alien whom the Secretary of State has selected to
7 participate in the diversity visa lottery for fiscal year 2018.

8 (2) REALLOCATION OF VISAS.—

9 (A) REALLOCATION.—

10 (i) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on
11 which the number of visas allocated for aliens who qualify for visas under the
12 Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8
13 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make
14 available the annual allocation of diversity visas as follows:

15 (I) 25,000 visas shall be made available to aliens who have an approved
16 family-based petition based on section 203(a) of the Immigration and
17 Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or revoked
18 as of the date of enactment of this Act.

19 (II) 25,000 visas shall be made available to qualified aliens who have an
20 approved employment-based petition based on paragraphs (1), (2), or (3) of
21 section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153) that
22 has not been terminated or revoked as of the date of enactment of this Act.

23 (ii) NACARA VISAS.—On the exhaustion of 5,000 visas made available under
24 the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–
25 100; 8 U.S.C. 1153 note), the remainder of the visas made available under that
26 Act shall be equally divided and added to the visas provided under subclauses (I)
27 and (II) of clause (i).

28 (B) NOTIFICATION.—

29 (i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation
30 with the Secretary of State, shall publish a notice in the Federal Register to notify
31 affected aliens with respect to—

32 (I) the availability of visas under subparagraph (A);

33 (II) the manner in which the visas shall be allocated.

34 (ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the
35 monthly visa bulletin of the Department of State with respect to—

36 (I) the availability of visas under subparagraph (A);

37 (II) the manner in which the visas shall be allocated.

38 TITLE V—OTHER MATTERS

39 SEC. 5001. OTHER IMMIGRATION AND NATIONALITY

1 ACT AMENDMENTS.

2 (a) Notice of Address Change.—Section 265(a) of the Immigration and Nationality Act (8
3 U.S.C. 1305(a)) is amended to read as follows:

4 “(a) Each alien required to be registered under this Act who is physically present in the United
5 States shall notify the Secretary of Homeland Security of each change of address and new
6 address not later than 10 days after the date of such change and shall furnish such notice in the
7 manner prescribed by the Secretary.”.

8 (b) Photographs for Naturalization Certificates.—Section 333 of the Immigration and
9 Nationality Act (8 U.S.C. 1444) is amended—

10 (1) in subsection (b)—

11 (A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

12 (B) by inserting “(1)” after “(b)”; and

13 (C) by striking the undesignated matter at the end and inserting the following:

14 “(2) Of the photographs furnished pursuant to paragraph (1)—

15 “(A) 1 shall be affixed to each certificate issued by the Attorney General; and

16 “(B) 1 shall be affixed to the copy of such certificate retained by the Department.”; and

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

18 “(c) The Secretary may modify the technical requirements under this section in the Secretary’s
19 discretion and as the Secretary may consider necessary to provide for photographs to be
20 furnished and used in a manner that is efficient, secure, and consistent with the latest
21 developments in technology.”.

22 SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE 23 PROCEDURE ACT.

24 Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States
25 Code (commonly known as the “Freedom of Information Act” (5 U.S.C. 522)), and section 552a
26 of such title (commonly known as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title 5, United
27 States Code (commonly known as the “Administrative Procedures Act”), and any other law
28 relating to rulemaking, information collection, or publication in the Federal Register, shall not
29 apply to any action to implement this Act or the amendments made by this Act, to the extent the
30 Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that
31 compliance with any such law would impede the expeditious implementation of this Act or the
32 amendments made by this Act.

33 SEC. 5003. EXEMPTION FROM THE PAPERWORK 34 REDUCTION ACT.

35 (1) Chapter 35 of title 44, United States Code, shall not apply to any action to implement this
36 Act or the amendments made by this Act to the extent the Secretary of Homeland Security,
37 the Secretary of State, or the Attorney General determines that compliance with such law

1 would impede the expeditious implementation of this Act or the amendments made by this
2 Act.

3 (2) The exemption provided under this section shall sunset no later than three years after the
4 date of enactment of this title, provided that, such sunset shall not be construed to impose
5 any requirements on, or affect the validity of, any rule issued or other action taken by the
6 Secretary under such exemptions.

7 **SEC. 5004. EXEMPTION FROM GOVERNMENT**
8 **CONTRACTING AND HIRING RULES.—**

9 (1) Competition Requirements. – For purposes of implementing this title, the competition
10 requirements of 41 U.S.C. § 253(a) shall not apply. The agency's determination under 41 USC
11 § 253(c) is not subject to challenge by protest to either the Government Accountability Office,
12 under 31 U.S.C. §§ 3551-3556, or to the Court of Federal Claims, under 28 U.S.C. § 1491.
13 An agency shall immediately advise the Congress of the exercise of the authority granted in
14 this subsection.

15 (2) Contracting. – Notwithstanding any other provision of law, the Department of Homeland
16 Security may enter into contracts for the purpose of implementing the programs described in
17 this title in advance of the receipt of any fees imposed on any beneficiary or petitioner for
18 benefits under this title. The Department shall not exceed the amount necessary to defray the
19 cost of the programs.

20 (3) Notice to Congress. – The Secretary of Homeland Security shall immediately advise the
21 Congress of the exercise of the authority granted in subsection (b) of this section, and shall
22 report quarterly on the estimated obligations incurred pursuant to the authority granted in
23 subsection (b) of this section.

24 (4) Appointments. – Notwithstanding any other provision of law, the Secretary of Homeland
25 Security shall have authority to make term, temporary limited, and part-time appointments
26 without regard to the number of such employees, their ratio to permanent full-time employees,
27 and the duration of their employment. Nothing in 5 U.S.C., Chapter 71, shall affect the
28 authority of any Department of Homeland Security management official to hire term,
29 temporary limited or part-time employees under this subsection.

30 **SEC. 500~~5~~4. ABILITY TO FILL AND RETAIN**
31 **DEPARTMENT OF HOMELAND SECURITY POSITIONS**
32 **IN UNITED STATES TERRITORIES.**

33 (a) In General.—Section 530C of title 28, United States Code, is amended—

34 (1) in subsection (a), in the matter preceding paragraph (1)—

35 (A) by inserting “or the Department of Homeland Security” after “Department of
36 Justice”; and

37 (B) by inserting “or the Secretary of Homeland Security” after “Attorney General”;

38 (2) in subsection (b)—

1 (A) in paragraph (1)—

2 (i) in the matter preceding subparagraph (A), by inserting “or to the Secretary
3 of Homeland Security” after “Attorney General”; and

4 (ii) in subparagraph (K)—

5 (I) in clause (i)—

6 (aa) by inserting “or within United States territories or
7 commonwealths” after “outside United States”; and

8 (bb) by inserting “or the Secretary of Homeland Security” after
9 “Attorney General”;

10 (II) in clause (ii), by inserting “or the Secretary of Homeland Security”
11 after “Attorney General”;

12 (B) in paragraph (2)—

13 (i) in subparagraph (A), by striking “for the Drug Enforcement Administration,
14 and for the Immigration and Naturalization Service” and inserting “and for the
15 Drug Enforcement Administration”; and

16 (ii) in subparagraph (B), in the matter preceding clause (i), by striking “the
17 Immigration and Naturalization Service” and inserting “the Department of
18 Homeland Security”;

19 (C) in paragraph (5), by striking “IMMIGRATION AND NATURALIZATION SERVICE.—
20 Funds available to the Attorney General” and replacing with “DEPARTMENT OF
21 HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security”; and

22 (D) in paragraph (7)—

23 (i) by inserting “or the Secretary of Homeland Security” after “Attorney
24 General”; and

25 (ii) by striking “the Immigration and Naturalization Service” and inserting
26 “U.S. Immigration and Customs Enforcement”; and

27 (3) in subsection (d), by inserting “or the Department of Homeland Security” after
28 “Department of Justice”.

29 **SEC. 500~~65~~. SEVERABILITY.**

30 If any provision of this Act or any amendment made by this Act, or any application of such
31 provision or amendment to any person or circumstance, is held to be unconstitutional, the
32 remainder of the provisions of this Act and the amendments made by this Act and the application
33 of the provision or amendment to any other person or circumstance shall not be affected.

34 **SEC. 500~~76~~. FUNDING.**

35 (a) Implementation.—The Director of the Office of Management and Budget shall determine
36 and identify—

37 (1) the appropriation accounts which have unobligated funds that could be rescinded and

1 used to fund the provisions of this Act; and

2 (2) the amount of the rescission that shall be applied to each such account.

3 (b) Report.—Not later than 60 days after the date of enactment of this Act, the Director of the
4 Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury
5 a report that describes the accounts and amounts determined and identified for rescission
6 pursuant to subsection (a).

7 (c) Exceptions.—This section shall not apply to unobligated funds of—

8 (1) the Department of Homeland Security;

9 (2) the Department of Defense; or

10 (3) the Department of Veterans Affairs.

11 TITLE VI—TECHNICAL AMENDMENTS

12 SEC. 6001. REFERENCES TO THE IMMIGRATION AND 13 NATIONALITY ACT.

14 Except as otherwise expressly provided, whenever in this title an amendment or repeal is
15 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
16 shall be considered to be made to a section or other provision of the Immigration and Nationality
17 Act (8 U.S.C. 1101 et seq.).

18 SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF 19 THE IMMIGRATION AND NATIONALITY ACT.

20 (a) Section 101.—

21 (1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as
22 follows:

23 “(8) The term ‘Department’ means the Department of Homeland Security.”.

24 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

25 (A) in subparagraph (F)(i)—

26 (i) by striking the term “Attorney General” each place that term appears and
27 inserting “Secretary”; and

28 (ii) by striking “214(l)” and inserting “214(m)”;

29 (B) in subparagraph (H)(i)—

30 (i) in subclause (b), by striking “certifies to the Attorney General that the
31 intending employer has filed with the Secretary” and inserting “certifies to the
32 Secretary of Homeland Security that the intending employer has filed with the
33 Secretary of Labor”; and

34 (ii) in subclause (c), by striking “certifies to the Attorney General” and
35 inserting “certifies to the Secretary of Homeland Security”; and

1 (C) in subparagraph (M)(i), by striking the term “Attorney General” each place that
2 term appears and inserting “Secretary”.

3 (3) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
4 striking “Service or of the United States designated by the Attorney General,” and inserting
5 “Department or of the United States designated by the Secretary,”.

6 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as
7 follows:

8 “(34) The term ‘Secretary’ means the Secretary of Homeland Security, except as provided in
9 section 219(d)(4).”.

10 (5) SPECIAL IMMIGRANT.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
11 amended by adding “; or” at the end.

12 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPACITY.—Section 101(a)(44)(C) (8 U.S.C.
13 1101(a)(44)(C)) is amended by striking “Attorney General” and inserting “Secretary”.

14 (7) ORDER OF REMOVAL.—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended
15 to read as follows:

16 “(A) The term ‘order of removal’ means the order of the immigration judge, or other such
17 administrative officer to whom the Attorney General or the Secretary has delegated the
18 responsibility for determining whether an alien is removable, concluding that the alien is
19 removable or ordering removal.”.

20 (8) TITLE I AND II DEFINITIONS.—Section 101(b) (8 U.S.C. 1101(b)) is amended—

21 (A) in paragraph (1)(F)(i), by striking “Attorney General” and inserting “Secretary”;
22 and

23 (B) in paragraph (4), by striking “Immigration and Naturalization Service.” and
24 inserting “Department.”.

25 (b) Section 103.—

26 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by striking the section
27 heading and subsection (a)(1) and inserting the following:

28 “SEC. 103. POWERS AND DUTIES.

29 “(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and
30 all other laws relating to the immigration and naturalization of aliens, except insofar as this Act
31 or such laws relate to the powers, functions, and duties conferred upon the President, the
32 Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health
33 and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of
34 the Department of State, or diplomatic or consular officers. A determination and ruling by the
35 Attorney General with respect to all questions of law shall be controlling.”.

36 (2) TECHNICAL AND CONFORMING CORRECTIONS.—Section 103 (8 U.S.C. 1103), as
37 amended by paragraph (1), is further amended—

38 (A) in subsection (a)—

39 (i) in paragraph (2), by striking “He” and inserting “The Secretary”;

- 1 (ii) in paragraph (3)—
2 (I) by striking “He” and inserting “The Secretary”;
3 (II) by striking “he” and inserting “the Secretary”; and
4 (III) by striking “his authority” and inserting “the authority of the
5 Secretary”;
- 6 (iii) in paragraph (4)—
7 (I) by striking “He” and inserting “The Secretary”; and
8 (II) by striking “Service or the Department of Justice” and insert the
9 “Department”;
- 10 (iv) in paragraph (5)—
11 (I) by striking “He” and inserting “The Secretary”;
12 (II) by striking “his discretion,” and inserting “the discretion of the
13 Secretary,” and
14 (III) by striking “him” and inserting “the Secretary”;
- 15 (v) in paragraph (6)—
16 (I) by striking “He” and inserting “The Secretary”;
17 (II) by striking “Department” and inserting “agency, department,”; and
18 (III) by striking “Service.” and inserting “Department or upon consular
19 officers with respect to the granting or refusal of visas”;
- 20 (vi) in paragraph (7)—
21 (I) by striking “He” and inserting “The Secretary”;
22 (II) by striking “countries;” and inserting “countries”;
23 (III) by striking “he” and inserting “the Secretary”; and
24 (IV) by striking “his judgment” and inserting “the judgment of the
25 Secretary”;
- 26 (vii) in paragraph (8), by striking “Attorney General” and inserting “Secretary”;
27 (viii) in paragraph (10), by striking “Attorney General” each place that term
28 appears and inserting “Secretary”; and
29 (ix) in paragraph (11), by striking “Attorney General,” and inserting
30 “Secretary,”;
- 31 (B) by amending subsection (c) to read as follows:
32 “(c) Secretary; Appointment.—The Secretary shall be a citizen of the United States and shall
33 be appointed by the President, by and with the advice and consent of the Senate. The Secretary
34 shall be charged with any and all responsibilities and authority in the administration of the
35 Department and of this Act. The Secretary may enter into cooperative agreements with State and
36 local law enforcement agencies for the purpose of assisting in the enforcement of the

1 immigration laws.”;

2 (C) in subsection (e)—

3 (i) in paragraph (1), by striking “Commissioner” and inserting “Secretary”; and

4 (ii) in paragraph (2), by striking “Service” and inserting “U.S. Citizenship and
5 Immigration Services”;

6 (D) in subsection (f)—

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

8 (ii) by striking “Immigration and Naturalization Service” and inserting
9 “Department”; and

10 (iii) by striking “Service,” and inserting “Department,”; and

11 (E) in subsection (g)(1), by striking “Immigration Reform, Accountability and
12 Security Enhancement Act of 2002” and inserting “Homeland Security Act of 2002
13 (Public Law 107–296; 116 Stat. 2135)”.

14 (3) CLERICAL AMENDMENT.—The table of contents in the first section is amended by
15 striking the item relating to section 103 and inserting the following:

16 “Sec.103.Powers and duties.”.

17 (c) Section 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking “Commissioner”
18 each place that term appears and inserting “Secretary”.

19 SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF 20 THE IMMIGRATION AND NATIONALITY ACT.

21 (a) Section 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting “the
22 Secretary or” after “the authority of”.

23 (b) Section 203.—Section 203 (8 U.S.C. 1153) is amended—

24 (1) in subsection (b)(2)(B)(ii)—

25 (A) in subclause (II)—

26 (i) by inserting “the Secretary or” before “the Attorney General”; and

27 (ii) by moving such subclause 4 ems to the left; and

28 (B) by moving subclauses (III) and (IV) 4 ems to the left; and

29 (2) in subsection (f) (as redesignated by section 4003(a)(2))—

30 (A) by striking “Secretary’s” and inserting “Secretary of State’s”; and

31 (B) by inserting “of State” after “but the Secretary”.

32 (c) Section 204.—Section 204 (8 U.S.C. 1154) is amended—

33 (1) in subsection (a)(1)(G)(ii), by inserting “of State” after “by the Secretary”;

34 (2) in subsection (c), by inserting “the Secretary or” before “the Attorney General” each
35 place that term appears; and

- 1 (3) in subsection (e), by inserting “to” after “admitted”.
- 2 (d) Section 208.—Section 208 (8 U.S.C. 1158) is amended—
- 3 (1) in subsection (a)(2)—
- 4 (A) by inserting “the Secretary or” before “Attorney General” in subparagraph (A);
- 5 (B) by inserting “the Secretary or” before “Attorney General” in subparagraph (D);
- 6 (2) in subsection (b)(2)—
- 7 (A) in subparagraph (B)(ii), by inserting “the Secretary or” before “Attorney
- 8 General”;
- 9 (B) in subparagraph (C), by inserting “the Secretary or” before “Attorney General”;
- 10 and
- 11 (C) in subparagraph (D), by inserting “the Secretary or” before “Attorney General”.
- 12 (3) in subsection (c)—
- 13 (A) in paragraph (1), by striking “the Attorney General” and inserting “the
- 14 Secretary”;
- 15 (B) in paragraphs (2) and (3), by inserting “the Secretary or” before “Attorney
- 16 General” each place that term appears; and
- 17 (4) in subsection (d)—
- 18 (A) in paragraph (1), by inserting “the Secretary or” before “the Attorney General”,
- 19 (B) in paragraph (2), by striking “Attorney General” and inserting “Secretary”;
- 20 (C) in paragraph (3)—
- 21 (i) by striking “Attorney General” each place that term appears and inserting
- 22 “Secretary”; and
- 23 (ii) by striking “Attorney General’s” and inserting “Secretary’s”; and
- 24 (D) in paragraphs (4) through (6), by inserting “the Secretary or” before “the
- 25 Attorney General”; and
- 26 (e) Section 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking
- 27 “Secretary of Homeland Security or the Attorney General” each place that term appears and
- 28 inserting “Secretary”.
- 29 (f) Section 212.—Section 212 (8 U.S.C. 1182) is amended—
- 30 (1) in subsection (a)—
- 31 (A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting “, the
- 32 Secretary,” before “or the Attorney General” each place that term appears;
- 33 (B) in paragraph (3)—
- 34 (i) in subparagraph (B)(ii)(II), by inserting “, the Secretary,” before “or the
- 35 Attorney General” each place that term appears; and
- 36 (ii) in subparagraph (D), by inserting “the Secretary or” before “the Attorney

- 1 General” each place that term appears;
2 (C) in paragraph (4)—
3 (i) in subparagraph (A), by inserting “the Secretary or” before “the Attorney
4 General”; and
5 (ii) in subparagraph (B), by inserting “, the Secretary,” before “or the Attorney
6 General” each place that term appears;
7 (D) in paragraph (5)(C), by striking “or, in the case of an adjustment of status, the
8 Attorney General, a certificate from the Commission on Graduates of Foreign Nursing
9 Schools, or a certificate from an equivalent independent credentialing organization
10 approved by the Attorney General” and inserting “or, in the case of an adjustment of
11 status, the Secretary or the Attorney General, a certificate from the Commission on
12 Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent
13 credentialing organization approved by the Secretary”;
14 (E) in paragraph (9)—
15 (i) in subparagraph (B)(v)—
16 (I) by inserting “or the Secretary” after “Attorney General” each place that
17 term appears; and
18 (II) by striking “has sole discretion” and inserting “have discretion”; and
19 (ii) in subparagraph (C)(iii), by inserting “or the Attorney General” after
20 “Secretary of Homeland Security”; and
21 (F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking “Secretary’s”
22 and inserting “Secretary of State’s”;
23 (2) in subsection (d), in paragraphs (11) and (12), by inserting “or the Secretary” after
24 “Attorney General” each place that term appears;
25 (3) in subsection (e), by striking the first proviso and inserting the following: “Provided,
26 That upon the favorable recommendation of the Director, pursuant to the request of an
27 interested United States Government agency (or, in the case of an alien described in clause
28 (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of
29 the Secretary after the Secretary has determined that departure from the United States would
30 impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a
31 citizen of the United States or a lawfully resident alien), or that the alien cannot return to the
32 country of his or her nationality or last residence because the alien would be subject to
33 persecution on account of race, religion, or political opinion, the Secretary may waive the
34 requirement of such two-year foreign residence abroad in the case of any alien whose
35 admission to the United States is found by the Secretary to be in the public interest except
36 that in the case of a waiver requested by a State Department of Public Health, or its
37 equivalent, or in the case of a waiver requested by an interested United States Government
38 agency on behalf of an alien described in clause (iii), the waiver shall be subject to the
39 requirements under section 214(l);”
40 (4) in subsections (g), (h), (i), and (k), by inserting “or the Secretary” after “Attorney
41 General” each place that term appears;

1 (5) in subsection (m)(2)(E)(iv), by inserting “of Labor” after “Secretary” the second and
2 third place that term appears;

3 (6) in subsection (n), by inserting “of Labor” after “Secretary” each place that term
4 appears, except that this amendment shall not apply to references to the “Secretary of
5 Labor”; and

6 (7) in subsection (s), by inserting “, the Secretary,” before “or the Attorney General”.

7 (g) Section 213A.—Section 213A (8 U.S.C. 1183a) is amended—

8 (1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting “, the
9 Secretary,” after “the Attorney General”; and

10 (2) in subsection (f)(6)(B), by inserting “the Secretary,” after “The Secretary of State,”.

11 (h) Section 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter
12 preceding clause (i), by striking “before”.

13 (i) Section 217.—Section 217 (8 U.S.C. 1187) is amended—

14 (1) in subsection (e)(3)(A), by inserting a comma after “Regulations”;

15 (2) in subsection (f)(2)(A), by striking “section (c)(2)(C),” and inserting “subsection
16 (c)(2)(C),”; and

17 (3) in subsection (h)(3)(A), by striking “the alien” and inserting “an alien”.

18 (j) Section 218.—Section 218 (8 U.S.C. 1188) is amended—

19 (1) by inserting “of Labor” after “Secretary” each place that term appears, except that this
20 amendment shall not apply to references to the “Secretary of Labor” or to the “Secretary of
21 Agriculture”;

22 (2) in subsection (c)(3)(B)(iii), by striking “Secretary’s” and inserting “Secretary of
23 Labor’s”; and

24 (3) in subsection (g)(4), by striking “Secretary’s” and inserting “Secretary of
25 Agriculture’s”.

26 (k) Section 219.—Section 219 (8 U.S.C. 1189) is amended—

27 (1) in subsection (a)(1)(B)—

28 (A) by inserting a close parenthesis after “section 212(a)(3)(B)”;

29 (B) by striking the close parenthesis before the semicolon;

30 (2) in subsection (c)(3)(D), by striking “(2),” and inserting “(2),”; and

31 (3) in subsection (d)(4), by striking “the Secretary of the Treasury” and inserting “the
32 Secretary of Homeland Security, the Secretary of the Treasury,”.

33 (l) Section 222.—Section 222 (8 U.S.C. 1202)—

34 (1) by inserting “or the Secretary” after “Secretary of State” each place that term appears;
35 and

36 (2) in subsection (f)—

1 (A) in the matter preceding paragraph (1), by inserting “, the Department,” after
2 “Department of State”; and

3 (B) in paragraph (2), by striking “Secretary’s” and inserting “their”.

4 (m) Section 231.—Section 231 (8 U.S.C. 1221) is amended—

5 (1) in subsection (c)(10), by striking “Attorney General,” and inserting “Secretary,”;

6 (2) in subsection (f), by striking “Attorney General” each place that term appears and
7 inserting “Secretary”;

8 (3) in subsection (g)—

9 (A) by striking “Attorney General” each places that term appears and inserting
10 “Secretary”;

11 (B) by striking “Commissioner” each place that term appears and inserting
12 “Secretary”; and

13 (4) in subsection (h), by striking “Attorney General” each place that term appears and
14 inserting “Secretary”.

15 (n) Section 236.—Section 236(e) (8 U.S.C. 1226(e)) is amended—

16 (1) by striking “review.” and inserting “review, other than administrative review by the
17 Attorney General pursuant to the authority granted under section 103(g).”; and

18 (2) by inserting “the Secretary or” before “the Attorney General under”.

19 (o) Section 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking
20 “Deputy Attorney General” both places that term appears and inserting “Deputy Secretary of
21 Homeland Security”.

22 (p) Section 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

23 (1) in the matter preceding paragraph (1), by inserting “following the initiation by the
24 Secretary of removal proceedings” after “upon the order of the Attorney General”; and

25 (2) in paragraph (2)(E), in the subparagraph heading, by striking “, CRIMES AGAINST
26 CHILDREN AND” and inserting “; CRIMES AGAINST CHILDREN”.

27 (q) Section 238.—Section 238 (8 U.S.C. 1228) is amended—

28 (1) in subsection (a)—

29 (A) in paragraph (2), by striking “Attorney General” each place that term appears
30 and inserting “Secretary”; and

31 (B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney
32 General” each place that term appears; and

33 (2) in subsection (e) (as redesignated by section 1703(a)(4))—

34 (A) by striking “Commissioner” each place that term appears and inserting
35 “Secretary”;

36 (B) by striking “Attorney General” each place that term appears and inserting
37 “Secretary”; and

- 1 (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United
2 States Attorney”.
- 3 (r) Section 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting “and the
4 Secretary” after “Attorney General” each place that term appears.
- 5 (s) Section 240.—Section 240 (8 U.S.C. 1229a) is amended—
6 (1) in subsection (b)—
7 (A) in paragraph (1), by inserting “, with the concurrence of the Secretary with
8 respect to employees of the Department” after “Attorney General”; and
9 (B) in paragraph (5)(A), by inserting “the Secretary or” before “the Attorney
10 General”; and
11 (2) in subsection (c)—
12 (A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before
13 “to be confidential”; and
14 (B) in paragraph (7)(C)(iv)(I), by striking “240A(b)(2)” and inserting “section
15 240A(b)(2)”.
- 16 (t) Section 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—
17 (1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”;
18 and
19 (2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”.
- 20 (u) Section 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3),
21 by inserting “or the Secretary” after “Attorney General” each place that term appears.
- 22 (v) Section 241.—Section 241 (8 U.S.C. 1231) is amended—
23 (1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after “(L)”;
24 (2) in subsection (g)(2)—
25 (A) by striking the paragraph heading and inserting “DETENTION FACILITIES OF THE
26 DEPARTMENT OF HOMELAND SECURITY.—”; and
27 (B) by striking “Service, the Commissioner” and inserting “Department, the
28 Secretary”.
- 29 (w) Section 242.—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting “the Secretary
30 or” before “the Attorney General”.
- 31 (x) Section 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in
32 subsection (b)(1)—
33 (1) by striking “Attorney General” each place that term appears and inserting
34 “Secretary”; and
35 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 36 (y) Section 244.—Section 244 (8 U.S.C. 1254a) is amended—

1 (1) in subsection (c)(2), by inserting “or the Secretary” after “Attorney General” each
2 place the term appears; and

3 (2) in subsection (g), by inserting “or the Secretary” after “Attorney General”.

4 (z) Section 245.—Section 245 (8 U.S.C. 1255) is amended—

5 (1) by inserting “or the Secretary” after “Attorney General” each place that term appears
6 except in subsections (j) (other than the first reference), (l), and (m);

7 (2) in subsection (k)(1), adding an “and” at the end; and

8 (3) in subsection (l)—

9 (A) in paragraph (1), by inserting a comma after “appropriate”; and

10 (B) in paragraph (2)—

11 (i) in the matter preceding paragraph (1), by striking “Attorney General’s” and
12 inserting “Secretary’s”; and

13 (ii) in subparagraph (B), by striking “(10(E))” and inserting “(10)(E))”.

14 (aa) Section 245A.—Section 245A (8 U.S.C. 1255a) is amended—

15 (1) in subsection (c)(7), by striking subparagraph (C); and

16 (2) in subsection (h)—

17 (A) in paragraph (4)(C), by striking “The The” and inserting “The”; and

18 (B) in paragraph (5), by striking “(Public Law 96–122),” and inserting “(8 U.S.C.
19 1522 note),”.

20 (bb) Section 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—

21 (1) by striking “Attorney General” each place that term appears and inserting
22 “Secretary”; and

23 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.

24 (cc) Section 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking “Commissioner”
25 each place that term appears and inserting “Secretary”.

26 (dd) Section 255.—Section 255 (8 U.S.C. 1285) is amended by striking “Commissioner” each
27 place that term appears and inserting “Secretary”.

28 (ee) Section 256.—Section 256 (8 U.S.C. 1286) is amended—

29 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;

30 (2) in the first and second sentences, by striking “Attorney General” each place that term
31 appears and inserting “Secretary”.

32 (ff) Section 258.—Section 258 (8 U.S.C. 1288) is amended—

33 (1) by inserting “of Labor” after “Secretary” each place that term appears (except for in
34 subsection (e)(2)), except that this amendment shall not apply to references to the
35 “Secretary of Labor”, “the Secretary of State”;

36 (2) in subsection (d)(2)(A), by striking “at” after “while”; and

1 (3) in subsection (e)(2), by striking “the Secretary shall” and inserting “the Secretary of
2 State shall”.

3 (gg) Section 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking “Attorney
4 General is” and inserting “Attorney General and the Secretary are”.

5 (hh) Section 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each
6 place that term appears and inserting “Secretary”.

7 (ii) Section 273.—Section 273 (8 U.S.C. 1323) is amended—

8 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
9 and

10 (2) by striking “Attorney General” each place that term appears (except in subsection (e),
11 in the matter preceding paragraph (1)) and inserting “Secretary”.

12 (jj) Section 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking “Secretary
13 of the Treasury” and inserting “Secretary”.

14 (kk) Section 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking
15 “subsection” and inserting “section”.

16 (ll) Section 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting
17 “or the Secretary” after “subsection (a), the Attorney General”.

18 (mm) Section 274D.—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking
19 “Commissioner” and inserting “Secretary”.

20 (nn) Section 286.—Section 286 (8 U.S.C. 1356) is amended—

21 (1) in subsection (q)(1)(B), by striking “, in consultation with the Secretary of the
22 Treasury,”;

23 (2) in subsection (r)(2), by striking “section 245(i)(3)(b)” and inserting “section
24 245(i)(3)(B)”;

25 (3) in subsection (s)(5)—

26 (A) by striking “5 percent” and inserting “USE OF FEES FOR DUTIES RELATING TO
27 PETITIONS.—Five percent”;

28 (B) by striking “paragraph (1) (C) or (D) of section 204” and inserting
29 “subparagraph (C) or (D) of section 204(a)(1)”.

30 (oo) Section 294.—Section 294 (8 U.S.C. 1363a) is amended—

31 (1) in subsection (a), in the undesignated matter following paragraph (4), by striking
32 “Commissioner, in consultation with the Deputy Attorney General,” and inserting
33 “Secretary”; and

34 (2) in subsection (d), by striking “Deputy Attorney General” and inserting “Secretary”.

35 **SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF**
36 **THE IMMIGRATION AND NATIONALITY ACT.**

37 (a) Section 316.—Section 316 (8 U.S.C. 1427) is amended—

1 (1) in subsection (d), by inserting “or by the Secretary” after “Attorney General”; and

2 (2) in subsection (f)(1), by striking “Intelligence, the Attorney General and the
3 Commissioner of Immigration” and inserting “Intelligence and the Secretary”.

4 (b) Section 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

5 (1) by inserting “is” before “(or,”; and

6 (2) by striking “is” before “a citizen”.

7 (c) Section 342.—

8 (1) SECTION HEADING.—

9 (A) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended by striking the section
10 heading and inserting “cancellation of certificates; action not to affect citizenship
11 status”.

12 (B) CLERICAL AMENDMENT.—The table of contents in the first section is amended
13 by striking the item relating to section 342 and inserting the following:

14 “Sec.342.Cancellation of certificates; action not to affect citizenship status.”.

15 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended—

16 (A) by striking “heretofore issued or made by the Commissioner or a Deputy
17 Commissioner or hereafter made by the Attorney General”; and

18 (B) by striking “practiced upon, him or the Commissioner or a Deputy
19 Commissioner;”.

20 SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF 21 THE IMMIGRATION AND NATIONALITY ACT.

22 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i)) is amended by striking “insure” and
23 inserting “ensure”.

24 SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF 25 THE IMMIGRATION AND NATIONALITY ACT.

26 (a) Section 504.—Section 504 (8 U.S.C. 1534) is amended—

27 (1) in subsection (a)(1)(A), by striking “a” before “removal proceedings”;

28 (2) in subsection (i), by striking “Attorney General” inserting “Government”; and

29 (3) in subsection (k)(2), by striking “by”.

30 (b) Section 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting “and the
31 Secretary” after “Attorney General”.

32 SEC. 6007. OTHER AMENDMENTS.

33 (a) Correction of Commissioner of Immigration and Naturalization.—

34 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as

1 amended by this Act, is further amended by striking “Commissioner” and “Commissioner
2 of Immigration and Naturalization” each place those terms appear and inserting “Secretary”.

3 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by
4 paragraph (1) shall not apply to any reference to the “Commissioner of Social Security”.

5 **(b) Correction of Bureau of Citizenship and Immigration Services. — Section 451(a)(1) of the**
6 **Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is amended by striking “a bureau to be**
7 **known as the ‘Bureau of Citizenship and Immigration Services’” and inserting “an agency to be**
8 **known as the United States Citizenship and Immigration Services, whose headquarters shall be**
9 **in the same State as the office of the Secretary.”**

10 **(cb)** Correction of Immigration and Naturalization Service.—The Immigration and Nationality
11 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Service”
12 and “Immigration and Naturalization Service” each place those terms appear and inserting
13 “Department”.

14 **(ed)** Correction of Department of Justice.—

15 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as
16 amended by this Act, is further amended by striking “Department of Justice” each place that
17 term appears and inserting “Department”.

18 (2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

19 (A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

20 (B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

21 (C) title V (8 U.S.C. 1531 et seq.).

22 **(ed)** Correction of Attorney General.—The Immigration and Nationality Act (8 U.S.C. 1101 et
23 seq.) as amended by this Act, is further amended by striking “Attorney General” each place that
24 term appears and inserting “Secretary”, except for in the following:

25 (1) Any joint references to the “Attorney General and the Secretary of Homeland
26 Security” or “the Secretary of Homeland Security and the Attorney General”.

27 (2) Section 101(a)(5).

28 (3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

29 (4) Section 101(a)(47)(A).

30 (5) Section 101(b)(4).

31 (6) Subsections (a)(1) and (g) of section 103.

32 (7) Subsections (b)(1) and (c) of section 105.

33 (8) Section 204(c).

34 (9) Section 208.

35 (10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

36 (11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

37 (12) Section 212(a)(9)(C)(iii).

- 1 (13) Paragraphs (11) and (12) of section 212(d).
- 2 (14) Subsections (g), (h), (i), (k), and (s) of section 212.
- 3 (15) Subsections (a)(1) and (f)(6)(B) of section 213A.
- 4 (16) Section 216(d)(2)(c).
- 5 (17) Section 219(d)(4).
- 6 (18) Section 235(b)(1)(B)(iii)(III).
- 7 (19) The second sentence of section 236(e).
- 8 (20) Section 237.
- 9 (21) Paragraphs (1), (3), and (4)(A) of section 238(a).
- 10 (22) Paragraphs (1) and (5) of section 238(b).
- 11 (23) Section 238(c)(2)(D)(iv).
- 12 (24) Subsections (a) and (b) of section 239.
- 13 (25) Section 240.
- 14 (26) Section 240A.
- 15 (27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.
- 16 (28) The first reference in section 241(a)(4)(B)(i).
- 17 (29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the
18 amendment shall apply).
- 19 (30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).
- 20 (31) Section 242(a)(2)(B).
- 21 (32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).
- 22 (33) Section 242(g).
- 23 (34) Subsections (a)(3)(C), (c)(2), (e), and (g) of section 244.
- 24 (35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first
25 reference to the Attorney General in subsection 245(j)).
- 26 (36) Section 245A(a)(1)(A).
- 27 (37) Section 246(a).
- 28 (38) Section 249.
- 29 (39) Section 264(f).
- 30 (40) Section 274(e).
- 31 (41) Section 274A.
- 32 (42) Section 274B.
- 33 (43) Section 274C.

- 1 (44) Section 292.
2 (45) Subsections (d) and (f)(1) of section 316.
3 (46) Section 342.
4 (47) Section 412(f)(1)(A).
5 (48) Title V (except for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to
6 which the amendment shall apply).

7 SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

8 (a) Repeals.—

9 (1) IMMIGRATION AND NATURALIZATION SERVICE.—

10 (A) IN GENERAL.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter
11 552; 8 U.S.C. 1551) is repealed.

12 (B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8
13 of the United States Code shall be removed from the compilation of such title 8.

14 (2) COMMISSIONER OF IMMIGRATION AND NATURALIZATION; OFFICE.—

15 (A) IN GENERAL.—Section 7 of the Act of March 3, 1891 (26 Stat. 1085, chapter
16 551; 8 U.S.C. 1552) is repealed.

17 (B) 8 U.S.C. 1552.—The language of the compilers set out in section 1552 of title 8
18 of the United States Code shall be removed from the compilation of such title 8.

19 (3) ASSISTANT COMMISSIONERS AND DISTRICT DIRECTOR; COMPENSATION AND SALARY
20 GRADE.—Title II of the Department of Justice Appropriation Act, 1957 (70 Stat. 307,
21 chapter 414; 8 U.S.C. 1553) is amended, in the matter under the heading “Immigration and
22 Naturalization Service” and under the subheading “SALARIES AND EXPENSES”, by
23 striking “That the compensation of the five assistant commissioners and one district director
24 shall be at the rate of grade GS–16: Provided further”.

25 (4) SPECIAL IMMIGRANT INSPECTORS AT WASHINGTON.—The Act of March 2, 1895 (28
26 Stat. 780, chapter 177; 8 U.S.C. 1554) is amended in the matter following the heading
27 “Bureau of Immigration:” by striking “That hereafter special immigrant inspectors, not to
28 exceed three, may be detailed for duty in the Bureau at Washington: And provided further.”.

29 (b) Rule of Construction.—Nothing in this title may be construed to repeal or limit the
30 applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and
31 552) with respect to any provision of law or matter not specifically addressed by the amendments
32 made by this title.

33 SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.

34 Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by
35 striking “Commissioner of Immigration” and inserting “Secretary of Homeland Security”.

From: Hamilton, Gene (OAG) [mailto: (b) (6)]
Sent: Monday, February 12, 2018 11:11 PM
To: Shah, Dimple (b) (6); Tausend, Stephen (Cornyn) (b) (6);
 (b) (6); Watts, Brad (Judiciary-Rep) (b) (6);
 (b) (6); Hoffman, Jonathan (b) (6); McGee, Ramona
 (Judiciary-Rep) (b) (6)
Cc: Cassidy, Ben (b) (6); Symons, Craig M. (b) (6);
 (b) (6); Short, Tracy (b) (6); Kelly, Christopher S
 (b) (6); KOLLER, JULIE (OCC) (b) (6); Wolf,
 Chad (b) (6); Wonnemberg, David (b) (6); Wold,
 Theo J. EOP/WHO (b) (6); Miller, Stephen EOP/WHO
 (b) (6); Escalona, Prim F. (OLA) (b) (6)

Subject: RE: Contact
Importance: High

Although there are many things we would prefer to see worded differently throughout—and we are coming into this somewhat late—please consider the following (in addition to other things that may have been sent earlier today on our behalf by DPC). They are all fairly important, but the highlighted are particularly notable:

- **Section 1111** ties Secretarial authority to take action to the location of “high traffic areas”; DOJ recommends deletion of this phrase.
- In paragraph (1) of **Section 1111** (which amends Section 102(a) of IIRIRA), DOJ recommends clarifying the actions the Secretary is authorized to take by inserting “design, test” between “to” and “construct” in the list of such actions.
- **Section 1130** of the bill—entitled “Land Use or Acquisition”—amends several sections of Section 103(b) of the Immigration and Nationality Act that we recommend deleting (or revising significantly). INA Sections 103(b)(2) and (b)(3), which Section 1130 would

amend, have been interpreted to impose additional procedural requirements for acquiring land for border infrastructure, beyond those imposed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act. DOJ recommends deleting these subsections from Section 1130's revised version of INA Section 103(b).

- **Section 1409** DOJ has concerns that the bill places all new fentanyl analogues in the new Schedule A, rather than Schedule I. Schedule I is appropriate because the substances in question are just as dangerous as fentanyl, but unlike fentanyl and the five fentanyl analogues currently in Schedule II, they have *no* approved medical use. It would be inappropriate to take all new fentanyl analogues specifically developed outside the United States to skirt our nation's legal controls, and place them in the new Schedule A. This action would support the recent February 6 action by the DEA to place these all new fentanyl-related substances into Schedule I *temporarily*, on an emergency basis, for two years.
- **Section 1501** is unclear as to whether it is the intent of the bill to strip immigration judges of jurisdiction over bond hearings. If that is the intent, it should be clarified. If it is not, then the Attorney General should be added.
 - This is a critical clarification.
- **Section 1502** should say deportable rather than inadmissible. All of the exceptions listed will swallow the rule and simply lead to more unfounded asylum claims. Subsections (d) and (j) are internally inconsistent regarding whether asylum is included. The parenthetical in (j) should say protection rather than relief. Section 1502 should include the following language: (a) PRESENT IN VIOLATION OF LAW—Section 1306 of Title 8 of the U.S. Code is hereby amended by inserting the following paragraph (e):
 - “(e) Any alien who is present in the United States in violation of this Act or any other law of the United States, including any alien who has remained in the United States beyond his authorized period of stay, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not to exceed \$1,000, or be imprisoned not more than six months, or both; and any alien so convicted shall, upon the warrant of the Secretary of Homeland Security, be taken into custody and removed in the manner provided in this Act.”
- **Section 1507** does not provide sufficient authority for the Department of Justice to use in the law enforcement context. A broader law enforcement exception for the Attorney General would be appropriate.
- **Section 1509** is unrealistic without significant additional changes to the law, contains no definitions, does not address the most common types of continuances, does not address case law that requires continuances, and will do almost nothing to address the underlying problems associated with continuances.
 - We have alternative language available, but we concur with striking the provisions as reflected in the DHS redline sent earlier tonight.
- **Section 1521 and 1522** incorporate the already existing expedited removal system and could cause litigation that could result in the invalidation of expedited removal writ large. These provision will re-start the clock found at 8 U.S.C. 1252(e)(3) that allows for challenges to expedited removal provisions. Although we have not been able to review in detail the proposed revised text from DHS, it is undoubtedly better than the procedures that existed in 1521 and 1522. Further, Section 1522 only works if credible fear and asylum eligibility are included as part of the immigration judge's initial determination and the credible fear screening process is eliminated entirely. Otherwise, Section 1522 solves nothing, adds another layer of bureaucracy for no discernible purpose, and merely adds an extra hurdle that would actually delay removals, contrary to its putative intent. DOJ strongly opposes the inclusion of these provisions.
- **Section 1601** DOJ is concerned that the current provision does not include “sexual

contact”; we recommend referencing “any illegal sexual act or sexual contact (as those terms are defined in section 2246 of title 18).” By only referencing sexual act, this language excludes serious sexual activity, such as when an adult forces a minor to masturbate the adult. Separately, the word “involuntary” is vague, and may create a litigation risk. Sex acts can be involuntary for a variety of reasons, including the use of force, the incapacity of the victim, or the age of the victim. Courts may interpret involuntary only to encompass situations involving the use of force.

- **Section 1606** would allow illegal re-entrants to apply for asylum, contrary to INA 241(a)(5) and to several recent circuit decisions.
- To cure any alleged constitutional issues in sections 1710, 1718, and 1822, you may want to revise to make clear that the new requirements may not be applied to provide a new basis for denaturalization for (1) citizens who engage in an activity listed in sections 1710, 1718, or 1822 after naturalization, or (2) citizens who were already naturalized when sections 1710, 1718, and 1822 are enacted and engaged in one of the activities listed in those sections before naturalization
- **Section 1777** DOJ opposes amending the RICO statute to add Section 1547 of Title 18, United States Code as a RICO predicate offense. Section 1547 is a sentencing enhancement provision; it is not an independent crime. Sentencing enhancement provisions are not appropriate as “racketeering activity” as they are not an illegal act that the defendant either commits or agrees to commit. Rather, a sentencing enhancement allows the government to seek an enhanced sentence against the defendant if the defendant has committed certain crimes, has committed crimes in a certain manner, has prior convictions, etc.
- **Section 3004**-termination should be automatic by operation of law, rather than requiring the Secretary to act affirmatively.
- The confidentiality provisions of **Section 3008** are problematic and inimical to immigration enforcement. Similar provisions did not work for either the IRCA amnesty or SAW, and they are unlikely to work now. These provisions may also create recordkeeping and enforcement challenges for DHS.
 - We strongly support striking this section.
- **Section 6007(e)(41)** needs to be clarified, as parts of INA 274A still need to refer to the Attorney General because hearings are still conducted through DOJ even though DHS brings the charges.

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

From: Shah, Dimple [mailto: (b) (6)]
Sent: Monday, February 12, 2018 7:24 PM
To: Tausend, Stephen (Cornyn) (b) (6); Watts, Brad (Judiciary-Rep) (b) (6); Hoffman, Jonathan (b) (6); McGee, Ramona (Judiciary-Rep) (b) (6)
Cc: Cassidy, Ben (b) (6); Symons, Craig M. (b) (6); Short, Tracy (b) (6); Kelly, Christopher S (b) (6); KOLLER, JULIE (OCC) (b) (6); Wolf, Chad (b) (6); Wonnemberg, David (b) (6); Wold, Theo J. EOP/WHO (b) (6); Miller, Stephen EOP/WHO (b) (6)

(b) (6)
Subject: RE: Contact

Hey Stephen,

Thank you for talking to us a few moments ago. Per our conversation please see DHS final redlines attached. (b) (6)

-Dimple

From: Tausend, Stephen (Cornyn) [mailto:(b) (6)]
Sent: Monday, February 12, 2018 1:43 PM
To: Watts, Brad (Judiciary-Rep) (b) (6); Hoffman, Jonathan (b) (6); Shah, Dimple (b) (6); McGee, Ramona (Judiciary-Rep) (b) (6)
Cc: Cassidy, Ben (b) (6); Symons, Craig M (b) (6); Short, Tracy (b) (6); Kelly, Christopher S (b) (6); KOLLER, JULIE (OCC) (b) (6); Wolf, Chad (b) (6); Wonnemberg, David (b) (6); Wold, Theo J. EOP/WHO (b) (6); 'Miller, Stephen EOP/WHO' (b) (6)
Subject: RE: Contact

Yes

From: Watts, Brad (Judiciary-Rep)
Sent: Monday, February 12, 2018 1:41 PM
To: Hoffman, Jonathan (b) (6); Tausend, Stephen (Cornyn) (b) (6); Shah, Dimple (b) (6); McGee, Ramona (Judiciary-Rep) (b) (6)
Cc: Cassidy, Ben (b) (6); Symons, Craig M (b) (6); Short, Tracy (b) (6); Kelly, Christopher S (b) (6); KOLLER, JULIE (OCC) (b) (6); Wolf, Chad (b) (6); Wonnemberg, David (b) (6); Wold, Theo J. EOP/WHO (b) (6); 'Miller, Stephen EOP/WHO' (b) (6)
Subject: RE: Contact

Can ya'll do 2:45?

From: Hoffman, Jonathan [mailto:(b) (6)]
Sent: Monday, February 12, 2018 1:04 PM
To: Watts, Brad (Judiciary-Rep) (b) (6); Tausend, Stephen (Cornyn) (b) (6); Shah, Dimple (b) (6); McGee, Ramona (Judiciary-Rep) (b) (6)
Cc: Cassidy, Ben (b) (6); Symons, Craig M (b) (6); Short, Tracy (b) (6); Kelly, Christopher S (b) (6); KOLLER, JULIE (OCC) (b) (6); Wolf, Chad (b) (6); Wonnemberg, David (b) (6); Wold, Theo J. EOP/WHO (b) (6); 'Miller, Stephen EOP/WHO' (b) (6)
Subject: RE: Contact

Brad and Stephen –

Can we do a group call at 1:15 pm? We want to give you the Admin's feedback on the latest version. We appreciate the progress and understand there are a couple member level items that still need to be addressed. There are a few things that were not included and we just want to find out if those are staff rejections or member level issues we need to address directly. Most of these we do not think rise to that level. The items starred below are redlines for a statement of support from the President.

Out of the four pillars:

Border Security – overly prescriptive (1112-1116), *contiguous country language for UACs still needed, *created a convoluted court process for UACs (1522) that we believe exacerbates the loopholes, *still need the TVPRA fixes and the safe third country, missing ICE pay reform (there is also a technical issue with the cap), *confidentiality provisions need to go, *it is still missing the language on detainers.

DV – we are good

Family – we are good

DACA – *1.8 M is still our ceiling on DACA per specific direction from the President (needs a technical fix on the age cut to grandfather current beneficiaries to avoid litigation)

Technical details will follow shortly directly to Ramona.

We have everyone in one room and can work through these quickly.

Jonathan

(b) (6)

1 Purpose: In the nature of a substitute.

2
3

4 H. R. 2579

5 To amend the Internal Revenue Code of 1986 to allow the
6 premium tax credit with respect to unsubsidized COBRA
7 continuation coverage.

8 Referred to the Committee on _____ and ordered to be
9 printed

10 Ordered to lie on the table and to be printed

11 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE
12 PROPOSED BY MR. ~~CORNYN~~GRASSLEY, ERNST, TILLIS,
13 LANKFORD, COTTON, PERDUE, CORNYN

14 Viz:

15 Strike all after the enacting clause and insert the following:

16 SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

17 (a) Short Titles.—This Act may be cited as the “~~Immigration Reform and Technical~~
18 ~~Corrections Act of 2018~~” or the “~~IRTCA 2018~~SECURE and SUCCEED Act”.

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

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

21 TITLE I—BUILDING AMERICA’S TRUST ACT

22 Sec.1001.Short title.

23 Subtitle A—Border Security

24 Sec.1101.Definitions.

25 Chapter 1—Infrastructure and Equipment

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

27 ~~Sec.1112.Land use or acquisition.~~

28 Sec.111~~3~~2.Air and Marine Operations flight hours.

29 Sec.111~~4~~3.Capability deployment to specific sectors and transit zone.

30 Sec.111~~5~~4.Deployment of assets.

- 1 Sec.111~~65~~.U.S. Border Patrol activities.
- 2 Sec.111~~76~~.Border security technology program management.
- 3 Sec.111~~87~~.National Guard support to secure the southern border and reimbursement of States for
- 4 deployment of the National Guard at the southern border.
- 5 Sec.111~~98~~.Operation Phalanx.
- 6 Sec.11~~2019~~.Merida Initiative.
- 7 Sec.112~~01~~.Prohibitions on actions that impede border security on certain Federal land.
- 8 Sec.112~~12~~.Landowner and rancher security enhancement.
- 9 Sec.112~~23~~.Limitation on land owner's liability.
- 10 Sec.112~~34~~.Eradication of carrizo cane and salt cedar.
- 11 Sec.112~~45~~.Prevention, detection, control, and eradication of diseases and pests.
- 12 Sec.112~~56~~.Transnational criminal organization illicit spotter prevention and detection.
- 13 Sec.112~~67~~.Southern border threat analysis.
- 14 Sec.112~~78~~.Amendments to U.S. Customs and Border Protection.
- 15 Sec.112~~89~~.Agent and officer technology use.
- 16 Sec.11~~2930~~.Integrated Border Enforcement Teams.
- 17 Sec.1130.Land use or acquisition.
- 18 Sec.1131.Tunnel Task Forces.
- 19 Sec.1132.Pilot program on use of electromagnetic spectrum in support of border security
- 20 operations.
- 21 Sec.1133.Homeland security foreign assistance.

22 Chapter 2—Personnel

- 23 Sec.1141.Additional U.S. Customs and Border Protection agents and officers.
- 24 Sec.1142.Fair labor standards for border patrol agents.
- 25 Sec.1143.U.S. Customs and Border Protection retention incentives.
- 26 Sec.1144.Anti-Border Corruption Reauthorization Act.
- 27 Sec.1145.Training for officers and agents of U.S. Customs and Border Protection.
- 28 Sec.1146.Additional U.S. Immigration and Customs Enforcement personnel.
- 29 Sec.1147.Other immigration and law enforcement personnel.
- 30 Sec.1148.Judicial resources for border security.
- 31 Sec.1149.Reimbursement to State and local prosecutors for federally initiated, immigration-
- 32 related criminal cases.

33 Chapter 3—Grants

- 1 Sec.1151.State Criminal Alien Assistance Program.
- 2 Sec.1152.Southern border security assistance grants.
- 3 Sec.1153.Operation Stonegarden.
- 4 Sec.1154.Grants for identification of victims of cross-border human smuggling.
- 5 Sec.1155.Grant accountability.

6 Subtitle B—Emergency Port of Entry Personnel and 7 Infrastructure Funding

- 8 Sec.1201.Definitions.
- 9 Sec.1202.Ports of entry infrastructure.
- 10 Sec.1203.Secure communications.
- 11 Sec.1204.Border security deployment program.
- 12 Sec.1205.Pilot and upgrade of license plate readers at ports of entry.
- 13 Sec.1206.Biometric technology.
- 14 Sec.1207.Nonintrusive inspection operational demonstration project.
- 15 Sec.1208.Biometric exit data system.
- 16 Sec.1209.Sense of Congress on cooperation between agencies.

17 Subtitle C—Border Security Enforcement Fund

- 18 Sec.1301.Border Security Enforcement Fund.

19 Subtitle D—Stop the Importation and Trafficking of Synthetic 20 Analogues Act

- 21 Sec.1401.Short titles.
- 22 Sec.1402.Establishment of Schedule A.
- 23 Sec.1403.Temporary and permanent scheduling of schedule A substances.
- 24 Sec.1404.Penalties.
- 25 Sec.1405.False labeling of schedule A controlled substances.
- 26 Sec.1406.Registration requirements for handlers of schedule A substances.
- 27 Sec.1407.Additional conforming amendments.
- 28 Sec.1408.Clarification of the definition of controlled substance analogue under the Analogue
29 Enforcement Act.
- 30 Sec.1409.Rules of construction.

31 Subtitle E—Domestic Security

<i>Penn-America Ins. Co. v. Mapp</i> , 521 F.3d 290 (4th Cir. 2008)	8
<i>Potdar v. Mukasey</i> , 550 F.3d 594 (7th Cir. 2008)	21
Reynaldo Castro-Tum, █ (b) (6) (BIA Nov 27, 2017).....	17
<i>Vahora v. Holder</i> , 626 F.3d 907 (7th Cir. 2008)	14, 21
<i>Matter of W-Y-U-</i> , 27 I&N Dec. 17 (BIA 2017)	<i>passim</i>

Statutes

5 U.S.C. § 553(b)–(e).....	18, 19
8 U.S.C. § 1101(b)(4)	9, 14

Regulations and Rules

8 C.F.R. § 212.7(e)(4)(v)	19
8 C.F.R. § 3.27	18
8 C.F.R. § 240.6	18
8 C.F.R. § 245.21(c).....	13
8 C.F.R. § 245a.12(b)(1)	11
8 C.F.R. § 245a.20(a)(1)	11
8 C.F.R. § 1003.10(b)	9, 10, 14
8 C.F.R. § 1003.12	22
8 C.F.R. § 1003.23(b)(1)(i)-(ii) and (b)(3).....	24
8 C.F.R. § 1003.29	10, 18, 19
8 C.F.R. § 1214.2	11
8 C.F.R. § 1214.3	11
8 C.F.R. § 1239.2	24, 25

1 Chapter 1—General Matters

2 Sec.1501.Ending catch and release for repeat immigration violators and criminals aliens.

3 Sec.1502.Deterring visa overstays.

4 Sec.1503.Increase in immigration detention capacity.

5 Sec.1504.Collection of DNA from criminal and detained aliens.

6 Sec.1505.Collection, use, and storage of biometric data.

7 Sec.1506.Pilot program for electronic field processing.

8 Sec.1507.Ending abuse of parole authority.

9 Sec.1508.Reports to Congress on parole.

10 Sec.1509.Limits on continuances in removal proceedings.

11 Sec.1510.Reinstatement of the Secure Communities Program.

12 Chapter 2—Protection and Due Process for Unaccompanied 13 Alien Children

14 Sec.1520.Short title.

15 Sec.1521.Repatriation of unaccompanied alien children.

16 Sec.1522.Expedited due process and screening for unaccompanied alien children.

17 Sec.1523.Child welfare and law enforcement information sharing.

18 Sec.1524.Accountability for children and taxpayers.

19 Sec.1525.Custody of unaccompanied alien children in formal removal proceeding.

20 Sec.1526.Fraud in connection with the transfer of custody of unaccompanied alien children.

21 Sec.1527.Notification of States and foreign governments, reporting, and monitoring.

22 Sec.1528.Emergency immigration judge resources.

23 Sec.1529.Reports to Congress.

24 Chapter 3—Cooperation With Mexico and Other Countries on 25 Asylum and Refugee Issues

26 Sec.1540.Strengthening internal asylum systems in Mexico and other countries.

27 Sec.1541.Expanding refugee processing in Mexico and Central America for third country
28 resettlement.

29 Subtitle F—Penalties for Smuggling, Drug Trafficking, Human 30 Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to 31 Readmission of Removed Aliens

- 1 Sec.1601.Dangerous human smuggling, human trafficking, and human rights violations.
2 Sec.1602.Putting the Brakes on Human Smuggling Act.
3 Sec.1603.Drug trafficking and crimes of violence committed by illegal aliens.
4 Sec.1604.Establishing inadmissibility and deportability.
5 Sec.1605.Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or
6 commit terrorism.
7 Sec.1606.Penalties for reentry of removed aliens.
8 Sec.1607.Laundering of monetary instruments.
9 Sec.1608.Freezing bank accounts of international criminal organizations and money launderers.
10 Sec.1609.Criminal proceeds laundered through prepaid access devices, digital currencies, or
11 other similar instruments.
12 Sec.1610.Closing the loophole on drug cartel associates engaged in money laundering.
- 13 **Subtitle G—Protecting National Security and Public Safety**
14 **Chapter 1—General Matters**
- 15 Sec.1701.Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
16 Sec.1702.Terrorist and security-related grounds of inadmissibility.
17 Sec.1703.Expedited removal for aliens inadmissible on criminal or security grounds.
18 Sec.1704.Detention of removable aliens.
19 Sec.1705.GAO study on deaths in custody.
20 Sec.1706.GAO study on migrant deaths.
21 Sec.1707.Statute of limitations for visa, naturalization, and other fraud offenses involving war
22 crimes, crimes against humanity, or human rights violations.
23 Sec.1708.Criminal detention of aliens to protect public safety.
24 Sec.1709.Recruitment of persons to participate in terrorism.
25 Sec.1710.Barring and removing persecutors, war criminals, and participants in crimes against
26 humanity from the United States.
27 Sec.1711.Child soldier recruitment ineligibility technical correction.
28 Sec.1712.Gang membership, removal, and increased criminal penalties related to gang violence.
29 Sec.1713.Barring aliens with convictions for driving under the influence or while intoxicated.
30 Sec.1714.Barring aggravated felons, border checkpoint runners, and sex offenders from
31 admission to the United States.
32 Sec.1715.Protecting immigrants from convicted sex offenders.
33 Sec.1716.Enhanced criminal penalties for high speed flight.

- 1 Sec.1717.Prohibition on asylum and cancellation of removal for terrorists.
- 2 Sec.1718.Aggravated felonies.
- 3 Sec.1719.Convictions.
- 4 Sec.1720.Failure to obey removal orders.
- 5 Sec.1721.Sanctions for countries that delay or prevent repatriation of their nationals.
- 6 Sec.1722.Enhanced penalties for construction and use of border tunnels.
- 7 Sec.1723.Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- 8 Sec.1724.Expansion of criminal alien repatriation programs.
- 9 Sec.1725. Prohibition on flight training and nuclear studies for nationals of high-risk countries.

10 Chapter 2—Strong Visa Integrity Secures America Act

- 11 Sec.1731.Short title.
- 12 Sec.1732.Visa security.
- 13 Sec.1733.Electronic passport screening and biometric matching.
- 14 Sec.1734.Reporting visa overstays.
- 15 Sec.1735.Student and exchange visitor information system verification.
- 16 Sec.1736.Social media review of visa applicants.

17 Chapter 3—Visa Cancellation and Revocation

- 18 Sec.1741.Cancellation of additional visas.
- 19 Sec.1742.Visa information sharing.
- 20 Sec.1743.Visa interviews.
- 21 Sec.1744.Judicial review of visa revocation.

22 Chapter 4—Secure Visas Act

- 23 Sec.1751.Short title.
- 24 Sec.1752.Authority of the Secretary of Homeland Security and the Secretary of State.

25 Chapter 5—Visa Fraud and Security Improvement Act of 2017

- 26 Sec.1761.Short title.
- 27 Sec.1762.Expanded usage of fraud prevention and detection fees.
- 28 Sec.1763.Inadmissibility of spouses and sons and daughters of traffickers.
- 29 Sec.1764.DNA testing.
- 30 Sec.1765.Access to NCIC criminal history database for diplomatic visas.
- 31 Sec.1766.Elimination of signed photograph requirement for visa applications.

1 Chapter 6—Other Matters

2 Sec.1771.Requirement for completion of background checks.

3 Sec.1772.Withholding of adjudication.

4 Sec.1773.Access to the National Crime Information Center Interstate Identification Index.

5 Sec.1774.Appropriate remedies for immigration litigation.

6 Sec.1775.Use of 1986 IRCA legalization information for national security purposes.

7 Sec.1776.Uniform statute of limitations for certain immigration, naturalization, and peonage
8 offenses.

9 Sec.1777.Conforming amendment to the definition of racketeering activity.

10 Sec.1778.Validity of electronic signatures.

11 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status 12 in the United States

13 Chapter 1—Prohibition on Adjustment to Lawful Permanent 14 Resident Status

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

16 Sec.1802.Date of admission for purposes of adjustment of status.

17 Sec.1803.Precluding asylee and refugee adjustment of status for certain grounds of
18 inadmissibility and deportability.

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

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

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

23 Sec.1807.Treatment of applications for adjustment of status during pending denaturalization
24 proceedings.

25 Sec.1808.Extension of time limit to permit rescission of permanent resident status.

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

27 Chapter 2—Prohibition on Naturalization and United States 28 Citizenship

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

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

31 Sec.1823.Prohibition on judicial review of naturalization applications for aliens in removal
32 proceedings.

33 Sec.1824.Limitation on judicial review when agency has not made decision on naturalization

- 1 application and on denials.
- 2 Sec.1825.Clarification of denaturalization authority.
- 3 Sec.1826.Denaturalization of terrorists.
- 4 Sec.1827.Treatment of pending applications during denaturalization proceedings.
- 5 Sec.1828.Naturalization document retention.

6 Chapter 3—Forfeiture of Proceeds From Passport and Visa 7 Offenses, and Passport Revocation.

- 8 Sec.1831.Forfeiture of proceeds from passport and visa offenses.
- 9 Sec.1832.Passport Revocation Act.

10 TITLE II—PERMANENT REAUTHORIZATION OF 11 VOLUNTARY E–VERIFY

- 12 Sec.2001.Permanent reauthorization.
- 13 Sec.2002.Preemption; liability.
- 14 Sec.2003.Information sharing.
- 15 Sec.2004.Small Business Demonstration Program.
- 16 Sec.2005.Fraud prevention.
- 17 Sec.2006.Identity authentication employment eligibility verification pilot programs.

18 TITLE III—SUCCEED ACT

- 19 Sec.3001.Short titles.
- 20 Sec.3002.Definitions.
- 21 Sec.3003.Cancellation of removal of certain long-term residents who entered the United States as
22 children.
- 23 Sec.3004.Conditional permanent resident status.
- 24 Sec.3005.Removal of conditional basis for permanent residence.
- 25 Sec.3006.Benefits for relatives of aliens granted conditional permanent resident status.
- 26 Sec.3007.Exclusive jurisdiction.
- 27 Sec.3008.Confidentiality of information.
- 28 Sec.3009.Restriction on welfare benefits for conditional permanent residents.
- 29 Sec.3010.GAO report.
- 30 Sec.3011.Military enlistment.
- 31 Sec.3012.Eligibility for naturalization.
- 32 Sec.3013.Funding.

1 TITLE IV—ENSURING FAMILY REUNIFICATION

2 Sec.4001.Short title.

3 Sec.4002.Family-Sponsored immigration priorities.

4 Sec.4003.Elimination of Diversity Visa Program.

5 TITLE V—OTHER MATTERS

6 Sec.5001.Other Immigration and Nationality Act amendments.

7 Sec.5002.Exemption from the Administrative Procedure Act.

8 Sec.5003.Exemption from the Paperwork Reduction Act.

9 Sec.5004.Ability to fill and retain Department of Homeland Security positions in United States
10 territories.

11 Sec.5005.Severability.

12 Sec.5006.Funding.

13 TITLE VI—TECHNICAL AMENDMENTS

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

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

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

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

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

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

20 Sec.6007.Other amendments.

21 Sec.6008.Repeals; rule of construction.

22 Sec.6009.Miscellaneous technical correction.

23 TITLE I—BUILDING AMERICA’S TRUST ACT

24 SEC. 1001. SHORT TITLE.

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

26 Subtitle A—Border Security

27 SEC. 1101. DEFINITIONS.

28 In this subtitle:

29 (1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term “advanced unattended
30 surveillance sensors” means sensors that utilize an onboard computer to analyze detections
31 in an effort to discern between vehicles, humans, and animals, and ultimately filter false

1 positives before transmission.

2 (2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term “appropriate congressional
3 committee” has the meaning given the term in section 2(2) of the Homeland Security Act of
4 2002 (6 U.S.C. 101(2)).

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

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

10 (5) OPERATIONAL CONTROL.—The term “operational control” has the meaning given the
11 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
12 367).

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

14 (7) SITUATIONAL AWARENESS.—The term “situational awareness” has the meaning given
15 the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year
16 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

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

21 (9) TRANSIT ZONE.—The term “transit zone” has the meaning given the term in section
22 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C.
23 223(a)(7); Public Law 114–328).

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

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

30 CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

31 SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR 32 BARRIERS ALONG THE SOUTHERN BORDER.

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

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

36 “(a) In General.—The Secretary of Homeland Security shall take such actions as may be
37 necessary (including the removal of obstacles to detection of illegal entrants) to construct, install,
38 deploy, operate, and permanently maintain physical barriers, tactical infrastructure and

1 technology in the vicinity of the United States border to achieve situational awareness and
2 operational control of the border and deter, impede, and detect illegal activity in high traffic
3 areas.”;

4 (2) in subsection (b)—

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

7 (B) in paragraph (1)—

8 (i) in subparagraph (A)—

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

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

12 (III) by striking “gain” and inserting “achieve situational awareness and”;
13 and

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

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

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

21 “(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL
22 INFRASTRUCTURE.—The deployment of physical barriers and tactical
23 infrastructure under this subparagraph shall not apply in any areas or region along
24 the border where natural terrain features, natural barriers, or the remoteness of
25 such area or region would make any such deployment ineffective, as determined
26 by the Secretary, for the purposes of gaining situational awareness or operational
27 control of such area or region ~~if, in the absence of tactical infrastructure, the~~
28 ~~Secretary deploys and permanently maintains the most practical and effective~~
29 ~~technology or personnel in order to gain situational awareness and operational~~
30 ~~control of such area or region.”;~~

31 (iii) in subparagraph (C)—

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

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

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

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

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

11 (iv) by striking subparagraph (D);

12 (IV) in clause (iii), as so redesignated –

13 (aa) in subclause (I), by striking “or” after the semicolon at the end;

14 (bb) by amending subclause (II) to read as follows:

15 “(II) delay the transfer of the possession of property to the United States or
16 affect the validity of any property acquisition by purchase or eminent domain, or
17 to otherwise affect the eminent domain laws of the United States or of any state;
18 or; and

19 (cc) by adding at the end the following new subclause:

20 “(III) create any right or liability for any party.”; and

21

22 (C) in paragraph (2)—

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

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

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

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

29 “(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security,
30 when designing, constructing, and deploying physical barriers, tactical infrastructure, or
31 technology, shall incorporate such safety features into the design, construction, or
32 deployment of such physical barriers, tactical infrastructure, or technology, as the case may
33 be, that the Secretary determines, in the Secretary’s sole discretion, are necessary to
34 maximize the safety and effectiveness of officers or agents of the Department of Homeland
35 Security or of any other Federal agency deployed in the vicinity of such physical barriers,
36 tactical infrastructure, or technology.”;

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

38 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of
39 Homeland Security shall have the authority to waive all legal requirements that the

1 Secretary, in the Secretary's sole discretion, determines necessary to ensure the expeditious
2 design, testing, construction, installation, deployment, operation, and maintenance of the
3 physical barriers, tactical infrastructure and technology under this section. Any such
4 decision by the Secretary shall be effective upon publication in the Federal Register.”; and

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

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

10 “(f) Limitation on requirements. – Nothing in this section may be construed as requiring the
11 Secretary to install tactical infrastructure, technology, and physical barriers in a particular
12 location along an international border of the United States, if the Secretary determines that the
13 use or placement of such resources is not the most appropriate means to achieve and maintain
14 situational awareness and operational control over the international border at such location.

15 “(gf) Definitions.—In this section:

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

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

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

21 “(2) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given the
22 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
23 367).

24 “(3) Physical Barriers. – The term ‘physical barriers’ includes reinforced fencing, border
25 wall system, and levee walls.

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

29 “(45) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat
30 ramps, access gates, checkpoints, lighting, and roads.

31 “(65) TECHNOLOGY.—The term ‘technology’ means border surveillance and detection
32 technology, including—

33 “(A) tower-based surveillance technology;

34 “(B) deployable, lighter-than-air ground surveillance equipment;

35 “(C) Vehicle and Dismount Exploitation Radars (VADER);

36 “(D) 3-dimensional, seismic acoustic detection and ranging border tunneling
37 detection technology;

38 “(E) advanced unattended surveillance sensors;

39 “(F) mobile vehicle-mounted and man-portable surveillance capabilities;

1 “(G) unmanned aerial vehicles; and

2 “(H) other border detection, communication, and surveillance technology ~~necessary~~
3 ~~to achieve situational awareness and operational control.~~

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

8 ~~SEC. 1112. LAND USE OR ACQUISITION.~~

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

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

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

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

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

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

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

26 ~~SEC. 1112~~23. AIR AND MARINE OPERATIONS FLIGHT 27 HOURS.

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

31 (b) Unmanned Aerial System.—The Secretary, ~~after coordination with the Administrator of~~
32 ~~the Federal Aviation Administration~~, shall ensure that Air and Marine Operations operate
33 unmanned aerial systems on the southern border of the United States for not fewer than 24 hours
34 per day for 5 days per week.

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

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

38 (1) the primary missions for Air and Marine Operations are to directly support U.S.

1 Border Patrol activities along the southern border of the United States and Joint Interagency
2 Task Force South operations in the transit zone; and

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

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

8 (1) identify critical flight hour requirements; and

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

11 (f) Small Unmanned Aerial Vehicles.—

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

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

18 (A) coordinate flight operations with the Administrator of the Federal Aviation
19 Administration to ensure the safe and efficient operation of the National Airspace
20 System; and

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

25 (3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of
26 2002 (6 U.S.C. 211(e)(3)) is amended—

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

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

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

30 “(C) carry out the small unmanned aerial vehicle requirements pursuant to section
31 111~~32~~(f) of the Building America’s Trust Act; and”.

32 (g) Savings Clause.—Nothing in this section may be construed to confer, transfer, or delegate
33 to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine
34 Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any
35 authority of the Secretary of Transportation or the Administrator of the Federal Aviation
36 Administration relating to the use of airspace or aviation safety.

37 **SEC. 111~~33~~4. CAPABILITY DEPLOYMENT TO SPECIFIC**
38 **SECTORS AND TRANSIT ZONE.**

1 (a) In General.—Not later than September 30, 2022, the Secretary, in implementing section
2 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended
3 by section 1111, and acting through the appropriate component of the Department of Homeland
4 Security, shall deploy to each sector or region of the southern border and the northern border, in
5 a prioritized manner to achieve situational awareness and operational control of such borders, the
6 following additional capabilities:

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

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

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

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

31 (3) YUMA SECTOR.—For the Yuma sector, the following:

- 32 (A) Tower-based surveillance technology.
- 33 (B) Deployable, lighter-than-air ground surveillance equipment.
- 34 (C) Ultralight aircraft detection capabilities.

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

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

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

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

1 (17) HOULTON SECTOR.—For the Houlton sector, the following:

2 (A) Increased flight hours for aerial detection, interdiction, and monitoring
3 operations capability.

4 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.

5 (C) Advanced unattended surveillance sensors.

6 (D) Ultralight aircraft detection capabilities.

7 (E) Man-portable unmanned aerial vehicles.

8 (F) Improved agent communications systems.

9 (18) TRANSIT ZONE.—For the transit zone, the following:

10 (A) Not later than 2 years after the date of the enactment of this Act, an increase in
11 the number of overall cutter, boat, and aircraft hours spent conducting interdiction
12 operations over the average number of such hours during the preceding 3 fiscal years.

13 (B) Increased maritime signals intelligence capabilities.

14 (C) To increase maritime domain awareness—

15 (i) unmanned aerial vehicles with maritime surveillance capability; and

16 (ii) increased maritime aviation patrol hours.

17 (D) Increased operational hours for maritime security components dedicated to joint
18 counter-smuggling and interdiction efforts with other Federal agencies, including the
19 Deployable Specialized Forces of the Coast Guard.

20 (E) Coastal radar surveillance systems with long range day and night cameras
21 capable of providing full maritime domain awareness of the United States territorial
22 waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island,
23 Culebra Island, Saint Thomas, Saint John, and Saint Croix.

24 (b) Reimbursement Related to the Lower Rio Grande Valley Flood Control Project.—The
25 International Boundary and Water Commission is authorized to reimburse State and local
26 governments for any expenses incurred before, on, or after the date of the enactment of this Act
27 by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley
28 Flood Control Project of the Commission.

29 (c) Tactical Flexibility.—

30 (1) SOUTHERN AND NORTHERN LAND BORDERS.—

31 (A) IN GENERAL.—Beginning on September 30, 202~~1~~², or after the Secretary has
32 deployed at least 25 percent of the capabilities required in each sector specified in
33 subsection (a), whichever comes later, the Secretary may deviate from such capability
34 deployments if the Secretary determines that such deviation is required to achieve
35 situational awareness or operational control.

36 (B) NOTIFICATION.—If the Secretary exercises the authority described in
37 subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify
38 the Committee on Homeland Security and Governmental Affairs of the Senate and the

1 Committee on Homeland Security of the House of Representatives regarding the
2 deviation under such subparagraph that is the subject of such exercise. If the Secretary
3 Not later than 90 days after the Secretary makes any changes to such deviation, the
4 Secretary shall, not later than 90 days after any such change, notify such committees
5 regarding such change.

6 (2) TRANSIT ZONE.—

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

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

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

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

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

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

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

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

30 (d) Exigent Circumstances.—

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

37 (2) NOTIFICATION.—~~Not later than 30 days after making a determination under paragraph~~
38 ~~(1),~~ ~~†~~The Secretary shall notify the Committee on Homeland Security of the House of
39 Representatives and the Committee on Homeland Security and Governmental Affairs of the
40 Senate not later than 30 days after making a determination under paragraph (1) of such
41 determination and include, in s. Such notification shall include, 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. 111~~4~~6. 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. 111~~5~~7. 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. 4345. ^[MR(1)]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 is estimated by the Secretary
27 ~~estimates will to~~ require an eventual total ~~life cycle cost of expenditure of~~ at least \$300,000,000
28 (based on fiscal year 2017 constant dollars) over its life cycle cost.

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

31 “(1) ensure that each such program has a written acquisition program baseline approved
32 by the 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 4334 the following:

19 “Sec.4354.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 4345 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. 11178. 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 may request that the
29 Secretary of Defense support, pursuant to chapter 15 of title 10, United States Code, the
30 Secretary’s efforts to secure the southern border of the United States. The Secretary of Defense,
31 ~~the Governor of a State may order any units or personnel of the National Guard of such State to~~
32 ~~perform operations and missions~~ may authorize the provision of such support under section
33 502(f) of title 32, United States Code, ~~along the southern border for the purposes of assisting~~
34 ~~U.S. Customs and Border Protection to achieve situational awareness and operational control of~~
35 ~~the border~~including pursuant to chapter 9 of such title.

36 ~~(b) Assignment of Operations and Missions.—~~

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

40 ~~(2) NATURE OF DUTY.— The duty of National Guard personnel performing operations and~~

1 ~~missions described in paragraph (1) shall be full-time duty under title 32, United States~~
2 ~~Code.~~

3 ~~(eb) Type of Support Authorized Range of Operations and Missions.—The support provided in~~
4 ~~accordance with operations and missions assigned under subsection (ab) shall may include the~~
5 ~~temporary authority to—~~

6 (1) ~~construction of~~ reinforced fencing or other physical barriers;

7 (2) ~~operation of~~ ground-based surveillance systems;

8 (3) ~~deployment of manned aircraft, operate unmanned and manned aircraft aerial~~
9 ~~surveillance systems, and ground-based surveillance systems to support continuous~~
10 ~~surveillance of the southern border;~~

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

13 (5) ~~construct checkpoints along the Southern border to bridge the gap to long-term~~
14 ~~permanent checkpoints; and~~

15 ~~(6)(4) provide intelligence analysis support.~~

16 ~~(dc) Materiel and Logistical Support.—The Secretary of Defense shall may deploy such~~
17 ~~materiel, equipment, and logistical support as may be necessary to ensure the~~
18 ~~effectiveness success of the operations and missions conducted by the National Guard under this~~
19 ~~section of the assistance provided under subsection (a).~~

20 ~~(d) Readiness. — To ensure that the use of units and personnel of the National Guard of a State~~
21 ~~authorized pursuant to this section does not degrade the training and readiness of such units and~~
22 ~~personnel, the following requirements shall apply in determining the homeland defense activities~~
23 ~~that such units and personnel may perform:~~

24 ~~(1) The performance of such activities shall not affect adversely the quality of such~~
25 ~~training or readiness or otherwise interfere with the ability of a unit or personnel of the National~~
26 ~~Guard of a State to perform the military functions of such member or unit.~~

27 ~~(2) The performance of such activities shall not degrade the military skills of the units or~~
28 ~~personnel of the National Guard of a State performing such activities.~~

29 ~~(e) Reimbursement Required Notification.— Prior to providing any support in accordance with~~
30 ~~subsection (a), the Secretary of Defense shall notify the Secretary whether such support qualifies~~
31 ~~for a reimbursement waiver under chapter 15 of title 10, United States Code.~~

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

37 ~~(2) LIMITATION.—The total amount of reimbursements under this section may not exceed~~
38 ~~\$35,000,000 in any fiscal year.~~

39 ~~Reports. —~~

40 ~~(1) In General. — Not later than 180 days after the date of the enactment of this Act and~~

1 biannually thereafter through December 31, 2021, the Secretary of Defense shall submit to
2 the appropriate congressional defense committees (as defined in section 101(a)(16) of title
3 10, United States Code) a report regarding any support provided pursuant to subsection (a)
4 for the six month period preceding each such report.

5 (2) Elements. – Each report under paragraph (1) shall include a description of –

6 (A) the support provided; and

7 (B) the sources and amounts of funds obligated and expended to provide such support.

8 SEC. 111~~89~~. OPERATION PHALANX.

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

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

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

16 (2) intelligence analysis support.

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

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

24 (e) Reports.—

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

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

32 (A) the assistance provided;

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

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

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

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

38 (B) in the case of any subsequent report submitted under paragraph (1), the calendar

1 year for which the report is submitted.

2 **SEC. 11 ~~1920~~. MERIDA INITIATIVE.**

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

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

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

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

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

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

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

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

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

23 (c) Allocation of Funds; Report.—

24 (1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any
25 assistance appropriated in any appropriations Act to implement this section shall be
26 withheld until after the Secretary of State submits a written report to the congressional
27 committees specified in paragraph (3) certifying that the Government of Mexico is—

28 (A) significantly reducing illegal migration, drug trafficking, and cross-border
29 criminal activities on Mexico’s northern and southern borders;

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

32 (C) improving the transparency and accountability of Mexican Federal police forces
33 and working with Mexican State and municipal authorities to improve the transparency
34 and accountability of Mexican State and municipal police forces.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) the notification procedures set forth in section 634A of the Foreign Assistance Act of
18 1961 (22 U.S.C. 2394–1); and

19 (2) the notification requirements of—

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

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

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

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

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

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

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

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

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

33 **SEC. 11201. PROHIBITIONS ON ACTIONS THAT IMPEDE**
34 **BORDER SECURITY ON CERTAIN FEDERAL LAND.**

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

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

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

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

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

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

14 (A) the execution of search and rescue operations:

15 (B) the use of motorized vehicles, foot patrols, and horseback to patrol the border
16 area, apprehend illegal entrants, and rescue individuals; and

17 (CB) the design, testing, construction, installation, deployment, and operation of
18 physical barriers, tactical infrastructure, and technology pursuant to section 102 of the
19 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ~~(~~as amended
20 by section 1111 of this title).

21 (c) Clarification Relating to Waiver Authority.—

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

25 (2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this paragraph are
26 all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or
27 related to the subject of, the following laws:

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

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

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

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

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

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

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

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

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

- 1 (J) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).
2 (K) The Comprehensive Environmental Response, Compensation, and Liability Act
3 of 1980 (42 U.S.C. 9601 et seq.).
4 (L) Chapter 3125 of title 54, United States Code (formerly known as the
5 “Archeological and Historic Preservation Act”).
6 (M) The Antiquities Act (16 U.S.C. 431 et seq.).
7 (N) Chapter 3203 of title 54, United States Code (formerly known as the “Historic
8 Sites, Buildings, and Antiquities Act”).
9 (O) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).
10 (P) The Farmland Protection Policy Act (7 U.S.C. 4201 et seq.).
11 (Q) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).
12 (R) The Wilderness Act (16 U.S.C. 1131 et seq.).
13 (S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
14 (T) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C.
15 668dd et seq.).
16 (U) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).
17 (V) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).
18 (W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code
19 (commonly known as the “Administrative Procedure Act”).
20 (X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).
21 (Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994
22 (Public Law 103–433).
23 (Z) Division A of subtitle I of title 54, United States Code (formerly known as the
24 “National Park Service Organic Act”).
25 (AA) The National Park Service General Authorities Act (Public Law 91–383, 16
26 U.S.C. 1a–1 et seq.).
27 (BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of
28 1978 (Public Law 95–625).
29 (CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law
30 101–628).
31 (DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).
32 (EE) The Eagle Protection Act (16 U.S.C. 668 et seq.).
33 (FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001
34 et seq.).
35 (GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).
36 (HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

1 (II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

2 (JJ) The Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.).

3 (3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in
4 paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1,
5 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1)
6 shall apply to the provision of such title that corresponds to the provision of law specified in
7 paragraph (2) to the same extent the waiver applied to that provision of law.

8 (4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed
9 as affecting, negating, or diminishing in any manner the applicability of section 552 of title
10 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any
11 relevant matter.

12 (d) Protection of Legal Uses.—Nothing in this section may be construed to provide—

13 (1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the
14 use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or
15 the Secretary of Agriculture; or

16 (2) any additional authority to restrict legal access to such land.

17 (e) Effect on State and Private Land.—This section shall have no force or effect on State lands
18 or private lands and shall not provide authority, on or access to, State lands or private lands.

19 (f) Tribal Sovereignty.—Nothing in this section may be construed to supersede, replace,
20 negate, or diminish treaties or other agreements between the United States and Indian tribes.

21 (g) Memoranda of Understanding.—The requirements under this section shall not apply to the
22 extent that such requirements are incompatible with any memorandum of understanding or
23 similar agreement entered into between the Commissioner of U.S. Customs and Border
24 Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

25 (h) Definitions.—In this section:

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

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

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

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

34 **SEC. 112~~12~~. LANDOWNER AND RANCHER SECURITY**
35 **ENHANCEMENT.**

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

38 (1) may advise, consult with, report to, and make recommendations to the Secretary on

1 matters relating to border security matters, including—

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

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

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

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

11 (c) Membership.—The National Border Security Advisory Committee shall consist of at least
12 1 member from each State who—

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

14 (2) lives and works in the United States within 80 miles of the southern border or within
15 80 miles of the northern border.

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

18 **SEC. 112~~23~~²³. LIMITATION ON LAND OWNER'S**
19 **LIABILITY.**

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

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

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

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

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

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

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

38 “(B) such land owner has not already been reimbursed for the final tort judgment,

1 including outstanding attorneys' fees and costs;

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

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

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

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

12 “(B) maintaining an attractive nuisance;

13 “(C) gross negligence; or

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

16 “(i) a patrol of such landowner's land; or

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

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

23 **SEC. 11234. ERADICATION OF CARRIZO CANE AND**
24 **SALT CEDAR.**

25 Not later than September 30, 2022, the Secretary, after coordinating with the heads of the
26 relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any
27 salt cedar along the Rio Grande River.

28 **SEC. 11245. PREVENTION, DETECTION, CONTROL, AND**
29 **ERADICATION OF DISEASES AND PESTS.**

30 (a) Definitions.—In this section:

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

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

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

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

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

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

5 (A) A protozoan.

6 (B) A plant or plant part.

7 (C) An animal.

8 (D) A bacterium.

9 (E) A fungus.

10 (F) A virus or viroid.

11 (G) An infectious agent or other pathogen.

12 (H) An arthropod.

13 (I) A parasite or parasitic plant.

14 (J) A prion.

15 (K) A vector.

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

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

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

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

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

29 (2) COMPENSATION.—

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

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

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

35 (B) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary of Agriculture shall
36 compensate industry participants and State agencies that cooperate with the Secretary
37 of Agriculture in carrying out operations and measures under this subsection for up to

1 100 percent of eligible costs relating to—

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

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

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

11 (c) Cooperation.—

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

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

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

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

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

27 (e) Reimbursement.—The Secretary of Agriculture shall reimburse any Federal agency, State,
28 State agency, political subdivision of a State, national or local government of a foreign country,
29 domestic or international organization or association, domestic nonprofit corporation, Indian
30 tribe, or other person for specified costs, as prescribed by the Secretary of Agriculture, in the
31 discretion of the Secretary of Agriculture, that result from cooperation with the Secretary of
32 Agriculture in carrying out operations and measures under this section.

33 **SEC. 11256. TRANSNATIONAL CRIMINAL**
34 **ORGANIZATION ILLICIT SPOTTER PREVENTION AND**
35 **DETECTION.**

36 (a) BRINGING IN AND HARBORING OF CERTAIN ALIENS.—Section 274(a) of the
37 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

38 (1) in subsection (a)(2), by striking “brings to or attempts to” and inserting the following:
39 “brings to or attempts or conspires to”; and

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

2 “(5) In the case of a person who has brought aliens into the United States in violation of this
3 subsection, the sentence otherwise provided for may be increased by up to 10 years if that
4 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
5 crime, possessed a firearm.”.

6 (b) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—
7 Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

8 (1) by inserting after “knowingly aids or assists” the following: “or attempts to aid or assist”;
9 and

10 (2) by adding at the end the following: “In the case of a person convicted of an offense under
11 this section, the sentence otherwise provided for may be increased by up to 10 years if that
12 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
13 crime, possessed a firearm.”.

14 (c) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Section 1361 of title
15 18, United States Code, is amended—

16 (1) by striking “If the damage” and inserting the following:

17 “(1) Except as otherwise provided in this section, if the damage”; and

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

19 “(2) If the injury or depredation was made or attempted against any fence, barrier, sensor,
20 camera, or other physical or electronic device deployed by the Federal Government to control the
21 border or a port of entry or otherwise was intended to construct, excavate, or make any structure
22 intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical
23 or electronic device deployed by the Federal Government to control the border or a port of entry,
24 by a fine under this title or imprisonment for not more than 15 years, or both.

25 “(3) If the injury or depredation was described under paragraph (2) and, in the commission of
26 the offense, the offender used or carried a firearm or, in furtherance of any such offense,
27 possessed a firearm, by a fine under this title or imprisonment for not more than 20 years, or
28 both.”.

29 (ad) Unlawfully Hindering Immigration, Border, and Customs Controls.—

30 (1) ENHANCED PENALTIES.—Chapter 9 of title II of the Immigration and Nationality Act
31 (8 U.S.C. 1351 et seq.) is amended by adding at the end the following:

32 **“SEC. 295. UNLAWFULLY HINDERING IMMIGRATION,**
33 **BORDER, AND CUSTOMS CONTROLS.**

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

39 **“(b) Destruction of United States Border Controls.—Any person who knowingly and without**

1 lawful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other
2 physical or electronic device deployed by the Federal Government to control the border or a port
3 of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat,
4 circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic
5 device deployed by the Federal Government to control the border or a port of entry—

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

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

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

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

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

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

19 (1) in paragraph (1)—

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

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

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

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

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

27 “(3) For purposes of this subsection—

28 “(A) the term ‘alien smuggling crime’ means any felony punishable under section 274(a),
29 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328);

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

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

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

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

38 “(D) the term ‘drug trafficking crime’ means any felony punishable under the Controlled

1 Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act
2 (21 U.S.C. 951 et seq.), or chapter 705 of title 46.”

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

5 SEC. 112~~67~~. SOUTHERN BORDER THREAT ANALYSIS.

6 (a) Threat Analysis.—

7 (1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,
8 the Secretary shall submit ~~a southern border threat analysis~~ to the Committee on Homeland
9 Security and Governmental Affairs of the Senate and the Committee on Homeland Security
10 of the House of Representatives a Southern border threat analysis.

11 (2) CONTENTS.—The ~~threat~~ analysis submitted under paragraph (1) shall include an
12 assessment of—

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

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

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

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

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

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

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

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

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

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

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

36 (C) the infrastructure needs and challenges;

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

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

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

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

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

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

11 (1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat
12 analysis under subsection (a) or June 30, 2018, and every 5 years thereafter, the Secretary,
13 acting through the Chief of the U.S. Border Patrol, ~~and in consultation with the Officer for~~
14 ~~Civil Rights and Civil Liberties of the Department of Homeland Security~~, shall issue a
15 Border Patrol Strategic Plan.

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

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

20 (B) efforts to analyze and disseminate border security and border threat information
21 between border security components of the Department of Homeland Security and
22 other appropriate Federal departments and agencies with missions associated with the
23 southern border;

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

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

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

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

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

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

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

38 (H) any technology required to maintain, support, and enhance security and facilitate
39 trade at ports of entry, including nonintrusive detection equipment, radiation detection
40 equipment, biometric technology, surveillance systems, and other sensors and

1 technology that the Secretary determines to be necessary;

2 (I) operational coordination unity of effort initiatives of the border security
3 components of the Department of Homeland Security, including any relevant task
4 forces of the Department of Homeland Security;

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

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

9 (L) border security information received from consultation with State, local, tribal,
10 territorial, and Federal law enforcement agencies that have jurisdiction on the northern
11 border or the southern border, or in the maritime environment, and from border
12 community stakeholders (including through public meetings with such stakeholders),
13 including representatives from border agricultural and ranching organizations and
14 representatives from business and civic organizations along the northern border or the
15 southern border;

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

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

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

20 (i) identifying and detecting fraudulent documents;

21 (ii) understanding the scope of enforcement authorities and the use of force
22 policies; and

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

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

26 **SEC. 11278. AMENDMENTS TO U.S. CUSTOMS AND**
27 **BORDER PROTECTION.**

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

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

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

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

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

35 “(20) administer preclearance operations under the Preclearance Authorization Act of
36 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title VIII of the Trade Facilitation
37 and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

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

5 (c) Implementation Plan.—Subparagraph (B) of section 814(e)(1)(B) of the Preclearance
6 Authorization Act of 2015 (19 U.S.C. 4433(e)(1)(B)); enacted as subtitle B of title VIII of the
7 Trade Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.) is amended to
8 read as follows:

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

12 (d) Definitions.—Subsection (r) of section 411 ~~(r)~~ of the Homeland Security Act of 2002 (6
13 U.S.C. 211) is amended—

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

15 “(1) the terms”;

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

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

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

22 SEC. 112~~89~~. AGENT AND OFFICER TECHNOLOGY USE.

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

28 SEC. 11~~2930~~. INTEGRATED BORDER ENFORCEMENT 29 TEAMS.

30 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
31 seq.), as amended by section 111~~57~~, is further amended by adding at the end the following:

32 “SEC. 43~~56~~. INTEGRATED BORDER ENFORCEMENT 33 TEAMS.

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

37 “(b) Purpose.—The Secretary shall administer the IBET Program in a manner that results in a

1 cooperative approach between the United States and Canada to—

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

3 “(2) ~~to~~ detect, prevent, investigate, and respond to terrorism and violations of law related
4 to border security;

5 “(3) ~~to~~ facilitate collaboration among components and offices within the Department and
6 international partners;

7 “(4) ~~to~~ execute coordinated activities in furtherance of border security and homeland
8 security; and

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

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

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

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

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

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

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

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

21 “(F) appropriate State law enforcement agencies;

22 “(G) foreign law enforcement partners;

23 “(H) local law enforcement agencies from affected border cities and communities;
24 and

25 “(I) appropriate tribal law enforcement agencies.

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

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

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

33 “(C) whether, in accordance with paragraph (3), other joint cross-border initiatives
34 already take place within the region in which the IBET would be established, including
35 other Department cross-border programs such as the Integrated Cross-Border Maritime
36 Law Enforcement Operation Program established under section 711 of the Coast
37 Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border
38 Enforcement Security Task Force established under section 432.

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

8 “(d) Operation.—

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

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

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

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

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

21 “(f) Memoranda of Understanding.—The Secretary may enter into memoranda of
22 understanding with appropriate representatives of the entities specified in subsection (c)(1)
23 necessary to carry out the IBET Program. Such memoranda with entities specified in
24 subparagraph (G) of such subsection shall be entered into with the concurrence of the Secretary
25 of State.

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

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

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

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

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

1 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
2 of 2002 is amended by adding after the item relating to section 43~~54~~, as added by section
3 111~~57(b)~~, the following:

4 “Sec.43~~56~~.Integrated Border Enforcement Teams.”.

5 SEC. 1130. LAND USE OR ACQUISITION.

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

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

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

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

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

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

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

23 SEC. 1131. TUNNEL TASK FORCES.

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

26 SEC. 1132. PILOT PROGRAM ON USE OF 27 ELECTROMAGNETIC SPECTRUM IN SUPPORT OF 28 BORDER SECURITY OPERATIONS.

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

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

36 (2) automated spectrum management to enable greater efficiency and speed for U.S.
37 Customs and Border Protection in addressing emerging challenges in overall spectrum use

1 on the United States border; and

2 (3) coordinated use of spectrum resources to better facilitate interoperability and
3 interagency cooperation and interdiction efforts at or near the United States border.

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

11 ~~SEC. 1133. HOMELAND SECURITY FOREIGN-~~
12 ~~ASSISTANCE FOREIGN MIGRATION ASSISTANCE.~~

13 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
14 seq.), as amended by sections 1117~~5~~ and 1130, is further amended by adding at the end the
15 following:

16 ~~“SEC. 4367. SECURITY ASSISTANCE FOREIGN~~
17 ~~MIGRATION ASSISTANCE.~~

18 “(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide,
19 to a foreign government, financial assistance ~~and security assistance, with or without~~
20 ~~reimbursement, including equipment, training, maintenance, supplies, and sustainment~~
21 ~~support~~ for foreign country operations to address migration flows that may affect the United
22 States.

23 “(b) Determination.—~~The Secretary may only~~ Assistance ~~provided financial assistance or~~
24 ~~security assistance~~ under subsection (a) may be provided only if ~~the Secretary determines that~~
25 such assistance would enhance the recipient government’s capacity—

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

27 ~~“(2) to address irregular migration flows that may affect the United States, including any~~
28 ~~detention or removal operations of the recipient government,~~ including procedures to screen and
29 provide protection for certain individuals; ~~or~~

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

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

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

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

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

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

4 ~~“(f) Reimbursement of Expenses.—~~

5 ~~“(1) IN GENERAL.—The Secretary may collect payment from the receiving entity for the~~
6 ~~provision of security assistance under this section, including equipment, training,~~
7 ~~maintenance, supplies, sustainment support, and related shipping costs.~~

8 ~~“(2) TRANSFER.—Notwithstanding any other provision of law, to the extent the Secretary does~~
9 ~~not collect payment under paragraph (1), any amounts appropriated or otherwise made available~~
10 ~~to the Department of Homeland Security may be transferred to the account that finances the~~
11 ~~security assistance provided under subsection (a). The Secretary may, if appropriate, seek~~
12 ~~reimbursement from the receiving foreign government for the provision of financial assistance~~
13 ~~under this section.~~

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

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

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

19 ~~“(eh) Effective Period. The authority provided under this section shall remain in effect until~~
20 ~~September 30, 2022Rule of Construction.—Nothing in this section may be construed as~~
21 ~~affecting, augmenting, or diminishing the authority of the Secretary of State.~~

22 ~~“(f) Development and Program Executive. – The Secretary and the Secretary of State shall~~
23 ~~jointly develop and implement any financial assistance under this section.~~

24 ~~“(g) Rule of construction. – Nothing in this section may be construed as affecting,~~
25 ~~augmenting, or diminishing the authority of the Secretary of State.~~

26 ~~“(h) Authorization of Appropriations. – In addition to amounts otherwise authorized to be~~
27 ~~appropriated for such purpose, there is authorized to be appropriated \$50,000,000,000 for fiscal~~
28 ~~years 2018 through 2022 to carry out this section.”~~

29 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
30 of 2002 is amended by inserting after the item relating to section 43~~5~~6, as added by section 1130,
31 the following:

32 “Sec.43~~6~~7.Security assistance.”.

33 CHAPTER 2—PERSONNEL

34 SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER 35 PROTECTION AGENTS AND OFFICERS.

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

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

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

6 (2) 350 full-time support staff distributed among all United States ports of entry.

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

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

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

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

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

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

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

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

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

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

40 (i) Office of Professional Responsibility.—Not later than September 30, 2022, the
41 Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special

1 agents to maintain an active duty presence of not fewer than 550 full-time equivalent special
2 agents.

3 (j) U.S. Customs and Border Protection Office of Intelligence. – Not later than September 30,
4 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to
5 maintain not fewer than 700 full-time equivalent employees.

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

9 SEC. 1142. FAIR LABOR STANDARDS FOR BORDER 10 PATROL AGENTS.

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

13 “(s) Employment as a Border Patrol Agent.—No public agency shall be deemed to have
14 violated subsection (a) with respect to the employment of any border patrol agent (as defined in
15 section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days,
16 the border patrol agent receives compensation at a rate that is not less than 150 percent of the
17 regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours.
18 Payments required under this section shall be in addition to any payments made under section
19 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set
20 forth in that title.”.

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

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

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

26 (3) by striking paragraph (18).

27 SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION 28 RETENTION INCENTIVES.

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

31 “SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION 32 TEMPORARY EMPLOYMENT AUTHORITIES.

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

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

37 “(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border

1 Protection;

2 “(3) the term ‘Director’ means the Director of the Office of Personnel Management;

3 “(4) the term ‘Secretary’ means the Secretary of Homeland Security; and

4 “(5) the term ‘appropriate congressional committees’ means—

5 “(A) the Committee on Oversight and Government Reform of the House of

6 Representatives;

7 “(B) the Committee on Homeland Security of the House of Representatives;

8 “(C) the Committee on Ways and Means of the House of Representatives;

9 “(D) the Committee on Homeland Security and Governmental Affairs of the Senate;

10 and

11 “(E) the Committee on Finance of the Senate.

12 “(b) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

13 “(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to

14 allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and

15 staffing levels required under section 1141 of the ~~Solution for Undocumented Children-~~

16 ~~through Careers, Employment, Education, and Defending our Nation~~ SECURE and

17 SUCCEED Act. The Secretary may not use such authority beyond meeting the requirements

18 under such section.

19 “(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any

20 provision of sections 3309 through 3319, candidates to positions in the competitive service

21 as CBP employees if the Secretary has given public notice for the positions.

22 “(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or

23 relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP

24 employee at the beginning of the service period multiplied by the number of years

25 (including a fractional part of a year) in the required service period to an individual (other

26 than an individual described in subsection (a)(2) of section 5753(a)(2) if—

27 “(A) the Secretary determines that conditions consistent with the conditions

28 described in paragraphs (1) and (2) of subsection (b) of section 5753(b) are satisfied

29 with respect to the individual (without regard to the regulations referenced in section

30 5753(b)(2)(B)(ii)(I) or to any other provision of section 5753); and

31 “(B) the individual enters into a written service agreement with the Secretary—

32 “(i) under which the individual is required to complete a period of employment

33 as a CBP employee of not less than 2 years; and

34 “(ii) that includes—

35 “(I) the commencement and termination dates of the required service

36 period (or provisions for the determination thereof);

37 “(II) the amount of the bonus; and

38 “(III) other terms and conditions under which the bonus is payable, subject

1 to the requirements of this subsection, including—

2 “(aa) the conditions under which the agreement may be terminated
3 before the agreed-upon service period has been completed; and

4 “(bb) the effect of a termination described in item (aa).

5 “(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent
6 of basic pay to an individual CBP employee (other than an individual described in
7 subsection (a)(2) of section 5754(a)(2)) if—

8 “(A) the Secretary determines that—

9 “(i) a condition consistent with the condition described in subsection (b)(1) of
10 section 5754(b)(1) is satisfied with respect to the CBP employee (without regard
11 to any other provision of that ~~section 5754~~);

12 “(ii) in the absence of a retention bonus, the CBP employee would be likely to
13 leave—

14 “(I) the Federal service; or

15 “(II) for a different position in the Federal service, including a position in
16 another agency or component of the Department of Homeland Security; and

17 “(B) the individual enters into a written service agreement with the Secretary—

18 “(i) under which the individual is required to complete a period of employment
19 as a CBP employee of not less than 2 years; and

20 “(ii) that includes—

21 “(I) the commencement and termination dates of the required service
22 period (or provisions for the determination thereof);

23 “(II) the amount of the bonus; and

24 “(III) other terms and conditions under which the bonus is payable, subject
25 to the requirements under this subsection, including—

26 “(aa) the conditions under which the agreement may be terminated
27 before the agreed-upon service period has been completed; and

28 “(bb) the effect of a termination described in item (aa).

29 “(5) RULES FOR BONUSES.—

30 “(A) MAXIMUM BONUS.— A bonus paid to an employee under –

31 “(i) ~~RECRUITMENT AND RELOCATION BONUS.—A bonus paid to an employee~~
32 ~~under~~ paragraph (3) may not exceed 100 percent of the annual rate of basic pay of
33 the employee as of the commencement date of the applicable service period.

34 “(ii) ~~RETENTION BONUS.—A bonus paid to an employee under~~ paragraph (4)
35 may not exceed 50 percent of the annual rate of basic pay of the employee.

36 “(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph
37 (3) or (4) shall not be considered part of the basic pay of the employee for any purpose,

1 including for retirement or in computing a lump-sum payment to the covered employee
2 for accumulated and accrued annual leave under section 5551 or section 5552.

3 “(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION
4 BONUSSES.—

5 “(i) A bonus paid to an employee under paragraph (4) may not be based on any
6 period of such service which is the basis for a recruitment or relocation bonus under
7 paragraph (3).

8 “(ii) A bonus paid to an employee under paragraph (3) or (4) may not be based on
9 any period of service which is the basis for a recruitment or relocation bonus under
10 section 5753 or a retention bonus under section 5754.

11 “(c) Special Rates of Pay.—In addition to the circumstances described in subsection (b) of
12 section 5305(b), the Director may establish special rates of pay in accordance with that section to
13 assist the Secretary in meeting the requirements of section 1141 of ~~the Solution for~~
14 ~~Undocumented Children through Careers, Employment, Education, and Defending our~~
15 ~~Nation~~SECURE and SUCCEED Act. The Director shall prioritize the consideration of requests
16 from the Secretary for such special rates of pay and issue a decision as soon as practicable. The
17 Secretary shall provide such information to the Director as the Director deems necessary to
18 evaluate special rates of pay under this subsection.

19 “(d) OPM Oversight.—

20 “(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a
21 report to the Director on U.S. Customs and Border Protection’s use of authorities provided
22 under subsections (b) and (c). In

23 “(2) CONTENTS.—~~Each report, the Secretary submitted under paragraph (1) shall~~
24 ~~include—~~

25 “(A) provide such information as the Director determines is appropriate to ensure
26 appropriate use of authorities under such subsections. Each report shall also include an
27 assessment of; and —

28 ~~“(B) an assessment of—~~

29 “(iA) the impact of the use of authorities under subsections (b) and (c) on
30 implementation of section 1141 of the ~~Solution for Undocumented Children~~
31 ~~through Careers, Employment, Education, and Defending our Nation~~SECURE
32 and SUCCEED Act;

33 “(iB) solving hiring and retention challenges at the agency, including at
34 specific locations;

35 “(iC) whether hiring and retention challenges still exist at the agency or
36 specific locations; and

37 “(iD) whether the Secretary needs to continue to use authorities provided
38 under this section at the agency or at specific locations.

39 “(23) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary
40 shall consider—

1 “(A) whether any CBP employee accepted an employment incentive under
2 subsection (b) and (c) and then transferred to a new location or left U.S. Customs and
3 Border Protection; and

4 “(B) the length of time that each employee identified under subparagraph (A) stayed
5 at the original location before transferring to a new location or leaving U.S. Customs
6 and Border Protection.

7 “(34) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report
8 required under this subsection to the appropriate congressional committees.

9 “(e) OPM Action.—

10 ~~“(1) NOTIFICATION.—If the Director shall submit written notification to the Secretary and the~~
11 ~~appropriate congressional committees if the Director determines the Secretary has~~
12 ~~inappropriately used the authority under subsection (b) or a special rate of pay authorized under~~
13 ~~subsection (c), the Director shall notify -~~

14 ~~“(2) EFFECT OF NOTIFICATION.—Upon receipt of a notification under paragraph (1), the~~
15 ~~Secretary may not make any new appointments or issue any new bonuses under subsection (b) or~~
16 ~~provide CBP employees with further special rates of pay until the Director has submitted written~~
17 ~~notice to the Secretary and the appropriate congressional committees in writing. Upon receipt of~~
18 ~~the notification, the Secretary may not make any new appointments or issue any new bonuses~~
19 ~~under subsection (b), nor provide CBP employees with further special rates of pay, until the~~
20 ~~Director has provided the Secretary and the appropriate congressional committees a written~~
21 ~~notice statingeertifying that the Director is satisfied that safeguards are in place to prevent further~~
22 ~~inappropriate use.~~

23 “(f) Improving CBP Hiring and Retention.—

24 “(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the
25 enactment of this section, and in conjunction with the Chief Human Capital Officer of the
26 Department of Homeland Security, the Secretary shall develop and implement a strategy to
27 improve the education regarding hiring and human resources flexibilities (including hiring
28 and human resources flexibilities for locations in rural or remote areas) for all employees,
29 serving in agency headquarters or field offices, who are involved in the recruitment, hiring,
30 assessment, or selection of candidates for locations in a rural or remote area, as well as the
31 retention of current employees.

32 “(2) ELEMENTS.—Elements of the strategy developed under paragraph (1) shall include—

33 “(A) developing or updating training and educational materials on hiring and human
34 resources flexibilities for employees who are involved in the recruitment, hiring,
35 assessment, or selection of candidates, as well as the retention of current employees;

36 “(B) regular training sessions for personnel who are critical to filling open positions
37 in rural or remote areas;

38 “(C) ~~the developm~~enting of pilot programs or other programs, as appropriate,
39 consistent with authorities provided to the Secretary to address identified hiring
40 challenges, including in rural or remote areas;

41 “(D) developing and enhancing strategic recruiting efforts through the relationships

1 with institutions of higher education (as defined in section 102 of the Higher Education
2 Act of 1965 (20 U.S.C. 1002)), veterans transition and employment centers, and job
3 placement program in regions that could assist in filling positions in rural or remote
4 areas;

5 “(E) ~~examination~~ing of existing agency programs to determine how to most
6 effectively aid spouses and families of individuals who are candidates or new hires in a
7 rural or remote area;

8 “(F) ~~gathering~~ feedback from individuals who are candidates or new hires at
9 locations in a rural or remote area, including feedback on the quality of life in rural or
10 remote areas for new hires and their families;

11 “(G) ~~gathering~~ feedback from CBP employees, other than new hires, who are
12 stationed at locations in a rural or remote area, including feedback on the quality of life
13 in rural or remote areas for those CBP employees and their families; and

14 “(H) ~~evaluation~~ng of Department of Homeland Security internship programs and the
15 usefulness of such programs in improving hiring by the Secretary in rural or remote
16 areas.

17 “(3) EVALUATION.—

18 “(A) IN GENERAL.— Each year, ~~the~~ Secretary shall ~~annually~~—

19 “(i) evaluate the extent to which the strategy developed and implemented under
20 paragraph (1) has improved the hiring and retention ability of the Secretary; and

21 “(ii) make any appropriate updates to the strategy developed under paragraph
22 (1).

23 “(B) INFORMATION.—The evaluation under subparagraph (A) shall include—

24 “(i) any reduction in the time taken by the Secretary to fill mission-critical
25 positions, including in rural or remote areas;

26 “(ii) a general assessment of the impact of the strategy implemented under
27 paragraph (1) on hiring challenges, including in rural or remote areas; and

28 “(iii) other information the Secretary determines relevant.

29 “(g) Inspector General Review.—Not later than 2 years after the date of the enactment of this
30 section, the Inspector General of the Department of Homeland Security shall review the use of
31 hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such
32 flexibilities is helping the Secretary meet hiring and retention needs, including in rural and
33 remote areas.

34 “(h) Report on Polygraph Requests.—The Secretary shall submit a report to the appropriate
35 congressional committees that identifies the number of requests the Secretary has received from
36 any other Federal agency for the file of an applicant for a position in U.S. Customs and Border
37 Protection that includes the results of a polygraph examination.

38 “(i) Exercise of Authority.—

39 “(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to
40 the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under

1 paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining
2 agreement.

3 “(2) DELEGATION.—The Secretary may delegate any authority under this section to the
4 Commissioner.

5 “(j) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary
6 or the Director from applicability of the merit system principles under section 2301.

7 “(k) Sunset.—The authorities under subsections (b) and (c) shall terminate on September 30,
8 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may
9 continue until such bonus has been paid, subject to the conditions specified in this section.”.

10 (b) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 5,
11 United States Code, is amended by adding at the end the following:

12 “9702. U.S. Customs and Border Protection temporary employment authorities.”.

13 (c) Overtime Limitation.—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C.
14 267(c)(1)) is amended by striking “\$25,000” and inserting “\$45,000”.

15 SEC. 1144. ANTI-BORDER CORRUPTION 16 REAUTHORIZATION ACT.

17 (a) Short Title.—This section may be cited as the “Anti-Border Corruption Reauthorization
18 Act of 2018”.

19 (b) Hiring Flexibility.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221) is
20 amended by striking subsection (b) and inserting the following:

21 “(b) Waiver Authority.—The Commissioner of U.S. Customs and Border Protection may
22 waive the application of subsection (a)(1)—

23 “(1) ~~for~~ a current, full-time law enforcement officer employed by a State or local law
24 enforcement agency who—

25 “(A) has continuously served as a law enforcement officer for not fewer than 3
26 years;

27 “(B) is authorized by law to engage in or supervise the prevention, detection,
28 investigation, or prosecution of, or the incarceration of any person for, any violation of
29 law, and has statutory powers for arrest or apprehension;

30 “(C) is not currently under investigation, has not been found to have engaged in
31 criminal activity or serious misconduct, has not resigned from a law enforcement
32 officer position under investigation or in lieu of termination, and has not been
33 dismissed from a law enforcement officer position; and

34 “(D) has, during the past 10 years, successfully completed a polygraph examination
35 as a condition of employment with such officer’s current law enforcement agency;

36 “(2) ~~to for~~ a current, full-time Federal law enforcement officer who—

37 “(A) has continuously served as a law enforcement officer for not fewer than 3
38 years;

1 “(B) is authorized to make arrests, conduct investigations, conduct searches, make
2 seizures, carry firearms, and serve orders, warrants, and other processes;

3 “(C) is not currently under investigation, has not been found to have engaged in
4 criminal activity or serious misconduct, has not resigned from a law enforcement
5 officer position under investigation or in lieu of termination, and has not been
6 dismissed from a law enforcement officer position; and

7 “(D) holds a current Tier 4 background investigation or current Tier 5 background
8 investigation; and

9 “(3) ~~fortho~~ a member of the Armed Forces (or a reserve component thereof) or a veteran, if
10 such individual—

11 “(A) has served in the Armed Forces for not fewer than 3 years;

12 “(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top
13 Secret/Sensitive Compartmented Information clearance;

14 “(C) holds, or has undergone within the past 5 years, a current Tier 4 background
15 investigation or current Tier 5 background investigation;

16 “(D) received, or is eligible to receive, an honorable discharge from service in the
17 Armed Forces and has not engaged in criminal activity or committed a serious military
18 or civil offense under the Uniform Code of Military Justice; and

19 “(E) was not granted any waivers to obtain the clearance referred to subparagraph
20 (B).

21 “(c) Termination of Waiver Authority.—The authority to issue a waiver under subsection (b)
22 shall terminate on the date that is 4 years after the date of the enactment of the ~~Solution for~~
23 ~~Undocumented Children through Careers, Employment, Education, and Defending our~~
24 ~~Nation~~ SECURE and SUCCEED Act.”.

25 (c) Supplemental Commissioner Authority and Definitions.—

26 (1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border
27 Corruption Act of 2010 (Public Law 111–376) is amended to read as follows:

28 “SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.

29 “(a) Non-exemption.—An individual who receives a waiver under section 3(b) is not exempt
30 from other hiring requirements relating to suitability for employment and eligibility to hold a
31 national security designated position, as determined by the Commissioner of U.S. Customs and
32 Border Protection.

33 “(b) Background Investigations.—Any individual who receives a waiver under section 3(b)
34 and holds a current Tier 4 background investigation shall be subject to a Tier 5 background
35 investigation.

36 “(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and
37 Border Protection is authorized to administer a polygraph examination to an applicant or
38 employee who is eligible for, or receives a waiver under, section 3(b) if information is
39 discovered before the completion of a background investigation that results in a determination

1 that a polygraph examination is necessary to make a final determination regarding suitability for
2 employment or continued employment, as the case may be.”.

3 (2) REPORT.—The Anti-Border Corruption Act of 2010 (~~Public Law 111–376~~), as
4 amended by paragraph (1), is further amended by adding at the end the following:

5 “SEC. 5. REPORTING.

6 “(a) Annual Report.—Not later than 1 year after the date of the enactment of this section, and
7 annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner
8 of U.S. Customs and Border Protection shall submit a report to Congress that includes, with
9 respect to each such reporting period—

10 “(1) the number of waivers requested, granted, and denied under section 3(b);

11 “(2) the reasons for any denials of such waiver;

12 “(3) the percentage of applicants who were hired after receiving a waiver;

13 “(4) the number of instances that a polygraph was administered to an applicant who
14 initially received a waiver and the results of such polygraph;

15 “(5) an assessment of the current impact of the polygraph waiver program on filling law
16 enforcement positions at U.S. Customs and Border Protection; and

17 “(6) additional authorities needed by U.S. Customs and Border Protection to better utilize
18 the polygraph waiver program for its intended goals.

19 “(b) Additional Information.—The first report submitted under subsection (a) shall include—

20 “(1) an analysis of other methods of employment suitability tests that detect deception
21 and could be used in conjunction with traditional background investigations to evaluate
22 potential employees for suitability; and

23 “(2) a recommendation regarding whether a test referred to in paragraph (1) should be
24 adopted by U.S. Customs and Border Protection when the polygraph examination
25 requirement is waived pursuant to section 3(b).”.

26 (3) DEFINITIONS.—The Anti-Border Corruption Act of 2010 (~~Public Law 111–376~~), as
27 amended by paragraphs (1) and (2), is further amended by adding at the end the following:

28 “SEC. 6. DEFINITIONS.

29 “In this Act:

30 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’
31 has the meaning given the term ‘law enforcement officer’ in sections 8331(20) and
32 8401(17) of title 5, United States Code.

33 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term ‘serious military or civil offense’
34 means an offense for which—

35 “(A) a member of the Armed Forces may be discharged or separated from service in
36 the Armed Forces; and

37 “(B) a punitive discharge is, or would be, authorized for the same or a closely

1 related offense under the Manual for Court-Martial, as pursuant to Army Regulation
2 635-200 chapter 14–12.

3 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and ‘Tier 5’ with respect to background
4 investigations have the meaning given such terms under the 2012 Federal Investigative
5 Standards.

6 “(4) VETERAN.—The term ‘veteran’ has the meaning given such term in section 101(2) of
7 title 38, United States Code.”.

8 (d) Polygraph Examiners.—Not later than September 30, 2022, the Secretary shall increase to
9 not fewer than 150 the number of trained full-time equivalent polygraph examiners for
10 administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this
11 section.

12 SEC. 1145. TRAINING FOR OFFICERS AND AGENTS OF 13 U.S. CUSTOMS AND BORDER PROTECTION.

14 (a) In General.—Section 411(l) of the Homeland Security Act of 2002 (6 U.S.C. 211(l)) is
15 amended to read as follows:

16 “(l) Training and Continuing Education.—

17 “(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—The Commissioner shall
18 ensure that every agent and officer of U.S. Customs and Border Protection receives at least
19 21 weeks of training that is directly related to the mission of the U.S. Border Patrol, Air and
20 Marine, and the Office of Field Operations before the initial assignment of such agents and
21 officers.

22 “(2) FLETC.—The Commissioner shall work in consultation with the Director of the
23 Federal Law Enforcement Training Centers to establish guidelines and curriculum for the
24 training of agents and officers of U.S. Customs and Border Protection under subsection (a).

25 “(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers
26 of U.S. Customs and Border Protection who are required to undergo training under
27 subsection (a) to participate in not fewer than 8 hours of continuing education annually to
28 maintain and update understanding of Federal legal rulings, court decisions, and
29 Department policies, procedures, and guidelines related to relevant subject matters.

30 “(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the
31 Solution for Undocumented Children through Careers, Employment, Education, and
32 Defending our Nation Act, the Commissioner shall develop and require training courses
33 geared towards the development of leadership skills for mid- and senior-level career
34 employees not later than 1 year after such employees assume duties in supervisory roles.”.

35 (b) Report.—Not later than 180 days after the date of the enactment of this Act, the
36 Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee
37 on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland
38 Security of the House of Representatives, and the Committee on Ways and Means of the House
39 of Representatives that identifies the guidelines and curriculum established to carry out
40 subsection (1) of section 411(+) of the Homeland Security Act of 2002, as amended by subsection
41 (a).

1 (c) Assessment.—Not later than 4 years after the date of the enactment of this Act, the
2 Comptroller General of the United States shall submit a report to the Committee on Homeland
3 Security and the Committee on Ways and Means of the House of Representatives and the
4 Committee on Homeland Security and Governmental Affairs and the Committee on Finance of
5 the Senate that assesses the training and education, including continuing education, required
6 under subsection (1) of section 411(+) of the Homeland Security Act of 2002, as amended by
7 subsection (a).

8 SEC. 1146. ADDITIONAL U.S. IMMIGRATION AND 9 CUSTOMS ENFORCEMENT PERSONNEL.

10 (a) Enforcement and Removal Officers.—By not later than September 30, 2022, the Director
11 of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time,
12 active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Operations
13 law enforcement officers performing interior immigration enforcement functions to not fewer
14 than 8,500.

15 (b) Homeland Security Investigations Special Agents.—By not later than September 30, 2022,
16 the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained,
17 full-time, active duty Homeland Security Investigations special agents by not fewer than 1,500.

18 (c) Border Enforcement Security Task Force.—By not later than September 30, 2022, the
19 Director of U.S. Immigration and Customs Enforcement shall assign not fewer than 100
20 Homeland Security Investigations special agents to the Border Enforcement Security Task Force
21 Program established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

22 SEC. 1147. OTHER IMMIGRATION AND LAW 23 ENFORCEMENT PERSONNEL.

24 (a) Department of Justice.—

25 (1) UNITED STATES ATTORNEYS.—By not later than September 30, 2022, in addition to
26 positions authorized before the date of the enactment of this Act and any existing attorney
27 vacancies within the Department of Justice on such date of enactment, the Attorney General
28 shall—

29 (A) increase by not fewer than 100 the number of Assistant United States Attorneys;
30 and

31 (B) increase by not fewer than 50 the number of Special Assistant United States
32 Attorneys in the United States Attorneys' office to litigate denaturalization and other
33 immigration cases in the Federal courts.

34 (2) IMMIGRATION JUDGES.—

35 (A) ADDITIONAL IMMIGRATION JUDGES.—By not later than September 30, 2022, in
36 addition to positions authorized before the date of the enactment of this Act and any
37 existing vacancies within the Department of Justice on such date of enactment, the
38 Attorney General shall increase by 200 the number of trained full-time immigration
39 judges.

1 (B) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney
2 General is authorized to procure space, temporary facilities, support staff, and full-time
3 interpreters on an expedited basis, to accommodate the additional immigration judges
4 authorized under subparagraph (A).

5 (3) BOARD OF IMMIGRATION APPEALS.—

6 (A) BOARD MEMBERS.—By not later than September 30, 2022, the Attorney General
7 shall increase the number of Board Members authorized to serve on the Board of
8 Immigration Appeals to 25.

9 (B) STAFF ATTORNEYS.—By not later than September 30, 2022, in addition to
10 positions authorized before the date of the enactment of this Act and any existing staff
11 attorney vacancies within the Department of Justice on such date of enactment, the
12 Attorney General shall increase the number of staff attorneys assigned to support the
13 Board of Immigration Appeals by not fewer than 50.

14 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General is authorized to
15 procure space, temporary facilities, and required administrative support staff, on an
16 expedited basis, to accommodate the additional Board Members authorized under
17 subparagraph (A).

18 (4) OFFICE OF IMMIGRATION LITIGATION.—By not later than September 30, 2022, in
19 addition to positions authorized before the date of the enactment of this Act and any
20 existing vacancies within the Department of Justice on such date of enactment, the Attorney
21 General shall increase by not fewer than 100 the number of attorneys for the Office of
22 Immigration Litigation.

23 (b) Department of Homeland Security.—

24 (1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September
25 30, 2022, in addition to positions authorized before the date of the enactment of this Act and
26 any existing officer vacancies within the Department of Homeland Security on such date of
27 enactment, the Director of U.S. Citizenship and Immigration Services shall increase by not
28 fewer than 100 the number of trained full-time active duty Fraud Detection and National
29 Security (FDNS) officers.

30 (2) ICE HOMELAND SECURITY INVESTIGATIONS FORENSIC DOCUMENT LABORATORY
31 PERSONNEL.—By not later than September 30, 2022, in addition to positions authorized
32 before the date of the enactment of this Act and any existing officer vacancies within the
33 Department of Homeland Security on such date of enactment, the Director of U.S.
34 Immigration and Customs Enforcement shall increase—

35 (A) the number of trained, full-time Forensic Document Laboratory Examiners by
36 15;

37 (B) the number of trained, full-time Fingerprint Specialists by 15;

38 (C) the number of trained, full-time Intelligence Officers by 10; and

39 (D) the number of trained, full-time administrative staff by 3.

40 (3) IMMIGRATION ATTORNEYS.—

1 (A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than
2 September 30, 2022, in addition to positions authorized before the date of the
3 enactment of this Act and any existing attorney vacancies within the Department of
4 Homeland Security on such date of enactment, the Director of U.S. Immigration and
5 Customs Enforcement shall increase the number of trained, full-time, active duty
6 Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of
7 such attorneys shall perform duties related to litigation of removal proceedings and
8 representing the Department of Homeland Security in immigration matters before the
9 immigration courts within the Department of Justice, the Executive Office for
10 Immigration Review, and enforcement of U.S. customs and trade laws. At least 50 of
11 these additional attorney positions shall be used by the Attorney General to increase
12 the number of U.S. Immigration and Customs Enforcement attorneys serving as
13 Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the
14 U.S. Attorneys, to assist with immigration-related litigation.

15 (B) USCIS IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in
16 addition to positions authorized before the date of the enactment of this Act and any
17 existing attorney vacancies within the Department of Homeland Security on such date
18 of enactment, the Director of U.S. Citizenship and Immigration Services shall increase
19 the number of trained, full-time, active duty Office of Chief Counsel attorneys by not
20 fewer than 250. Such attorneys shall primarily handle national security and public
21 safety cases, denaturalization cases, and legal sufficiency reviews of immigration
22 benefit decisions. At least 50 of these additional attorney positions shall be used by the
23 Attorney General to increase the number of U.S. Citizenship and Immigration Service
24 attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of
25 Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

26 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General and Secretary are
27 authorized to procure space, temporary facilities, and to hire the required
28 administrative and legal support staff, on an expedited basis, to accommodate the
29 additional positions authorized under this paragraph.

30 (D) AUTHORITY TO ACQUIRE LEASEHOLD. — Notwithstanding any other provision of
31 law, the Secretary of Homeland Security may acquire a leasehold interest in real
32 property, and may provide in a lease entered into under this subsection for the
33 construction or modification of any facility on the leased property, if Secretary
34 determines that the acquisition of such interest, and such construction or modification,
35 are necessary in order to facilitate the implementation of this Act.

36 (E) USE OF USCIS FEE FUNDS.—Adjudication fees described in section 286(m) of the
37 Immigration and Nationality Act (8 U.S.C. 1356(m)) may not be used to pay for the
38 cost of employing or contracting for the services of any person who is not an employee
39 or contractor of U.S. Citizenship and Immigration Services or the Department of
40 Homeland Security's Administrative Appeals Office.

41 (c) Department of State.—

42 (1) VISA SPECIALISTS.—By not later than September 30, 2022, in addition to positions
43 authorized before the date of the enactment of this Act and any existing attorney vacancies
44 within the Department on such date of enactment, the Assistant Secretary of State for

1 Consular Affairs shall increase the number of trained, full-time analysts within the Bureau
2 of Consular Affairs by not fewer than 50. Such analysts primarily should handle and advise
3 on cases and matters involving the potential for visa denial on the basis of national security
4 and public safety concerns.

5 (2) IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to
6 positions authorized before the date of the enactment of this Act and any existing attorney
7 vacancies within the Department on such date of enactment, the Assistant Secretary of State
8 for Consular Affairs shall increase the number of trained, full-time, active attorneys adviser
9 within the Bureau of Consular Affairs by not fewer than 25. Such attorneys primarily
10 should handle and advise on cases and matters involving the potential for visa denial on the
11 basis of national security and public safety concerns.

12 (3) FOREIGN SERVICE CONSULAR FELLOWS PROGRAM.—By not later than September 30,
13 2020, the Secretary of State shall—

14 (i) increase the number of Consular Fellows to double the number of Consular Fellows
15 employed on the date of enactment of this Act;

16 (ii) offer Consular Fellows permanent career appointments; and

17 (iii) make language training available to Consular Fellows for assignment to posts outside
18 of their area of core linguistic ability.

19 (d) Authorization of Appropriations.—There are authorized to be appropriated, for each of the
20 fiscal years 2018 through 2022, such sums as may be necessary to carry out this section.

21 SEC. 1148. JUDICIAL RESOURCES FOR BORDER 22 SECURITY.

23 (a) Border Crossing Prosecutions; Criminal Consequence Initiative.—

24 (1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

25 (A) to increase the number of criminal prosecutions for unlawful border crossing in
26 each and every sector of the southern border by not less than 80 percent per day, as
27 compared to the average number of such prosecutions per day during the 12-month
28 period preceding the date of the enactment of this Act, by increasing funding for—

29 (i) attorneys and administrative support staff in offices of United States
30 attorneys;

31 (ii) support staff and interpreters in court clerks' offices;

32 (iii) pre-trial services;

33 (iv) activities of the Office of the Federal Public Defender, including payments
34 to retain appointed counsel under section 3006A of title 18, United States Code;
35 and

36 (v) additional personnel, including deputy United States marshals in the United
37 States Marshals Service, to perform intake, coordination, transportation, and court
38 security; and

39 (B) to reimburse Federal, State, local, and tribal law enforcement agencies for any

1 detention costs related to the increased border crossing prosecutions carried out
2 pursuant to subparagraph (A).

3 (2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief
4 judge of each judicial district located within a sector of the southern border is authorized to
5 appoint additional full-time magistrate judges, who, consistent with the Constitution and
6 laws of the United States, shall have the authority to hear cases and controversies in the
7 judicial district in which the magistrate judges are appointed.

8 (3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for
9 each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this
10 subsection.

11 (b) Additional Permanent District Court Judgeships in Southern Border States.—

12 (1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the
13 Senate—

14 (A) 4 additional district judges for the District of Arizona;

15 (B) 2 additional district judges for the Southern District of California;

16 (C) 4 additional district judges for the Western District of Texas; and

17 (D) 2 additional district judges for the Southern District of Texas.

18 (2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The judgeships for the
19 District of Arizona and the Central District of California authorized under section 312(c) of
20 the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133
21 note), in existence on the day before the date of the enactment of this Act, shall be
22 authorized under section 133 of title 28, United States Code, and the individuals holding
23 such judgeships on such day shall hold office under section 133 of title 28, United States
24 Code, as amended by paragraph (3).

25 (3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a)
26 of title 28, United States Code, is amended—

27 (A) by striking the item relating to the district of Arizona and inserting the
28 following:
:2,L0,tp0,p0,10/12,s190n,xs95n11

29 “Arizonal17”;

30 (B) by striking the items relating to California and inserting the following
31 :2,L0,tp0,p0,10/12,s190n,xs95n11

32 l“California:l

33 Northernl19

34 Easternl12

35 Centrall28

36 Southernl15”;

37 (C) by striking the items relating to Texas and inserting the following
38 :2,L0,tp0,p0,10/12,s190n,xs95n11

1 l“Texas:l
2 Northernl12
3 Southernl21
4 Easternl7
5 Westernl17”.

6 (c) Increase in Filing Fees.—

7 (1) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended—

8 (A) by striking “\$350” and inserting “\$375”; and

9 (B) by striking “\$5” and inserting “\$7”.

10 (2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the
11 amendments made by paragraph (1)—

12 (A) shall be deposited as offsetting receipts in the special fund of the Treasury
13 established under section 1931 of title 28, United States Code; and

14 (B) shall be available solely for the purpose of facilitating the processing of civil
15 cases, but only to the extent specifically appropriated by an Act of Congress enacted
16 after the date of the enactment of this Act.

17 **SEC. 1149. REIMBURSEMENT TO STATE AND LOCAL**
18 **PROSECUTORS FOR FEDERALLY INITIATED,**
19 **IMMIGRATION-RELATED CRIMINAL CASES.**

20 (a) In General.—The Attorney General shall reimburse State, county, tribal, and municipal
21 governments for costs associated with the prosecution of federally initiated criminal cases
22 declined to be prosecuted by local offices of the United States attorneys, including costs relating
23 to pre-trial services, detention, clerical support, and public defenders’ services associated to such
24 prosecution.

25 (b) Exception.—Reimbursement under subsection (a) shall not be available, at the discretion
26 of the Attorney General, if the Attorney General determines that there is reason to believe that
27 the jurisdiction seeking reimbursement has engaged in unlawful conduct in connection with
28 immigration-related apprehensions.

29 **CHAPTER 3—GRANTS**

30 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE**
31 **PROGRAM.**

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

33 (1) in paragraph (1)—

34 (A) by inserting “AUTHORIZATION.—” before “If the chief”; and

35 (B) by inserting “or an alien with an unknown status” after “undocumented criminal

1 alien” each place that term appears;

2 (2) by striking paragraphs (2) and (3) and inserting the following:

3 “(2) COMPENSATION.—

4 “(A) CALCULATION OF COMPENSATION.—Compensation under paragraph (1)(A)
5 shall be the average cost of incarceration of a prisoner in the relevant State, as
6 determined by the Attorney General.

7 “(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall
8 compensate the State or political subdivision of the State, in accordance with
9 subparagraph (A), for the incarceration of an alien—

10 “(i) whose immigration status cannot be verified by the Secretary; and

11 “(ii) who would otherwise be an undocumented criminal alien if the alien is
12 unlawfully present in the United States.

13 “(3) DEFINITIONS.—In this subsection:

14 “(A) ALIEN WITH AN UNKNOWN STATUS.—The term ‘alien with an unknown status’
15 means an individual—

16 “(i) who has been incarcerated by a Federal, State, or local law enforcement
17 entity; and

18 “(ii) whose immigration status cannot be definitively identified.

19 “(B) UNDOCUMENTED CRIMINAL ALIEN.—The term ‘undocumented criminal alien’
20 means an alien who—

21 “(i) has been charged with or convicted of a felony or any misdemeanors; and

22 “(ii)(I) entered the United States without inspection or at any time or place
23 other than as designated by the Secretary;

24 “(II) was the subject of exclusion or deportation or removal proceedings at the
25 time he or she was taken into custody by the State or a political subdivision of the
26 State; or

27 “(III) was admitted as a nonimmigrant and, at the time he or she was taken into
28 custody by the State or a political subdivision of the State, has failed to maintain
29 the nonimmigrant status in which the alien was admitted or to which it was
30 changed under section 248, or to comply with the conditions of any such status.”;

31 (3) in paragraph (4), by inserting “and aliens with an unknown status” after
32 “undocumented criminal aliens” each place that term appears;

33 (4) in paragraph (5)(C), by striking “to carry out this subsection” and all that follows and
34 inserting “\$950,000,000, for each of the fiscal years 2018 through 2022, to carry out this
35 subsection.”; and

36 (5) by adding at the end the following:

37 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any amounts provided to a State or to a
38 political subdivision of a State as compensation under paragraph (1)(A) for a fiscal year

1 shall be distributed to such State or political subdivision not later than 120 days after the last
2 day of the period specified by the Attorney General for the submission of requests under
3 that paragraph for that fiscal year.”.

4 SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE 5 GRANTS.

6 (a) Authority.—

7 (1) IN GENERAL.—The Secretary, in consultation with State and local law enforcement
8 agencies, may award border security assistance grants to law enforcement agencies located
9 in the Southwest border region for the purposes described in subsection (b).

10 (2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to
11 law enforcement agencies located in a county that is located within 25 miles of the Southern
12 border.

13 (b) Purposes.—Each grant awarded under subsection (a) shall be used to address drug 14 trafficking, smuggling, and border violence—

15 (1) by obtaining law enforcement equipment and tools, including secure 2-way
16 communication devices, portable laptops and office computers, license plate readers,
17 unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night
18 viewing capabilities, and any other appropriate law enforcement equipment;

19 (2) by hiring additional personnel, including administrative support personnel,
20 dispatchers, and jailers, and to provide overtime pay for such personnel;

21 (3) by purchasing law enforcement vehicles;

22 (4) by providing high performance aircraft and helicopters for border surveillance and
23 other critical mission applications and paying for the operational and maintenance costs
24 associated with such craft;

25 (5) by providing critical power generation systems, infrastructure, and technological
26 upgrades to support State and local data management systems and fusion centers; or

27 (6) by providing specialized training and paying for the direct operating expenses
28 associated with detecting and prosecuting drug trafficking, human smuggling, and other
29 illegal activity or violence that occurs at or near the Southern border.

30 (c) Application.—

31 (1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a
32 nonprofit organization or coalition acting as an agent for 1 or more such law enforcement
33 entities, shall submit an application to the Secretary that includes the information described
34 in paragraph (2) at such time and in such manner as the Secretary may require.

35 (2) CONTENT.—Each application submitted under paragraph (1) shall include—

36 (A) a description of the activities to be carried out with a grant awarded under
37 subsection (a);

38 (B) if equipment will be purchased with the grant, a detailed description of—

- 1 (i) the type and quantity of such equipment; and
2 (ii) the personnel who will be using such equipment;
3 (C) a description of the need of the law enforcement agency or agencies for the
4 grant, including a description of the inability of the agency or agencies to carry out the
5 proposed activities without the grant; and
6 (D) an assurance that the agency or agencies will, to the extent practicable, seek,
7 recruit, and hire women and members of racial and ethnic minority groups in law
8 enforcement positions of the agency or agencies.

9 (d) Review and Award.—

10 (1) REVIEW.—Not later than 90 days after receiving an application submitted under
11 subsection (c), the Secretary shall review and approve or reject the application.

12 (2) AWARD OF FUNDS.—Subject to the availability of appropriations, not later than 45
13 days after the date an application is approved under paragraph (1), the Secretary shall
14 transmit the grant funds to the applicant.

15 (3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to
16 high-intensity areas for drug trafficking, smuggling, and border violence.

17 (e) Authorization of Appropriations.—There is authorized to be appropriated, for each of the
18 fiscal years 2018 through 2022, \$300,000,000 for grants authorized under this section.

19 **SEC. 1153. OPERATION STONEGARDEN.**

20 (a) In General.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et
21 seq.) is amended by adding at the end the following:

22 **“SEC. 2009. OPERATION STONEGARDEN.**

23 “(a) Establishment.—There is established in the Department a program to be known as
24 ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall
25 make grants to eligible law enforcement agencies, through the State administrative agency, to
26 enhance border security in accordance with this section.

27 “(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law
28 enforcement agency—

29 “(1) shall be located in—

30 “(A) a State bordering Canada or Mexico; or

31 “(B) a State or territory with a maritime border; and

32 “(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection
33 operation coordinated through a U.S. Border Patrol sector office.

34 “(c) Permitted Uses.—The recipient of a grant under this section may use such grant for—

35 “(1) equipment, including maintenance and sustainment costs;

36 “(2) personnel, including overtime and backfill, in support of enhanced border law
37 enforcement activities;

1 “(3) any activity permitted for Operation Stonegarden under the Department of
2 Homeland Security’s most recent Homeland Security Grant Program Notice of Funding
3 Opportunity; and

4 “(4) any other appropriate activity, as determined by the Administrator, in consultation
5 with the Commissioner of U.S. Customs and Border Protection.

6 “(d) Period of Performance.—The Secretary shall award grants under this section to grant
7 recipients for a period of not less than 36 months.

8 “(e) Report.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a
9 report to the Committee on Homeland Security and Governmental Affairs of the Senate and the
10 Committee on Homeland Security of the House of Representatives containing information on the
11 expenditure of grants made under this section by each grant recipient.

12 “(f) Authorization of Appropriations.—There is authorized to be appropriated \$110,000,000,
13 for each of the fiscal years 2018 through 2022, for grants under this section.”.

14 (b) Conforming Amendment.—Section 2002(a) of the Homeland Security Act of 2002 (6
15 U.S.C. 603(a)) is amended to read as follows:

16 “(a) Grants Authorized.—The Secretary, through the Administrator, may award grants under
17 sections 2003, 2004, and 2009 to State, local, and tribal governments, as appropriate.”.

18 (c) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
19 of 2002 is amended by inserting after the item relating to section 2008 the following:

20 “Sec.2009.Operation Stonegarden.”.

21 **SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS** 22 **OF CROSS-BORDER HUMAN SMUGGLING.**

23 In addition to any funding for grants made available to the Attorney General for State and
24 local law enforcement assistance, the Attorney General shall award grants to county, municipal,
25 or tribal governments in States along the southern border for costs, or reimbursement of costs,
26 associated with the transportation and processing of unidentified alien remains that have been
27 transferred to an official medical examiner’s office or an institution of higher education in the
28 area with the capacity to analyze human remains using forensic best practices, including DNA
29 testing, where such expenses may contribute to the collection and analysis of information
30 pertaining to missing and unidentified persons.

31 **SEC. 1155. GRANT ACCOUNTABILITY.**

32 (a) Definitions.—In this section:

33 (1) AWARDING ENTITY.—The term “awarding entity” means the Secretary, the
34 Administrator of the Federal Emergency Management Agency, the Director of the National
35 Science Foundation, or the Chief of the Office of Citizenship and New Americans.

36 (2) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an
37 organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and
38 is exempt from taxation under section 501(a) of such Code.

1 (3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding
2 in a final audit report conducted by the Inspector General of the Department of Homeland
3 Security, or the Inspector General for the National Science Foundation for grants awarded
4 by the Director of the National Science Foundation, that the audited grantee has utilized
5 grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed
6 or resolved within 1 year after the date when the final audit report is issued.

7 (b) Accountability.—All grants awarded by an awarding entity pursuant to this subtitle shall
8 be subject to the following accountability provisions:

9 (1) AUDIT REQUIREMENT.—

10 (A) AUDITS.—Beginning in the first fiscal year beginning after the date of the
11 enactment of this Act, and in each fiscal year thereafter, the Inspector General of the
12 Department of Homeland Security, or the Inspector General for the National Science
13 Foundation for grants awarded by the Director of the National Science Foundation,
14 shall conduct audits of recipients of grants under this subtitle or any amendments made
15 by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such
16 Inspectors General shall determine the appropriate number of grantees to be audited
17 each year.

18 (B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is
19 found to have an unresolved audit finding shall not be eligible to receive grant funds
20 under this subtitle or any amendment made by this subtitle during the first 2 fiscal
21 years beginning after the end of the fiscal year in which a finding described in
22 subsection (A) was discovered.

23 (C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by
24 this subtitle, the awarding entity shall give priority to eligible applicants that did not
25 have an unresolved audit finding during the 3 fiscal years immediately preceding the
26 date on which the entity submitted the application for such grant.

27 (D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any
28 amendment made by this subtitle during the 2-year period when the entity is barred
29 from receiving grants under subparagraph (B), the awarding entity shall—

30 (i) deposit an amount equal to the amount of the grant funds that were
31 improperly awarded to such entity into the general fund of the Treasury; and

32 (ii) seek to recover the costs of the repayment under clause (i) from such entity.

33 (2) NONPROFIT ORGANIZATION REQUIREMENTS.—

34 (A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or
35 any amendment made by this subtitle to a nonprofit organization that holds money in
36 offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of
37 the Internal Revenue Code of 1986.

38 (B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this
39 subtitle or any amendment made by this subtitle and uses the procedures prescribed by
40 Internal Revenue regulations to create a rebuttable presumption of reasonableness for
41 the compensation of its officers, directors, trustees, and key employees, shall disclose
42 to the awarding entity, in the application for the grant, the process for determining such

1 compensation, including the independent persons involved in reviewing and approving
2 such compensation, the comparability data used, and contemporaneous substantiation
3 of the deliberation and decision. Upon request, the awarding entity shall make the
4 information disclosed under this subparagraph available for public inspection.

5 (3) CONFERENCE EXPENDITURES.—

6 (A) LIMITATION.—Amounts authorized to be appropriated to the Department of
7 Homeland Security or the National Science Foundation for grant programs under this
8 subtitle or any amendment made by this subtitle may not be used by an awarding entity
9 to host or support any expenditure for conferences that uses more than \$20,000 in
10 funds made available by the Department of Homeland Security or the National Science
11 Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director
12 of the National Science Foundation, or their designee, provides prior written
13 authorization that the funds may be expended to host the conference.

14 (B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a
15 written estimate of all costs associated with the conference, including the cost of all
16 food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

17 (C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director
18 of the National Science Foundation shall submit an annual report to Congress that
19 identifies all conference expenditures approved under this paragraph.

20 (4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date
21 of the enactment of this Act, and annually thereafter, each awarding entity shall submit a
22 report to Congress that—

23 (A) indicates whether—

24 (i) all audits issued by the Offices of the Inspector General under paragraph (1)
25 have been completed and reviewed by the appropriate individuals;

26 (ii) all mandatory exclusions required under paragraph (1)(B) have been issued;
27 and

28 (iii) all reimbursements required under paragraph (1)(D) have been made; and

29 (B) includes a list of any grant recipients excluded under paragraph (1) during the
30 previous year.

31 **Subtitle B—Emergency Port of Entry Personnel and**
32 **Infrastructure Funding**

33 **SEC. 1201. DEFINITIONS.**

34 In this subtitle:

35 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional
36 committees” means—

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

38 (B) the Committee on Finance of the Senate;

- 1 (C) the Committee on the Judiciary of the Senate;
2 (D) the Committee on Homeland Security of the House of Representatives;
3 (E) the Committee on Ways and Means of the House of Representatives; and
4 (F) the Committee on the Judiciary of the House of Representatives.

5 (2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

6 SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.

7 (a) Additional Ports of Entry.—

8 (1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of
9 title 40, United States Code, Secretary may construct new ports of entry along the northern
10 border and along the southern border ~~and determine the at~~ locations determined by the
11 Secretary of any such new ports of entry.

12 (2) CONSULTATION.—

13 (A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of
14 State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of
15 Transportation, the Administrator of General Services, and appropriate representatives
16 of State and local governments, Indian tribes, and property owners in the United States
17 ~~before selecting prior to determining~~ a location for any new port constructed pursuant
18 to paragraph (1).

19 (B) CONSIDERATIONS.—The purpose of the consultations required under
20 subparagraph (A) shall be to minimize any negative impacts of such a new port on the
21 environment, culture, commerce, and quality of life of the communities and residents
22 located near such new port.

23 (b) Expansion and Modernization of High-volume Southern Border Ports of Entry.—Not later
24 than September 30, 2022, the Administrator of General Services, subject to section 3307 of title
25 40, United States Code, and in coordination with the Secretary, shall expand or modernize ~~the~~
26 ~~primary and secondary inspection lanes for vehicle, cargo, and pedestrian inbound and outbound~~
27 ~~inspection lanes at ports of entry on the southern border, as~~ high-priority ports of entry on the
28 southern border, as determined by the Secretary, for the purposes of reducing wait times and
29 enhancing security, ~~as determined by the Secretary.~~

30 (c) Port of Entry Prioritization.—~~Before~~ Prior to constructing any new ports of entry pursuant
31 to subsection (a), the Administrator of General Services ~~Secretary~~ shall complete the expansion
32 and modernization of ports of entry pursuant to subsection (b) to the extent practicable.

33 (d) Notifications.—

34 (1) Relating to NNEW PORTS OF ENTRY.—Not later than 15 days after determining the
35 location of any new port of entry for construction pursuant to subsection (a), the Secretary
36 and the Administrator of General Services shall jointly notify submit a report to the
37 ~~appropriate congressional committees and~~ the Members of Congress who represent the
38 State or congressional district in which such new port of entry will be located, as well as the
39 Committee on Homeland Security and Governmental Affairs, the Committee on Finance,
40 the Committee on Commerce, Science, and Transportation, and the Committee on the

1 Judiciary of the Senate, and the Committee on Homeland Security, the Committee on Ways
2 and Means, the Committee on Transportation and Infrastructure, and the Committee on the
3 Judiciary of the House of Representatives. Such notification shall ~~that~~ includes—

4 (A) information relating to the location of such new port of entry;

5 (B) a description of the need for such new port of entry and associated anticipated
6 benefits;

7 (C) a description of the consultations undertaken by the Secretary and the
8 Administrator pursuant to ~~subsection (a) paragraph (2) of such subsection;~~

9 (D) any actions that will be taken to minimize negative impacts of such new port of
10 entry; and

11 (E) the anticipated time line for the construction and completion of such new port of
12 entry.

13 (2) EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after
14 the date of the enactment of this Act, the Secretary and the Administrator of General
15 Services shall jointly notify the Committee on Homeland Security and Governmental
16 Affairs, the Committee on Finance, the Committee on Commerce, Science, and
17 Transportation, and the Committee on the Judiciary of the Senate, and the Committee on
18 Homeland Security, the Committee on Ways and Means, the Committee on Transportation
19 and Infrastructure, and the Committee on the Judiciary of the House of Representatives
20 appropriate congressional committees of—

21 (A) the ports of entry on the southern border selected for expansion or
22 modernization pursuant to subsection (b); and

23 (B) the Secretary's and Administrator's plan for expanding or modernizing ~~the~~
24 ~~primary and secondary inspection lanes at~~ each such port of entry.

25 (e) SAVINGS PROVISION.—Nothing in this section may be construed to—

26 (1) create or negate any right of action for a State, local government, or other
27 person or entity affected by this section;

28 (2) delay the transfer of the possession of property to the United States or affect
29 the validity of any property acquisitions by purchase or eminent domain, or to
30 otherwise affect the eminent domain laws of the United States or of any State; or

31 (3) create any right or liability for any party.

32 (f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as
33 providing the Secretary new authority related to the construction, acquisition, or renovation of
34 real property.

35 SEC. 1203. SECURE COMMUNICATIONS.

36 (a) In General.—The Secretary shall ensure that each U.S. Customs and Border Protection and
37 U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a
38 secure radio or other 2-way communication device, supported by system interoperability, that
39 allows each such officer to communicate—

1 (1) between ports of entry and inspection stations; and

2 (2) with other Federal, State, tribal, and local law enforcement entities.

3 (b) ~~Land-U.S. Border Agents and Officers.~~—The Secretary shall ensure that each U.S.
4 Customs and Border Protection agent or officer assigned or required to patrol on foot, by
5 horseback, or with a canine unit, in remote mission critical locations, and at border checkpoints,
6 has a multi- or dual-band encrypted portable radio.

7 SEC. 1204. BORDER SECURITY DEPLOYMENT 8 PROGRAM.

9 (a) Expansion.—Not later than September 30, 2022, the Secretary shall fully implement U.S.
10 Customs and Border Protection’s Border Security Deployment Program and expand the
11 integrated surveillance and intrusion detection system at land ports of entry along the southern
12 border and the northern border.

13 (b) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
14 appropriated for such purpose, there is authorized to be appropriated \$33,000,000, for each of the
15 fiscal year 2018 through 2022, to carry out subsection (a).

16 SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE 17 READERS AT PORTS OF ENTRY.

18 (a) Upgrade.—Not later than ~~two~~¹ years after the date of the enactment of this Act, the
19 Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate
20 readers on the northern border and on the southern border on incoming and outgoing vehicle
21 lanes.

22 (b) Pilot Program.—Not later than 90 days after the date of the enactment of this Act, the
23 Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program on
24 the southern border using license plate readers for 1 to 2 cargo lanes at the top 2 high-volume
25 southern border land ports of entry or checkpoints and at the top 2 high-volume northern border
26 land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait
27 times for commercial traffic and tractor-trailers.

28 (c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary
29 shall submit a report to the Committee on Homeland Security and Governmental Affairs, the
30 Committee on Finance, and the Committee on the Judiciary of the Senate, and the Committee on
31 Homeland Security, the Committee on Ways and Means, and the Committee on the Judiciary of
32 the House of Representatives ~~appropriate congressional committees that contains—~~

33 ~~(1)~~ the results of the pilot program under subsection (b); and

34 ~~(2)~~ make recommendations for using such technology on the southern border.

35 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
36 appropriated for such purpose, there is authorized to be appropriated \$125,000,000 for fiscal year
37 2018 through 2019 to carry out subsection (a).

38 SEC. 1206. BIOMETRIC TECHNOLOGY.

1 (a) Biometric Storage.—

2 (1) CREATION OR EXPANSION OF SYSTEM.—Not later than 180 days after the date of the
3 enactment of this Act, the Secretary shall create a system (or upgrade and expand the
4 capability and capacity of an existing system, if a Department of Homeland Security system
5 already has capability and capacity for storage) to allow for the storage of fingerprints,
6 photographs, iris scans, voice prints, and any other biometric data of aliens that can be used
7 by the Department of Homeland Security, other Federal agencies, and State and local law
8 enforcement agencies for identity verification, authentication, background checks, and
9 document production.

10 (2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system
11 created or expanded under paragraph (1) is compatible with existing State and local law
12 enforcement systems that are used for the collection and storage of biometric data for
13 criminal aliens.

14 (b) Pilot Program.—When the system created under subsection (a) is operational, U.S.
15 Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall
16 conduct a 6-month pilot program on the collection and use of iris scans and voice prints for
17 identity verification, authentication, background checks, and document production.

18 (c) Report.—Not later than 6 months after the conclusion of the pilot program under
19 subsection (b), the Secretary shall submit a report containing the results of the pilot program and
20 recommendations for using such technology to—

21 (1) the Committee on Homeland Security and Governmental Affairs of the Senate;

22 (2) the Committee on the Judiciary of the Senate;

23 (3) the Committee on Homeland Security of the House of Representatives; and

24 (4) the Committee on the Judiciary of the House of Representatives.

25 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
26 appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through
27 2022, \$10,000,000 carry out this section.

28 **SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL**
29 **DEMONSTRATION PROJECT.**

30 (a) In General.—

31 (1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act,
32 the Commissioner shall establish a 6-month operational demonstration project to deploy a
33 high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land
34 ports of entry along the United States-Mexico border with significant cross-border traffic.

35 (2) LOCATION.—The demonstration project established under paragraph (1)—

36 (A) shall be located within the pre-primary traffic flow; and

37 (B) should be scalable to span up to 26 contiguous in-bound traffic lanes without
38 reconfiguration of existing lanes.

39 (b) Report.—Not later than 90 days after the conclusion of the operational demonstration

1 project under subsection (a), the Commissioner shall submit a report to the Committee on
2 Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the
3 Senate, the Committee on Homeland Security of the House of Representatives, and the
4 Committee on Ways and Means of the House of Representatives that describes—

5 (1) the effects of the demonstration project on legitimate travel and trade;

6 (2) the effects of the demonstration project on wait times, including processing times, for
7 non-pedestrian traffic; and

8 (3) the effectiveness of the demonstration project in combating terrorism and smuggling.

9 SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

10 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et
11 seq.) is amended by inserting after section 415 the following:

12 “SEC. 416. BIOMETRIC ENTRY-EXIT.

13 “(a) Establishment.—The Secretary—

14 “(1) not later than 180 days after the date of the enactment of this section, shall submit an
15 implementation plan to the Committee on Homeland Security and Governmental Affairs of
16 the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland
17 Security of the House of Representatives, and the Committee on the Judiciary of the House
18 of Representatives for establishing a biometric exit data system to complete the integrated
19 biometric entry and exit data system required under section 7208 of the Intelligence Reform
20 and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

21 “(A) an integrated master schedule and cost estimate, including requirements and
22 design, development, operational, and maintenance costs of such a system, that takes
23 into account prior reports on such matters issued by the Government Accountability
24 Office and the Department;

25 “(B) cost-effective staffing and personnel requirements of such a system that
26 leverages existing resources of the Department that takes into account prior reports on
27 such matters issued by the Government Accountability Office and the Department;

28 “(C) a consideration of training programs necessary to establish such a system that
29 takes into account prior reports on such matters issued by the Government
30 Accountability Office and the Department;

31 “(D) a consideration of how such a system will affect arrival and departure wait
32 times that takes into account prior reports on such matter issued by the Government
33 Accountability Office and the Department;

34 “(E) information received after consultation with private sector stakeholders,
35 including the—

36 “(i) trucking industry;

37 “(ii) airport industry;

38 “(iii) airline industry;

- 1 “(iv) seaport industry;
- 2 “(v) travel industry; and
- 3 “(vi) biometric technology industry;
- 4 “(F) a consideration of how trusted traveler programs in existence as of the date of
- 5 the enactment of this section may be impacted by, or incorporated into, such a system;
- 6 “(G) defined metrics of success and milestones;
- 7 “(H) identified risks and mitigation strategies to address such risks;
- 8 “(I) a consideration of how other countries have implemented a biometric exit data
- 9 system; and
- 10 “(J) a list of statutory, regulatory, or administrative authorities needed to integrate
- 11 such a system into the operations of the Transportation Security Administration; and
- 12 “(2) not later than 2 years after the date of the enactment of this section, shall establish a
- 13 biometric exit data system at the—
- 14 “(A) ~~the~~ 15 United States airports that support the highest volume of international
- 15 air travel, as determined by available Federal flight data;
- 16 “(B) ~~the~~ 10 United States seaports that support the highest volume of international
- 17 sea travel, as determined by available Federal travel data; and
- 18 “(C) ~~the~~ 15 United States land ports of entry that support the highest volume of
- 19 vehicle, pedestrian, and cargo crossings, as determined by available Federal border
- 20 crossing data.
- 21 “(b) Implementation.—
- 22 “(1) PILOT PROGRAM AT LAND PORTS OF ENTRY ~~FOR NON-PEDESTRIAN OUTBOUND~~
- 23 ~~TRAFFIC~~.—Not later than 6 months after the date of the enactment of this section, the
- 24 Secretary, in collaboration with industry stakeholders, shall establish a 6-month pilot
- 25 program to test the biometric exit data system referred to in subsection (a)(2) on
- 26 nonpedestrian outbound traffic at not fewer than 3 land ports of entry with significant cross-
- 27 border traffic, including at not fewer than 2 land ports of entry on the southern land border
- 28 and at least 1 land port of entry on the northern land border. Such pilot program may
- 29 include a consideration of more than 1 biometric mode, and shall be implemented to
- 30 determine—
- 31 “(A) how a nationwide implementation of such biometric exit data system at land
- 32 ports of entry shall be carried out;
- 33 “(B) the infrastructure required to carry out subparagraph (A);
- 34 “(C) the effects of such pilot program on legitimate travel and trade;
- 35 “(D) the effects of such pilot program on wait times, including processing times, for
- 36 such nonpedestrian traffic;
- 37 “(E) the effects of such pilot program on combating terrorism; and
- 38 “(F) the effects of such pilot program on identifying visa holders who violate the

1 terms of their visas.

2 “(2) EXPANSION TO LAND PORTS OF ENTRY ~~FOR NONPEDESTRIAN OUTBOUND TRAFFIC.~~—

3 “(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this
4 section, the Secretary shall expand the biometric exit data system referred to in
5 subsection (a)(2) to all land ports of entry, ~~and such system shall apply only in the case
6 of nonpedestrian outbound traffic.~~

7 “(B) EXTENSION.—The Secretary may extend for a single 2-year period the date
8 specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland
9 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
10 the Senate, the Committee on Homeland Security of the House of Representatives, and
11 the Committee on the Judiciary of the House of Representatives that the 15 land ports
12 of entry that support the highest volume of passenger vehicles, as determined by
13 available Federal data, do not have the physical infrastructure or characteristics to
14 install the systems necessary to implement a biometric exit data system. Such
15 extension shall only apply in the case of non-pedestrian outbound traffic.

16 “(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date
17 of the enactment of this section, the Secretary shall expand the biometric exit data system
18 referred to in subsection (a)(2) to all air and sea ports of entry.

19 ~~“(4) EXPANSION TO LAND PORTS OF ENTRY FOR PEDESTRIANS.—Not later than 5 years
20 after the date of the enactment of this section, the Secretary shall expand the biometric exit
21 data system referred to in subsection (a)(2) to all land ports of entry, and such system shall
22 apply only in the case of pedestrians.~~

23 “(c) Effects on Air, Sea, and Land Transportation.—The Secretary, in consultation with
24 appropriate private sector stakeholders, shall ensure that the collection of biometric data under
25 this section causes the least possible disruption to the movement of people or cargo in air, sea, or
26 land transportation, while fulfilling the goals of improving counterterrorism efforts and
27 identifying visa holders who violate the terms of their visas.

28 “(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary
29 shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection
30 of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure;
31 United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”)’,
32 issued on April 24, 2008 (73 Fed. Reg. 22065).

33 “(e) Data-matching.—The biometric exit data system established under this section shall—

34 “(1) match biometric information for an individual who is departing the United States
35 against biometric data previously provided to the United States Government by such
36 individual for the purposes of international travel;

37 “(2) leverage the infrastructure and databases of the current biometric entry and exit
38 system established pursuant to section 7208 of the Intelligence Reform and Terrorism
39 Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

40 “(3) be interoperable with, and allow matching against, other Federal databases that—

41 “(A) store biometrics of known or suspected terrorists; and

1 “(B) identify visa holders who violate the terms of their visas.

2 “(f) Scope.—

3 “(1) IN GENERAL.—The biometric exit data system established under this section shall
4 include a requirement for the collection of biometric exit data at the time of departure for all
5 categories of individuals who are required by the Secretary to provide biometric entry data.

6 “(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the
7 case of an individual who exits and then enters the United States on a passenger vessel (as
8 such term is defined in section 2101 of title 46, United States Code) the itinerary of which
9 originates and terminates in the United States.

10 “(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a
11 United States or Canadian citizen who exits the United States through a land port of entry.

12 “(g) Collection of Data.—The Secretary may not require any entity that is not part of the
13 Federal Government to collect biometric data, or to contribute to the costs of collecting or
14 administering the biometric exit data system established under this section, except through a
15 mutual agreement.

16 “(h) Multi-modal Collection.—In carrying out subsections (a)(1) and (b), the Secretary shall
17 make every effort to collect biometric data using multiple modes of biometrics.

18 “(i) Facilities.—All facilities at which the biometric exit data system established under this
19 section is implemented shall provide and maintain space for Federal use that is adequate to
20 support biometric data collection and other inspection-related activity. For non-federally owned
21 facilities, such space shall be provided and maintained at no cost to the Government.

22 “(j) Northern Land Border.—In the case of the northern land border, the requirements under
23 subsections (a)(2)(C) ~~and~~; (b)(2)(A), ~~and (b)(4)~~ may be achieved through the sharing of
24 biometric data provided to ~~U.S. Customs and Border Protection~~ the Department by the Canadian
25 Border Services Agency pursuant to the 2011 Beyond the Border agreement.

26 “(k) ~~Full~~air and Open Competition.—The Secretary shall procure goods and services to
27 implement this section via ~~full~~air and open competition in accordance with the Federal
28 Acquisition Regulation.

29 “(l) Other Biometric Initiatives.—The Secretary may pursue biometric initiatives at air, land,
30 and sea ports of entry for the purposes of border security and trade facilitation distinct from the
31 biometric exit data system described in this section.

32 “(m) Congressional Review.—Not later than 90 days after the date of the enactment of this
33 section, the Secretary shall submit reports and recommendations to the Committee on Homeland
34 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate,
35 the Committee on Homeland Security of the House of Representatives, and the Committee on
36 the Judiciary of the House of Representatives regarding the Science and Technology
37 Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S.
38 Customs and Border Protection entry and exit mobility program demonstrations.

39 “(n) Savings Clause.—Nothing in this section may be construed to prohibit the collection of
40 user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of
41 1985 (19 U.S.C. 58c).”.

1 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
2 of 2002 is amended by inserting after the item relating to section 415 the following:

3 “Sec.416.Biometric entry-exit.”.

4 **SEC. 1209. SENSE OF CONGRESS ON COOPERATION**
5 **BETWEEN AGENCIES.**

6 (a) Finding.—Congress finds that personnel constraints exist at land ports of entry with regard
7 to sanitary and phytosanitary inspections for exported goods.

8 (b) Sense of Congress.—It is the sense of Congress that, in the best interest of cross-border
9 trade and the agricultural community—

10 (1) any lack of certified personnel for inspection purposes at ports of entry should be
11 addressed by seeking cooperation between agencies and departments of the United States,
12 whether in the form of a memorandum of understanding or through a certification process,
13 whereby additional existing agents are authorized for additional hours to facilitate the
14 crossing and trade of perishable goods in a manner consistent with rules of the Department
15 of Agriculture; and

16 (2) cross designation should be available for personnel who will assist more than 1
17 agency or department at land ports of entry to facilitate increased trade and commerce.

18 **Subtitle C—Border Security Enforcement Fund**

19 **SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.**

20 (a) Purpose.—It is the purpose of this section to establish a Border Security Enforcement Fund
21 (referred to in this section as the “Fund”), to be administered through the Department of
22 Homeland Security and, in fiscal year 2018 only, through the Department of State, to carry out
23 activities necessary to implement this Act and other Acts related to border security, including—

24 (1) the construction, installation, deployment, operation, and maintenance of tactical
25 infrastructure and technology in the vicinity of the United States border—

26 (A) to achieve situational awareness and operational control of such border;

27 (B) to deter, impede, and detect illegal activity in high traffic areas; and

28 (C) to implement other border security provisions under titles I and II;

29 (2) the implementation of port of entry provisions under titles I and II;

30 (3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such
31 craft; and

32 (4) hiring and recruitment.

33 (b) Funding.—There are appropriated to the Fund, out of any amounts in the Treasury not
34 otherwise appropriated, \$25,000,000,000, of which—

35 (1) \$2,947,000,000 is appropriated for fiscal year 2018, and shall remain available
36 through September 30, 2022;

1 (2) \$2,225,000,000 is appropriated for fiscal year 2019, and shall remain available
2 through September 30, 2023;

3 (3) \$2,467,000,000 is appropriated for fiscal year 2020, and shall remain available
4 through September 30, 2024;

5 (4) \$2,644,000,000 is appropriated for fiscal year 2021, and shall remain available
6 through September 30, 2025;

7 (5) \$2,862,000,000 is appropriated for fiscal year 2022, and shall remain available
8 through September 30, 2026;

9 (6) \$2,370,000,000 is appropriated for fiscal year 2023, and shall remain available
10 through September 30, 2027;

11 (7) \$2,371,000,000 is appropriated for fiscal year 2024, and shall remain available
12 through September 30, 2028;

13 (8) \$2,401,000,000 is appropriated for fiscal year 2025, and shall remain available
14 through September 30, 2029;

15 (9) \$2,371,000,000 is appropriated for fiscal year 2026, and shall remain available
16 through September 30, 2030; and

17 (10) \$2,342,000,000 is appropriated for fiscal year 2027, and shall remain available
18 through September 30, 2031.

19 (c) Physical Barriers.—

20 (1) TRANSFERS.—The Secretary shall transfer, from the Fund to the “U.S. Customs and
21 Border Protection—Procurement, Construction and Improvements” account, for the purpose
22 of constructing, replacing, or planning physical barriers along the United States land border,
23 \$18,000,000,000, of which—

24 (A) \$1,571,000,000 shall be transferred in fiscal year 2018;

25 (B) \$1,600,000,000 shall be transferred in fiscal year 2019;

26 (C) \$1,842,000,000 shall be transferred in fiscal year 2020;

27 (D) \$2,019,000,000 shall be transferred in fiscal year 2021;

28 (E) \$2,237,000,000 shall be transferred in fiscal year 2022;

29 (F) \$1,745,000,000 shall be transferred in fiscal year 2023;

30 (G) \$1,746,000,000 shall be transferred in fiscal year 2024;

31 (H) \$1,776,000,000 shall be transferred in fiscal year 2025;

32 (I) \$1,746,000,000 shall be transferred in fiscal year 2026; and

33 (J) \$1,718,000,000 shall be transferred in fiscal year 2027.

34 (2) AVAILABILITY OF FUNDS.—Notwithstanding section 1552(a) of title 31, United States
35 Code, any amounts transferred pursuant to paragraph (1) shall remain available for
36 disbursement until expended.

37 (d) Specified Technology.—During fiscal year 2018, the Secretary of Homeland Security and

1 the Secretary of State shall transfer from the Fund to accounts within their respective
2 Departments the following amounts for the following purposes:

3 (1) \$10,000,000 for the Department of Homeland Security to implement Vehicle and
4 Dismount Exploitation Radars (VADER) in border security operations.

5 (2) \$3,000,000 for the Department of Homeland Security to implement southern border
6 tunneling detection technology, including 3-dimensional, seismic, acoustic detection and
7 ranging border tunneling detection technology.

8 (3) \$200,000,000 for the Department of State to implement section 1120.

9 (4) \$200,000,000 for the United States Coast Guard to implement section 1114(a)(18).

10 (5) \$2,000,000 for the Department of Homeland Security—

11 (A) to hire additional Uniform Management Center support personnel;

12 (B) to purchase uniforms for U.S. Customs and Border Protection officers and
13 agents;

14 (C) to acquire additional motor vehicles to support vehicle mounted surveillance
15 systems;

16 (D) to hire additional motor vehicle program support personnel; and

17 (E) to contract support for customer service, vendor management, and operations
18 management.

19 (6) \$250,000,000 for the implementation of the biometric exit data system described in
20 section 419 of the Homeland Security Act of 2002, as added by section 1208.

21 (7) \$200,000,000 for the Department of Homeland Security to purchase—

22 (A) AS350, UH-60L, and UAS-Native MQ-9 aircraft;

23 (B) required support equipment for such aircraft; and

24 (C) initial spare parts for southern and northern border security and maritime
25 operations.

26 (e) Transfer Authority.—In addition to the amounts transferred by the Secretary and the
27 Secretary of State pursuant to subsections (c) and (d), the Committee on Appropriations of the
28 Senate and the Committee on Appropriations of the House of Representatives may provide for
29 the transfer of amounts in the Fund for each fiscal year to eligible activities under this section,
30 including—

31 (1) constructing, replacing, or planning for physical barriers along the United States land
32 border; or

33 (2) acquiring any of the technologies described in subsection (d).

34 (f) Use of Fund.—If the Committee on Appropriations of the Senate and the Committee on
35 Appropriations of the House of Representatives does not provide for the transfer of funds in a
36 full-year appropriation in any given fiscal year pursuant to subsection (e), the Secretary of
37 Homeland Security may transfer amounts in the Fund to accounts within the Department of
38 Homeland Security for eligible activities under this section, including—

1 (1) not less than the amounts specified in subsection (c) for the purpose of constructing,
2 replacing, or planning for physical barriers along the United States land border; and

3 (2) not less than the amounts specified in subsection (d) for the purpose of the
4 technologies described in that subsection.

5 (g) Budget Request.—A request for the transfer of amounts from the Fund pursuant to this
6 section—

7 (1) shall be included in each budget for a fiscal year submitted by the President under
8 section 1105 of title 31, United States Code; and

9 (2) shall describe planned obligations by program, project, and activity in the receiving
10 account at the same level of detail provided for in the request for other appropriations in that
11 account.

12 Subtitle D—Stop the Importation and Trafficking of Synthetic 13 Analogues Act

14 SEC. 1401. SHORT TITLES.

15 This subtitle may be cited as the “Stop the Importation and Trafficking of Synthetic Analogues
16 Act of 2018” or the “SITSA Act”.

17 SEC. 1402. ESTABLISHMENT OF SCHEDULE A.

18 Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

19 (1) in subsection (a), by striking “five schedules of controlled substances, to be known as
20 schedules I, II, III, IV, and V” and inserting “six schedules of controlled substances, to be
21 known as schedules I, II, III, IV, V, and A”;

22 (2) in subsection (b), by adding at the end the following:

23 “(6) Schedule A.—

24 “(A) IN GENERAL.—The drug or substance—

25 “(i) has—

26 “(I) a chemical structure that is substantially similar to the chemical structure of
27 a controlled substance in schedule I, II, III, IV, or V; and

28 “(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on
29 the central nervous system that is substantially similar to or greater than the
30 stimulant, depressant, or hallucinogenic effect on the central nervous system of a
31 controlled substance in schedule I, II, III, IV, or V; and

32 “(ii) is not—

33 “(I) listed or otherwise included in any other schedule in this section or by
34 regulation of the Attorney General; and

35 “(II) with respect to a particular person, subject to an exemption that is in effect
36 for investigational use, for that person, under section 505 of the Federal Food,

1 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to
2 such substance is pursuant to such exemption.

3 “(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of
4 this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central
5 nervous system may be based on—

6 “(i) the chemical structure, structure activity relationships, binding receptor assays,
7 or other relevant scientific information about the substance;

8 “(ii)(I) the current or relative potential for abuse of the substance; and

9 “(II) the clandestine importation, manufacture, or distribution, or diversion from
10 legitimate channels, of the substance; or

11 “(iii) the capacity of the substance to cause a state of dependence, including physical
12 or psychological dependence that is similar to or greater than that of a controlled
13 substance in schedule I, II, III, IV, or V.”; and

14 (3) in subsection (c)—

15 (A) in the matter preceding schedule I, by striking “IV, and V” and inserting “IV, V,
16 and A”; and

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

18 “schedule a

19 “(a) Unless specifically excepted or unless listed in another schedule, any of the following
20 substances, as scheduled in accordance with section 201(k)(5):

21 “(1) 4-fluoroisobutyryl fentanyl.

22 “(2) Valeryl fentanyl.

23 “(3) 4-methoxybutyryl fentanyl.

24 “(4) 4-methylphenethyl acetyl fentanyl.

25 “(5) 3-furanyl fentanyl.

26 “(6) Ortho-fluorofentanyl.

27 “(7) Tetrahydrofuranyl fentanyl.

28 “(8) Ocfentanil.

29 “(9) 4-fluorobutyryl fentanyl.

30 “(10) Methoxyacetyl fentanyl.

31 “(11) Meta-fluorofentanyl.

32 “(12) Isobutyryl fentanyl.

33 “(13) Acryl fentanyl.”.

34 **SEC. 1403. TEMPORARY AND PERMANENT**
35 **SCHEDULING OF SCHEDULE A SUBSTANCES.**

1 Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end
2 the following:

3 “(k) Temporary and Permanent Scheduling of Schedule A Substances.—

4 “(1) The Attorney General may issue a temporary order adding a drug or substance to
5 schedule A if the Attorney General finds that—

6 “(A) the drug or other substance satisfies the criteria for being considered a schedule
7 A substance; and

8 “(B) adding such drug or substance to schedule A will assist in preventing abuse or
9 misuse of the drug or other substance.

10 “(2)(A) A temporary scheduling order issued under paragraph (1) shall not take effect
11 until 30 days after the date on which the Attorney General publishes a notice in the Federal
12 Register of the intention to issue such order and the grounds upon which such order is to be
13 issued.

14 “(B) The Attorney General may amend, withdraw, or rescind a temporary scheduling
15 order at any time by publication of a notice in the Federal Register.

16 “(C) Subject to paragraph (B), the temporary scheduling order shall expire not later than
17 5 years after the date on which it becomes effective, except that the Attorney General may,
18 during the pendency of proceedings under paragraph (5), extend the temporary scheduling
19 order for up to 180 days.

20 “(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the
21 issuance of a permanent order issued under paragraph (5) with regard to the same substance,
22 or upon the subsequent issuance of any scheduling order under this section.

23 “(4) A temporary scheduling order issued under paragraph (1) shall not be subject to
24 judicial review.

25 “(5) The Attorney General may, by rule, issue a permanent order adding a drug or other
26 substance to schedule A if such drug or substance satisfies the criteria for being considered
27 a schedule A substance. Such rulemaking may be commenced simultaneously with the
28 issuance of the temporary scheduling order issued under paragraph (1) with regard to the
29 same substance.

30 “(6) Before initiating proceedings under paragraph (1) or (5), the Attorney General shall
31 transmit notice of an order proposed to be issued to the Secretary of Health and Human
32 Services. In issuing an order under paragraph (1) or (5), the Attorney General shall take into
33 consideration any comments submitted by the Secretary of Health and Human Services in
34 response to a notice transmitted pursuant to this paragraph.”.

35 SEC. 1404. PENALTIES.

36 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
37 amended—

38 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

39 “(F)(i) In the case of any controlled substance in schedule A, such person shall be

1 sentenced to a term of imprisonment of not more than 10 years and if death or serious
2 bodily injury results from the use of such substance shall be sentenced to a term of
3 imprisonment of not more than 15 years, a fine not to exceed the greater of that
4 authorized in accordance with the provisions of title 18, United States Code, or
5 \$500,000 if the defendant is an individual or \$2,500,000 if the defendant is other than
6 an individual, or both.

7 “(ii) If any person commits such a violation after a prior conviction for a felony drug
8 offense has become final, such person shall be sentenced to a term of imprisonment of
9 not more than 20 years and if death or serious bodily injury results from the use of
10 such substance shall be sentenced to a term of imprisonment of not more than 30 years,
11 a fine not to exceed the greater of twice that authorized in accordance with the
12 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an
13 individual or \$5,000,000 if the defendant is other than an individual, or both.

14 “(iii) Any sentence imposing a term of imprisonment under this subparagraph shall,
15 in the absence of such a prior conviction, impose a term of supervised release of not
16 less than 2 years in addition to such term of imprisonment and shall, if there was such a
17 prior conviction, impose a term of supervised release of not less than 4 years in
18 addition to such term of imprisonment.”;

19 (2) in section 403(a) (21 U.S.C. 843(a))—

20 (A) in paragraph (8), by striking “or” at the end;

21 (B) in paragraph (9), by striking the period at the end and inserting “; or”; and

22 (C) by inserting after paragraph (9) the following:

23 “(10) to export a substance in violation of the controlled substance laws of the country to
24 which the substance is exported.”; and

25 (3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

26 “(b) A person shall not be subject to a criminal or civil penalty under this title or under any
27 other Federal law solely for possession of a schedule A controlled substance.”.

28 (b) Controlled Substances Import and Export Act.—Section 1010(b) of the Controlled
29 Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the
30 following:

31 “(8) In the case of a violation under subsection (a) involving a controlled substance in
32 schedule A, the person committing such violation shall be sentenced to a term of
33 imprisonment of not more than 20 years and if death or serious bodily injury results from
34 the use of such substance shall be sentenced to a term of imprisonment for any term of years
35 or for life, a fine not to exceed the greater of that authorized in accordance with the
36 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an individual or
37 \$5,000,000 if the defendant is other than an individual, or both. If any person commits such
38 a violation after a prior conviction for a felony drug offense has become final, such person
39 shall be sentenced to a term of imprisonment of not more than 30 years and if death or
40 serious bodily injury results from the use of such substance shall be sentenced to a term of
41 imprisonment for any term of years or for life, a fine not to exceed the greater of twice that
42 authorized in accordance with the provisions of title 18, United States Code, or \$2,000,000

1 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual,
2 or both. Notwithstanding section 3583 of title 18, United States Code, any sentence
3 imposing a term of imprisonment under this paragraph shall, in the absence of such a prior
4 conviction, impose a term of supervised release of not less than 3 years in addition to such
5 term of imprisonment and shall, if there was such a prior conviction, impose a term of
6 supervised release of not less than 6 years in addition to such term of imprisonment.
7 Notwithstanding the prior sentence, and notwithstanding any other provision of law, the
8 court shall not place on probation or suspend the sentence of any person sentenced under
9 the provisions of this paragraph which provide for a mandatory term of imprisonment if
10 death or serious bodily injury results.”.

11 SEC. 1405. FALSE LABELING OF SCHEDULE A 12 CONTROLLED SUBSTANCES.

13 (a) In General.—Section 305 of the Controlled Substances Act (21 U.S.C. 825) is amended by
14 adding at the end the following:

15 “(f) False Labeling of Schedule A Controlled Substances.—

16 “(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess
17 with intent to manufacture, distribute, or dispense, a schedule A substance or product
18 containing a schedule A substance, unless the substance or product bears a label clearly
19 identifying a schedule A substance or product containing a schedule A substance by the
20 nomenclature used by the International Union of Pure and Applied Chemistry.

21 “(2)(A) A product described in subparagraph (B) is exempt from the International Union
22 of Pure and Applied Chemistry nomenclature requirement of this subsection if such product
23 is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act.

24 “(B) A product is described in this subparagraph if the product—

25 “(i) is the subject of an approved application as described in section 505(b) or (j) of
26 the Federal Food, Drug, and Cosmetic Act; or

27 “(ii) is exempt from the provisions of section 505 of such Act relating to new drugs
28 because—

29 “(I) it is intended solely for investigational use as described in section 505(i) of
30 such Act; and

31 “(II) such product is being used exclusively for purposes of a clinical trial that
32 is the subject of an effective investigational new drug application.”.

33 (b) Penalties.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

34 (1) in subsection (a)(16), by inserting “or subsection (f)” after “subsection (e)”; and

35 (2) in subsection (c)(1)(D), by inserting “or a schedule A substance” after “anabolic
36 steroid”.

37 SEC. 1406. REGISTRATION REQUIREMENTS FOR 38 HANDLERS OF SCHEDULE A SUBSTANCES.

1 (a) Controlled Substances Act.—Section 303 of the Controlled Substances Act (21 U.S.C.
2 823) is amended—

3 (1) in subsection (f), in the undesignated matter following paragraph (5)—

4 (A) by inserting “or A” after “schedule I” each place it appears; and

5 (B) by adding at the end the following: “A separate registration for engaging in
6 research with a controlled substance in schedule A for practitioners already registered
7 under this part to engage in research with controlled substances in schedule I shall not
8 be required. The Secretary shall determine the merits of the research protocol
9 submitted by the practitioner registering to engage in research with a controlled
10 substance in schedule A, and the Attorney General may deny or revoke the registration
11 only on a ground specified in section 304.”; and

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

13 “(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances
14 if—

15 “(A) the applicant demonstrates that the schedule A substances will be used for research,
16 analytical, or industrial purposes approved by the Attorney General; and

17 “(B) the Attorney General determines that such registration is consistent with the public
18 interest and with the United States obligations under international treaties, conventions, or
19 protocols in effect on the date of enactment of this subsection.

20 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
21 consider—

22 “(A) maintenance of effective controls against diversion of particular controlled
23 substances and any controlled substance in schedule A compounded therefrom into other
24 than legitimate medical, scientific, research, or industrial channels, by limiting the
25 importation and bulk manufacture of such controlled substances to a number of
26 establishments which can produce an adequate and uninterrupted supply of these substances
27 under adequately competitive conditions for legitimate medical, scientific, research, and
28 industrial purposes;

29 “(B) compliance with applicable State and local law;

30 “(C) promotion of technical advances in the art of manufacturing substances described in
31 subparagraph (A) and the development of new substances;

32 “(D) prior conviction record of applicant under Federal and State laws relating to the
33 manufacture, distribution, or dispensing of substances described in paragraph (A);

34 “(E) past experience in the manufacture of controlled substances, and the existence in the
35 establishment of effective control against diversion; and

36 “(F) such other factors as may be relevant to and consistent with the public health and
37 safety.

38 “(3) If an applicant is registered to manufacture controlled substances in schedule I or II under
39 subsection (a), the applicant shall not be required to apply for a separate registration under this
40 subsection.

1 “(1)(1) The Attorney General shall register an applicant to distribute schedule A substances—

2 “(A) if the applicant demonstrates that the schedule A substances will be used for
3 research, analytical, or industrial purposes approved by the Attorney General; and

4 “(B) unless the Attorney General determines that the issuance of such registration is
5 inconsistent with the public interest.

6 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
7 consider—

8 “(A) maintenance of effective control against diversion of particular controlled
9 substances into other than legitimate medical, scientific, and industrial channels;

10 “(B) compliance with applicable State and local law;

11 “(C) prior conviction record of applicant under Federal or State laws relating to the
12 manufacture, distribution, or dispensing of substances described in subparagraph (A);

13 “(D) past experience in the distribution of controlled substances; and

14 “(E) such other factors as may be relevant to and consistent with the public health and
15 safety.

16 “(3) If an applicant is registered to distribute a controlled substance in schedule I or II under
17 subsection (b), the applicant shall not be required to apply for a separate registration under this
18 subsection.

19 “(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any
20 practitioner who was engaged in research on the substance before the placement of the substance
21 in schedule A and any manufacturer or distributor who was handling the substance before the
22 placement of the substance in schedule A shall register with the Attorney General.

23 “(2)(A) Not later than 60 days after the date on which the Attorney General receives an
24 application for registration to conduct research on a schedule A substance, the Attorney General
25 shall—

26 “(i) grant, or initiate proceedings under section 304(c) to deny, the application; or

27 “(ii) request supplemental information from the applicant.

28 “(B) Not later than 30 days after the date on which the Attorney General receives
29 supplemental information requested under subparagraph (A)(ii) in connection with an application
30 described in subparagraph (A), the Attorney General shall grant or deny the application.”.

31 (b) Controlled Substances Import and Export Act.—Section 1008 of the Controlled Substances
32 Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:

33 “(j)(1) The Attorney General shall register an applicant to import or export a schedule A
34 substance if—

35 “(A) the applicant demonstrates that the schedule A substances will be used for research,
36 analytical, or industrial purposes approved by the Attorney General; and

37 “(B) the Attorney General determines that such registration is consistent with the public
38 interest and with the United States obligations under international treaties, conventions, or
39 protocols in effect on the date of enactment of this subsection.

1 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
2 consider the factors described in subparagraphs (A) through (F) of section 303(k)(2).

3 “(3) If an applicant is registered to import or export a controlled substance in schedule I or II
4 under subsection (a), the applicant shall not be required to apply for a separate registration under
5 this subsection.”.

6 SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

7 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
8 amended—

9 (1) in section 303(c) (21 U.S.C. 823(c))—

10 (A) by striking “subsections (a) and (b)” and inserting “subsection (a), (b), (k), or
11 (l)”; and

12 (B) by striking “schedule I or II” and inserting “schedule I, II, or A”;

13 (2) in section 306 (21 U.S.C. 826)—

14 (A) in subsection (a), in the first sentence, by striking “schedules I and II” and
15 inserting “schedules I, II, and A”;

16 (B) in subsection (b), in the second sentence, by striking “schedule I or II” and
17 inserting “schedule I, II, or A”;

18 (C) in subsection (c), in the first sentence, by striking “schedules I and II” and
19 inserting “schedules I, II, and A”;

20 (D) in subsection (d), in the first sentence, by striking “schedule I or II” and
21 inserting “schedule I, II, or A”;

22 (E) in subsection (e), in the first sentence, by striking “schedule I or II” and inserting
23 “schedule I, II, or A”; and

24 (F) in subsection (f), in the first sentence, by striking “schedules I and II” and
25 inserting “schedules I, II, and A”;

26 (3) in section 308(a) (21 U.S.C. 828(a)), by striking “schedule I or II” and inserting
27 “schedule I, II, or A”;

28 (4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by
29 striking “schedule I or II” and inserting “schedule I, II, or A”;

30 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking “schedule I or II” and inserting
31 “schedule I, II, or A”; and

32 (6) in section 511(f) (21 U.S.C. 881(f)), by striking “schedule I or II” each place it
33 appears and inserting “schedule I, II, or A”.

34 (b) Controlled Substances Import Export Act.—The Controlled Substances Import and Export
35 Act (21 U.S.C. 951 et seq.) is amended—

36 (1) in section 1002(a) (21 U.S.C. 952(a))—

37 (A) in the matter preceding paragraph (1), by striking “schedule I or II” and

1 inserting “schedule I, II, or A”; and

2 (B) in paragraph (2), by striking “schedule 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 preceding paragraph (1), by striking “schedule I
6 or II” and inserting “schedule I, II, or A”; and

7 (B) in subsection (d), by striking “schedule I or II” and inserting “schedule I, II, or
8 A”;

9 (3) in section 1004(1) (21 U.S.C. 954(1)), by striking “schedule I” and inserting
10 “schedule I or A”;

11 (4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule
12 I, II, or A”; and

13 (5) in section 1009(a) (21 U.S.C. 959(a)), by striking “schedule I or II” and inserting
14 “schedule I, II, or A”.

15 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF**
16 **CONTROLLED SUBSTANCE ANALOGUE UNDER THE**
17 **ANALOGUE ENFORCEMENT ACT.**

18 Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

19 (1) in paragraph (6), by striking “or V” and inserting “V, or A”;

20 (2) in paragraph (14)—

21 (A) by striking “schedule I(c) and” and inserting “schedule I(c), schedule A, and”;
22 and

23 (B) by striking “schedule I(c),” and inserting “schedule I(c) and schedule A,”; and

24 (3) in paragraph (32)(A), by striking “(32)(A)” and all that follows through clause (iii)
25 and inserting the following:

26 “(32)(A) Except as provided in subparagraph (C), the term ‘controlled substance
27 analogue’ means a substance whose chemical structure is substantially similar to the
28 chemical structure of a controlled substance in schedule I or II—

29 “(i) which has a stimulant, depressant, or hallucinogenic effect on the central
30 nervous system that is substantially similar to or greater than the stimulant, depressant,
31 or hallucinogenic effect on the central nervous system of a controlled substance in
32 schedule I or II; or

33 “(ii) with respect to a particular person, which such person represents or intends to
34 have a stimulant, depressant, or hallucinogenic effect on the central nervous system
35 that is substantially similar to or greater than the stimulant, depressant, or
36 hallucinogenic effect on the central nervous system of a controlled substance in
37 schedule I or II.”.

1 SEC. 1409. RULES OF CONSTRUCTION.

2 Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

3 (1) the prosecution of offenses involving controlled substance analogues under the
4 Controlled Substances Act (21 U.S.C. 801 et seq.); or

5 (2) the authority of the Attorney General to temporarily or permanently schedule,
6 reschedule, or decontrol controlled substances under provisions of section 201 of the
7 Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of
8 enactment of this Act.

9 Subtitle E—Domestic Security

10 CHAPTER 1—GENERAL MATTERS

11 SEC. 1501. ENDING CATCH AND RELEASE FOR REPEAT
12 IMMIGRATION VIOLATORS AND CRIMINALS ALIENS.

13 (a) In General.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is
14 amended by striking the section designation and heading and all that follows through the period
15 at the end of subsection (c) and inserting the following:

16 “SEC. 236. APPREHENSION AND DETENTION OF
17 ALIENS.

18 “(a) Arrest, Detention, and Release.—

19 “(1) IN GENERAL.—The Secretary, on a warrant issued by the Secretary, may arrest an
20 alien and detain the alien pending a decision on whether the alien is to be removed from the
21 United States until the date on which the alien has an administratively final order of
22 removal. Except as provided in subsection (c) and pending such decision, the Secretary—

23 “(A) may—

24 “(i) continue to detain the arrested alien;

25 “(ii) release the alien on bond of at least \$5,000, with security approved by, and
26 containing conditions prescribed by, the Secretary; or

27 “(iii) release the alien on his or her own recognizance, subject to appropriate
28 conditions set forth by the Secretary, if the Secretary determines that the alien will
29 not pose a danger to the safety of other persons or of property and is likely to
30 appear for any scheduled proceeding; and

31 “(B) may not provide the alien with work authorization (including an ‘employment
32 authorized’ endorsement or other appropriate work permit) or advance parole to travel
33 outside of the United States, unless the alien is lawfully admitted for permanent
34 residence or otherwise would (without regard to removal proceedings) be provided
35 such authorization.

36 “(b) Revocation of Bond or Parole.—The Secretary, at any time, may revoke bond or parole

1 authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

2 “(c) Mandatory Detention of Criminal Aliens.—

3 “(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any
4 alien at ~~any time after the alien is released, without regard to whether the alien is released~~
5 ~~on parole, supervised release, and without regard to whether the alien may be arrested or~~
6 ~~imprisoned again for the same offense, if the alien—~~

7 “(A)(i) has not been admitted or paroled into the United States; and

8 “(ii) was apprehended anywhere within 100 miles of the international border of the
9 United States;

10 “(B) is inadmissible by reason of having committed any offense covered in section
11 212(a)(2);

12 “(C) is deportable by reason of having committed any offense covered in section
13 237(a)(2);

14 “(D) is convicted for an offense under section 275(a);

15 “(E) is convicted for an offense under section 276;

16 “(F) is convicted for any ~~criminal offense~~felony; or

17 “(G) is inadmissible under section 212(a)(3)(A) or (B) or deportable under section
18 237(a)(4)(A) or (B).

19 “(2) RELEASE.—

20 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may
21 release an alien described in paragraph (1) only if the Secretary decides pursuant to
22 section 3521 of title 18, United States Code, and in accordance with a procedure that
23 considers the severity of the offense committed by the alien, that—

24 “(i) release of the alien from custody is necessary to provide protection to—

25 “(I) a witness;

26 “(II) a potential witness;

27 “(III) a person cooperating with an investigation into major criminal
28 activity; or

29 “(IV) an immediate family member or close associate of a witness,
30 potential witness, or person cooperating with such an investigation; and

31 “(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

32 “(I) is not a flight risk;

33 “(II) poses no danger to the safety of other persons or of property;

34 “(III) is not a threat to national security or public safety; and

35 “(IV) is likely to appear at any scheduled proceeding.

36 “(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

1 “(i) RELEASE FOR PROCEEDINGS.—The Secretary may release any alien held
2 pursuant to paragraph (1) to the appropriate authority for any proceedings
3 subsequent to the arrest.

4 “(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i),
5 the Secretary shall—

6 “ (I) resume custody of the alien during any period pending the final
7 disposition of any proceedings subsequent to arrest for which the alien is not
8 in the custody of the appropriate authority referred to in clause (i); and

9 “ (II) if the alien is not convicted of the offense for which the alien was
10 arrested, the Secretary shall continue to detain the alien until the date on
11 which removal proceedings are completed.”.

12 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
13 Nationality Act is amended by striking the item relating to section 236 and inserting the
14 following:

15 “Sec.236.Apprehension and detention of aliens.”.

16 SEC. 1502. DETERRING VISA OVERSTAYS.

17 (a) Admission of Nonimmigrants.—Section 214 of the Immigration and Nationality Act (8
18 U.S.C. 1184) is amended by striking the section designation and heading and all that follows
19 through the end of subsection (a)(1) and inserting the following:

20 “SEC. 214. ADMISSION OF NONIMMIGRANTS.

21 “(a) In General.—

22 “ (1) TERMS AND CONDITIONS OF ADMISSION.—

23 “ (A) IN GENERAL.—Subject to subparagraphs (B) and (C), the admission to the
24 United States of any alien as a nonimmigrant may be for such time and under such
25 conditions as the Secretary **of Homeland Security** may **in his or her sole and**
26 **unreviewable discretion** prescribe, including when the Secretary deems necessary the
27 giving of a bond with sufficient surety in such sum and containing such conditions as
28 the Secretary shall prescribe, to ensure that at the expiration of such time or upon
29 failure to maintain the status under which the alien was admitted, or to maintain any
30 status subsequently acquired under section 248, such alien will depart from the United
31 States.

32 “ (B) GUAM OR CNMI VISA WAIVER NONIMMIGRANTS.—No alien admitted to Guam or
33 the Commonwealth of the Northern Mariana Islands without a visa pursuant to section
34 212(l) may be authorized to enter or stay in the United States, other than in Guam or
35 the Commonwealth of the Northern Mariana Islands, or to remain in Guam or the
36 Commonwealth of the Northern Mariana Islands for a period exceeding 45 days after
37 the date on which the alien was admitted to Guam or the Commonwealth of the
38 Northern Mariana Islands.

39 “ (C) VISA WAIVER PROGRAM NONIMMIGRANTS.—An alien admitted to the United
40 States without a visa pursuant to section 217 shall not be authorized to remain in the

1 United States as a nonimmigrant visitor for a period exceeding 90 days from the date
2 on which the alien was admitted.

3 “(D) BAR TO IMMIGRATION BENEFITS AND TO CONTESTING REMOVAL.—

4 “(i) DEFINITION OF GOOD CAUSE.—In this subparagraph, the term ‘good cause’
5 means extreme exigent humanitarian circumstances, determined on a case-by-case
6 basis only, such as a medical emergency or force majeure.

7 “(ii) CONSEQUENCE OF OVERSTAY.—Subject to clause (iii), except for an alien
8 admitted as a nonimmigrant under of subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii),
9 or (G)(iii) of section 101(a)(15) or as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant,
10 any alien who remains in the United States for a period of more than 30 days after
11 the date on which the period of stay or parole authorized by the Secretary for the
12 alien ends, without good cause, is inadmissible and ineligible for all immigration
13 benefits or relief available under the immigration laws, including relief under
14 sections 240A(b)(1), 240B(b), 245, 248, and 249, other than—

15 “(I) asylum;

16 “(II) relief as a victim of trafficking under section 101(a)(15)(T);

17 “(III) relief as a victim of criminal activity under section 101(a)(15)(U);

18 “(IV) relief under the Violence Against Women Act of 1994 (42 U.S.C.
19 13701 et seq.) as a spouse or child who has been battered or subjected to
20 extreme cruelty;

21 “(V) relief as a battered spouse or child under section 240A(b)(2);

22 “(VI) withholding of removal under section 241(b)(3); or

23 “(VII) protection from removal based on a claim under the Convention
24 Against Torture and Other Cruel, Inhuman or Degrading Treatment or
25 Punishment, done at New York, December 10, 1984.

26 “(iii) EXCEPTION.—The Secretary may, in the Secretary’s sole and
27 unreviewable discretion, determine that a nonimmigrant is not subject to clause
28 (ii) if—

29 “(I) the alien was lawfully inspected and admitted to the United States as a
30 nonimmigrant;

31 “(II) the alien filed a nonfrivolous application for change of status to
32 another nonimmigrant category or for extension of stay before the date on
33 which the alien’s authorized period of stay as a nonimmigrant expired;

34 “(III) the alien has not been employed without authorization in the United
35 States, before or during pendency of the application referred to in subclause
36 (II);

37 “(IV) the alien has not otherwise violated the terms of the alien’s
38 nonimmigrant status; and

39 “(V) the Secretary, in the Secretary’s sole and unreviewable discretion,
40 determines that the alien is not a threat to national security or public safety.

1 “(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause (ii)
2 who remains in the United States more than 30 days after the date on which the
3 period of stay authorized by the Secretary ends, without good cause, shall be
4 detained and the Secretary shall expeditiously remove the alien from the United
5 States not later than 90 days after the date on which the alien is detained.

6 “(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision
7 of law (statutory or nonstatutory), including section 2241 of title 28, United States
8 Code, any other habeas corpus provision, or sections 1361 and 1651 of such title,
9 no court shall have jurisdiction to review any cause or claim, arising from, or
10 relating to, the detention and expedited removal of an alien pursuant to clause
11 (iv).”.

12 (b) Visa Waiver Program Waiver of Rights.—Section 217(b) of the Immigration and
13 Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

14 “(b) Waiver of Rights.—An alien may not be provided a waiver under the program unless the
15 alien has—

16 “(1) signed, under penalty of perjury, an acknowledgement confirming that the alien was
17 notified and understands that he or she will be—

18 “(A) ineligible for any form of relief or immigration benefit under the Act or any
19 other immigration laws, including sections 240A(b)(1), 240B(b), 245, 248, and 249
20 (other than a request for asylum), relief as a victim of trafficking under section
21 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under
22 the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or
23 child who has been battered or subjected to extreme cruelty, relief as a battered spouse
24 or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
25 protection from removal based on a claim under the Convention Against Torture and
26 Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York,
27 December 10, 1984; and

28 “(B) subject to detention and expedited removal from the United States, if the alien
29 fails to depart from the United States at the end of the 90-day period for admission;

30 “(2) waived any right to review or appeal under this Act of an immigration officer’s
31 determination as to the admissibility of the alien at the port of entry into the United States;
32 and

33 “(3) waived any right to contest any action for removal of the alien.”.

34 (c) Detention and Repatriation of Visa Waiver Violators.—Section 217(c)(2)(E) of the
35 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

36 “(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from
37 the United States at the end of the 90-day period for admission shall be detained
38 pending removal.”.

39 (d) Issuance of Nonimmigrant Visas.—Section 221(a) of the Immigration and Nationality Act
40 (8 U.S.C. 1201(a)) is amended by adding at the end the following:

41 “(3) The Secretary of State shall ensure that every application for a nonimmigrant visa

1 includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the
2 alien—

3 “(A) has been notified of the terms and conditions of the nonimmigrant visa, including
4 the waiver of rights under subsection (j); and

5 “(B) understands that he or she will be ineligible for all immigration benefits and any
6 form of relief or protection from removal, including relief under **sections 240A(b)(1),**
7 **240B(b),** 245, 248, and 249, other than a request for asylum, relief as a victim of trafficking
8 under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U),
9 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
10 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
11 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
12 protection from removal based on a claim under the Convention Against Torture and Other
13 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
14 1984, and from contesting removal if the alien violates any term or condition of his or her
15 nonimmigrant visa or fails to depart the United States not later than 30 days after the end of
16 the alien’s authorized period of stay.”.

17 (e) Requirement that all nonimmigrants have a specified end date for authorized period of
18 stay. – Section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended by
19 adding at the end the following:

20 “(6) Period of Stay. – An alien who an examining immigration officer has determined to be
21 admissible as a nonimmigrant, except for aliens admissible under subsection (A)(i), (A)(ii),
22 (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or who such officer has determined to be eligible
23 for parole, shall be admitted or paroled, as appropriate, into the United States for a specific
24 period of time and shall be issued documentation stating the end date of the alien’s period of stay
25 in the United States.”

26 (fe) Bars to Immigration Relief.—Section 221 of the Immigration and Nationality Act is
27 amended by adding at the end the following:

28 “(j) Waiver of Rights.—The Secretary of State may not issue a nonimmigrant visa under
29 section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or
30 (G) of section 101(a)(15), who is eligible for relief under the Violence Against Women Act of
31 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to
32 extreme cruelty, or qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant until the alien
33 has waived any right to relief under **sections 240A(b)(1), 240B(b),** 245, 248, and 249 (other than
34 relief from removal under section 241(b)(3)), or protection from removal based on a claim under
35 the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
36 Punishment, done at New York, December 10, 1984), any form of relief established after the
37 date on which the nonimmigrant visa is issued, and from contesting removal if the alien—

38 “(1) violates a term or condition of his or her nonimmigrant status; or

39 “(2) fails to depart the United States not later than the date that is 30 days after last day of
40 the alien’s authorized period of stay (as described in section 214(a)(1)).”.

41 (f) Effective Date; Applicability.—

42 (1) IN GENERAL.—This section and the amendments made by this section shall—

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

2 (B) apply only to new visas, initial admissions of nonimmigrants, and initial requests
3 for change of status from a nonimmigrant category to another nonimmigrant category
4 under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

5 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the
6 United States on a nonimmigrant visa who is present in the United States before the date of
7 the enactment of this Act shall not be subject to this section or to the amendments made by
8 this section **until the alien departs the United States or requests a change in status under**
9 **section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).**

10 SEC. 1503. INCREASE IN IMMIGRATION DETENTION 11 CAPACITY.

12 Not later than September 30, 2022, and subject to the availability of appropriations, the
13 Secretary of Homeland Security shall increase the immigration detention capacity to a daily
14 immigration detention capacity of not fewer than 48,879 detention beds.

15 SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND 16 DETAINED ALIENS.

17 Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is
18 amended—

19 (1) in subsection (a)(1), by adding at the end the following:

20 “(C) The Secretary of Homeland Security shall collect DNA samples from any alien
21 (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C.
22 1101(a)(3))) who—

23 “(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or
24 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

25 “(ii) is the subject of a final order of removal under section 240 of such Act (8
26 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8
27 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such
28 Act (8 U.S.C. 1227(a)(2)).”; and

29 (2) in subsection (b), by striking “or the probation office responsible (as applicable)” and
30 inserting “the probation office responsible, or the Secretary of Homeland Security”.

31 SEC. 1505. COLLECTION, USE, AND STORAGE OF 32 BIOMETRIC DATA.

33 (a) Collection and Use of Biometric Information for Immigration Purposes.—

34 (1) COLLECTION.—The **Secretaries of Homeland Security and State may require any**
35 **individual filing with the Department of Homeland Security or Department of State an**
36 application, petition, or other request for an immigration benefit or immigration status or
37 seeking an immigration benefit or other authorization, employment authorization, identity,

1 or travel document, or requesting relief or protection under any provision of the
2 immigration laws to submit to either the Secretary biometric information, including
3 fingerprints, photograph, signature, voice print, iris scan, or DNA.

4 (2) USE.—The Secretaries may use any biometric information submitted under
5 paragraph (1) to conduct background and security checks, verify an individual's identity,
6 adjudicate, revoke, or terminate an immigration benefit or immigration status, and perform
7 other functions related to administering and enforcing the immigration laws.

8 (b) Biometric and Biographic Information Sharing.—

9 (1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—
10 The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and
11 the Director of the Federal Bureau of Investigation—

12 (A) shall exchange appropriate biometric and biographic information to determine or
13 confirm the identity of an individual and to assess whether the individual is a threat to
14 national security or public safety; and

15 (B) may use information exchanged pursuant to subparagraph (A)—

16 (i) to compare biometric and biographic information contained in applicable
17 systems of the Department of Homeland Security, the Department of Defense, the
18 Department of State or the Federal Bureau of Investigation to determine if there is
19 a match between such information; and

20 (ii) if there is a match between such information, to relay such information to
21 the requesting agency.

22 (2) USE OF BIOMETRIC DATA BY THE DEPARTMENT OF STATE.—The Secretary of State shall
23 use biometric information from applicable systems of the Department of Homeland
24 Security, the Department of Defense, and the Federal Bureau of Investigation to screen and
25 track visa applicants and other individuals who are—

26 (A)(i) known or suspected terrorists; or

27 (ii) identified as a potential threat to national security; and

28 (B) using an alias while traveling.

29 (3) REPORT ON BIOMETRIC INFORMATION SHARING WITH MEXICO AND OTHER COUNTRIES
30 FOR IDENTITY VERIFICATION.—Not later than 180 days after the date of enactment of this
31 Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint
32 report on the status of efforts to engage with the Government of Mexico and the
33 governments of other appropriate foreign countries located in Central America or South
34 America—

35 (A) to discuss coordination on biometric information sharing between the United
36 States and such countries; and

37 (B) to enter into bilateral agreements that provide for the sharing of such biometric
38 information with the Department of State, the Department of Defense, the Department
39 of Justice, the Federal Bureau of Investigation, and the Department of Homeland
40 Security to use in—

1 (i) identifying individuals who are known or suspected terrorists or potential
2 threats to national security; and

3 (ii) verifying the entry and exit of individuals to and from the United States.

4 (4) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph
5 (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric
6 information from any individual arriving to or departing from the United States.

7 SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD 8 PROCESSING.

9 (a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary
10 of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and
11 Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S.
12 Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers
13 to electronically—

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

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

16 (3) collect biometric data for the purpose of identifying an alien and establishing both
17 immigration status and criminal history while in the field;

18 (4) enter any required data, including personal information about an alien subject and the
19 reason for issuing a document;

20 (5) apply the electronic signature of the issuing U.S. Immigration and Customs
21 Enforcement officer or agent;

22 (6) apply or capture the electronic signature of the alien on any charging document or
23 notice, including any electronic signature captured to acknowledge service of such
24 documents or notices;

25 (7) set the date on which the alien is required to appear before an immigration judge, in
26 the case of a notice to appear;

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

29 (9) interface with the ENFORCE database so that all data is collected, stored, and
30 retrievable in real-time.

31 (b) Contract Support.—The Secretary of Homeland Security may contract with commercial
32 vendors to test prototypes for electronic handheld or vehicle-mounted computers capable of
33 meeting the requirements under subsection (a).

34 (c) Rule of Construction.—The pilot program described in subsection (a) shall be designed to
35 replace, to the extent possible, the current paperwork and data entry process used for issuing
36 charging documents and detainers referred to in that subsection.

37 (d) Report.—Not later than 1 year after the date on which the pilot program described in
38 subsection (a) commences, the Comptroller General of the United States shall submit to the
39 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on

1 the Judiciary of the Senate, the Committee on Homeland Security of the House of
2 Representatives, the Committee on the Judiciary of the House of Representatives a report that
3 includes—

4 (1) the results of the pilot program; and

5 (2) recommendations for using the technology described in subsection (a) on a
6 nationwide basis.

7 SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

8 (a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C.
9 1182(d)(5)) is amended to read as follows:

10 “(5) PAROLE AUTHORITY.—

11 “(A) DEFINITIONS.—In this paragraph:

12 “(i) PUBLIC INTEREST.—With respect to a reason for parole, the term ‘public
13 interest’ means the alien has assisted the United States Government in a
14 significant matter, such as an important criminal investigation, espionage, or other
15 similar law enforcement or national security activity, and either the alien’s
16 presence in the United States is required by the Government or the alien’s life
17 would be threatened if the alien were not permitted to come to the United States.

18 “(ii) URGENT HUMANITARIAN REASON DEFINED.—With respect to an alien, the
19 term ‘urgent humanitarian reason’ means—

20 “(I) the alien has a medical emergency and the alien cannot obtain
21 necessary treatment in the foreign state in which the alien is residing or the
22 medical emergency is life-threatening and there is insufficient time for the
23 alien to be admitted through the normal visa process;

24 “(II) the alien is needed in the United States in order to donate an organ or
25 other tissue for transplant into a close family member;

26 “(III) the alien has a close family member in the United States whose
27 death is imminent and the alien could not arrive in the United States in time
28 to see such family member alive if the alien were to be admitted through the
29 normal visa process;

30 “(IV) the alien is a lawful applicant for adjustment of status under section
31 245; or

32 “(V) the alien was lawfully granted status under section 208 or lawfully
33 admitted under section 207.

34 “(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section
35 214(f), the Secretary of Homeland Security may in his or her sole and unreviewable
36 discretion may temporarily parole into the United States any alien applying for
37 admission to the United States, under such conditions as the Secretary may prescribe,
38 including requiring the posting of a bond, but only on a case-by-case basis and not
39 according to eligibility criteria describing an entire class of potential parole recipients,
40 for an urgent humanitarian reason or a reason deemed strictly in the public interest.

1 “(C) PAROLE NOT AN ADMISSION.—In accordance with section 101(a)(13)(B), parole
2 of an alien under subparagraph (B) shall not be regarded as an admission of the alien to
3 the United States. When the purposes of the parole of an alien have been served, as
4 determined by the Secretary, the alien shall immediately return to his or her country of
5 citizenship, nationality, or origin. If the alien was paroled from custody, the alien shall
6 be returned to the custody from which the alien was paroled and the alien shall be
7 considered for admission to the United States on the same basis as other similarly
8 situated applicants for admission.

9 “(D) PROHIBITED USES OF PAROLE AUTHORITY.—

10 “(i) IN GENERAL.—The Secretary may not use the authority under subparagraph
11 (B) to parole **into the United States** generalized categories of aliens or classes of
12 aliens based solely on nationality, presence, or residence in the United States,
13 family relationships, or any other criteria that would cover a broad group of
14 foreign nationals either inside or outside of the United States.

15 “(ii) ALIENS WHO ARE NATIONAL SECURITY OR PUBLIC SAFETY THREATS.—

16 “(I) DEFINITION OF EXTREME EXIGENT CIRCUMSTANCES.—In this clause,
17 the term ‘extreme exigent circumstances’ means circumstances under
18 which—

19 “(aa) the failure to parole the alien would result in the immediate
20 significant risk of loss of life or bodily function due to a medical
21 emergency;

22 “(bb) the failure to parole the alien would conflict with medical
23 advice as to the health or safety of the individual, detention facility
24 staff, or other detainees; or

25 “(cc) there is an urgent need for the alien’s presence for a law
26 enforcement purpose, including for a prosecution or securing the alien’s
27 presence to appear as a material witness, or a national security purpose.

28 “(II) PROHIBITION ON PAROLE.—The Secretary shall not parole in any alien
29 whom the Secretary, in the Secretary’s sole and unreviewable discretion,
30 determines to be a threat to national security or public safety, except in
31 extreme exigent circumstances.

32 “(E) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Secretary may not use
33 the parole authority under this paragraph to permit to come to the United States aliens
34 who have applied for and have been found to be ineligible for refugee status or any
35 alien to whom the provisions of this paragraph do not apply.

36 “(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of
37 parole of an alien has been served and, upon such determination—

38 “(i) the alien’s case shall continue to be dealt with in the same manner as that of
39 any other applicant for admission to the United States; and

40 “(ii) if the alien was previously detained, the alien shall be returned to the
41 custody from which the alien was paroled.

1 “(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

2 “(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term ‘advance
3 parole’ means advance approval for an alien **lawfully present in the United States**
4 **who is** applying for admission to the United States to request at a port of entry in
5 the United States, a pre-inspection station, or a designated field office of the
6 Department of Homeland Security, to be paroled into the United States under
7 subparagraph (B).

8 “(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary may, in the Secretary’s
9 **sole and unreviewable** discretion, grant an application for advance parole.
10 Approval of an application for advance parole shall not constitute a grant of
11 parole under subparagraph (B). A grant of parole into the United States based on
12 an approved application for advance parole shall not be considered a parole for
13 purposes of qualifying for adjustment of status to lawful permanent resident status
14 in the United States under section 245 or 245A.

15 “(iii) REVOCATION OF ADVANCE PAROLE.—The Secretary may revoke a grant of
16 advance parole to an alien at any time. Such revocation shall not be subject to
17 administrative appeal or judicial review.

18 “(iv) TEMPORARY DEPARTURE.—An alien who leaves the United States
19 temporarily pursuant to a grant of advance parole makes a departure from the
20 United States pursuant to the immigration laws.”.

21 (b) Effective Date.—The amendment made by subsection (a) shall take effect on the first day
22 of the first month beginning more than 60 days after the date of enactment of this Act.

23 SEC. 1508. REPORTS TO CONGRESS ON PAROLE.

24 (a) Report on Number and Category of Aliens Paroled Into the United States.—Not later than
25 90 days after the end of each fiscal year, the Secretary of Homeland Security shall submit to the
26 Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of
27 Representatives a report that, with respect to the most recently completed fiscal year—

28 (1) describes the number and categories of aliens paroled into the United States under
29 section 212(d)(5) of the Immigration and Nationality Act; and

30 (2) contains information and data concerning—

31 (A) the number and categories of aliens paroled;

32 (B) the duration of parole granted to aliens referred to in subparagraph (A); and

33 (C) the current immigration status of the aliens referred to in subparagraph (A).

34 (b) Report on Parole Procedures.—Not later than 180 days after the date of enactment of this
35 Act, and annually thereafter, the Attorney General and the Secretary of Homeland Security shall
36 jointly—

37 (1) conduct a review regarding the effectiveness of parole and custody determination
38 procedures applicable to aliens who have established a credible fear of persecution and are
39 awaiting a final determination regarding their asylum claim by the immigration courts; and

1 (2) submit to the Committee on the Judiciary of the Senate and the Committee on the
2 Judiciary of the House of Representatives a report based on the results of such review, that
3 includes—

4 (A) an analysis of—

5 (i) the rate at which release from detention (including release on parole) is
6 granted to aliens who have established a credible fear of persecution and are
7 awaiting a final determination regarding their asylum claim by the immigration
8 courts throughout the United States; and

9 (ii) any disparity that exists between locations or geographical areas, including
10 an explanation of the reasons for this disparity and what actions are being taken to
11 have consistent and uniform application of the standards for granting parole;

12 (B) an analysis of the effect of the procedures and policies applied with respect to
13 parole and custody determinations by the Attorney General and by the Secretary of
14 Homeland Security on the alien's pursuit of an asylum claim before an immigration
15 court;

16 (C) an analysis of the effectiveness of the procedures and policies applied with
17 respect to parole and custody determinations by the Attorney General and by the
18 Secretary of Homeland Security in securing the alien's presence at the immigration
19 court proceedings;

20 (D) recommendations with respect to whether the existing parole and custody
21 determination procedures applicable to aliens who have established a credible fear of
22 persecution and are awaiting a final determination by the immigration courts with
23 respect to asylum claims—

24 (i) respect the interests of the aliens; and

25 (ii) ensure the presence of the aliens at the immigration court proceedings; and

26 (E) an assessment on corresponding failure to appear rates, in absentia orders, and
27 absconders.

28 SEC. 1509. LIMITS ON CONTINUANCES IN REMOVAL 29 PROCEEDINGS.

30 Section 240(c) of the Immigration and Nationality Act, 8 U.S.C. 1229a(c) is amended by
31 adding at the end the following:

32 “(8) MOTION FOR CONTINUANCE.—

33 “(A) IN GENERAL.—Subject to subparagraph (B), an immigration judge may grant a
34 motion for continuance in the case of a specific alien if the immigration judge
35 determines that there is an emergent or extraordinary circumstance that justifies the
36 continuance.

37 “(B) LIMITATIONS.—

38 “(i) NUMBER.—Not more than 2 continuances may be granted in the case of a
39 specific alien.

1 “(ii) DURATION.—A continuance issued under subparagraph (A) shall be
2 limited to a period of not more than 180 days.

3 “(iii) APPLICABILITY.—The limitation under clause (i) shall not apply to
4 continuances for completion of required background and security checks, law
5 enforcement investigations (civil or criminal), DNA tests, or forensic document
6 examinations needed to make a decision on a request for relief or an immigration
7 benefit in a specific case.

8 “(C) EXCEPTION.—The Attorney General shall have the discretion to grant a
9 continuance for a period of more than 180 days in a case in which—

10 “(i) the alien is a parent of a minor child, under the age of 18 years, who has
11 been granted conditional permanent resident status under the SUCCEED Act; or

12 “(ii) the alien is the primary caretaker of a severely mentally impaired or
13 physically disabled minor child, under the age of 18 years, who is—

14 “(I) in the United States; and

15 “(II) requires continued care while in the United States.”.

16 **SEC. 1510. REINSTATEMENT OF THE SECURE**
17 **COMMUNITIES PROGRAM.**

18 (a) Reinstatement.—The Secretary shall reinstate and operate the Secure Communities
19 immigration enforcement program administered by U.S. Immigration and Customs Enforcement
20 between 2008 and 2014.

21 (b) Authorization of Appropriations.—There is authorized to be appropriated \$150,000,000 to
22 carry out this section.

23 **CHAPTER 2—PROTECTION AND DUE PROCESS FOR**
24 **UNACCOMPANIED ALIEN CHILDREN**

25 **SEC. 1520. SHORT TITLE.**

26 This chapter may be cited as the “Protecting Children and America’s Homeland Act of 2018”.

27 **SEC. 1521. REPATRIATION OF UNACCOMPANIED ALIEN**
28 **CHILDREN.**

29 Section 235(a) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
30 of 2008 (8 U.S.C. 1232(a)) is amended—

31 (1) in paragraph (2)—

32 (A) by amending the paragraph heading to read as follows: “RULES FOR
33 UNACCOMPANIED ALIEN CHILDREN.—”;

34 (B) in subparagraph (A), in the matter preceding clause (i), by striking “who is a
35 national or habitual resident of a country that is contiguous with the United States shall
36 be treated in accordance with subparagraph (B)” and inserting “shall be treated in

1 accordance with subparagraph (B) or subsection (b), as appropriate”; and

2 (C) in subparagraph (C)—

3 (i) by amending the subparagraph heading to read as follows: “AGREEMENTS
4 WITH FOREIGN COUNTRIES.—”; and

5 (ii) in the matter preceding clause (i), by striking “countries contiguous to the
6 United States” and inserting “Canada, El Salvador, Guatemala, Honduras,
7 Mexico, and any other foreign country that the Secretary determines to be
8 appropriate”;

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

11 (3) inserting after paragraph (2) the following:

12 “(3) MANDATORY EXPEDITED REMOVAL OF CRIMINALS AND GANG MEMBERS.—
13 Notwithstanding any other provision of law, the Secretary of Homeland Security shall place
14 an unaccompanied alien child in a proceeding in accordance with section 235 of the
15 Immigration and Nationality Act (8 U.S.C. 1225) if, the Secretary determines or has reason
16 to believe that the alien—

17 “(A) has been convicted of any offense carrying a maximum term of imprisonment
18 of more than 180 days;

19 “(B) has been convicted of, or found to be a juvenile offender based on, an offense
20 that involved—

21 “(i) the use or attempted use of physical force, or threatened use of a deadly
22 weapon;

23 “(ii) the purchase, sale, offering for sale, exchange, use, ownership, possession,
24 or carrying, or, of attempting or conspiring to purchase, sell, offer for sale,
25 exchange, use, own, possess, or carry, any weapon, part, or accessory which is a
26 firearm or destructive device (as defined in section 921(a) of title 18, United
27 States Code) in violation of any law;

28 “(iii) child abuse and neglect (as defined in section 40002(a)(3) of the Violence
29 Against Women Act of 1994 (34 U.S.C. 12291(a)(3)));

30 “(iv) assault resulting in bodily injury (as defined in section 2266 of title 18,
31 United States Code);

32 “(v) the violation of a protection order (as defined in section 2266 of title 18,
33 United States Code);

34 “(vi) driving while intoxicated or driving under the influence (as such terms are
35 defined in section 164 of title 23, United States Code); or

36 “(vii) any offense under foreign law (except a purely political offense) that, if
37 the offense had been committed in the United States, would render the alien
38 inadmissible under section 212(a) of the Immigration and Nationality Act (8
39 U.S.C. 1182(a));

40 “(C) has been convicted of, or found to be a juvenile offender based on, more than 1

1 criminal offense (other than minor traffic offenses);

2 “(D) has been convicted of, or found to be a juvenile offender based on a crime of
3 violence or an offense under Federal, State, or Tribal law, that has, as an element, the
4 use or attempted use of physical force or the threatened use of physical force or a
5 deadly weapon;

6 “(E) has engaged in, is engaged in, or is likely to engage after entry in any terrorist
7 activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act
8 (8 U.S.C. 1182(a)(3)(B)(iii))), or intends to participate or has participated in the
9 activities of a foreign terrorist organization (as designated under section 219 of the
10 Immigration and Nationality Act (8 U.S.C. 1189));

11 “(F) has engaged in, is engaged in, or any time after a prior admission engages in
12 activity described in section 237(a)(4) of the Immigration and Nationality Act (8
13 U.S.C. 1227(a)(4));

14 “(G) is or was a member of a criminal gang (as defined in section 101(a)(53) of the
15 Immigration and Nationality Act (8 U.S.C. 1101(a)(53)));

16 “(H) provided materially false, fictitious, or fraudulent information regarding age or
17 identity to the United States Government with the intent to inaccurately classified as an
18 unaccompanied alien child; or

19 “(I) has entered the United States more than once in violation of section 275(a) of
20 the Immigration and Nationality Act (8 U.S.C. 1325(a)), knowing that the entry was
21 unlawful.”; and

22 (4) in paragraph (4) (as redesignated by paragraph (2))—

23 (A) by striking “not described in paragraph (2)(A)”;

24 (B) by inserting “who choose not to withdraw their application for admission and
25 return to their country of nationality or country of last habitual residence” after “port of
26 entry”;

27 (5) in paragraph (6)(D) (as redesignated by paragraph (2))—

28 (A) by amending the subparagraph heading to read as follows: “EXPEDITED DUE
29 PROCESS AND SCREENING FOR UNACCOMPANIED ALIEN CHILDREN.—”;

30 (B) in the matter preceding clause (i), by striking “, except for an unaccompanied
31 alien child from a contiguous country subject to the exceptions under subsection (a)(2),
32 shall be—” and inserting “who meets the criteria under paragraph (2)(A) and chooses
33 not to withdraw his or her application for admission and return to the unaccompanied
34 alien child’s country of nationality or country of last habitual residence, as permitted
35 under section 235B(c)(5) of the Immigration and Nationality Act (8 U.S.C.
36 1225b(c)(5)) **or is found to not meet the criteria under paragraph (2)(A)**—”;

37 (C) by amending clause (i) to read as follows:

38 “(i) shall be placed in a proceeding in accordance with section 235B of the
39 Immigration and Nationality Act (8 U.S.C. 1225b), which shall commence not
40 later than 7 days after the date on which the screening of an unaccompanied alien

1 child described in paragraph (5) is carried out;”;
2 (D) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively;
3 (E) by inserting after clause (i) the following:

4 “(ii) may not be placed in the custody of a nongovernmental sponsor or
5 otherwise released from the immediate custody of the United States Government
6 until the child is repatriated unless the child—

7 “(I) is the subject of an order under section 235B(e)(1) of the Immigration
8 and Nationality Act (8 U.S.C. 1225b(e)(1)); and

9 “(II) is placed or released in accordance with subsection (c)(2)(C).”;

10 (F) in clause (iii) (as redesignated) by inserting “is” before “eligible”; and

11 (G) in clause (iv), as redesignated, by inserting “shall be” before “provided”.

12 SEC. 1522. EXPEDITED DUE PROCESS AND SCREENING 13 FOR UNACCOMPANIED ALIEN CHILDREN.

14 (a) Humane and Expedited Inspection and Screening for Unaccompanied Alien Children.—

15 (1) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C.
16 1221 et seq.) is amended by inserting after section 235A the following:

17 “SEC. 235B. HUMANE AND EXPEDITED INSPECTION 18 AND SCREENING FOR UNACCOMPANIED ALIEN 19 CHILDREN.

20 “(a) Definition of Asylum Officer.—In this section, the term ‘asylum officer’ means an
21 immigration officer who—

22 “(1) has had professional training in country conditions, asylum law, and interview
23 techniques comparable to that provided to full-time adjudicators of applications under
24 section 208; and

25 “(2) is supervised by an officer who—

26 “(A) meets the condition described in paragraph (1); and

27 “(B) has had substantial experience adjudicating asylum applications under section
28 208.

29 “(b) Proceeding.—

30 “(1) IN GENERAL.—Not later than 7 days after the date on which the screening of an
31 unaccompanied alien child under section 235(a)(5) of the William Wilberforce Trafficking
32 Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(a)(5)) is carried out, an
33 immigration judge shall—

34 “(A) conduct and conclude a proceeding to inspect, screen, and determine the status
35 of the unaccompanied alien child who is an applicant for admission to the United
36 States; and

1 “(B) in the case of an unaccompanied alien child seeking asylum, conduct fact
2 finding to determine whether the unaccompanied alien child meets the definition of
3 unaccompanied alien child under section 235(g) of the William Wilberforce
4 Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C. 1232(g)).

5 “(2) TIME LIMIT.—Not later than 72 hours after the conclusion of a proceeding with
6 respect to an unaccompanied alien child under this section, the immigration judge who
7 conducted such proceeding shall issue an order pursuant to subsection (e).

8 “(c) Conduct of Proceeding.—

9 “(1) AUTHORITY OF IMMIGRATION JUDGE.—The immigration judge conducting a
10 proceeding under this section—

11 “(A) shall administer oaths, receive evidence, and interrogate, examine, and cross-
12 examine the unaccompanied alien child and any witness;

13 “(B) is authorized to sanction by civil money penalty any action (or inaction) in
14 contempt of the judge’s proper exercise of authority under this Act; and^[MR(2)]

15 “(C) shall determine whether the unaccompanied alien child meets any of the criteria
16 described in subparagraphs (A) through (I) of section 235(a)(3) of the William
17 Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (8 U.S.C.
18 1232(a)(3)), and if so, order the alien removed under subsection (e)(2).

19 “(2) FORM OF PROCEEDING.—A proceeding under this section may take place—

20 “(A) in person;

21 “(B) at a location agreed to by the parties, in the absence of the unaccompanied alien
22 child;

23 “(C) by video conference; or

24 “(D) by telephone conference.

25 “(3) PRESENCE OF ALIEN.—If it is impracticable by reason of the mental incompetency of
26 the unaccompanied alien child for the alien to be present at the proceeding, the Attorney
27 General shall prescribe safeguards to protect the rights and privileges of the alien.

28 “(4) RIGHTS OF THE ALIEN.—In a proceeding under this section—

29 “(A) the unaccompanied alien child shall be provided access to counsel in
30 accordance with section 235(c)(5) of the William Wilberforce Trafficking Victims
31 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(c)(5));

32 “(B) the alien shall be given a reasonable opportunity—

33 “(i) to examine the evidence against the alien;

34 “(ii) to present evidence on the alien’s own behalf; and

35 “(iii) to cross-examine witnesses presented by the Government;

36 “(C) the rights described in subparagraph (B) shall not entitle the alien—

37 “(i) to examine such national security information as the Government may
38 proffer in opposition to the alien’s admission to the United States; or

1 “(ii) to an application by the alien for discretionary relief under this Act; and
2 “(D) a complete record shall be kept of all testimony and evidence produced at the
3 proceeding.

4 “(5) WITHDRAWAL OF APPLICATION FOR ADMISSION.—An unaccompanied alien child
5 applying for admission to the United States may, and at any time before the issuance of a
6 final order of removal, be permitted to withdraw the application and immediately be
7 returned to the alien’s country of nationality or country of last habitual residence.

8 “(6) CONSEQUENCES OF FAILURE TO APPEAR.—An unaccompanied alien child who does
9 not attend a proceeding under this section, shall be ordered removed, except under
10 exceptional circumstances in which the alien’s absence is the fault of the Government, a
11 medical emergency, or an act of nature.

12 “(d) Decision and Burden of Proof.—

13 “(1) DECISION.—

14 “(A) IN GENERAL.—Notwithstanding section 235(b), at the conclusion of a
15 proceeding under this section, the immigration judge shall determine whether an
16 unaccompanied alien child is likely—

17 “(i) to be admissible to the United States; or

18 “(ii) to be eligible for any form of relief from removal under this Act.

19 “(B) EVIDENCE.—The determination of the immigration judge under subparagraph
20 (A) shall be based only on the evidence produced at the hearing.

21 “(2) BURDEN OF PROOF.—

22 “(A) IN GENERAL.—In a proceeding under this section, an unaccompanied alien
23 child who is an applicant for admission has the burden of establishing, by clear and
24 convincing evidence, that the alien—

25 “(i) is likely to be entitled to be lawfully admitted to the United States or
26 eligible for any form of relief from removal under this Act; or

27 “(ii) is lawfully present in the United States pursuant to a prior admission.

28 “(B) ACCESS TO DOCUMENTS.—In meeting the burden of proof under subparagraph
29 (A)(ii), the alien shall be given access to—

30 “(i) the alien’s visa or other entry document, if any; and

31 “(ii) any other records and documents, not considered by the Attorney General
32 to be confidential, pertaining to the alien’s admission or presence in the United
33 States.

34 “(e) Orders.—

35 “(1) PLACEMENT IN FURTHER PROCEEDINGS.—If an immigration judge determines that the
36 unaccompanied alien child has met the burden of proof under subsection (d)(2), the
37 immigration judge shall order the alien to be placed in further proceedings in accordance
38 with section 240.

1 “(2) ORDERS OF REMOVAL.—If an immigration judge determines that the unaccompanied
2 alien child has not met the burden of proof required under subsection (d)(2), the judge shall
3 order the alien removed from the United States without further hearing or review unless the
4 alien claims—

5 “(A) an intention to apply for asylum under section 208;

6 “(B) a fear of persecution; or

7 “(C) a fear of torture.

8 “(3) CLAIMS FOR ASYLUM.—If an unaccompanied alien child described in paragraph (2)
9 claims an intention to apply for asylum under section 208, a fear of persecution, or a fear of
10 torture, the immigration judge shall order the alien referred for an interview by an asylum
11 officer under subsection (f).

12 “(f) Asylum Interviews.—

13 “(1) DEFINITION OF CREDIBLE FEAR OF PERSECUTION OR TORTURE.—In this subsection, the
14 term ‘credible fear of persecution or torture’ means that after taking into account the
15 credibility of the statements made by an unaccompanied alien child in support of the alien’s
16 claim and such other facts as are known to the asylum officer, there is a significant
17 possibility that the alien could establish eligibility for—

18 “(A) asylum under section 208; or

19 “(B) protection from removal based on Article 3 of the Convention Against Torture
20 and Other Cruel, Inhuman, or Degrading Treatment or Punishment, done at New York,
21 December 10, 1984.

22 “(2) CONDUCT BY ASYLUM OFFICER.—An asylum officer shall conduct the interviews of
23 an unaccompanied alien child referred under subsection (e)(3).

24 “(3) REFERRAL OF CERTAIN ALIENS.—If the asylum officer determines, at the time of the
25 interview, that an unaccompanied alien child has a credible fear of persecution or torture,
26 the alien shall be held in the custody of the Secretary of Health and Human Services
27 pursuant to section 235(b) of the William Wilberforce Trafficking Victims Protection
28 Reauthorization Act of 2008 (8 U.S.C. 1232(b)) during further consideration of the
29 application for asylum.

30 “(4) REMOVAL WITHOUT FURTHER REVIEW IF NO CREDIBLE FEAR OF PERSECUTION.—

31 “(A) IN GENERAL.—Subject to subparagraph (C), if the asylum officer determines
32 that an unaccompanied alien child does not have a credible fear of persecution, the
33 asylum officer shall order the alien removed from the United States without further
34 hearing or review.

35 “(B) RECORD OF DETERMINATION.—The asylum officer shall prepare a written
36 record of a determination under subparagraph (A), which shall include—

37 “(i) a summary of the material facts as stated by the alien;

38 “(ii) such additional facts (if any) relied upon by the asylum officer;

39 “(iii) the asylum officer’s analysis of why, in light of such facts, the alien has
40 not established a credible fear of persecution; and

1 “(iv) a copy of the asylum officer’s interview notes.

2 “(C) REVIEW OF DETERMINATION.—

3 “(i) RULEMAKING.—The Attorney General shall establish, by regulation, a
4 process by which an immigration judge shall conduct a prompt review, upon the
5 alien’s request, of a determination under subparagraph (A) that the alien does not
6 have a credible fear of persecution or torture.

7 “(ii) MANDATORY COMPONENTS.—The review described in clause (i)—

8 “(I) shall include an opportunity for the alien to be heard and questioned
9 by the immigration judge, either in person or by telephonic or video
10 connection; and

11 “(II) shall be concluded as expeditiously as possible, to the maximum
12 extent practicable within 24 hours, but in no case later than 7 days after the
13 date on which a determination under subparagraph (A) is made.

14 “(D) MANDATORY PROTECTIVE CUSTODY.—Any alien subject to the procedures
15 under this paragraph shall be held in the custody of the Secretary of Health and Human
16 Services pursuant to section 235(b) of the William Wilberforce Trafficking Victims
17 Protection Reauthorization Act of 2008 (8 U.S.C. 1232(b))—

18 “(i) pending a final determination of an application for asylum under this
19 subsection; and

20 “(ii) after a determination under this subsection that the alien does not have a
21 credible fear of persecution, until the date on which the alien is removed.

22 “(g) Limitation on Administrative Review.—

23 “(1) IN GENERAL.—Except as provided in subsection (f)(4)(C) and paragraph (2), a
24 removal order entered in accordance with subsection (e)(2) or (f)(4)(A) is not subject to
25 administrative appeal.

26 “(2) RULEMAKING.—The Attorney General shall establish, by regulation, a process for
27 the prompt review of an order under subsection (e)(2) against an alien who claims under
28 oath, or as permitted under penalty of perjury under section 1746 of title 28, United States
29 Code, after having been warned of the penal ties for falsely making such claim under such
30 conditions to have been—

31 “(A) lawfully admitted for permanent residence;

32 “(B) admitted as a refugee under section 207; or

33 “(C) granted asylum under section 208.”.

34 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
35 and Nationality Act is amended by inserting after the item relating to section 235A the
36 following:

37 “Sec.235B.Humane and expedited inspection and screening for unaccompanied alien children.”.

38 (b) Judicial Review of Orders of Removal.—Section 242 of the Immigration and Nationality
39 Act (8 U.S.C. 1252) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “section 235(b)(1)” and inserting “section
3 235(b)(1) or an order of removal issued to an unaccompanied alien child after
4 proceedings under section 235B”; and

5 (B) in paragraph (2)—

6 (i) by inserting “or section 235B” after “section 235(b)(1)” each place such
7 term appears; and

8 (ii) in subparagraph (A)—

9 (I) in the subparagraph heading, by inserting “OR 235B” after “SECTION
10 235(B)(1)”; and

11 (II) in clause (iii), by striking “section 235(b)(1)(B),” and inserting
12 “section 235(b)(1)(B) or 235B(f);” and

13 (2) in subsection (e)—

14 (A) in the subsection heading, by inserting “or 235B” after “Section 235(b)(1)”;

15 (B) by inserting “or section 235B” after “section 235(b)(1)” each place such term
16 appears;

17 (C) in subparagraph (2)(C), by inserting “or section 235B(g)” after “section
18 235(b)(1)(C)”; and

19 (D) in subparagraph (3)(A), by inserting “or section 235B” after “section 235(b)”.

20 SEC. 1523. CHILD WELFARE AND LAW ENFORCEMENT 21 INFORMATION SHARING.

22 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
23 of 2008 (8 U.S.C. 1232(b)) is amended by adding at the end the following:

24 “(5) INFORMATION SHARING.—

25 “(A) IMMIGRATION STATUS.—If the Secretary of Health and Human Services
26 considers placement of an unaccompanied alien child with a potential sponsor, the
27 Secretary of Homeland Security shall provide to the Secretary of Health and Human
28 Services the immigration status of such potential sponsor before the placement of the
29 unaccompanied alien child.

30 “(B) OTHER INFORMATION.—The Secretary of Health and Human Services shall
31 provide to the Secretary of Homeland Security and the Attorney General, upon request,
32 any relevant information related to an unaccompanied alien child who is or has been in
33 the custody of the Secretary of Health and Human Services, including the location of
34 the child and any person to whom custody of the child has been transferred, for any
35 legitimate law enforcement objective, including the enforcement of the immigration
36 laws.”.

37 SEC. 1524. ACCOUNTABILITY FOR CHILDREN AND

1 **TAXPAYERS.**

2 Section 235(b) of the William Wilberforce Trafficking Victims Protection Reauthorization Act
3 of 2008 (8 U.S.C. 1232(b)) (as amended by section 1523) is amended by adding at the end the
4 following:

5 “(6) INSPECTION OF FACILITIES.—The Inspector General of the Department of Health and
6 Human Services shall conduct regular inspections of facilities utilized by the Secretary of
7 Health and Human Services to provide care and custody of unaccompanied alien children
8 who are in the immediate custody of the Secretary to ensure that such facilities are operated
9 in the most efficient manner practicable.

10 “(7) FACILITY OPERATIONS COSTS.—The Secretary of Health and Human Services shall
11 ensure that facilities utilized to provide care and custody of unaccompanied alien children
12 are operated efficiently and at a rate of cost that is not greater than \$500 per day for each
13 child housed or detained at such facility, unless the Secretary certifies that compliance with
14 this requirement is temporarily impossible due to emergency circumstances.”.

15 **SEC. 1525. CUSTODY OF UNACCOMPANIED ALIEN**
16 **CHILDREN IN FORMAL REMOVAL PROCEEDING.**

17 (a) In General.—Section 235(c) of the William Wilberforce Trafficking Victims Protection
18 Reauthorization Act of 2008 (8 U.S.C. 1232(c)) is amended—

19 (1) in paragraph (2) by adding at the end the following:

20 “(C) CHILDREN IN FORMAL REMOVAL PROCEEDINGS.—

21 “(i) LIMITATION ON PLACEMENT.—Notwithstanding any settlement or consent
22 decree previously issued before the date of the enactment of this subparagraph,
23 and section 236.3 of title 8, Code of Federal Regulations, or a similar successor
24 regulation, an unaccompanied alien child who has been placed in a proceeding
25 under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) may
26 not be placed in the custody of a nongovernmental sponsor or otherwise released
27 from the immediate custody of the United States Government unless—

28 “(I) the nongovernmental sponsor is a biological or adoptive parent or
29 legal guardian of the unaccompanied alien child;

30 “(II) the parent or legal guardian is legally present in the United States at
31 the time of the placement;

32 “(III) the parent or legal guardian has undergone a mandatory biometric
33 criminal history check;

34 “(IV) if the nongovernmental sponsor is the biological parent, the parent’s
35 relationship to the alien child has been verified through DNA testing
36 conducted by the Secretary of Health and Human Services;

37 “(V) if the nongovernmental sponsor is the adoptive parent, the parent’s
38 relationship to the alien child has been verified with the judicial court that
39 issued the final legal adoption decree by the Secretary of Health and Human

1 Services; and

2 “(VI) the Secretary of Health and Human Services has determined that the
3 alien child is not a danger to self, a danger to the community, or at risk of
4 flight.

5 “(ii) EXCEPTIONS.—If the Secretary of Health and Human Services determines
6 that an unaccompanied alien child is a victim of severe forms of trafficking in
7 persons (as defined in section 103 of the Trafficking Victims Protection Act of
8 2000 (22 U.S.C. 7102)), a special needs child with a disability (as defined in
9 section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102)), a
10 child who has been a victim of physical or sexual abuse under circumstances that
11 indicate that the child’s health or welfare has been significantly harmed or
12 threatened, or a child with mental health needs that require ongoing assistance
13 from a social welfare agency, the alien child may be placed with a grandparent or
14 adult sibling if the grandparent or adult sibling meets the requirements under
15 subclauses (II), (III), and (IV) of clause (i).

16 ~~“(iii) MONITORING.—~~

17 ~~“(I) IN GENERAL.— If an unaccompanied alien child who is 15, 16, or 17~~
18 ~~years of age is placed with a nongovernmental sponsor or, if an~~
19 ~~unaccompanied alien child who is younger than 15 years of age is placed~~
20 ~~with a nongovernmental sponsor, such nongovernmental sponsor shall—~~

21 ~~“(aa) enroll in the alternative to detention program of U.S.~~
22 ~~Immigration and Customs Enforcement; and~~

23 ~~“(bb) continuously wear an electronic ankle monitor while the~~
24 ~~unaccompanied alien child is in removal proceedings.~~

25 ~~“(II) PENALTY FOR MONITOR TAMPERING.— If an electronic ankle monitor~~
26 ~~required by subelause (I) is tampered with, the sponsor of the~~
27 ~~unaccompanied alien child shall be subject to a civil penalty of \$150 for each~~
28 ~~day the monitor is not functioning due to the tampering, up to a maximum of~~
29 ~~\$3,000.~~

30 ~~“(iv) EFFECT OF VIOLATION OF CONDITIONS.— The Secretary of Health and~~
31 ~~Human Services shall remove an unaccompanied alien child from a sponsor if the~~
32 ~~sponsor violates the terms of the agreement specifying the conditions under which~~
33 ~~the alien was placed with the sponsor.~~

34 ~~“(iv) FAILURE TO APPEAR.—~~

35 ~~“(I) CIVIL PENALTY.—If an unaccompanied alien child is placed with a~~
36 ~~sponsor and fails to appear in a mandatory court appearance, the sponsor~~
37 ~~shall be subject to a civil penalty of \$250 for each day until the alien appears~~
38 ~~in court, up to a maximum of \$5,000.~~

39 ~~“(II) BURDEN OF PROOF.—The sponsor is not subject to the penalty~~
40 ~~imposed under subclause (I) if the sponsor—~~

41 ~~“(aa) appears in person and proves to the immigration court that the~~

1 failure to appear by the unaccompanied alien child was not the fault of
2 the sponsor; and

3 “(bb) supplies the immigration court with documentary evidence that
4 supports the assertion described in item (aa).

5 “(vi) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN
6 TRAFFICKERS.—The Secretary of Health and Human Services may not place an
7 unaccompanied alien child under this subparagraph in the custody of an
8 individual who has been convicted of, or the Secretary has reason to believe was
9 otherwise involved in the commission of—

10 “(I) a sex offense (as defined in section 111 of the Sex Offender
11 Registration and Notification Act (34 U.S.C. 20911));

12 “(II) a crime involving severe forms of trafficking in persons (as defined
13 in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.
14 7102)); or

15 “(III) an offense under Federal, State, or Tribal law that has, as an element
16 of the offense, the use or attempted use of physical force or the threatened
17 use of physical force or a deadly weapon.

18 “(vii) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—A biometric
19 criminal history check required under clause (i)(III) shall be conducted using a set
20 of fingerprints or other biometric identifier through—

21 “(I) the Federal Bureau of Investigation;

22 “(II) criminal history repositories of all States that the individual lists as
23 current or former residences; and

24 “(III) any other State or Federal database or repository that the Secretary
25 of Health and Human Services determines to be appropriate.”.

26 (b) Definition of Special Immigrant Juvenile.— Section 101(a)(27)(J)(i) of the Immigration and
27 Nationality Act (8 U.S.C. 1101(a)(27)(J)), is amended by striking “1 or both of the immigrant’s
28 parents” and inserting “either of the immigrant’s parents”.

29 (bc) Home Studies and Follow-up Services for Unaccompanied Alien Children.—Section
30 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of
31 2008 (8 U.S.C. 1232(c)(3)) is amended—

32 (1) by redesignating subparagraph (C) as (D); and

33 (2) by amending subparagraph (B) to read as follows:

34 “(B) HOME STUDIES.—

35 “(i) IN GENERAL.—Except as required under clause (ii), before placing a child
36 with an individual, the Secretary of Health and Human Services shall determine
37 whether a home study is necessary.

38 “(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

39 “(I) who is a victim of a severe form of trafficking in persons or is a

1 special needs child with a disability (as defined in section 3 of the Americans
2 with Disabilities Act of 1990 (42 U.S.C. 12102);

3 “(II) who has been a victim of physical or sexual abuse under
4 circumstances that indicate that the child’s health or welfare has been
5 significantly harmed or threatened; or

6 “(III) whose proposed sponsor clearly presents a risk of abuse,
7 maltreatment, exploitation, or trafficking to the child based on all available
8 objective evidence; or

9 “(IV) if more than 2 other children are residing with the proposed sponsor,
10 or if such sponsor has custody of at least one other unaccompanied alien
11 child.”.

12 “(C) FOLLOW-UP SERVICES AND ADDITIONAL HOME STUDIES.—

13 “(i) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every
14 180 days until the date on which initial removal proceedings are completed and
15 the immigration judge issues an order of removal, grants voluntary departure
16 under section 240B, or grants the alien relief from removal, the Secretary of
17 Health and Human Services shall conduct follow-up services for any child for
18 whom a home study was conducted and who was placed with a nongovernmental
19 sponsor.

20 “(ii) CHILDREN WITH MENTAL HEALTH OR OTHER NEEDS.—Not less frequently
21 than every 180 days, until the date that is 2 years after the date on which a child is
22 placed with a nongovernmental sponsor, the Secretary of Health and Human
23 Services shall conduct follow-up services for any child with mental health needs
24 or other needs who could benefit from ongoing assistance from a social welfare
25 agency.

26 “(iii) CHILDREN AT RISK.—Not less frequently than every 90 days until the date
27 that is 2 years after the date on which a child is placed with a nongovernmental
28 sponsor, the Secretary of Health and Human Services shall conduct home studies
29 and follow-up services, including partnering with local community programs that
30 focus on early morning and after school programs for at-risk children who—

31 “(I) need a secure environment to engage in studying, training, and skills-
32 building programs; and

33 “(II) are at risk for recruitment by criminal gangs or other transnational
34 criminal organizations in the United States.”.

35 (ed) Detention of Accompanied Minors.—

36 (1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection
37 Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

38 (A) by redesignating subsections (d) through (i) as subsections (e) through (j)
39 respectively; and

40 (B) by inserting after subsection (c) the following:

1 “(d) Detention of Accompanied Minors.—

2 “(1) IN GENERAL.—Notwithstanding any other provision of law, **a judicial determination,**
3 **consent decree, or settlement agreement—**

4 “(A) ~~judicial determination, consent decree, or settlement agreement,~~ the detention
5 of any alien minor who is not described in section 462(g)(2) of the Homeland Security
6 Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections 217, 235, 236, and 241
7 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225, 1226, and 1231); and

8 “(B) the decision whether to detain or release the alien minor shall be in the sole and
9 unreviewable discretion of the Secretary of Homeland Security.

10 “(2C) ~~LIMITATIONS ON RELEASE.—~~The release of an alien minor who is not
11 described in section 462(g)(2) of the Homeland Security Act of 2002 (6 U.S.C.
12 279(g)(2)) may not be presumed and an alien minor not described in such section may
13 not be released by the Secretary to anyone other than a parent or legal guardian; ~~and-~~

14 “(D3) ~~CONDITIONS OF CONFINEMENT.—~~The conditions of confinement applicable to
15 alien minors who are not described in section 462(g) of the Homeland Security Act of
16 2002 (6 U.S.C. 279(g)(2)) shall be determined in the sole and unreviewable discretion
17 of the Secretary of Homeland Security, and specific licensing requirements may not be
18 imposed other than requirements determined appropriate by the Secretary.”.

19 **(2) No appropriated funds may be used to comply with, enforce or execute the**
20 **requirements of the settlement agreement in Flores v. Sessions, 85-4544 (C.D. Cal.).**

21 (32) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this subsection shall—

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

23 (B) apply regardless of the date on which the actions giving rise to removability or
24 detention take place.

25 **SEC. 1526. FRAUD IN CONNECTION WITH THE**
26 **TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN**
27 **CHILDREN.**

28 (a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end
29 the following:

30 **“1041. Fraud in connection with the transfer of custody of**
31 **unaccompanied alien children**

32 “(a) In General.—It shall be unlawful for a person to obtain custody of an unaccompanied
33 alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C.
34 279(g))) by—

35 “(1) making any materially false, fictitious, or fraudulent statement or representation; or

36 “(2) making or using any false writing or document knowing the same to contain any
37 materially false, fictitious, or fraudulent statement or entry.

1 “(b) Penalties.—

2 “(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, this
3 section shall be fined under this title and imprisoned for not less than 1 year.

4 “(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of the violation,
5 attempted violation, or conspiracy to violate this section was to subject the child to sexually
6 explicit activity or any other form of exploitation, the offender shall be fined under this title
7 and imprisoned for not less than 15 years.”.

8 (b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code,
9 is amended by inserting after the item relating to section 1040 the following:

10 “1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

11 **SEC. 1527. NOTIFICATION OF STATES AND FOREIGN**
12 **GOVERNMENTS, REPORTING, AND MONITORING.**

13 (a) Notification.—Section 235 of the William Wilberforce Trafficking Victims Protection
14 Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1525(c)(1)(A)) is amended
15 by adding at the end the following:

16 “(k) Notification to States.—

17 “(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of
18 Health and Human Services shall notify the Governor of a State not later than 48 hours
19 before the placement of an unaccompanied alien child in the custody of such Secretary into
20 the care of a facility or sponsor in such State.

21 “(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this
22 subsection, the Secretary of Health and Human Services shall submit a report to the
23 Governor of each State in which an unaccompanied alien child was discharged to a sponsor
24 or placed in a facility while remaining in the legal custody of the Secretary during the
25 period beginning October 1, 2013 and ending on the date of enactment of this subsection.

26 “(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a
27 monthly report to the Governor of each State in which, during the reporting period, an
28 unaccompanied alien child was discharged to a sponsor or placed in a facility while
29 remaining in the legal custody of the Secretary of Health and Human Services.

30 “(4) CONTENTS.—Each report required to be submitted to the Governor of a State under
31 paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the
32 State during the reporting period, disaggregated by—

33 “(A) the locality in which the aliens were placed; and

34 “(B) the age of such aliens.

35 “(l) Notification of Foreign Country.—The Secretary of Homeland Security shall provide
36 information regarding each unaccompanied alien child to the government of the country of
37 which the child is a national to assist such government with the identification and reunification
38 of such child with their parent or other qualifying relative.

39 “(m) Monitoring Requirement.—The Secretary of Health and Human Services shall—

1 “(1) require all sponsors to agree—

2 “(A) to receive approval from the Secretary of Health and Human Services before
3 changing the location in which the sponsor is housing an unaccompanied alien child
4 placed in the sponsor’s custody; and

5 “(B) to provide a current address for the child and the reason for the change of
6 address;

7 “(2) provide regular and frequent monitoring of the physical and emotional well-being of
8 each unaccompanied alien child who has been discharged to a sponsor or remained in the
9 legal custody of the Secretary until the child’s immigration case is resolved; and

10 “(3) not later than 60 days after the date of enactment of this subsection, submit a plan to
11 Congress for implementing the requirements under paragraphs (1) and (2).”.

12 SEC. 1528. EMERGENCY IMMIGRATION JUDGE 13 RESOURCES.

14 (a) Designation.—Not later than 14 days after the date of enactment of this Act, the Attorney
15 General shall designate not more than 100 immigration judges, including through the hiring of
16 retired immigration judges, magistrate judges, or administrative law judges, or the reassignment
17 of current immigration judges, who shall be dedicated—

18 (1) to conducting humane and expedited inspection and screening for unaccompanied
19 alien children under section 235B of the Immigration and Nationality Act; or

20 (2) to reducing existing backlogs in immigration court proceedings initiated under section
21 239 of the Immigration and Nationality Act (8 U.S.C. 1229).

22 (b) Requirement.—The Attorney General shall ensure that sufficient immigration judge
23 resources, including required legal support staff and full-time interpreters, are dedicated to the
24 purpose described in subsection (a)(1) and the Secretary of Homeland Security shall ensure that
25 sufficient immigration attorneys are dedicated to such purpose to comply with the requirement
26 under section 235B(b)(1) of the Immigration and Nationality Act.

27 (c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this
28 section \$10,000,000, for each of the fiscal years 2018 through 2022.

29 SEC. 1529. REPORTS TO CONGRESS.

30 (a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019,
31 the Secretary of Health and Human Services shall submit to Congress and make publicly
32 available a report that includes—

33 (1) a detailed summary of the contracts in effect to care for and house unaccompanied
34 alien children, including the names and locations of contractors and the facilities being
35 used;

36 (2) the cost per day to care for and house an unaccompanied alien child, including an
37 explanation of such cost;

38 (3) the number of unaccompanied alien children who have been released to a sponsor, if

- 1 any;
- 2 (4) a list of the States to which unaccompanied alien children have been released from the
3 custody of the Secretary of Health and Human Services to the care of a sponsor or
4 placement in a facility;
- 5 (5) the number of unaccompanied alien children who have been released to a sponsor
6 who is not lawfully present in the United States, including the country of nationality or last
7 habitual residence and age of such children;
- 8 (6) a determination of whether more than 1 unaccompanied alien child has been released
9 to the same sponsor, including the number of children who were released to such sponsor;
- 10 (7) an assessment of the extent to which the Secretary of Health and Human Services is
11 monitoring the release of unaccompanied alien children, including home studies done and
12 electronic monitoring devices used;
- 13 (8) an assessment of the extent to which the Secretary of Health and Human Services is
14 making efforts—
- 15 (A) to educate unaccompanied alien children about their legal rights; and
16 (B) to provide unaccompanied alien children with access to pro bono counsel; and
- 17 (9) the extent of the public health issues of unaccompanied alien children, including
18 contagious diseases, the benefits or medical services provided, and the outreach to States
19 and localities about public health issues, that could affect the public.
- 20 (b) Reports on Repatriation Agreements.—Not later than September 30, 2019, the Secretary of
21 State shall submit to Congress and make publicly available a report that—
- 22 (1) includes a copy of any repatriation agreement in effect for unaccompanied alien
23 children;
- 24 (2) describes any such repatriation agreement that is being considered or negotiated; and
- 25 (3) describes the funding provided to the 20 countries that have the highest number of
26 nationals entering the United States as unaccompanied alien children, including amounts
27 provided—
- 28 (A) to deter the nationals of each country from illegally entering the United States;
29 and
- 30 (B) to care for or reintegrate repatriated unaccompanied alien children in the country
31 of nationality or last habitual residence.
- 32 (c) Reports on Returns to Country of Nationality.—Not later than September 30, 2019, the
33 Secretary of Homeland Security shall submit to Congress and make publicly available a report
34 that describes—
- 35 (1) the number of unaccompanied alien children who have voluntarily returned to their
36 country of nationality or habitual residence, disaggregated by—
- 37 (A) country of nationality or habitual residence; and
38 (B) age of the unaccompanied alien children;

1 (2) the number of unaccompanied alien children who have been returned to their country
2 of nationality or habitual residence, including the length of time such children were present
3 in the United States;

4 (3) the number of unaccompanied alien children who have not been returned to their
5 country of nationality or habitual residence pending travel documents or other requirements
6 from such country, including how long they have been waiting to return; and

7 (4) the number of unaccompanied alien children who were granted relief in the United
8 States, whether through asylum, any other immigration benefit or status, or deferred action.

9 (d) Reports on Immigration Proceedings.—Not later than September 30, 2019, and not less
10 frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination
11 with the Director of the Executive Office for Immigration Review, shall submit to Congress and
12 make publicly available a report that describes—

13 (1) the number of unaccompanied alien children who, after proceedings under section
14 235B of the Immigration and Nationality Act were returned to their country of nationality or
15 habitual residence, disaggregated by—

16 (A) country of nationality or residence; and

17 (B) age and gender of such aliens;

18 (2) the number of unaccompanied alien children who, after proceedings under section
19 235B of the Immigration and Nationality Act, prove a claim of admissibility and are placed
20 in proceedings under section 240 of that Act (8 U.S.C. 1229a);

21 (3) the number of unaccompanied alien children who fail to appear at a removal hearing
22 that such alien was required to attend;

23 (4) the number of sponsors who were levied a penalty, including the amount and whether
24 the penalty was collected, for the failure of an unaccompanied alien child to appear at a
25 removal hearing; and

26 (5) the number of aliens that are classified as unaccompanied alien children, the ages and
27 countries of nationality of such children, and the orders issued by the immigration judge at
28 the conclusion of proceedings under section 235B of the Immigration and Nationality Act
29 for such children.

30 **CHAPTER 3—COOPERATION WITH MEXICO AND**
31 **OTHER COUNTRIES ON ASYLUM AND REFUGEE**
32 **ISSUES**

33 **SEC. 1541. STRENGTHENING INTERNAL ASYLUM**
34 **SYSTEMS IN MEXICO AND OTHER COUNTRIES.**

35 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
36 Security, shall work with international partners, including the United Nations High
37 Commissioner for Refugees, to support and provide technical assistance to strengthen the
38 domestic capacity of Mexico and other countries in the region to provide asylum to eligible

1 children and families—

2 (1) by establishing and expanding temporary and long-term in country reception centers
3 and shelter capacity to meet the humanitarian needs of those seeking asylum or other forms
4 of international protection;

5 (2) by improving the asylum registration system to ensure that all individuals seeking
6 asylum or other humanitarian protection—

7 (A) are properly screened for security, including biographic and biometric capture;

8 (B) receive due process and meaningful access to existing legal protections; and

9 (C) receive proper documents in order to prevent fraud and ensure freedom of
10 movement and access to basic social services;

11 (3) by creating or expanding a corps of trained asylum officers capable of evaluating and
12 deciding individual asylum claims consistent with international law and obligations; and

13 (4) by developing the capacity to conduct best interest determinations for unaccompanied
14 alien children to ensure that their needs are properly met, which may include family
15 reunification or resettlement based on international protection needs.

16 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
17 State, in consultation with the Secretary of Homeland Security, shall submit a report that
18 describes the plans of the Secretary of State to assist in developing the asylum processing
19 capabilities described in subsection (a) to—

20 (1) the Committee on Foreign Relations of the Senate;

21 (2) the Committee on Homeland Security and Governmental Affairs of the Senate;

22 (3) the Committee on the Judiciary of the Senate;

23 (4) the Committee on Foreign Affairs of the House of Representatives;

24 (5) the Committee on Homeland Security of the House of Representatives; and

25 (6) the Committee on the Judiciary of the House of Representatives.

26 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
27 may be necessary to carry out subsection (a).

28 **SEC. 1542. EXPANDING REFUGEE PROCESSING IN**
29 **MEXICO AND CENTRAL AMERICA FOR THIRD**
30 **COUNTRY RESETTLEMENT.**

31 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
32 Security, shall coordinate with the United Nations High Commissioner for Refugees to support
33 and provide technical assistance to the Government of Mexico and the governments of other
34 countries in the region to increase access to global resettlement for eligible children and families
35 with protection needs—

36 (1) by establishing and expanding in country refugee reception centers to meet the
37 humanitarian needs of those seeking international protection;

1 (2) by improving the refugee registration system to ensure that all refugees—

2 (A) are properly screened for security, including biographic and biometric capture;

3 (B) receive due process and meaningful access to existing legal protections; and

4 (C) receive proper documents in order to prevent fraud and ensure freedom of
5 movement and access to basic social services;

6 (3) by creating or expanding a corps of trained refugee officers capable of evaluating and
7 deciding individual claims for protection, consistent with international law and obligations;
8 and

9 (4) by developing the capacity to conduct best interest determinations for unaccompanied
10 alien children to ensure that—

11 (A) such children with international protection needs are properly registered; and

12 (B) the needs of such children are properly met, which may include family
13 reunification or resettlement based on international protection needs.

14 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
15 State, in consultation with the Secretary of Homeland Security, shall submit a report to the
16 committees listed in section 1541(b) that describes the plans of the Secretary of State to assist in
17 developing the refugee processing capabilities described in subsection (a).

18 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
19 may be necessary to carry out subsection (a).

20 **Subtitle F—Penalties for Smuggling, Drug Trafficking, Human**
21 **Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to**
22 **Readmission of Removed Aliens**

23 **SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN**
24 **TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.**

25 (a) Criminal Penalties for Human Smuggling and Trafficking.—Section 274(a) of the
26 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

27 (1) in paragraph (1)—

28 (A) in subparagraph (A), by amending clause (ii) to read as follows:

29 “(ii) knowing, or in reckless disregard of the fact, that an alien has come to,
30 entered into, or remains in the United States in violation of law—

31 “(I) transports, moves, or attempts to transport or move such alien within
32 the United States by means of transportation or otherwise, in furtherance of
33 such violation of law; or

34 “(II) transports or moves the alien with the purpose of facilitating the
35 illegal entry of the alien into Canada or Mexico;” and

36 (B) in subparagraph (B)—

1 (i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

2 (ii) in clause (vi) (as so redesignated) by inserting “for not less than 10 years
3 and” before “not more than 20 years,”; and

4 (iii) by inserting after clause (ii) the following:

5 “(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
6 subparagraph (A) that is the third or subsequent violation committed by such
7 person under this section, shall be fined under title 18, imprisoned for not less
8 than 5 years and not more than 25 years, or both;

9 “(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
10 subparagraph (A) that recklessly, knowingly, or intentionally results in a victim
11 being involuntarily forced into labor or prostitution, shall be fined under title 18,
12 imprisoned for not less than 5 years and not more than 25 years, or both;

13 “(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph
14 (A) during and in relation to which any person is subjected to an involuntary
15 sexual act (as defined in section 2246 of title 18), be fined under title 18,
16 imprisoned for not less than 5 years and not more than 25 years, or both;” and

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

18 “(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to
19 another or on the high seas, transports, moves, harbors, conceals, or shields from detection such
20 alien outside of the United States for profit or gain when the alien is seeking to enter the United
21 States without official permission or legal authority, shall for, each alien in respect to whom a
22 violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not
23 more than 10 years, or both.”.

24 (b) Seizure and Forfeiture.—Section 274(b)(1) of the Immigration and Nationality Act (8
25 U.S.C. 1324(b)(1)) is amended to read as follows:

26 “(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the
27 commission of a violation or attempted violation of subsection (a), the gross proceeds of
28 such violation or attempted violation, and any property traceable to such property or
29 proceeds, shall be seized and subject to forfeiture.”.

30 SEC. 1602. PUTTING THE BRAKES ON HUMAN 31 SMUGGLING ACT.

32 (a) Short Title.—This section may be cited as the “Putting the Brakes on Human Smuggling
33 Act”.

34 (b) First Violation.—Section 31310(b)(1) of title 49, United States Code, is amended—

35 (1) in subparagraph (D), by striking the “or” at the end;

36 (2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

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

38 “(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal
39 entry into the United States by transporting, guiding, directing, or attempting to assist the

1 alien with the alien's entry in violation of section 275 of the Immigration and Nationality
2 Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an
3 act in violation of such section; or

4 "(G) using a commercial motor vehicle in willfully aiding or abetting the transport of
5 controlled substances, monetary instruments, bulk cash, or weapons by any individual
6 departing the United States."

7 (c) Second or Multiple Violations.—Section 31310(c)(1) of title 49, United States Code, is
8 amended—

9 (1) in subparagraph (E), by striking the "or" at the end;

10 (2) by redesignating subparagraph (F) as subparagraph (H);

11 (3) in subparagraph (H), as redesignated, by striking "(E)" and inserting "(G)"; and

12 (4) by inserting after subparagraph (E) the following:

13 "(F) using a commercial motor vehicle more than once in willfully aiding or abetting an
14 alien's illegal entry into the United States by transporting, guiding, directing and attempting
15 to assist the alien with the alien's entry in violation of section 275 of the Immigration and
16 Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or
17 imprisoned for an act in violation of such section;

18 "(G) using a commercial motor vehicle more than once in willfully aiding or abetting the
19 transport of controlled substances, monetary instruments, bulk cash, or weapons by any
20 individual departing the United States; or".

21 (d) Lifetime Disqualification.—Section 31310(d) of title 49, United States Code, is amended
22 to read as follows:

23 "(d) Lifetime Disqualification.—The Secretary shall permanently disqualify an individual
24 from operating a commercial motor if the individual uses a commercial motor vehicle—

25 "(1) in committing a felony involving manufacturing, distributing, or dispensing a
26 controlled substance, or possession with intent to manufacture, distribute, or dispense a
27 controlled substance;

28 "(2) in committing an act for which the individual is convicted under—

29 "(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

30 "(B) section 277 of such Act (8 U.S.C. 1327); or

31 "(3) in willfully aiding or abetting the transport of controlled substances, monetary
32 instruments, bulk cash, and weapons by any individual departing the United States."

33 (e) Reporting Requirements.—

34 (1) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title
35 49, United States Code, is amended—

36 (A) in subparagraph (E), by striking "and" at the end;

37 (B) in subparagraph (F), by striking the period at the end and inserting "; and"; and

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

1 “(G) whether the operator was disqualified, either temporarily or permanently, from
2 operating a commercial motor vehicle under section 31310, including under subsection
3 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

4 (2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is
5 amended by inserting “including such a disqualification, revocation, suspension, or
6 cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d)
7 of section 31310,” after “60 days.”.

8 SEC. 1603. DRUG TRAFFICKING AND CRIMES OF 9 VIOLENCE COMMITTED BY ILLEGAL ALIENS.

10 (a) In General.—Title 18, United States Code, is amended by inserting after chapter 27 the
11 following:

12 “CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF 13 VIOLENCE COMMITTED BY ILLEGAL ALIENS

14 “581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

15 “581. Enhanced penalties for drug trafficking and crimes 16 committed by illegal aliens

17 “(a) Offense.—Any alien unlawfully present in the United States, who commits, conspires to
18 commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of
19 which involves the use or attempted use of physical force or the threatened use of physical force
20 or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under
21 this title, imprisoned for not less than 5 years, or both.

22 “(b) Enhanced Penalties for Aliens Ordered Removed.—Any alien unlawfully present in the
23 United States who violates subsection (a) and was ordered removed under the Immigration and
24 Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the
25 violation of subsection (a), shall be fined under this title, imprisoned for not less than 15 years, or
26 both.

27 “(c) Requirement for Consecutive Sentences.—Any term of imprisonment imposed under this
28 section shall be consecutive to any term imposed for any other offense.”.

29 (b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United
30 States Code, is amended by inserting after the item relating to chapter 27 the following:

31 “28. Drug trafficking and crimes of violence committed by illegal aliens
32 581”.

33 SEC. 1604. ESTABLISHING INADMISSIBILITY AND 34 DEPORTABILITY.

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

1 “(iii) CONSIDERATION OF OTHER EVIDENCE.—If the statute of conviction or
2 conviction records do not conclusively establish whether a crime does or does not
3 constitute a crime involving moral turpitude, the Secretary, the Attorney General,
4 or the consular officer, as applicable, may consider other **documentary** evidence
5 related to the conviction, including **but not limited to** charging documents, plea
6 agreements, plea colloquies, jury instructions, and police reports, to determine
7 whether the other evidence clearly establishes that the conduct in which the alien
8 was engaged constitutes a crime involving moral turpitude.”.

9 (b) Deportable Aliens.—

10 (1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8
11 U.S.C. 1227(a)(2)(A)) is amended by—

12 (A) redesignating clause (vi) and clause (vii); and

13 (B) inserting after clause (v) the following:

14 “(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not
15 conclusively establish whether a crime constitutes a crime involving moral
16 turpitude, the Secretary or the Attorney General may consider other **documentary**
17 evidence related to the conviction, including **but not limited to** charging
18 documents, plea agreements, plea colloquies, jury instructions, and police reports,
19 to determine whether the other evidence clearly establishes that the conduct in
20 which the alien was engaged constitutes a crime involving moral turpitude.”.

21 (2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of Immigration and Nationality Act (8
22 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

23 “(iii) CRIME OF VIOLENCE.—If the statute of conviction or conviction records
24 do not conclusively establish whether a crime of domestic violence constitutes a
25 crime of violence or an offense under Federal, State, or Tribal law that has, as an
26 element of the crime, the use or attempted use of physical force or the threatened
27 use of physical force or a deadly weapon, the Secretary or the Attorney General
28 may consider other evidence related to the conviction, including charging
29 documents, plea agreements, plea colloquies, jury instructions, and police reports,
30 to determine whether the other evidence clearly establishes that the conduct in
31 which the alien was engaged constitutes a crime of violence or an offense under
32 Federal, State, or Tribal law that has, as an element of the crime, the use or
33 attempted use of physical force or the threatened use of physical force or a deadly
34 weapon.”.

35 (c) Effective Date; Applicability.—The amendments made by this section shall—

36 (1) take effect on the date of enactment of this Act; and

37 (2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

38 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY;**
39 **ENHANCED PENALTIES FOR ENTERING WITH INTENT**
40 **TO AID, ABET, OR COMMIT TERRORISM.**

1 (a) In General.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is
2 amended by striking the section designation and heading and all that follows through “may be
3 imposed.” in the undesignated matter following subsection (b)(2) and inserting the following:

4 “SEC. 275. ILLEGAL ENTRY.

5 “(a) In General.—

6 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all
7 immigration benefits or relief available under the immigration laws, including relief under
8 section 240B, 245, 248, and 249, other than asylum, relief as a victim of trafficking under
9 section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U),
10 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
11 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
12 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
13 protection from removal based on a claim under the Convention Against Torture and Other
14 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
15 1984, if the alien—

16 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
17 any time or place other than as designated by immigration officers;

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

21 “(C) enters or crosses the border to the United States and, upon examination or
22 inspection, makes a false or misleading representation or conceals a material fact,
23 including such representation or willful concealment in the context of arrival,
24 reporting, entry, or clearance, requirements of the customs laws, immigration laws,
25 agriculture laws, or shipping laws.

26 “(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3)
27 if the alien—

28 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
29 any time or place other than as designated by immigration officers;

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

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

38 “(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by
39 engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—

40 “(A) shall, for the first violation, be fined under title 18, United States Code,
41 imprisoned not more than 6 months, or both;

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

3 “(C) if the violation occurs after the alien has been convicted of 3 or more
4 misdemeanors (at least 1 of which involves controlled substances, abuse of a minor,
5 trafficking or smuggling, or any offense that may result in serious bodily harm or
6 injury to another person), a significant misdemeanor, or a felony, shall be fined under
7 such title, imprisoned not more than 10 years, or both;

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

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

14 “(4) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through
15 (E) of paragraph (3) are elements of the offenses described in that paragraph and the
16 penalties described in such subparagraphs shall apply only in cases in which the 1 or more
17 convictions that form the basis for the additional penalty are—

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

19 “(B) proven beyond a reasonable doubt at trial; or

20 “(C) admitted by the defendant.

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

23 “(6) ATTEMPT.—Any person who attempts to commit any offense under this section shall
24 be punished in the same manner as for a completion of such offense.

25 “(b) Improper Time or Place; Civil Penalties.—

26 “(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or
27 crossing or attempting to cross the border to the United States at a time or place other than
28 as designated by an immigration officer shall be subject to a civil penalty, in addition to any
29 criminal or other civil penalties that may be imposed under any other provision of law, in an
30 amount equal to—

31 “(A) not less than \$50 but not more than \$250 for each such entry, crossing,
32 attempted entry, or attempted crossing; or

33 “(B) twice the amount described in subparagraph (A) if the alien had previously
34 been subject to a civil penalty under this subsection.

35 “(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in
36 place of, any criminal or other civil penalties that may be imposed.”.

37 (b) Enhanced Penalties.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325)
38 is amended by adding at the end the following:

39 “(e) Enhanced Penalty for Terrorist Aliens.—Any alien who commits an offense described in
40 subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime

1 of terrorism (as defined in section 2332b(g) of title 18, United States Code) shall be imprisoned
2 for not less than 10 years and not more than 30 years.”.

3 (c) Clerical Amendment.—The table of contents in the first section of the Immigration and
4 Nationality Act is amended by striking the item relating to section 275 and inserting the
5 following:

6 “Sec.275.Illegal entry.”.

7 (d) Application.—

8 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act shall
9 apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on
10 or after the date of enactment of this Act.

11 (2) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Section 275(a)(1) of the Immigration
12 and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this
13 Act and apply to any alien who, on or after that date of enactment—

14 (A) enters or crosses, or attempts to enter or cross, the border into the United States
15 at any time or place other than as designated by immigration officers;

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

19 (C) enters or crosses the border to the United States and, upon examination or
20 inspection, makes a false or misleading representation or conceals a material fact,
21 including such representation or concealment in the context of arrival, reporting, entry,
22 or clearance, requirements of the customs laws, immigration laws, agriculture laws, or
23 shipping laws.

24 SEC. 1606. PENALTIES FOR REENTRY OF REMOVED 25 ALIENS.

26 (a) Short Titles.—This section may be cited as the “Stop Illegal Reentry Act” or “Kate’s
27 Law”.

28 (b) Increased Penalties for Reentry of Removed Alien.—

29 (1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is
30 amended to read as follows:

31 “SEC. 276. REENTRY OF REMOVED ALIEN.

32 “(a) In General.—

33 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied
34 admission, excluded, deported, or removed or has departed the United States while an order
35 of exclusion, deportation, or removal is outstanding shall be ineligible for all immigration
36 benefits or relief available under the immigration laws, including relief under **sections**
37 **240(b)(1), 240B(b),** 245, 248, and 249, other than asylum, relief as a victim of trafficking
38 under section 101(a)(15)(T), relief as a victim of criminal activity under section

1 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et
2 seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a
3 battered spouse or child under section 240A(b)(2), withholding of removal under section
4 241(b)(3), or protection from removal based on a claim under the Convention Against
5 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New
6 York, December 10, 1984, if, after such denial, exclusion, deportation, removal, or
7 departure, the alien enters, attempts to enter, crosses the border into, attempts to cross the
8 border into, or is at any time found in, the United States, unless—

9 “(A) if the alien is seeking admission more than 10 years after the date of the alien’s
10 last departure from the United States, the Secretary, before the alien’s reembarkation at
11 a place outside of the United States or the alien’s application for admission from a
12 foreign contiguous territory, has expressly consented to such alien’s reapplying for
13 admission; or

14 “(B) with respect to an alien previously denied admission and removed, such alien
15 establishes that the alien was not required to obtain such advance consent under this
16 Act or any other Act.

17 “(2) CRIMINAL OFFENSES.—Any alien who—

18 “(A) has been denied admission, deported, or removed or has departed the United
19 States while an order of deportation, or removal is outstanding; and

20 “(B) after such denial, removal or departure, enters, attempts to enter, crosses the
21 border into, attempts to cross the border into, or is at any time found in, the United
22 States, unless—

23 “(i) if the alien is seeking admission more than 10 years after the date of the
24 alien’s last departure from the United States, the Secretary, before the alien’s
25 reembarkation at a place outside the United States or the alien’s application for
26 admission from a foreign contiguous territory, has expressly consented to such
27 alien’s reapplying for admission; or

28 “(ii) with respect to an alien previously denied admission and removed, such
29 alien establishes that the alien was not required to obtain such advance consent
30 under this Act or any other Act,

31 “shall be fined under title 18, United States Code, imprisoned not more than 5 years, or
32 both.

33 “(b) Criminal Penalties for Reentry of Certain Removed Aliens.—

34 “(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2),
35 and except as provided in subsection (c)—

36 “(A) an alien described in subsection (a) who has been excluded from the United
37 States pursuant to section 235(c) because the alien was excludable under section
38 212(a)(3)(B) or who has been removed from the United States pursuant to the
39 provisions of title V, and thereafter, without the permission of the Secretary, enters the
40 United States, or attempts to enter the United States, shall be fined under title 18,
41 United States Code, and imprisoned for a period of 15 years, which sentence shall not
42 run concurrently with any other sentence;

1 “(B) an alien described in subsection (a) who was removed from the United States
2 pursuant to section 237(a)(4)(B) and thereafter, without the permission of the
3 Secretary, enters, attempts to enter, or is at any time found in, the United States (unless
4 the Secretary has expressly consented to such alien’s reentry) shall be fined under title
5 18, United States Code, imprisoned for not more than 15 years, or both; and

6 “(C) an alien described in subsection (a) who has been denied admission, excluded,
7 deported, or removed 2 or more times for any reason and thereafter enters, attempts to
8 enter, crosses the border into, attempts to cross the border into, or is at any time found
9 in, the United States, shall be fined under title 18, United States Code, imprisoned not
10 more than 15 years, or both.

11 “(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties
12 under subsection (a)(2), and except as provided in subsection (c)—

13 “(A) an alien described in subsection (a) who was convicted, on a date that is before
14 the date on which the alien was subject to removal or departure, of a significant
15 misdemeanor shall be fined under title 18, United States Code, imprisoned not more
16 than 10 years, or both;

17 “(B) an alien described in subsection (a) who was convicted, on a date that is before
18 the date on which the alien was subject to removal or departure, of 2 or more
19 misdemeanors involving drugs, crimes against the person, or both, shall be fined under
20 title 18, United States Code, imprisoned not more than 10 years, or both;

21 “(C) an alien described in subsection (a) who was convicted, on a date that is before
22 the date on which the alien was subject to removal or departure, of 3 or more
23 misdemeanors for which the alien was sentenced to a term of imprisonment of not less
24 than 90 days for each offense, or 12 months in the aggregate, shall be fined under title
25 18, United States Code, imprisoned not more than 10 years, or both;

26 “(D) an alien described in subsection (a) who was convicted, on a date that is before
27 the date on which the alien was subject to removal or departure, of a felony for which
28 the alien was sentenced to a term of imprisonment of not less than 30 months shall be
29 fined under such title, imprisoned not more than 15 years, or both;

30 “(E) 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 felony for which
32 the alien was sentenced to a term of imprisonment of not less than 5 years shall be
33 fined under such title, imprisoned not more than 20 years, or both;

34 “(F) an alien described in subsection (a) who was convicted of 3 or more felonies of
35 any kind shall be fined under such title, imprisoned not more than 25 years, or both;
36 and

37 “(G) an alien described in subsection (a) who was convicted, on a date that is before
38 the date on which the alien was subject to removal or departure or after such removal
39 or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77
40 (relating to peonage and slavery) or 113B (relating to terrorism) of such title shall be
41 fined under such title, imprisoned not more than 25 years, or both.

42 “(c) Mandatory Minimum Criminal Penalty for Reentry of Certain Removed Aliens.—

1 Notwithstanding the penalties under subsections (a) and (b), an alien described in subsection (a)
2 shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be
3 fined under title 18, United States Code, if the alien—

4 “(1) was convicted, on a date that is before the date on which the alien was subject to
5 removal or departure, of an aggravated felony; or

6 “(2) was convicted at least twice of illegal reentry under this section on 1 or more dates
7 that are before the date on which such removal or departure.

8 “(d) Proof of Prior Convictions.—The prior convictions described in subsection (b)(2) are
9 elements of the crimes described in that subsection, and the penalties in that subsection shall
10 apply only in cases in which the 1 or more convictions that form the basis for the additional
11 penalty are—

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

13 “(2)(A) proven beyond a reasonable doubt at trial; or

14 “(B) admitted by the defendant.

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

17 “(1) on a date that is before the date of the alleged violation, the alien sought and received
18 the express consent of the Secretary to reapply for admission into the United States; or

19 “(2) with respect to an alien previously denied admission and removed, the alien—

20 “(A) was not required to obtain such advance consent under this Act or any other
21 Act; and

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

24 “(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding
25 under this section, an alien may not challenge the validity of a removal order described in
26 subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

27 “(1) the alien exhausted any administrative remedies that may have been available to seek
28 relief against the order;

29 “(2) the removal or deportation proceedings at which the order was issued improperly
30 deprived the alien of the opportunity for judicial review; and

31 “(3) the entry of the order was fundamentally unfair.

32 “(g) Reentry of Alien Removed Before the Completion of the Term of Imprisonment.—Any
33 alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border
34 into, attempts to cross the border into, or is at any time found in, the United States—

35 “(1) shall be incarcerated for the remainder of the sentence of imprisonment that was
36 pending at the time of deportation or removal without any reduction for parole or supervised
37 release unless the alien affirmatively demonstrates that the Secretary has expressly
38 consented to the alien’s reentry (if a request for consent to reapply is authorized under this
39 section); and

1 “(2) shall be subject to such other penalties relating to the reentry of removed aliens as
2 may be available under this section or any other provision of law.

3 “(h) Definitions.—In this section:

4 “(1) CROSS THE BORDER.—The term ‘cross the border’ refers to the physical act of
5 crossing the border, regardless of whether the alien is free from official restraint.

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

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

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

14 “(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a
15 misdemeanor crime that—

16 “(A) involves the use or attempted use of physical force, or threatened use of a
17 deadly weapon, committed by a current or former spouse, parent, or guardian of the
18 victim, by a person with whom the victim shares a child in common, by a person who
19 is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or
20 by a person similarly situated to a spouse, parent, or guardian of the victim;

21 “(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control
22 and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

23 “(C) involved the unlawful possession of a firearm (as defined in section 921 of title
24 18, United States Code);

25 “(D) is a crime of violence (as defined in section 16 of title 18, United States Code);
26 or

27 “(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use
28 or attempted use of physical force or the threatened use of physical force or a deadly
29 weapon.

30 “(6) STATE.—The term ‘State’ means a State of the United States, the District of
31 Columbia, and any commonwealth, territory, or possession of the United States.”.

32 (c) Effective Date; Applicability.—Section 276(a)(1) of the Immigration and Nationality Act
33 (8 U.S.C. 1326(a)(1)) shall take effect on the date of enactment of this Act and shall apply to any
34 alien who, on or after that date of enactment—

35 (1) has been denied admission, excluded, deported, or removed or has departed the
36 United States while an order of exclusion, deportation, or removal is outstanding; and

37 (2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses
38 the border into, attempts to cross the border into, or is at any time found in, the United
39 States, unless—

40 (A) if the alien is seeking admission more than 10 years after the date of the alien’s

1 last departure from the United States, the Secretary of Homeland Security, before the
2 alien's reembarkation at a place outside the United States or the alien's application for
3 admission from a foreign contiguous territory, has expressly consented to such alien's
4 reapplying for admission; or

5 (B) with respect to an alien previously denied admission and removed, such alien
6 establishes that the alien was not required to obtain such advance consent under the
7 Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

8 SEC. 1607. LAUNDERING OF MONETARY 9 INSTRUMENTS.

10 Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 1590
11 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),"
12 after "section 1363 (relating to destruction of property within the special maritime and territorial
13 jurisdiction),".

14 SEC. 1608. FREEZING BANK ACCOUNTS OF 15 INTERNATIONAL CRIMINAL ORGANIZATIONS AND 16 MONEY LAUNDERERS.

17 Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

18 "(5)(A) If a person is arrested or charged in connection with an offense described in
19 subparagraph (C) involving the movement of funds into or out of the United States, the Attorney
20 General may apply to any Federal judge or magistrate judge in the district in which the arrest is
21 made or where the charges are filed for an ex parte order restraining any account held by the
22 person arrested or charged for not more than 30 days. Such 30-day period may be extended for
23 good cause shown at a hearing conducted in the manner provided in rule 43(e) of the Federal
24 Rules of Civil Procedure. The court may receive and consider evidence and information
25 submitted by the Government that would be inadmissible under the Federal Rules of Evidence.

26 "(B) The application for a restraining order under subparagraph (A) shall—

27 "(i) identify the offense for which the person has been arrested or charged;

28 "(ii) identify the location and description of the accounts to be restrained; and

29 "(iii) state that the restraining order is needed to prevent the removal of the funds in the
30 account by the person arrested or charged, or by others associated with such person, during
31 the time needed by the Government to conduct such investigation as may be necessary to
32 establish whether there is probable cause to believe that the funds in the accounts are
33 subject to forfeiture in connection with the commission of any criminal offense.

34 "(C) An offense described in this subparagraph is any offense for which forfeiture is
35 authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

36 "(D) For purposes of this section—

37 "(i) the term 'account' includes any safe deposit box and any account (as defined in
38 paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial

1 institution; and

2 “(ii) the term ‘account held by the person arrested or charged’ includes an account held in
3 the name of such person, and any account over which such person has effective control as a
4 signatory or otherwise.

5 “(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for
6 purposes of section 983(a).

7 “(F) A restraining order issued under this paragraph may be executed in any district in which
8 the subject account is found, or transmitted to the central authority of any foreign State for
9 service in accordance with any treaty or other international agreement.”.

10 **SEC. 1609. CRIMINAL PROCEEDS LAUNDERED**
11 **THROUGH PREPAID ACCESS DEVICES, DIGITAL**
12 **CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.**

13 (a) In General.—

14 (1) DEFINITIONS.—

15 (A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES
16 AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section
17 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:

18 “(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders,
19 prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital
20 currency;”.

21 (B) ADDITION OF PREPAID ACCESS DEVICES TO THE DEFINITION OF MONETARY
22 INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by
23 inserting “prepaid access devices,” after “delivery,”.

24 (C) PREPAID ACCESS DEVICE.—Section 5312 of such title is amended—

25 (i) by redesignating paragraph (6) as paragraph (7); and

26 (ii) by inserting after paragraph (5) the following:

27 “(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate,
28 code, number, electronic serial number, mobile identification number, personal
29 identification number, or other instrument that provides a portal to funds or the value of
30 funds that have been paid in advance and can be retrievable and transferable at some point
31 in the future.”.

32 (2) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the
33 Comptroller General of the United States shall submit a report to Congress that describes—

34 (A) the impact of amendments made by paragraph (1) on law enforcement, the
35 prepaid access device industry, and consumers; and

36 (B) the implementation and enforcement by the Department of the Treasury of the
37 final rule relating to “Bank Secrecy Act Regulations—Definitions and Other
38 Regulations Relating to Prepaid Access” (76 Fed. Reg. 45403 (July 29, 2011)).

1 (b) U.S. Customs and Border Protection Strategy for Prepaid Access Devices.—Not later than
2 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in
3 consultation with the Commissioner of U.S. Customs and Border Protection, shall submit to
4 Congress a report that—

5 (1) details a strategy to interdict and detect prepaid access devices, digital currencies, or
6 other similar instruments, at border crossings and other ports of entry for the United States;
7 and

8 (2) includes an assessment of the infrastructure needed to carry out the strategy detailed
9 pursuant to paragraph (1).

10 (c) Money Smuggling Through Blank Checks in Bearer Form.—Section 5316 of title 31,
11 United States Code, is amended by adding at the end the following:

12 “(e) Monetary Instruments With Amount Left Blank.—For purposes of this section, a
13 monetary instrument in bearer form that has the amount left blank, such that the amount could be
14 filled in by the bearer, shall be considered to have a value of more than \$10,000 if the monetary
15 instrument was drawn on an account that contained or was intended to contain more than
16 \$10,000 at the time the monetary instrument was—

17 “(1) transported; or

18 “(2) negotiated.”.

19 SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL 20 ASSOCIATES ENGAGED IN MONEY LAUNDERING.

21 (a) Intent to Conceal or Disguise.—Section 1956(a) of title 18, United States Code, is
22 amended—

23 (1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through
24 “Federal law,” in clause (ii) and inserting the following:

25 “(B) knowing that the transaction—

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

28 “(ii) avoids, or is intended to avoid, a transaction reporting requirement under State
29 or Federal law,”; and

30 (2) in paragraph (2)(B), by striking “(B) knowing that” and all that follows through
31 “Federal law,” in clause (ii) and inserting the following:

32 “(B) knowing that the monetary instrument or funds involved in the transportation,
33 transmission, or transfer represent the proceeds of some form of unlawful activity, and
34 knowing that such transportation, transmission, or transfer—

35 “(i) conceals or disguises, or is intended to conceal or disguise, the nature, source,
36 location, ownership, or control of the proceeds of some form of unlawful activity; or

37 “(ii) avoids, or is intended to avoid, a transaction reporting requirement under State
38 or Federal law,”.

1 (b) Proceeds of a Felony.—Section 1956(c)(1) of title 18, United States Code, is amended by
2 inserting “, and regardless of whether the person knew that the activity constituted a felony”
3 before the semicolon at the end.

4 Subtitle G—Protecting National Security and Public Safety

5 CHAPTER 1—GENERAL MATTERS

6 SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, 7 ENGAGE IN TERRORIST ACTIVITY, AND TERRORIST 8 ORGANIZATION.

9 (a) Definition of Engage in Terrorist Activity.—Section 212(a)(3)(B)(iv)(I) of the Immigration
10 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

11 “(I) to commit a terrorist activity or, under circumstances indicating an
12 intention to cause death, serious bodily harm, or substantial damage to
13 property, to incite another person to commit a terrorist activity;”.

14 (b) Definition of Terrorist Organization.—Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
15 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

16 “(III) that is a group of 2 or more individuals, whether organized or not,
17 which engages in, or has a subgroup that engages in, the activities described
18 in subclauses (I) through (VI) of clause (iv), if the group or subgroup
19 presents a threat to the national security of the United States.”.

20 SEC. 1702. TERRORIST AND SECURITY-RELATED 21 GROUNDS OF INADMISSIBILITY.

22 (a) Security and Related Grounds.—Section 212(a)(3)(A) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

24 “(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the
25 Secretary knows, or has reasonable ground to believe, seeks to enter the United States
26 to engage solely, principally, or incidentally, in, or who is engaged in—

27 “(i) any activity—

28 “(I) to violate any law of the United States relating to espionage or
29 sabotage; or

30 “(II) to violate or evade any law prohibiting the export from the United
31 States of goods, technology, or sensitive information;

32 “(ii) any other activity which would be unlawful if committed in the United
33 States; or

34 “(iii) any activity a purpose of which is the opposition to, or the control or
35 overthrow of, the Government of the United States by force, violence, or other
36 unlawful means,

1 is inadmissible.”.

2 (b) Terrorist Activities.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8
3 U.S.C. 1182(a)(3)(B)(i)) is amended—

4 (1) in subclause (III), by inserting “or substantial damage to property” before “, incited
5 terrorist activity”;

6 (2) in subclause (IV), by inserting “or has been” before “a representative”;

7 (3) in subclause (V), by inserting “or has been” before “a member”;

8 (4) in subclause (VI), by inserting “or has been” before “a member”;

9 (5) by amending subclause (VII) to read as follows:

10 “(VII) endorses or espouses, or has endorsed or espoused, terrorist activity
11 or persuades or has persuaded others to endorse or espouse terrorist activity
12 or support a terrorist organization;”;

13 (6) by amending subclause (IX) to read as follows:

14 “(IX) is the spouse or child of an alien who is inadmissible under this
15 subparagraph if—

16 “(aa) the activity causing the alien to be found inadmissible occurred
17 within the last 10 years; and

18 “(bb)(AA) the spouse or child knew, or should reasonably have
19 known, of the activity causing the alien to be found inadmissible under
20 this section; and

21 “(BB) the consular officer or Attorney General does not have
22 reasonable grounds to believe that the spouse or child has renounced the
23 activity causing the alien to be found inadmissible under this section.”;
24 and

25 (7) by striking the undesignated matter following subclause (IX).

26 (c) Palestine Liberation Organization.—Section 212(a)(3)(B) of the Immigration and
27 Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

28 “(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer,
29 official, representative, or spokesman of the Palestine Liberation Organization is
30 considered, for purposes of this Act, to be engaged in terrorist activity.”.

31 (d) Bars to Immigration Relief.— Any alien described in sections 212(a)(3)(B) or
32 237(a)(4)(B) is not eligible and may not apply for any immigration benefits or relief available
33 under this Act. Such aliens only be eligible to seek deferral of removal pursuant to the
34 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
35 done at New York, December 10, 1984.

36 SEC. 1703. EXPEDITED REMOVAL FOR ALIENS
37 INADMISSIBLE ON CRIMINAL OR SECURITY
38 GROUNDS.

1 (a) In General.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is
2 amended—

3 (1) in the section heading, by adding at the end the following: “or who are subject to
4 terrorism-related grounds for removal”;

5 (2) in subsection (b)—

6 (A) in paragraph (1)—

7 (i) by striking “Attorney General” and inserting “Secretary, in the exercise of
8 **the Secretary’s sole and unreviewable** discretion,”; and

9 (ii) by striking “set forth in this subsection or” and inserting “set forth in this
10 subsection, in lieu of removal proceedings under”;

11 (B) in paragraphs (3) and (4), by striking “Attorney General” each place that term
12 appears and inserting “Secretary”;

13 (C) in paragraph (5)—

14 (i) by striking “described in this section” and inserting “described in paragraph
15 (1) or (2)”;

16 (ii) by striking “the Attorney General may grant in the Attorney General’s
17 discretion.” and inserting “the Secretary or the Attorney General may grant, in the
18 **sole and unreviewable** discretion of the Secretary or the Attorney General, in any
19 proceeding.”;

20 (D) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6),
21 respectively; and

22 (E) by inserting after paragraph (2) the following:

23 “(3) The Secretary, in the exercise of discretion, may determine inadmissibility under
24 section 212(a)(2) and issue an order of removal pursuant to the procedures set forth in this
25 subsection, in lieu of removal proceedings under section 240, with respect to an alien
26 who—

27 “(A) has not been admitted or paroled;

28 “(B) has not been found to have a credible fear of persecution pursuant to the
29 procedures set forth in 235(b)(1)(B); and

30 “(C) is not eligible for a waiver of inadmissibility or relief from removal.”;

31 (3) by redesignating the first subsection (c) as subsection (d);

32 (4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of
33 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of
34 Public Law 104–208; 110 Stat. 3009–720), as subsection (e); and

35 (5) by inserting after subsection (b) the following:

36 “(c) Removal of Aliens Who Are Subject to Terrorism-related Grounds for Removal.—

37 “(1) IN GENERAL.—The Secretary—

1 “(A) notwithstanding section 240, shall—

2 “(i) determine the inadmissibility of every alien under subclause (I), (II), or
3 (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section
4 237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

5 “(ii) issue an order of removal pursuant to the procedures set forth in this
6 subsection to every alien determined to be inadmissible or deportable on a ground
7 described in clause (i); and

8 “(B) may—

9 “(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of
10 section 212(a)(3) (other than subclauses (I), (II), and (III) of section
11 212(a)(3)(B)(i), or the deportability of the alien under subparagraph (A) or (B) of
12 section 237(a)(4) (as a consequence of being described in subclause (I), (II), or
13 (III) of section 212(a)(3)(B)(i)); 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).

17 “(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1)
18 until 30 days after the date on which such order was issued, unless waived by the alien, to
19 give the alien an opportunity to petition for judicial review under section 242.

20 “(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings
21 under this subsection, which shall require that—

22 “(A) the alien is given reasonable notice of the charges and of the opportunity
23 described in subparagraph (C);

24 “(B) the alien has the privilege of being represented (at no expense to the
25 Government) by such counsel, authorized to practice in such proceedings, as the alien
26 shall choose;

27 “(C) the alien has a reasonable opportunity to inspect the evidence and rebut the
28 charges;

29 “(D) a determination is made on the record that the individual upon whom the notice
30 for the proceeding under this section is served (either in person or by mail) is, in fact,
31 the alien named in such notice;

32 “(E) a record is maintained for judicial review; and

33 “(F) the final order of removal is not adjudicated by the same person who issues the
34 charges.

35 “(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall
36 be eligible for any relief from removal that the Secretary may grant in the Secretary’s
37 discretion.”

38 (b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act (8
39 U.S.C. 1101 et seq.) is amended by striking the item relating to section 238 and inserting the
40 following:

1 “Sec.238.Expedited removal of aliens convicted of aggravated felonies or who are subject to
2 terrorism-related grounds for removal.”.

3 (c) Effective Date and Application.—The amendments made by this section shall take effect
4 on the date of the enactment of this Act, but shall not apply to aliens who are in removal
5 proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such
6 date of enactment.

7 SEC. 1704. DETENTION OF REMOVABLE ALIENS.

8 (a) Criminal Alien Enforcement Partnerships.—Section 287 of the Immigration and
9 Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end
10 the following:

11 “(j) Criminal Alien Enforcement Partnerships.—

12 “(1) IN GENERAL.—The Secretary may enter into a written agreement with a State, or
13 with any political subdivision of a State, to authorize the temporary placement of 1 or more
14 U.S. Customs and Border Protection agents or officers or U.S. Immigration and Customs
15 Enforcement agents or investigators at a local police department or precinct—

16 “(A) to determine the immigration status of any individual arrested by a State,
17 county, or local police, enforcement, or peace officer for any criminal offense;

18 “(B) to issue charging documents and notices related to the initiation of removal
19 proceedings or reinstatement of prior removal orders under section 241(a)(5);

20 “(C) to enter information directly into the National Crime Information Center
21 (NCIC) database, Immigration Violator File, including—

22 “(i) the alien’s address;

23 “(ii) the reason for the arrest;

24 “(iii) the legal cite of the State law violated or for which the alien is charged;

25 “(iv) the alien’s driver’s license number and State of issuance, if the alien has a
26 driver’s license;

27 “(v) any other identification document held by the alien and issuing entity for
28 such identification documents; and

29 “(vi) any identifying marks, such as tattoos, birthmarks, and scars;

30 “(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of
31 the alien and to enter such information into the Automated Biometric Identification
32 System (IDENT) and any other Department of Homeland Security or law enforcement
33 database authorized for storage of biometric information for aliens; and

34 “(E) to make advance arrangements for the immediate transfer from State to Federal
35 custody of any criminal alien when the alien is released, without regard to whether the
36 alien is released on parole, supervised release, or probation, and without regard to
37 whether the alien may be arrested and imprisoned again for the same offense.

38 “(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary
39 duty assignment authorized under this subsection shall be 1 year. The temporary duty

1 assignment may be extended for additional periods of time as agreed to by the Secretary and
2 the State or political subdivision of the State to ensure continuity of operations, cooperation,
3 and coverage.

4 “(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border
5 Protection and U.S. Immigration and Customs Enforcement agents, officers, and
6 investigators on a temporary duty assignment under this subsection mobile access to Federal
7 databases containing alien information, live scan technology for collection of biometrics,
8 and video-conferencing capability for use at local police departments or precincts in remote
9 locations.

10 “(4) REPORT.—Not later than 1 year after the date of the enactment of the ~~Immigration~~
11 ~~Reform and Technical Corrections Act of 2018~~ **SECURE and SUCCEED Act**, the Secretary
12 shall submit a report to the Committee on the Judiciary of the Senate, the Committee on
13 Homeland Security and Governmental Affairs of the Senate, the Committee on the
14 Judiciary of the House of Representatives, and the Committee on Homeland Security of the
15 House of Representatives that identifies—

16 “(A) the number of States that have entered into an agreement under this subsection;

17 “(B) the number of criminal aliens processed by the U.S. Customs and Border
18 Protection agent or officer or U.S. Immigration and Customs Enforcement agent or
19 investigator during the temporary duty assignment; and

20 “(C) the number of criminal aliens transferred from State to Federal custody during
21 the agreement period.”.

22 (b) Detention, Release, and Removal of Aliens Ordered Removed.—

23 (1) REMOVAL PERIOD.—

24 (A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8
25 U.S.C. 1231(a)(1)(A)) is amended by striking “Attorney General” and inserting
26 “Secretary”.

27 (B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C.
28 1231(a)(1)(B)) is amended to read as follows:

29 “(B) BEGINNING OF PERIOD.—

30 “(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date
31 that is the latest of the following:

32 ~~“(I) If a court, the Board of Immigration Appeals, or an immigration~~
33 ~~judge orders a stay of the removal of the alien, the date on which the stay of~~
34 ~~removal ends.~~

35 “(II) If the alien is ordered removed, the date pursuant to an
36 administratively final removal order and the Secretary takes the alien into
37 custody for removal.

38 “(III) If the alien is detained or confined (except under an immigration
39 process), the date on which the alien is released from detention or
40 confinement.

1 “(i) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If
2 the Secretary transfers custody of the alien pursuant to law to another Federal
3 agency or to an agency of a State or local government in connection with the
4 official duties of such agency, the removal period for the alien—

5 “(I) shall be tolled; and

6 “(II) shall resume on the date on which the alien is returned to the custody
7 of the Secretary.”.

8 (C) SUSPENSION OF PERIOD.—Section 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 removal period shall be extended beyond a
11 period of 90 days and the alien may remain in detention during such extended period ~~if~~
12 ~~the alien~~—

13 “(i) if the alien fails or refuses to make all reasonable efforts to comply with the
14 order of removal or to fully cooperate with the efforts of the Secretary to establish
15 the alien’s identity and carry out the order of removal, including making timely
16 application in good faith for travel or other documents necessary to the alien’s
17 departure; ~~or~~

18 “(ii) if the alien conspires or acts to prevent the alien’s removal subject to an
19 order of removal; or

20 “(iii) if the court, the Board of Immigration Appeals, or an immigration judge
21 orders a stay of the removal of the alien.”.

22 (2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C.
23 1231(a)(2)) is amended—

24 (A) by inserting “(A) IN GENERAL.—” before “During”;

25 (B) by striking “Attorney General” and inserting “Secretary”; and

26 (C) by adding at the end the following:

27 “(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration
28 Appeals, or an immigration judge orders a stay of removal of an alien who is subject to
29 an order of removal, the Secretary, in the Secretary’s sole and unreviewable exercise of
30 discretion, and notwithstanding any provision of law, including section 2241 of title
31 28, United States Code, may detain the alien during the pendency of such stay of
32 removal.”.

33 (3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and
34 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

35 (A) in the matter preceding subparagraph (A), by striking “Attorney General” and
36 inserting “Secretary”;

37 (B) in subparagraph (C), by striking “Attorney General” and inserting “Secretary”;
38 and

39 (C) by amending subparagraph (D) to read as follows:

1 “(D) to obey reasonable restrictions on the alien’s conduct or activities, or to
2 perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent
3 the alien from absconding, for the protection of the community, or for other purposes
4 related to the enforcement of the immigration laws.”.

5 (4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR
6 PROBATION.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C.
7 1231(a)(4)) is amended—

8 (A) in subparagraph (A), by striking “Attorney General” and inserting “Secretary”;
9 and

10 (B) in subparagraph (B)—

11 (i) in the matter preceding clause (i), by striking “Attorney General” and
12 inserting “Secretary”;

13 (ii) in clause (i), by striking “if the Attorney General” and inserting “if the
14 Secretary”; and

15 (iii) in clause (ii)(III), by striking “Attorney General” and inserting “Secretary”.

16 (5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—

17 (A) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8
18 U.S.C. 1231(a)(5)) is amended to read as follows:

19 “(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If
20 the Secretary determines that an alien has entered the United States illegally after having
21 been removed, deported, or excluded, or having departed voluntarily, under an order of
22 removal, deportation, or exclusion, regardless of the date of the original order or the date of
23 the illegal entry—

24 “(A) the order of removal, deportation, or exclusion is reinstated from its original
25 date and is not subject to being reopened or reviewed notwithstanding section
26 242(a)(2)(D);

27 “(B) the alien is not eligible and may not apply for any relief under this Act,
28 regardless of the date on which an application or request for such relief may have been
29 filed or made;

30 “(C) the alien shall be removed under the order of removal, deportation, or exclusion
31 at any time after the illegal entry; and

32 “(D) reinstatement under subparagraph (A) shall not require proceedings under
33 section 240 or other proceedings before an immigration judge.”.

34 (B) JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended by—

35 (i) in subsection (g), by inserting “grant, rescind, or deny any form of
36 discretionary relief under this title, or to” before “commence”; and

37 (ii) by adding at the end the following:

38 “(h) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION
39 241(A)(5).—

1 “(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—Judicial review of
2 determinations under section 241(a)(5) is available in an action under subsection (a).

3 “(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law
4 (statutory or nonstatutory), including section 2241 of title 28, United States Code, any
5 other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall
6 have jurisdiction to review any cause or claim, arising from, or relating to, any
7 challenge to the original order.”.

8 (C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs
9 (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders
10 reinstated or after that date by the Secretary of Homeland Security (or by the Attorney
11 General before March 1, 2003), regardless of the date of the original order.

12 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and
13 Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

14 (A) by striking “Attorney General” and inserting “Secretary”; and

15 (B) by striking “removal period and, if released,” and inserting “removal period, in
16 the discretion of the Secretary, without any limitations other than those specified in this
17 section, until the alien is removed,”.

18 (7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration
19 and Nationality Act (8 U.S.C. 1231(a)) is amended—

20 (A) in paragraph (7), by striking “Attorney General” and inserting “Secretary”;

21 (B) by redesignating paragraph (7) as paragraph (15); and

22 (C) by inserting after paragraph (6) the following:

23 “(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens
24 subject to detention under section 236(c), 236A, or 238, if an alien who is detained is an
25 applicant for admission, the Secretary, in the Secretary’s sole and unreviewable discretion,
26 may parole the alien under section 212(d)(5) and may provide, notwithstanding section
27 212(d)(5), that the alien shall not be returned to custody unless the alien violates the
28 conditions of such parole or the alien’s removal becomes reasonably foreseeable, provided
29 that in no circumstance shall such alien be considered admitted.

30 “(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE
31 PREVIOUSLY ADMITTED TO THE UNITED STATES.—

32 “(A) APPLICATION.—The procedures set out under this paragraph—

33 “(i) apply only to an alien who was previously admitted to the United States;
34 and

35 “(ii) do not apply to any other alien, including an alien detained pursuant to
36 paragraph (6).

37 “(B) ESTABLISHMENT OF DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY
38 COOPERATE WITH REMOVAL.—

39 “(i) REQUIREMENT TO ESTABLISH.—If an alien has made all reasonable efforts
40 to comply with a removal order and to cooperate fully with the efforts of the

1 Secretary to establish the alien’s identity and carry out the removal order,
2 including making timely application in good faith for travel or other documents
3 necessary to the alien’s departure, and has not conspired or acted to prevent
4 removal, the Secretary shall establish an administrative review process to
5 determine whether the alien should be detained or released on conditions.

6 “(ii) DETERMINATIONS.—The Secretary shall—

7 “(I) make a determination whether to release an alien described in clause
8 (i) after the end of the alien’s removal period; and

9 “(II) in making a determination under subclause (I), consider any evidence
10 submitted by the alien, and may consider any other evidence, including any
11 information or assistance provided by the Department of State or other
12 Federal agency and any other information available to the Secretary
13 pertaining to the ability to remove the alien.

14 “(9) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—The Secretary, in the
15 exercise of discretion, without any limitations other than those specified in this section, may
16 continue to detain an alien for 90 days beyond the removal period (including any extension
17 of the removal period as provided in paragraph (1)(C)—

18 “(A) until the alien is removed, if the Secretary determines that—

19 “(i) there is a significant likelihood that the alien will be removed in the
20 reasonably foreseeable future;

21 “(ii) the alien would be removed in the reasonably foreseeable future, or would
22 have been removed, but for the alien’s failure or refusal to make all reasonable
23 efforts to comply with the removal order, or to cooperate fully with the
24 Secretary’s efforts to establish the alien’s identity and carry out the removal order,
25 including making timely application in good faith for travel or other documents
26 necessary to the alien’s departure, or conspiracies or acts to prevent removal;

27 “(iii) the government of the foreign country of which the alien is a citizen,
28 subject, national, or resident is denying or unreasonably delaying accepting the
29 return of the alien after the Secretary asks whether the government will accept an
30 alien under section 243(d); or

31 “(iv) the government of the foreign country of which the alien is a citizen,
32 subject, national, or resident is refusing to issue any required travel or identity
33 documents to allow the alien to return to that country;

34 “(B) until the alien is removed, if the Secretary certifies in writing—

35 “(i) in consultation with the Secretary of Health and Human Services, that the
36 alien has a highly contagious disease that poses a threat to public safety;

37 “(ii) after receipt of a written recommendation from the Secretary of State, that
38 release of the alien is likely to have serious adverse foreign policy consequences
39 for the United States;

40 “(iii) based on information available to the Secretary (including classified,
41 sensitive, or other information, and without regard to the grounds upon which the

1 alien was ordered removed), that there is reason to believe that the release of the
2 alien would threaten the national security of the United States;

3 “(iv) that the release of the alien will threaten the safety of the community or
4 any person, conditions of release cannot reasonably be expected to ensure the
5 safety of the community or any person, and either—

6 “(I) the alien has been convicted of 1 or more aggravated felonies (as
7 defined in section 101(a)(43)), 1 or more crimes identified by the Secretary
8 by regulation, or 1 or more attempts or conspiracies to commit any such
9 aggravated felonies or such identified crimes, provided that the aggregate
10 term of imprisonment for such attempts or conspiracies is at least 5 years; or

11 “(II) the alien has committed 1 or more violent offenses (but not including
12 a purely political offense) and, because of a mental condition or personality
13 disorder and behavior associated with that condition or disorder, the alien is
14 likely to engage in acts of violence in the future; or

15 “(v) that the release of the alien will threaten the safety of the community or
16 any person, conditions of release cannot reasonably be expected to ensure the
17 safety of the community or any person, and the alien has been convicted of at
18 least one aggravated felony (as defined in section 101(a)(43)); and

19 “(C) pending a determination under subparagraph (B), if the Secretary has initiated
20 the administrative review process not later than 30 days after the expiration of the
21 removal period (including any extension of the removal period as provided in
22 paragraph (1)(C)).

23 “(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

24 “(A) RENEWAL.—The Secretary may renew a certification under paragraph
25 (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the
26 alien to request reconsideration of the certification and to submit documents or other
27 evidence in support of that request. If the Secretary does not renew a certification, the
28 Secretary may not continue to detain the alien under paragraph (9)(B).

29 “(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate
30 the authority to make or renew a certification described in clause (ii), (iii), or (iv) of
31 paragraph (9)(B) to an official below the level of the Director of U.S. Immigration and
32 Customs Enforcement.

33 “(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be
34 released from detention, the Secretary, in the exercise of discretion, may impose conditions
35 on release as provided in paragraph (3).

36 “(12) REDETENTION.—The Secretary, in the exercise of discretion, without any
37 limitations other than those specified in this section, may again detain any alien subject to a
38 final removal order who is released from custody if the alien fails to comply with the
39 conditions of release or to continue to satisfy the conditions described in paragraph (8), or
40 if, upon reconsideration, the Secretary determines that the alien can be detained under
41 paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody
42 pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

1 “(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States,
2 but has not been lawfully admitted nor physically present in the United States continuously
3 for the 2-year period immediately preceding the commencement of removal proceedings
4 under this Act against the alien, the Secretary, in the exercise of discretion, may decide not
5 to apply paragraph (8) and detain the alien without any limitations except those which the
6 Secretary shall adopt by regulation.

7 “(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of
8 any action or decision pursuant to paragraph (6) through (14) shall be available exclusively
9 in habeas corpus proceedings instituted in the United States District Court for the District of
10 Columbia, and only if the alien has exhausted all administrative remedies (statutory and
11 regulatory) available to the alien as of right.”.

12 (c) Detention of Aliens During Removal Proceedings.—

13 (1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is
14 amended by adding at the end the following:

15 “(e) Length of Detention.—

16 “(1) IN GENERAL.—An alien may be detained under this section while proceedings are
17 pending, without limitation, until the alien is subject to an administratively final order of
18 removal.

19 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
20 section shall not affect the validity of any detention under section 241.

21 “(f) Judicial Review.—Without regard to the place of confinement, judicial review of any
22 action or decision made pursuant to subsection (e) shall be available exclusively in a habeas
23 corpus proceeding instituted in the United States District Court for the District of Columbia and
24 only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available
25 to the alien as of right.”.

26 (2) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8
27 U.S.C. 1226) is amended—

28 (A) by redesignating subsection (e) as subsection (f);

29 (B) by inserting after subsection (d) the following new subsection (e):

30 “(e) Length of Detention.—

31 “(1) IN GENERAL.—An alien may be detained under this section, without limitation, until
32 the alien is subject to an administratively final order of removal.

33 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
34 section shall not affect the validity of any detention under section 241.”; and

35 (C) in subsection (f), as so redesignated, by adding at the end the following:

36 “Without regard to the place of confinement, judicial review of any action or decision
37 made pursuant to subsection (e) shall be available exclusively in a habeas corpus
38 proceeding instituted in the United States District Court for the District of Columbia,
39 and only if the alien has exhausted all administrative remedies (statutory and
40 nonstatutory) available to the alien as of right.”.

1 (d) Attorney General’s Discretion in Determining Countries of Removal.—Section 241(b) of
2 the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

3 (1) in paragraph (1)(C)(iv), by striking the period at the end and inserting “, or the
4 Attorney General decides that removing the alien to such country is prejudicial to the
5 interests of the United States.”; and

6 (2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing
7 the alien to 1 or more of such countries is prejudicial to the interests of the United States,”
8 after “this subparagraph.”.

9 (e) Effective Dates and Application.—

10 (1) AMENDMENTS MADE BY SUBSECTION (B).—The amendments made by subsection (b)
11 shall take effect on the date of the enactment of this Act. Section 241 of the Immigration
12 and Nationality Act, as amended by subsection (b), shall apply to—

13 (A) all aliens subject to a final administrative removal, deportation, or exclusion
14 order that was issued before, on, or after the date of the enactment of this Act; and

15 (B) acts and conditions occurring or existing before, on, or after the date of the
16 enactment of this Act.

17 (2) AMENDMENTS MADE BY SUBSECTION (C).—The amendments made by subsection (c)
18 shall take effect upon the date of the enactment of this Act. Sections 235 and 236 of the
19 Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in
20 detention under provisions of such sections on or after the date of the enactment of this Act.

21 SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

22 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
23 United States shall submit a report to Congress on the deaths in custody of detainees held by the
24 Department of Homeland Security, which shall include, with respect to any such deaths—

25 (1) whether such death could have been prevented by the delivery of medical treatment
26 administered while the detainee was in the custody of the Department of Homeland
27 Security;

28 (2) whether Department practices and procedures were properly followed and obeyed;

29 (3) whether such practices and procedures are sufficient to protect the health and safety of
30 such detainees; and

31 (4) whether reports of such deaths were made to the Deaths in Custody Reporting
32 Program.

33 SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

34 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
35 United States shall submit to the Committee on the Judiciary of the Senate, the Committee on
36 Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
37 the House of Representatives, and the Committee on Homeland Security of the House of
38 Representatives a report that describes—

39 (1) the total number of migrant deaths along the southern border during the previous 7

- 1 years;
- 2 (2) the total number of unidentified deceased migrants found along the southern border in
3 the previous 7 years;
- 4 (3) the level of cooperation between U.S. Customs and Border Protection, State and local
5 law enforcement agencies, foreign diplomatic and consular posts, nongovernmental
6 organizations, and family members to accurately identify deceased individuals;
- 7 (4) the use of DNA testing and sharing of such data between U.S. Customs and Border
8 Protection, State and local law enforcement agencies, foreign diplomatic and consular posts,
9 and nongovernmental organizations to accurately identify deceased individuals;
- 10 (5) the comparison of DNA data with information on Federal, State, and local missing
11 person registries; and
- 12 (6) the procedures and processes U.S. Customs and Border Protection has in place for
13 notification of relevant authorities or family members after missing persons are identified
14 through DNA testing.

15 **SEC. 1707. STATUTE OF LIMITATIONS FOR VISA,**
16 **NATURALIZATION, AND OTHER FRAUD OFFENSES**
17 **INVOLVING WAR CRIMES, CRIMES AGAINST**
18 **HUMANITY, OR HUMAN RIGHTS VIOLATIONS.**

19 (a) Statute of Limitations for Visa Fraud and Other Offenses.—Chapter 213 of title 18, United
20 States Code, is amended by adding at the end the following:

21 **“3302. Fraud in connection with certain human rights violations,**
22 **crimes against humanity, or war crimes**

23 **“(a) In General.—No person shall be prosecuted, tried, or punished for violation of any**
24 **provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to**
25 **violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment,**
26 **or fraudulent, fictitious, or false statement concerns the alleged offender’s—**

27 **“(1) participation, at any time, at any place, and irrespective of the nationality of the**
28 **alleged offender or any victim, in a human rights violation, crime against humanity, or war**
29 **crime; or**

30 **“(2) membership in, service in, or authority over a military, paramilitary, or law**
31 **enforcement organization that participated in such conduct during any part of any period in**
32 **which the alleged offender was a member of, served in, or had authority over the**
33 **organization, unless the indictment is found or the information is instituted within 20 years**
34 **after the commission of the offense.**

35 **“(b) Definitions.—In this section—**

36 **“(1) the term ‘extrajudicial killing under color of law’ means conduct described in section**
37 **212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));**

- 1 “(2) the term ‘female genital mutilation’ means conduct described in section 116;
2 “(3) the term ‘genocide’ means conduct described in section 1091(a);
3 “(4) the term ‘human rights violation or war crime’ means genocide, incitement to
4 genocide, war crimes, torture, female genital mutilation, extrajudicial killing under color of
5 law, persecution, particularly severe violations of religious freedom, the use or recruitment
6 of child soldiers, or other serious violation of human rights;
7 “(5) the term ‘incitement to genocide’ means conduct described in section 1091(c);
8 “(6) the term ‘particularly severe violation of religious freedom’ means conduct
9 described in section 3(3) of the International Religious Freedom Act of 1998 (22 U.S.C.
10 6402(13));
11 “(7) the term ‘persecution’ means conduct that is a bar to relief under section
12 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));
13 “(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2340;
14 “(9) the term ‘use or recruitment of child soldiers’ means conduct described in
15 subsections (a) and (d) of section 2442;
16 “(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section
17 2441; and
18 “(11) the term ‘crimes against humanity’ means conduct described in section
19 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(iii)).”
20 (b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States
21 Code, is amended by adding at the end the following:
22 “3302. Fraud in connection with certain human rights violations, crimes against humanity, or war
23 crimes.”
24 (c) Application.—The amendments made by this section shall apply to fraudulent conduct,
25 misrepresentations, concealments, and fraudulent, fictitious, or false statements made or
26 committed before, on, or after the date of enactment of this Act.

27 SEC. 1708. CRIMINAL DETENTION OF ALIENS TO 28 PROTECT PUBLIC SAFETY.

- 29 (a) In General.—Section 3142(e) of title 18, United States Code, is amended to read as
30 follows:
31 “(e) Detention.—
32 “(1) IN GENERAL.—If, after a hearing pursuant to the provisions of subsection (f), the
33 judicial officer finds that no condition or combination of conditions will reasonably assure
34 the appearance of the person as required and the safety of any other person and the
35 community, such judicial officer shall order the detention of the person before trial.
36 “(2) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case
37 described in subsection (f)(1), a rebuttable presumption arises that no condition or
38 combination of conditions will reasonably assure the safety of any other person and the

1 community if the judicial officer finds that—

2 “(A) the person has been convicted of a Federal offense that is described in
3 subsection (f)(1), or of a State or local offense that would have been an offense
4 described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had
5 existed;

6 “(B) the offense described in subparagraph (A) was committed while the person was
7 on release pending trial for a Federal, State, or local offense; and

8 “(C) not more than 5 years has elapsed since the later of the date of conviction or the
9 date of the release of the person from imprisonment for the offense described in
10 subparagraph (A).

11 “(3) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES,
12 FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed
13 that no condition or combination of conditions will reasonably assure the appearance of the
14 person as required and the safety of the community if the judicial officer finds that there is
15 probable cause to believe that the person committed—

16 “(A) an offense for which a maximum term of imprisonment of 10 years or more is
17 prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled
18 Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

19 “(B) an offense under section 924(c), 956(a), or 2332b;

20 “(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of
21 imprisonment of 10 years or more is prescribed; or

22 “(D) an offense involving a minor victim under section 1201, 1591, 2241, 2242,
23 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
24 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

25 “(4) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to
26 rebuttal by the person, it shall be presumed that no condition or combination of conditions
27 will reasonably assure the appearance of the person as required if the judicial officer finds
28 that there is probable cause to believe that the person is an alien and that the person—

29 “(A) has no lawful immigration status in the United States;

30 “(B) is the subject of a final order of removal; or

31 “(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015,
32 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or
33 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327,
34 1328).”.

35 (b) Immigration Status as Factor in Determining Conditions of Release.—Section 3142(g)(3)
36 of title 18, United States Code, is amended—

37 (1) in subparagraph (A), by striking “and” at the end; and

38 (2) by adding at the end the following:

39 “(C) whether the person is in a lawful immigration status, has previously entered the
40 United States illegally, has previously been removed from the United States, or has

1 otherwise violated the conditions of his or her lawful immigration status; and”.

2 **SEC. 1709. RECRUITMENT OF PERSONS TO**
3 **PARTICIPATE IN TERRORISM.**

4 (a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after
5 section 2332b the following:

6 **“2332c. Recruitment of persons to participate in terrorism**

7 **“(a) Offenses.—**

8 **“(1) IN GENERAL.—**It shall be unlawful for any person to employ, solicit, induce,
9 command, or cause another person to commit an act of domestic terrorism or international
10 terrorism or a Federal crime of terrorism, with the intent that the other person commit such
11 act or crime of terrorism.

12 **“(2) ATTEMPT AND CONSPIRACY.—**It shall be unlawful for any person to attempt or
13 conspire to commit an offense under paragraph (1).

14 **“(b) Penalties.—**Any person who violates subsection (a)—

15 **“(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not**
16 **more than 10 years, or both;**

17 **“(2) if death of an individual results, shall be fined under this title, punished by death or**
18 **imprisoned for any term of years or for life, or both;**

19 **“(3) if serious bodily injury to any individual results, shall be fined under this title,**
20 **imprisoned not less than 10 years nor more than 25 years, or both; and**

21 **“(4) in any other case, shall be fined under this title, imprisoned not more than 10 years,**
22 **or both.**

23 **“(c) Rule of Construction.—**Nothing in this section may be construed or applied to abridge the
24 exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

25 **“(d) Lack of Consummated Terrorist Act Not a Defense.—**It is not a defense under this section
26 that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is
27 the object of the employment, solicitation, inducement, commanding, or causing has not been
28 carried out.

29 **“(e) Definitions.—**In this section—

30 **“(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section**
31 **2332b; and**

32 **“(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h).”.**

33 (b) Clerical Amendment.—The table of sections for chapter 113B of title 18, United States
34 Code, is amended by inserting after the item relating to section 2332b the following:

35 “2332c. Recruitment of persons to participate in terrorism.”.

36 **SEC. 1710. BARRING AND REMOVING PERSECUTORS,**

1 WAR CRIMINALS, AND PARTICIPANTS IN CRIMES
2 AGAINST HUMANITY FROM THE UNITED STATES.

3 (a) Inadmissibility of Persecutors, War Criminals, and Participants in Crimes Against
4 Humanity.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C.
5 1182(a)(3)(E)) is amended—

6 (1) by striking the subparagraph heading and inserting “PARTICIPANTS IN PERSECUTION
7 (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR
8 THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—”;

9 (2) in clause (iii)(II)—

10 (A) by striking “of any foreign nation” and inserting “(including acts taken as part of
11 an armed group exercising de facto authority)”; and

12 (3) by adding after clause (iii) the following:

13 “(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST
14 HUMANITY.—Any alien, including an alien who has or had superior responsibility,
15 who committed, ordered, incited, assisted, or otherwise participated in a war
16 crime (as defined in section 2441(c) of title 18, United States Code) or a crime
17 against humanity, or in the persecution of any person on account of race, religion,
18 nationality, membership in a particular social group, or political opinion, is
19 inadmissible.

20 “(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term
21 ‘crime against humanity’ means conduct that is part of a widespread or systematic
22 attack targeting any civilian population, with knowledge that the conduct was part
23 of the attack or with the intent that the conduct be part of the attack—

24 “(I) that, if such conduct occurred in the United States or in the special
25 maritime and territorial jurisdiction of the United States, would violate—

26 “(aa) section 1111 of title 18, United States Code (relating to
27 murder);

28 “(bb) section 1201(a) of such title (relating to kidnapping);

29 “(cc) section 1203(a) of such title (relating to hostage taking),
30 notwithstanding any exception under subsection (b) of such section
31 1203;

32 “(dd) section 1581(a) of such title (relating to peonage);

33 “(ee) section 1583(a)(1) of such title (relating to kidnapping or
34 carrying away individuals for involuntary servitude or slavery);

35 “(ff) section 1584(a) of such title (relating to sale into involuntary
36 servitude);

37 “(gg) section 1589(a) of such title (relating to forced labor);

38 “(hh) section 1590(a) of such title (relating to trafficking with respect
39 to peonage, slavery, involuntary servitude, or forced labor);

1 “(ii) section 1591(a) of such title (relating to sex trafficking of
2 children or by force, fraud, or coercion);

3 “(jj) section 2241(a) of such title (relating to aggravated sexual abuse
4 by force or threat); or

5 “(kk) section 2242 of such title (relating to sexual abuse);

6 “(II) that would constitute torture (as defined in section 2340(1) of such
7 title);

8 “(III) that would constitute cruel or inhuman treatment, as described in
9 section 2441(d)(1)(B) of such title;

10 “(IV) that would constitute performing biological experiments, as
11 described in section 2441(d)(1)(C) of such title;

12 “(V) that would constitute mutilation or maiming, as described in section
13 2441(d)(1)(E) of such title; or

14 “(VI) that would constitute intentionally causing serious bodily injury, as
15 described in section 2441(d)(1)(F) of such title.

16 “(vi) DEFINITIONS.—In this subparagraph—

17 “(I) the term ‘superior responsibility’ means—

18 “(aa) a leader, a member of a military, or a person with effective
19 control of military forces, or a person with de facto or de jure control of
20 an armed group;

21 “(bb) who knew or should have known that a subordinate or someone
22 under his or her de facto or de jure control is committing acts described
23 in subsection (a), is about to commit such acts, or had committed such
24 acts; and

25 “(cc) who fails to take the necessary and reasonable measures to
26 prevent such acts or, for acts that have been committed, to punish the
27 perpetrators of such acts;

28 “(II) the term ‘systematic’ means the commission of a series of acts
29 following a regular pattern and occurring in an organized, non-random
30 manner; and

31 “(III) the term ‘widespread’ means a single, large scale act or a series of
32 acts directed against a substantial number of victims.”.

33 (b) Removal of Persecutors.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8
34 U.S.C. 1227(a)(4)(D)) is amended—

35 (1) in the subparagraph heading, by striking “NAZI”; and

36 (2) by striking “or (iii)” and inserting “(iii), or (iv)”.

37 (c) Severe Violations of Religious Freedom.—Section 212(a)(2)(G) of the Immigration and
38 Nationality Act (8 U.S.C. 1182(a)(2)(G)) is amended—

1 (1) in the subparagraph heading, by striking “FOREIGN GOVERNMENT OFFICIALS” and
2 inserting “ANY PERSONS”; and

3 (2) by striking “, while serving as a foreign government official.”.

4 (d) Barring Persecutors From Establishing Good Moral Character.—Section 101(f) of the
5 Immigration and Nationality Act (8 U.S.C. 1101(f)) is amended—

6 (1) in paragraph (8), by striking “or” at the end;

7 (2) in paragraph (9), by striking “killings) or 212(a)(2)(G) (relating to severe violations of
8 religious freedom).” and inserting “killings), 212(a)(2)(G) (relating to severe violations of
9 religious freedom), or 212(a)(3)(G) (relating to recruitment and use of child soldiers); or”;
10 and

11 (3) by inserting after paragraph (9) the following:

12 “(10) one who at any time committed, ordered, incited, assisted, or otherwise participated
13 in the persecution of any person on account of race, religion, nationality, membership in a
14 particular social group, or political opinion.”.

15 (e) Increasing Criminal Penalties for Anyone Who Aids and Abets the Entry of a
16 Persecutor.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by
17 striking “(other than subparagraph (E) thereof”).

18 (f) Increasing Criminal Penalties for Female Genital Mutilation.—Section 116 of title 18,
19 United States Code, is amended—

20 (1) in subsection (a), by striking “shall be fined under this title or imprisoned not more
21 than 5 years, or both” and inserting “has engaged in a violent crime against children under
22 section 3559(f)(3), shall be imprisoned for life or for 10 years or longer”; and

23 (2) in subsection (d), by striking “shall be fined under this title or imprisoned not more
24 than 5 years, or both.” and inserting “shall be imprisoned for life or for 10 years or longer.”.

25 (g) Technical Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is
26 amended—

27 (1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting “committed,” before
28 “ordered”;

29 (2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting “committed,”
30 before “ordered”; and

31 (3) in section 241(b)(3)(B)(i) (8 U.S.C. 1231(b)(3)(B)(i)), by inserting “committed,”
32 before “ordered”.

33 (h) Application.—The amendments made by this section shall apply to any offense committed
34 before, on, or after the date of the enactment of this Act.

35 SEC. 1711. CHILD SOLDIER RECRUITMENT 36 INELIGIBILITY TECHNICAL CORRECTION.

37 Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is
38 amended by striking “section 2442” and inserting “section 2442(a)”.

1 SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND
2 INCREASED CRIMINAL PENALTIES RELATED TO GANG
3 VIOLENCE.

4 (a) Definition of Criminal Gang.—Section 101(a) of the Immigration and Nationality Act (8
5 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

6 “(53)(A) The term ‘criminal gang’ means any ongoing group, club, organization, or
7 association, inside or outside the United States, of 2 or more persons that—

8 “(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal
9 offenses described in subparagraph (B) and the members of which engage, or have engaged
10 within the past 5 years, in a continuing series of such offenses; or

11 “(ii) has been designated as a criminal gang by the Secretary, in consultation with the
12 Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

13 “(B) The offenses described in this subparagraph, whether in violation of Federal or State law
14 or the law of a foreign country and regardless of whether the offenses occurred before, on, or
15 after the date of the enactment of the ~~Immigration Reform and Technical Corrections~~SECURE
16 and SUCCEED Act ~~of 2018~~, are the following:

17 “(i) Any aggravated felony.

18 “(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act
19 (21 U.S.C. 802)).

20 “(iii) Any criminal offense described in section 212 or 237.

21 “(iv) An offense involving illicit trafficking in a controlled substance (as defined in
22 section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking
23 crime (as defined in section 924(c) of title 18, United States Code).

24 “(v) An offense under section 274 (relating to bringing in and harboring certain aliens),
25 section 277 (relating to aiding or assisting certain aliens to enter the United States), or
26 section 278 (relating to importation of alien for immoral purpose).

27 “(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the
28 offense, the use or attempted use of physical force or the threatened use of physical force or
29 a deadly weapon.

30 “(vii) Any offense that has, as an element of the offense, the use, attempted use, or
31 threatened use of any physical object to inflict or cause (either directly or indirectly) serious
32 bodily injury, including an injury that may ultimately result in the death of a person.

33 “(viii) An offense involving obstruction of justice or tampering with or retaliating against
34 a witness, victim, or informant.

35 “(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code
36 (relating to fraud and related activity in connection with identification documents or access
37 devices), sections 1581 through 1594 of such title (relating to peonage, slavery and
38 trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or
39 transportation in aid of racketeering enterprises), section 1956 of such title (relating to the

1 laundering of monetary instruments), section 1957 of such title (relating to engaging in
2 monetary transactions in property derived from specified unlawful activity), or sections
3 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles
4 or stolen property).

5 “(x) A conspiracy to commit an offense described in clauses (i) through (v).

6 “(C) Notwithstanding any other provision of law (including any effective date), a group, club,
7 organization, or association shall be considered a criminal gang regardless of whether the
8 conduct occurred before, on, or after the date of the enactment of the ~~Immigration Reform and~~
9 ~~Technical Corrections Act of 2018~~ **SECURE and SUCCEED Act.**”.

10 (b) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
11 1182(a)(2)) is amended by adding at the end the following:

12 “(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

13 “(i) IN GENERAL.—Any alien who a consular officer, the Secretary, or the
14 Attorney General knows or has reasonable ground to believe—

15 “(I) to be or to have been a member of a criminal gang; or

16 “(II) to have participated in the activities of a criminal gang, knowing or
17 having reason to know that such activities promoted or will promote, further,
18 aid, or support the illegal activity of the criminal gang,

19 is inadmissible.

20 “(ii) EXCEPTION.—~~Clause (i) shall not apply to an alien—~~

21 ~~“(I) who did not know, or should not reasonably have known, of the activity~~
22 ~~causing the alien to be found inadmissible under this section; or~~

23 ~~“(II) whom the consular officer, the Secretary, or the Attorney General has~~
24 ~~reasonable grounds to believe has renounced the activity causing the alien to~~
25 ~~be found inadmissible under this section.”.~~

26 (c) Designation of Criminal Gangs.—

27 (1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C.
28 1181 et seq.) is amended by adding at the end the following:

29 “SEC. 220. DESIGNATION OF CRIMINAL GANGS.

30 “(a) In General.—The Secretary, in consultation with the Attorney General, and the Secretary
31 of State, may designate a group or association as a criminal gang if their conduct is described in
32 section 101(a)(53) or if the group’s or association’s conduct poses a significant risk that threatens
33 the security and the public safety of United States nationals or the national security, homeland
34 security, or economy of the United States.

35 “(b) Effective Date.—A designation under subsection (a) shall remain in effect until the
36 designation is revoked, after consultation between the Secretary, the Attorney General, and the
37 Secretary of State, or is terminated in accordance with Federal law.”.

38 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
39 and Nationality Act is amended by inserting after the item relating to section 219 the

1 following:

2 “220. Designation of criminal gangs.”

3 (d) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
4 1227(a)(2)) is amended by adding at the end the following:

5 “(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

6 “(i) IN GENERAL.—Any alien who the Secretary or the Attorney General knows
7 or has reason to believe—

8 “(I) is or has been a member of a criminal gang; or

9 “(II) has participated in the activities of a criminal gang, knowing or
10 having reason to know that such activities will promote, further, aid, or
11 support the illegal activity of the criminal gang,

12 is deportable.

13 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

14 “(I) who did not know, or should not reasonably have known, of the
15 activity causing the alien to be found deportable under this section; or

16 “(II) whom the Secretary or the Attorney General has reasonable grounds
17 to believe has renounced the activity causing the alien to be found deportable
18 under this section.”.

19 (e) Cancellation of Removal.—Section 240A(c) of the Immigration and Nationality Act (8
20 U.S.C. 1229b(c)) is amended by adding at the end the following:

21 “(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
22 (relating to participation in criminal gangs).”.

23 (f) Voluntary Departure.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C.
24 1229c(c)) is amended to read as follows:

25 “(c) Limitation on Voluntary Departure.—The Attorney General shall not permit an alien to
26 depart voluntarily under this section if the alien—

27 “(1) was previously permitted to depart voluntarily after having been found inadmissible
28 under section 212(a)(6)(A); or

29 “(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in
30 criminal gangs).”.

31 (g) Asylum Claims Based on Gang Affiliation.—

32 (1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section
33 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended
34 in the matter preceding clause (i) by inserting “who is described in section 212(a)(2)(J)(i) or
35 section 237(a)(2)(G)(i) or who is” after “to an alien”.

36 (2) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of the Immigration and
37 Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

38 (A) in clause (v), by striking “or” at the end;

1 (B) by redesignating clause (vi) as clause (vii);

2 (C) by inserting after clause (v) the following:

3 “(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
4 (relating to participation in criminal gangs); or”; and

5 (D) by amending clause (vii), as redesignated, to read as follows:

6 “(vii) the alien was firmly resettled in another country before arriving in the
7 United States, which shall be considered evidence that the alien can live in such
8 country (in any legal status) without fear of persecution.”.

9 (h) Good Moral Character Bar for Criminal Gang Members.—Section 101(f) of the
10 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d),
11 and 1822(a) of this Act, is further amended by inserting after paragraph (10) the following:

12 “(11) is a member of one or more classes of persons described in section 212(a)(2)(J) or
13 237(a)(2)(G) and has been convicted of any offense ~~under described under section~~
14 101(a)(43), section 212(a)(2), ~~or~~ section 237(a)(2); or”.

15 (i) Annual Report on Detention of Criminal Gang Members.—Not later than March 1 of the
16 first calendar year beginning at least 1 year after the date of the enactment of this Act, and
17 annually thereafter, the Secretary of Homeland Security, after consultation with the heads of
18 appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and
19 Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
20 Committee on Homeland Security of the House of Representatives, and the Committee on the
21 Judiciary of the House of Representatives that identifies the number of aliens detained described
22 in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as
23 added by subsections (b) and (d).

24 (j) Effective Date and Application.—The amendments made by this section shall take effect
25 on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the
26 date of the enactment of this Act.

27 SEC. 1713. BARRING ALIENS WITH CONVICTIONS FOR 28 DRIVING UNDER THE INFLUENCE OR WHILE 29 INTOXICATED.

30 (a) Aggravated Felony Driving While Intoxicated.—

31 (1) DEFINITIONS.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C.
32 1101(a)(43)) is amended—

33 (A) in subparagraph (T), by striking “and” at the end;

34 (B) in subparagraph (U), by striking the period at the end and inserting “; and”; and

35 (C) by inserting after subparagraph (U) the following:

36 “(V) a single conviction for driving while intoxicated (including a conviction for
37 driving while under the influence of or impaired by alcohol or illicit drugs), when such
38 impaired driving was the cause of the serious bodily injury or death of another person

1 or a second or subsequent conviction for driving while intoxicated (including a
2 conviction for driving under the influence of or impaired by alcohol or illicit drugs),
3 without regard to whether the conviction is classified as a misdemeanor or felony
4 under State law. For purposes of this paragraph, the Secretary or the Attorney General
5 are not required to prove the first conviction for driving while intoxicated (including a
6 conviction for driving while under the influence of or impaired by alcohol or illicit
7 drugs) as a predicate offense and need only make a factual determination that the alien
8 was previously convicted for driving while intoxicated (including a conviction for
9 driving while under the influence of or impaired by alcohol or illicit drugs).”.

10 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by this subsection shall
11 take effect on the date of the enactment of this Act and shall apply to any conviction entered
12 on or after such date.

13 (b) Inadmissibility for Driving While Intoxicated or Under the Influence.—

14 (1) IN GENERAL.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
15 1182(a)(2)), as amended by section 1712(b) of this Act, is further amended by adding at the
16 end the following:

17 “(K) DRIVING WHILE INTOXICATED AND UNLAWFULLY PRESENT IN THE UNITED
18 STATES.—An alien who is convicted of driving while intoxicated, driving under the
19 influence, or a similar violation of State law is inadmissible.”.

20 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
21 take effect on the date of the enactment of this Act and shall apply to any conviction entered
22 on or after such date.

23 (c) Deportation for Driving While Intoxicated or Under the Influence.—

24 (1) IN GENERAL.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
25 1227(a)), as amended by section 1712(c) of this Act, is further amended by adding at the
26 end the following:

27 “(H) DRIVING WHILE INTOXICATED AND WHILE UNLAWFULLY PRESENT IN THE UNITED
28 STATES.—An alien who is convicted of driving while intoxicated, driving under the
29 influence, or a similar violation of State law is deportable.”.

30 (2) EFFECTIVE DATE AND APPLICATION.—The amendment made by paragraph (1) shall
31 take effect on the date of the enactment of this Act and shall apply to any conviction entered
32 on or after such date.

33 (d) Good Moral Character Bar for DUI or DWI Convictions.—Section 101(f) of the
34 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by sections 1710(d) and
35 1711(h) of this Act, is further amended by inserting after paragraph (1) the following:

36 “(2) inadmissible under section 212(a)(2)(K) or deportable under section 237(a)(2)(H);”.

37 (e) Technical and Conforming Amendments.—

38 (1) IN GENERAL.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C.
39 1182(h)) is amended—

40 (A) by inserting “or the Secretary” after “the Attorney General” each place it

1 appears; and

2 (B) in the matter preceding paragraph (1), by striking “and (E)” and inserting “(E),
3 and (K)”.

4 (2) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraph (1) shall
5 take effect on the date of the enactment of this Act and apply to any conviction entered on
6 or after such date.

7 **SEC. 1714. BARRING AGGRAVATED FELONS, BORDER**
8 **CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM**
9 **ADMISSION TO THE UNITED STATES.**

10 (a) Inadmissibility on Criminal and Related Grounds; Waivers.—Section 212 of the
11 Immigration and Nationality Act (8 U.S.C. 1182) is amended—

12 (1) in subsection (a)(2)—

13 (A) in subparagraph (A)(i)—

14 (i) in subclause (I), by striking “, or” at the end and inserting a semicolon;

15 (ii) in subclause (II), by striking the comma at the end and inserting “; or”; and

16 (iii) by inserting after subclause (II) the following:

17 “(III) a violation of (or a conspiracy or attempt to violate) any statute
18 relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to
19 social security account numbers or social security cards) or section 1028 of
20 title 18, United States Code (relating to fraud and related activity in
21 connection with identification documents, authentication features, and
22 information)”;

23 (B) by inserting after subparagraph (K), as added by section 1713(b) of this Act, the
24 following:

25 “(L) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having
26 committed, or who admits committing acts which constitute the essential elements of, a
27 violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section
28 1425 of title 18, United States Code (relating to the procurement of citizenship or
29 naturalization unlawfully), is inadmissible.

30 “(M) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted
31 under any law of, admits having committed, or admits committing acts which
32 constitute the essential elements of, any law relating to, purchasing, selling, offering
33 for sale, exchanging, using, owning, possessing, or carrying, or of attempting or
34 conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any
35 weapon, part, or accessory which is a firearm or destructive device (as defined in
36 section 921(a) of title 18, United States Code) in violation of any law, is inadmissible.

37 **For purposes of this subparagraph “any law” includes State laws that do not contain an**
38 **exception for antique firearms. If the State law does not contain an exception for**
39 **antique firearms, the Secretary or the Attorney General may consider documentary**

1 evidence related to the conviction, including but not limited to charging documents,
2 plea agreements, plea colloquies, jury instructions, and police reports, to establish that
3 the offense involved at least one firearm that is not an antique firearm.

4 “(N) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated
5 felony at any time is inadmissible.

6 “(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of
7 section 758 of title 18, United States Code (relating to high speed flight from an
8 immigration checkpoint) is inadmissible.

9 “(P) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted under section
10 2250 of title 18, United States Code, is inadmissible.

11 “(Q) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION
12 ORDERS; CRIMES AGAINST CHILDREN.—

13 “(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—

14 “(I) IN GENERAL.—Except as provided in section 212 (v), any alien who at
15 any time is or has been convicted of a crime involving the use or attempted
16 use of physical force, or threatened use of a deadly weapon, a crime of
17 domestic violence, a crime of stalking, or a crime of child abuse, child
18 neglect, or child abandonment is inadmissible.

19 “(II) CRIME OF DOMESTIC VIOLENCE DEFINED.—For purposes of this
20 clause, the term ‘crime of domestic violence’ has the same meaning as it
21 does in section 237(a)(2)(E)(i), as implemented by section
22 237(a)(2)(E)(iii) means any crime of violence or any offense under Federal,
23 State, or Tribal law that has, as an element, the use or attempted use of
24 physical force or the threatened use of physical force or a deadly weapon
25 against a person committed by a current or former spouse of the person, by
26 an individual with whom the person shares a child in common, by an
27 individual who is cohabiting with or has cohabited with the person as a
28 spouse, by an individual similarly situated to a spouse of the person under
29 the domestic or family violence laws of the jurisdiction where the offense
30 occurs, or by any other individual against a person who is protected from that
31 individual’s acts under the domestic or family violence laws of the United
32 States or any State, Indian tribal government, or unit of local government.

33 “(ii) VIOLATORS OF PROTECTION ORDERS.—

34 “(I) IN GENERAL.—Except as provided in subsection 212(v), any alien who
35 at any time is or has been enjoined under a protection order issued by a court
36 and whom the court determines has engaged in conduct that violates the
37 portion of a protection order that involves protection against credible threats
38 of violence, repeated harassment, or bodily injury to the person or persons
39 for whom the protection order was issued is inadmissible.

40 “(II) PROTECTIVE ORDER DEFINED.—In this clause, the term ‘protection
41 order’ has the same meaning as it does in section 237(a)(2)(E)(ii) means any
42 injunction issued for the purpose of preventing violent or threatening acts of

1 violence that involve the use or attempted use of physical force, or
2 threatened use of a deadly weapon, committed by a current or former spouse,
3 parent, or guardian of the victim, by a person with whom the victim shares a
4 child in common, by a person who is cohabiting with or has cohabited with
5 the victim as a spouse, parent, or guardian, or by a person similarly situated
6 to a spouse, parent, or guardian of the victim, including temporary or final
7 orders issued by civil or criminal courts (other than support or child custody
8 orders or provisions) whether obtained by filing an independent action or as
9 an independent order in another proceeding.”;

10 (2) in subsection (h)—

11 (A) in the matter preceding paragraph (1), as amended by section 1713(e) of this
12 Act, by striking “, and (K)”, and inserting “(K), and (M)”;

13 (B) by designating in the undesignated matter following paragraph (2) as paragraph
14 (3); and

15 (C) by amending paragraph (3) as redesignated by striking the first two sentences
16 and inserting the following:

17 “No waiver shall be provided under this subsection in the case of an alien:

18 “(A) who has been convicted of (or who has admitted committing acts that
19 constitute):

20 “(i) murder or criminal acts of torture, or;

21 “(ii) an attempt or conspiracy to commit murder or a criminal act involving torture;

22 “(B) who has been convicted of an aggravated felony; or

23 “(C) who has been lawfully admitted for permanent residence and who since the
24 date of such admission has not lawfully resided continuously in the United States for at
25 least seven years immediately preceding the date of initiation of proceedings to remove
26 the alien from the United States.”—

27 (i) by striking “torture.” and inserting “torture, or has been convicted of an
28 aggravated felony.”; and

29 (ii) by striking “if either since the date of such admission the alien has been
30 convicted of an aggravated felony or the alien” and inserting “if since the date of
31 such admission the alien”;

32 (3) by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–
33 449, as subsection (u); and

34 (4) by adding at the end the following:

35 “(v) Waiver for Victims of Domestic Violence.—

36 “(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal
37 court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to
38 crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case
39 of an alien who has been battered or subjected to extreme cruelty and who is not and was
40 not the primary perpetrator of violence in the relationship, upon a determination that—

1 “(A) the alien was acting in self-defense;
2 “(B) the alien was found to have violated a protection order intended to protect the
3 alien; or

4 “(C) the alien committed or, ~~was arrested for, was convicted of, or pled guilty to~~
5 committing a crime—

6 “(i) that did not result in serious bodily injury; and

7 “(ii) where there was a connection between the crime and the alien’s having
8 been battered or subjected to extreme cruelty.

9 “(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this
10 subsection, the Secretary or the Attorney General shall consider any credible evidence
11 relevant to the application. The determination of what evidence is credible and the weight to
12 be given that evidence shall be within the sole discretion of the Secretary or the Attorney
13 General.”.

14 (b) Deportability; Criminal Offenses.—Section 237(a)(2) of the Immigration and Nationality
15 Act (8 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and 1713(c) of this Act, is further
16 amended by adding at the end the following:

17 “(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a
18 conspiracy or attempt to violate) an offense relating to section 208 of the Social
19 Security Act (42 U.S.C. 408) (relating to social security account numbers or social
20 security cards) or section 1028 of title 18, United States Code (relating to fraud and
21 related activity in connection with identification) is deportable.”.

22 (c) Deportability; Criminal Offenses.—Section 237(a)(3)(B) of the Immigration and
23 Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

24 (1) in clause (i), by striking the comma at the end and inserting a semicolon;

25 (2) in clause (ii), by striking “, or” at the end and inserting a semicolon;

26 (3) in clause (iii), by striking the comma at the end and inserting “; or”; and

27 (4) by inserting after clause (iii) the following:

28 “(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or
29 (b) of section 1425 of title 18, United States Code (relating to the unlawful
30 procurement of citizenship or naturalization).”.

31 (d) Applicability.—The amendments made by this section shall apply to—

32 (1) any act that occurred before, on, or after the date of the enactment of this Act;

33 (2) all aliens who are required to establish admissibility on or after such date of
34 enactment; and

35 (3) all removal, deportation, or exclusion proceedings that are filed, pending, or
36 reopened, on or after such date of enactment.

37 (e) Rule of Construction.—The amendments made by this section may not be construed to
38 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
39 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if

1 such eligibility did not exist before such date of enactment.

2 SEC. 1715. PROTECTING IMMIGRANTS FROM 3 CONVICTED SEX OFFENDERS.

4 (a) Immigrants.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C.
5 1154(a)(1)) is amended—

6 (1) in subparagraph (A), by amending clause (viii) to read as follows:

7 “(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an
8 offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense
9 against a minor (as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act
10 of 2006 (34 U.S.C. 20911(7))) unless the Secretary, in the Secretary’s sole and unreviewable
11 discretion, determines that the citizen poses no risk to the alien with respect to whom a petition
12 described in clause (i) is filed.”; and

13 (2) in subparagraph (B)(i)—

14 (A) by redesignating the second subclause (I) as subclause (II); and

15 (B) by amending such subclause (II) to read as follows:

16 “(II) Subclause (I) shall not apply to an alien lawfully admitted for permanent residence who
17 has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43)
18 or a specified offense against a minor as defined in section 111(7) of the Adam Walsh Child
19 Protection and Safety Act of 2006 (34 U.S.C. 20911(7)) unless the Secretary, in the Secretary’s
20 sole and unreviewable discretion, determines that the alien lawfully admitted for permanent
21 residence poses no risk to the alien with respect to whom a petition described in subclause (I) is
22 filed.”.

23 (b) Nonimmigrants.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C.
24 1101(a)(15)(K)) is amended by striking “204(a)(1)(A)(viii)(I)” each place it appears and
25 inserting “204(a)(1)(A)(viii)”.

26 (c) Effective Date and Application.—The amendments made by this section shall take effect
27 on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

28 SEC. 1716. ENHANCED CRIMINAL PENALTIES FOR 29 HIGH SPEED FLIGHT.

30 (a) In General.—Section 758 of title 18, United States Code, is amended to read as follows:

31 “758. Unlawful flight from immigration or customs controls

32 “(a) Evading a Checkpoint.—Any person who, while operating a motor vehicle or vessel,
33 knowingly flees or evades a checkpoint operated by the Department of Homeland Security or
34 any other Federal law enforcement agency, and then knowingly or recklessly disregards or
35 disobeys the lawful command of any law enforcement agent, shall be fined under this title,
36 imprisoned not more than 5 years, or both.

37 “(b) Failure to Stop.—Any person who, while operating a motor vehicle, aircraft, or vessel,

1 knowingly or recklessly disregards or disobeys the lawful command of an officer of the
2 Department of Homeland Security engaged in the enforcement of the immigration, customs, or
3 maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall
4 be fined under this title, imprisoned not more than 2 years, or both.

5 “(c) Alternative Penalties.—Notwithstanding the penalties provided in subsection (a) or (b),
6 any person who violates such subsection—

7 “(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the
8 violation involved the operation of a motor vehicle, aircraft, or vessel—

9 “(A) in excess of the applicable or posted speed limit;

10 “(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel; or

11 “(C) in an otherwise dangerous or reckless manner;

12 “(2) shall be fined under this title, imprisoned not more than 20 years, or both, if the
13 violation created a substantial and foreseeable risk of serious bodily injury or death to any
14 person;

15 “(3) shall be fined under this title, imprisoned not more than 30 years, or both, if the
16 violation caused serious bodily injury to any person; or

17 “(4) shall be fined under this title, imprisoned for any term of years or life, or both, if the
18 violation resulted in the death of any person.

19 “(d) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense
20 under this section shall be punished in the same manner as a person who completes the offense.

21 “(e) Forfeiture.—Any property, real or personal, constituting or traceable to the gross proceeds
22 of the offense and any property, real or personal, used or intended to be used to commit or
23 facilitate the commission of the offense shall be subject to forfeiture.

24 “(f) Forfeiture Procedures.—Seizures and forfeitures under this section shall be governed by
25 the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that
26 such duties as are imposed upon the Secretary of the Treasury under the customs laws described
27 in that section shall be performed by such officers, agents, and other persons as may be
28 designated for that purpose by the Secretary of Homeland Security or the Attorney General.
29 Nothing in this section may be construed to limit the authority of the Secretary of Homeland
30 Security to seize and forfeit motor vehicles, aircraft, or vessels under the customs laws or any
31 other laws of the United States.

32 “(g) Definitions.—For purposes of this section—

33 “(1) the term ‘checkpoint’ includes any customs or immigration inspection at a port of
34 entry or immigration inspection at a U.S. Border Patrol checkpoint;

35 “(2) the term ‘law enforcement agent’ means—

36 “(A) any Federal, State, local or tribal official authorized to enforce criminal law;
37 and

38 “(B) when conveying a command described in subsection (b), an air traffic
39 controller;

1 “(3) the term ‘lawful command’ includes a command to stop, decrease speed, alter
2 course, or land, whether communicated orally, visually, by means of lights or sirens, or by
3 radio, telephone, or other communication;

4 “(4) the term ‘motor vehicle’ means any motorized or self-propelled means of terrestrial
5 transportation; and

6 “(5) the term ‘serious bodily injury’ has the meaning given in section 2119(2).”.

7 (b) Clerical Amendment.—The table of sections for chapter 35 of title 18, United States Code,
8 is amended by striking the item relating to section 758 and inserting the following:

9 “758. Unlawful flight from immigration or customs controls.”.

10 (c) Rule of Construction.—The amendments made by subsection (a) may not be construed to
11 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
12 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
13 such eligibility did not exist before such date of enactment.

14 SEC. 1717. PROHIBITION ON ASYLUM AND 15 CANCELLATION OF REMOVAL FOR TERRORISTS.

16 (a) Asylum.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C.
17 1158(b)(2)(A)), as amended by 1712(f) of this Act, is further amended—

18 (1) by inserting “or the Secretary” after “if the Attorney General”; and

19 (2) by amending clause (v) to read as follows:

20 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),
21 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
22 Secretary or the Attorney General determines, in his or her sole and unreviewable
23 discretion, that there are not reasonable grounds for regarding the alien as a
24 danger to the security of the United States;”.

25 (b) Cancellation of Removal.—Section 240A(c)(4) of the Immigration and Nationality Act (8
26 U.S.C. 1229b(c)(4)) is amended—

27 (1) by striking “inadmissible under” and inserting “described in”; and

28 (2) by striking “deportable under” and inserting “described in”.

29 (c) Restriction on Removal.—

30 (1) IN GENERAL.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C.
31 1231(b)(3)(A)) is amended—

32 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

33 (B) by striking “Notwithstanding” and inserting the following:

34 “(i) IN GENERAL.—Notwithstanding”; and

35 (C) by adding at the end the following:

36 “(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the
37 alien’s life or freedom would be threatened in such country, and that race,

1 religion, nationality, membership in a particular social group, or political opinion
2 would be at least 1 central reason for such threat.”.

3 (2) EXCEPTION.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
4 amended—

5 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

6 (B) in clause (iii), striking “or” at the end;

7 (C) in clause (iv), striking the period at the end and inserting a semicolon;

8 (D) inserting after clause (iv) the following:

9 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B),
10 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
11 Secretary or the Attorney General determines, in his or her sole and unreviewable
12 discretion, that there are not reasonable grounds for regarding the alien as a
13 danger to the security of the United States; or

14 “(vi) the alien is convicted of an aggravated felony.”; and

15 (E) by striking the undesignated matter at the end.

16 (3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C)
17 of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking “In determining whether an
18 alien has demonstrated that the alien’s life or freedom would be threatened for a reason
19 described in subparagraph (A),” and inserting “For purposes of this paragraph,”.

20 (4) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraphs (1) and
21 (2) shall take effect as if enacted on May 11, 2005, and shall apply to applications for
22 withholding of removal made on or after such date.

23 (d) Effective Dates; Applications.—Except as provided in subsection (c)(4), the amendments
24 made by this section shall take effect on the date of the enactment of this Act and sections
25 208(b)(2)(A), 240A(c), and 241(b)(3) of the Immigration and Nationality Act, as amended by
26 this section, shall apply to—

27 (1) all aliens in removal, deportation, or exclusion proceedings;

28 (2) all applications pending on, or filed after, the date of the enactment of this Act; and

29 (3) with respect to aliens and applications described in paragraph (1) or (2), acts and
30 conditions constituting a ground for exclusion, deportation, or removal occurring or existing
31 before, on, or after the date of the enactment of this Act.

32 SEC. 1718. AGGRAVATED FELONIES.

33 (a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality
34 Act (8 U.S.C. 1101(a)(43)), as amended by section 1713(a) of this Act, is further amended to
35 read—

36 “(43) The term “aggravated felony” means –

37 (A) –

38 (i) any offense punishable by a maximum term of imprisonment of two (2) years or more

1 regardless of the term of imprisonment, if any, actually imposed; or

2 (ii) any offense - for which the term of imprisonment imposed was one (1) year or more
3 even if that term is suspended or probated; or

4 (iii) any two or more offenses, regardless of whether the convictions therefor resulted
5 from a single trial or plea and regardless of whether the offenses arose from a single scheme
6 of misconduct, for which the aggregate term of imprisonment imposed was three (3) years
7 or more; or

8 (B) An offense not otherwise determined to be an aggravated felony offense in
9 accordance with paragraph (A) shall also be considered to be an aggravated felony offense,
10 regardless of the length of sentence imposed (unless otherwise indicated) or of the elements
11 of the offense required for a conviction, provided that the nature of the offense is described
12 within one or more of the subparagraphs below:

13 (1) any crime of or related to the following: murder in any degree, voluntary or
14 involuntary manslaughter, homicide (regardless of the required level of intent and including
15 reckless or negligent homicide), sexual assault or battery, rape (including statutory rape),
16 any offense for which the individual was required to register as a sex offender under federal
17 or state law, or any other sex offense, including offenses related to the actual or attempted
18 abuse of or contact with minors (defined as individuals under the age of 18 but including
19 offenses in which the intended victim was actually a law enforcement officer), regardless of
20 the reason and extent of the act; or

21 (2) (a) Any drug trafficking crime as defined in 18 U.S.C. § 924(c); or

22 (b) Any other crime classified as a felony in the jurisdiction of conviction involving or
23 related to a controlled substance that is classified as controlled in the jurisdiction of
24 conviction, regardless of whether the substance is also classified as controlled by the federal
25 government and regardless of whether the crime would be classified as a felony under
26 federal law; or

27 (3) any offense relating to illicit trafficking in firearms or destructive devices (as defined
28 in section 921 of title 18) or in explosive materials (as defined in section 841(c) of that
29 title); or

30 (4) any offense relating to laundering of monetary instruments or engaging in monetary
31 transactions in property derived from unlawful activity if the amount of the funds exceeded
32 \$10,000; or

33 (5) a crime of violence (or an offense relating to a crime of violence), including but not
34 limited to, any crime labeled as assault or battery by the relevant jurisdiction of conviction,
35 state or federal, regardless of whether the crime also meets the definition in 18 U.S.C. § 16,
36 for which the term of imprisonment imposed is at least nine months; or

37 (6) a theft offense (or an offense relating to a theft offense), including but not limited to,
38 any crime labeled as theft, shoplifting, burglary, or embezzlement by the relevant
39 jurisdiction of conviction, state or federal, and regardless of the method of the theft, and
40 regardless of whether any taking was temporary or permanent, for which the term of
41 imprisonment imposed is at least nine months; or

42 (7) any offense relating to those described in—

1 (i) sections 842 or 844 of title 18;

2 (ii) section 922 or 924 of title 18 ; or

3 (iii) section 5861 of title 26;

4 (8) any offense relating to a failure to appear before a court pursuant to a court order to
5 answer to or dispose of a charge of a felony; or

6 (9) any offense relating to the demand for or receipt of ransom; or

7 (10) any offense relating to child pornography, as defined by the jurisdiction of
8 conviction; or

9 (11) any offense relating to racketeer influenced corrupt organizations, or relating to
10 transmission of wagering information (if it is a second or subsequent offense) or relating to
11 illegal gambling business offenses; or

12 (12) any offense relating to —

13 (i) the owning, controlling, managing, or supervising of a prostitution business;

14 (ii) transportation for the purpose of prostitution, if committed for commercial
15 advantage; or

16 (iii) peonage, slavery, involuntary servitude, and trafficking in persons; or

17 (13) any offense relating to—

18 (i) gathering or transmitting national defense information, disclosure of classified
19 information, sabotage or treason;

20 (ii) protecting the identity of undercover intelligence agents; or

21 (iii) protecting the identity of undercover agents; or

22 (14) any offense—

23 (i) involving fraud or deceit in which the loss to the victim or victims exceeds \$10,000;
24 or

25 (ii) relating to those described in section 7201 of title 26 (relating to tax evasion) in
26 which the revenue loss to the Government exceeds \$10,000; or

27 (15) any offense relating to an offense described in paragraph (1)(A) or (2) of section
28 1324(a) of this title (relating to alien smuggling), except in the case of a first offense for
29 which the alien has affirmatively shown that the alien committed the offense for the purpose
30 of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and no other
31 individual) to violate a provision of this chapter; or

32 (16) any offense relating to those described in section 1325(a) or 1326 of this title
33 committed by an alien who was previously excluded, deported, or removed from the United
34 States; or

35 (17) an offense related to falsely making, forging, counterfeiting, mutilating, or altering a
36 passport or instrument relating to document fraud; or

37 (18) any offense relating to a failure to appear by a defendant for service of sentence if

1 the underlying offense is punishable by imprisonment for a term of three (3) years or more;
2 or

3 (19) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in
4 vehicles the identification numbers of which have been altered; or

5 (20) any offense relating to obstruction of justice, perjury or subornation of perjury, or
6 bribery of a witness; or

7 (21) (a) a single conviction for driving while intoxicated or impaired as those terms are
8 defined under the jurisdiction where the conviction occurred (including a conviction for
9 driving while under the influence of or impaired by alcohol or drugs) without regard to
10 whether the conviction is classified as a misdemeanor or felony under State law when such
11 impaired driving was a cause of serious bodily injury or death of another person or (b) a
12 second or subsequent conviction for driving while intoxicated or impaired as those terms
13 are defined under the jurisdiction where the conviction occurred (including a conviction for
14 driving while under the influence of or impaired by alcohol or drugs) without regard to
15 whether the conviction is classified as a misdemeanor or felony under State law. A finding
16 under this paragraph does not require the Secretary or Homeland Security or the Attorney
17 General to prove the first conviction for driving while intoxicated or impaired (including a
18 conviction for driving while under the influence of or impaired by alcohol or drugs) as a
19 predicate offense. The Secretary of Homeland Security or the Attorney General need only
20 make a factual determination that the alien was previously convicted for driving while
21 intoxicated or impaired as those terms are defined under the jurisdiction where the
22 conviction occurred (including a conviction for driving while under the influence of or
23 impaired by alcohol or drugs); or

24 (22) an offense relating to terrorism or national security, not otherwise included in
25 subsection (M), and including, but not limited to, a conviction for a violation of any statute
26 in Chapter 113B of Title 18 of the United States Code; or

27 (23) a conviction for violating section 295 of the Immigration and Nationality Act, as
28 amended by section 1125 of this Act; or

29 (24) any offense relating to those described in Chapter 50A (genocide), 113C (torture), or
30 118 (war crimes and recruitment or use of child soldiers) of Title 18, in section 116 of
31 Chapter 7 of Title 18 (female genital mutilation), or a felony conviction under Chapter 35 of
32 Title 50 (relating to violations of International Emergency Economic Powers Act licenses,
33 orders, regulations, or prohibitions), or under section 2778 of Title 22 (relating to violations
34 of the Arms Export Control Act); or

35 (25) an attempt, conspiracy, or solicitation to commit an offense described in this
36 paragraph or any other inchoate form of an offense described in this paragraph.

37 The term applies to an offense described in this paragraph whether in violation of Federal
38 or State law; the term also applies to such an offense in violation of the law of a foreign
39 country for which the term of imprisonment was completed within the previous fifteen (15)
40 years. Notwithstanding any other provision of law (including any effective date), the term
41 applies regardless of whether the conviction was entered before, on, or after [effective date].
42 “

43 —

1 (b) Definition of Conviction.—Section 101(a)(48) of the Immigration and Nationality Act
2 (8 U.S.C. 1101(a)(48)), as amended by section 1713(a) of this Act, is further amended to
3 read—

4 (A) The term “conviction” means, with respect to an alien, a formal judgment of guilt of
5 the alien entered by a court or, if adjudication of guilt has been withheld or deferred,
6 where—

7 (i) a judge, jury, or other adjudicator has found the alien guilty or the alien has entered a
8 plea of guilty, an Alford plea, or a plea of nolo contendere, or the alien has admitted
9 sufficient facts to warrant a finding of guilt, and

10 (ii) the judge or other adjudicator has ordered some form of punishment, penalty, or
11 restraint on the alien’s liberty to be imposed, including, but not limited to, the imposition of
12 probation or any fees or costs associated with the proceeding.

13 (B) (i) Any reference to a term of imprisonment or a sentence with respect
14 to an offense is deemed to include the period of incarceration or
15 confinement ordered by a court of law regardless of any suspension of the imposition or
16 execution of that imprisonment or sentence in whole or in part, including a sentence of
17 imprisonment that is probated.

18 (ii) Any reference to a term of imprisonment of at least “one year” includes any sentence
19 of 365 days or more, or as “one year” was defined under state or local law in the jurisdiction
20 where the conviction occurred at the time of the conviction.

21 (C) (i) Any reference to a term of imprisonment that is “punishable by” shall include the
22 maximum statutory term of imprisonment authorized by law for the most aggravated
23 instance of the offense without regard to the individual circumstances of the defendant or
24 the specific facts of the conviction, provided that for convictions under federal law, the
25 maximum statutory term of imprisonment shall not include a statutory sentence
26 enhancement under Title 18 or Title 21 of the United States Code, unless the defendant’s
27 record of conviction reflects that he was convicted or sentenced pursuant to such an
28 enhancement.

29 (D) Subject to further limitation in subparagraphs (E) and (F), no order purporting to
30 vacate a conviction, modify a sentence, or clarify a sentence shall have any effect under this
31 Act unless all four of the following conditions are met—

32 (i) the order was entered prior to the initiation of any proceeding to remove the alien from
33 the United States;

34 (ii) the order was entered within one year of the date of the original order of conviction or
35 sentencing;

36 (iii) the court issuing the order had jurisdiction and authority to do so; and

37 (iv) the order was not entered for purposes of ameliorating the immigration consequences
38 of the conviction or sentence.

39 (E) No nunc pro tunc order purporting to vacate a conviction, modify a sentence, or
40 clarify a sentence shall have any effect under the immigration laws.

1 (F) No reversal, vacatur, expungement, or modification of a conviction or sentence that
2 was granted, solely or in part, to ameliorate the immigration consequences of the conviction
3 or sentence or was granted, solely or in part, for rehabilitative purposes shall have any effect
4 under the immigration laws. For purposes of this subparagraph, any reversal, vacatur,
5 expungement, or modification of a conviction or sentence due to an alleged procedural or
6 constitutional defect shall be insufficient to meet the alien’s burden of proof, even if the
7 conditions in subparagraphs (D) and (E) are otherwise satisfied, unless the record contains a
8 clear statement of position from the prosecutor on the issue and a clear explanation in the
9 relevant order of the alleged defect.

10 (G) In all cases under the immigration laws, the alien shall bear the burden of
11 establishing that all four conditions in subsection (D) have been met and that the limitations
12 in subsections (E) and (F) do not apply.

13 (H) Any order purporting to vacate a conviction, modify a sentence, or clarify a
14 sentence shall not be given any effect for immigration purposes unless the requirements of
15 this section have been met. The fact that these requirements have been met shall not
16 preclude a finding by the Attorney General or Secretary of Homeland Security, in the
17 exercise of discretion, that the conviction is still valid for immigration purposes.
18 Notwithstanding any other provision of law (statutory or nonstatutory) and regardless of
19 whether the determination is made in removal proceedings, no court shall have jurisdiction
20 to review a determination by the Attorney General or Secretary of Homeland Security
21 regarding whether such an order should be given any effect under the immigration laws.

22 (I) All references to a criminal offense or criminal conviction in Title 8 of the United
23 States Code and all other immigration laws shall be deemed to include any attempt,
24 conspiracy, or solicitation to commit the offense or any other inchoate form of the offense.

25 (J) In making a determination of whether a criminal conviction is for an aggravated
26 felony or a crime involving moral turpitude or for any other provision under the
27 immigration laws, the Attorney General shall not be required to apply any single or
28 particular methodology. In making such determinations, the Attorney General shall not be
29 limited to applying a categorical or modified categorical approach (including determining if
30 a statute of conviction is divisible), shall not limit his consideration to a single generic
31 definition of a crime, and shall not consider any hypothetical criminal offense beyond the
32 facts of the actual conviction at issue. In all cases, the Attorney General may look behind
33 the record of conviction and consider all reliable evidence (including, but not limited to,
34 charging documents, plea agreements, plea colloquies, jury instructions, police reports,
35 testimony during the removal hearing, and any prior statements by the respondent or any
36 other person about the crime) of relevant facts (including, but not limited to, the underlying
37 conduct at issue, the actual type of firearm involved (if any), the amount of a controlled
38 substance involved (if any), and the identity of the victim).

39 ~~(1) in subparagraph (A), by striking “sexual abuse of a minor;” and inserting “any~~
40 ~~conviction for a sex offense, including an offense described in sections 2241 and 2243 of~~
41 ~~title 18, United States Code, or an offense in which the alien abused or was involved in the~~
42 ~~abuse of any individual younger than 18 years of age, or in which the victim was, at the~~
43 ~~time the offense was committed, younger than 18 years of age, regardless of the reason and~~
44 ~~extent of the act, the sentence imposed, or the elements in the offense that are required for~~

1 conviction;”;

2 (2) in subparagraph (F), by striking “at least one year” and inserting “is at least 1 year,
3 except that if the conviction records do not conclusively establish whether a crime
4 constitutes a crime of violence or an offense under Federal, State, or Tribal law, that has, as
5 an element, the use or attempted use of physical force or the threatened use of physical
6 force or a deadly weapon, the Attorney General or the Secretary may consider other
7 evidence related to the conviction, including police reports and witness statements, that
8 clearly establishes that the conduct leading to the alien’s conviction constitutes a crime of
9 violence or an offense under Federal, State, or Tribal law, that has, as an element, the use or
10 attempted use of physical force or the threatened use of physical force or a deadly
11 weapon;”;

12 (3) by amending subparagraph (G) to read as follows:

13 “(G) a theft offense under State or Federal law (including theft by deceit, theft by
14 fraud, and receipt of stolen property) or burglary offense under State or Federal law for
15 which the term of imprisonment is at least 1 year, except that if the conviction records
16 do not conclusively establish whether a crime constitutes a theft or burglary offense,
17 the Attorney General or Secretary may consider other evidence related to the
18 conviction, including police reports and witness statements, that clearly establishes that
19 the conduct for which the alien was engaged constitutes a theft or burglary offense;”;

20 (4) in subparagraph (I), by striking “or 2252” and inserting “2252, or 2252A”;

21 (5) in subparagraph (N) —

22 (A) by striking “paragraph (1)(A) or (2) of”; and

23 (B) by adding a semicolon at the end;

24 (6) by amending subparagraph (O) to read as follows:

25 “(O) an offense described in section 275 or 276 for which the term of imprisonment
26 is at least 1 year;”;

27 (7) in subparagraph (P) by striking “(i) which either is falsely making, forging,
28 counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543
29 of title 18, United States Code, or is described in section 1546(a) of such title (relating to
30 document fraud) and (ii)” and inserting “which is described in the first paragraph of section
31 1541, 1542, 1543, 1544, 1546(a), or 1547 of title 18, United States Code, and”;

32 (8) in subparagraph (U), by striking “an attempt or conspiracy to commit an offense
33 described in this paragraph” and inserting “an attempt to commit, conspiracy to commit, or
34 facilitation of an offense described in this paragraph, or aiding, abetting, procuring,
35 commanding, inducing, or soliciting the commission of such an offense”; and

36 (9) by striking the undesignated material at end and inserting the following:

37 “The term applies to an offense described in this paragraph, whether in violation of Federal or
38 State law, or a law of a foreign country, for which the term of imprisonment was completed
39 within the previous 20 years, and even if the length of the term of imprisonment for the offense
40 is based on recidivist or other enhancements. Notwithstanding any other provision of law
41 (including any effective date), the term applies regardless of whether the conviction was entered

1 before, on, or after September 30, 1996.”.

2 (b) ~~Definition of Conviction.~~—Section 101(a)(48) of the Immigration and Nationality Act (8-
3 U.S.C. 1101(a)(48)) is amended by adding at the end the following:

4 “(C)(i) Any reversal, vacatur, expungement, or modification of a conviction, sentence, or
5 conviction that was granted to ameliorate the consequences of the conviction, sentence, or
6 conviction, or was granted for rehabilitative purposes, shall have no effect on the immigration
7 consequences resulting from the original conviction.

8 “(ii) The alien shall have the burden of demonstrating that any reversal, vacatur, expungement,
9 or modification, including modification to any sentence for an offense, was not granted to
10 ameliorate the consequences of the conviction, sentence, or conviction record, or for
11 rehabilitative purposes.”.

12 (c) ~~Effective Date and Application.~~—The amendments made by this section shall take effect
13 on the date of the enactment of this Act and apply to any act that occurred before, on, or after
14 such date of enactment.

15 ~~SEC. 1719. CONVICTIONS.~~

16 (a) ~~Inadmissibility.~~—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
17 1182(a)(2)), as amended by sections 1712(b), 1713(b), and 1714(a) of this Act, is further
18 amended by adding at the end the following:

19 “(R) ~~CONVICTIONS.~~—

20 “(i) ~~IN GENERAL.~~—For purposes of determining whether an underlying criminal
21 offense constitutes a ground of inadmissibility under this subsection, all statutes
22 or common law offenses are divisible if any of the conduct encompassed by the
23 statute constitutes an offense that is a ground of inadmissibility.

24 “(ii) ~~OTHER EVIDENCE.~~—If the conviction records, such as charging documents,
25 plea agreements, plea colloquies, and jury instructions, do not conclusively
26 establish whether a crime constitutes a ground of inadmissibility, the Attorney
27 General, the Secretary of State, or the Secretary may consider other evidence
28 related to the conviction, including police reports and witness statements, that
29 clearly establishes that the conduct leading to the alien’s conviction constitutes a
30 ground of inadmissibility.”.

31 (b) ~~Deportability.~~—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
32 1227(a)(2)), as amended by sections 1712(e), 1713(e), and 1714(e) of this Act, is further
33 amended by adding at the end the following:

34 “(J) ~~CRIMINAL OFFENSES.~~—

35 “(i) ~~IN GENERAL.~~—For purposes of determining whether an underlying criminal
36 offense constitutes a ground of deportability under this subsection, all statutes or
37 common law offenses are divisible if any of the conduct encompassed by the
38 statute constitutes an offense that is a ground of deportability.

39 “(ii) ~~OTHER EVIDENCE.~~—If the conviction records, such as charging documents,
40 plea agreements, plea colloquies, and jury instructions, do not conclusively

1 ~~establish whether a crime constitutes a ground of deportability, the Attorney~~
2 ~~General or the Secretary may consider other evidence related to the conviction,~~
3 ~~including police reports and witness statements, that clearly establishes that the~~
4 ~~conduct leading to the alien's conviction constitutes a ground of deportability.”~~

5 SEC. 1720. FAILURE TO OBEY REMOVAL ORDERS.

6 (a) In General.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is
7 amended—

8 (1) in subsection (a)—

9 (A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “212(a)
10 or” before “237(a),”; and

11 (B) by striking paragraph (3);

12 (2) by striking subsection (b); and

13 (3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

14 (b) Effective Date and Application.—The amendments made by subsection (a)(1) shall take
15 effect on the date of the enactment of this Act and shall apply to acts that are described in
16 subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8
17 U.S.C. 1253(a)(1)) that occur on or after such date of enactment.

18 SEC. 1721. SANCTIONS FOR COUNTRIES THAT DELAY 19 OR PREVENT REPATRIATION OF THEIR NATIONALS.

20 Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) (as amended by section
21 1720(a)(3)) is amended by ~~striking subsection (e) and adding at the end~~inserting a new paragraph
22 (e) to read as the following:

23 “~~(e)~~ Listing of Countries Who Delay Repatriation of Removed Aliens.—

24 “(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the
25 enactment of the ~~Immigration Reform and Technical Corrections Act of 2018~~SECURE and
26 SUCCEED Act, and every 6 months thereafter, the Secretary shall publish a report in the
27 Federal Register that includes a list of—

28 “(A) countries that have refused or unreasonably delayed repatriation of an alien
29 who is a national of that country since the date of enactment of this Act and the total
30 number of such aliens, disaggregated by nationality;

31 “(B) countries that have an excessive repatriation failure rate; and

32 “(C) each country that was reported as noncompliant in the most recent reporting
33 period.

34 “(2) EXEMPTION.—The Secretary, in the Secretary’s sole and unreviewable discretion,
35 and in consultation with the Secretary of State, may exempt a country from inclusion on the
36 list under paragraph (1) if there are significant foreign policy or security concerns that
37 warrant such an exemption.

38 “(d) Discontinuing Granting of Visas to Nationals of Countries Denying or Delaying

1 Accepting Alien.—

2 “(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action
3 described in paragraph (2)(A), and may take an action described in paragraph (2)(B), if the
4 Secretary determines that—

5 “(A) an alien who is a national of a foreign country is inadmissible under section
6 212 or deportable under section 237, or has been ordered removed from the United
7 States; and

8 “(B) the government of the foreign country referred to in subparagraph (A) is—

9 “(i) denying or unreasonably delaying accepting aliens who are citizens,
10 subjects, nationals, or residents of that country after the Secretary asks whether
11 the government will accept an alien under this section; or

12 “(ii) refusing to issue any required travel or identity documents to allow the
13 alien who is citizen, subject, national, or resident of that country to return to that
14 country.

15 “(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

16 “(A) Direct the Secretary of State to authorize consular officers in the foreign
17 country referred to in paragraph (1) to deny visas under section 101(a)(15)(A)(iii) to
18 attendants, servants, personal employees, and members of their immediate families, of
19 the officials and employees of that country who receive nonimmigrant status under
20 clause (i) or (ii) of section 101(a)(15)(A).

21 “(B) In consultation with the Secretary of State, deny admission to any citizens,
22 subjects, nationals, ~~or~~ residents from the foreign country referred to in paragraph
23 (1), consistent with other international obligations, and the imposition of any
24 limitations, conditions, or additional fees on the issuance of visas or travel from that
25 country, or the imposition of any other sanctions against that country that are
26 authorized by law.

27 “(3) RESUMPTION OF VISA ISSUANCE.—Consular officers in the foreign country that
28 refused or unreasonably delayed repatriation or refused to issue required identity or travel
29 documents may resume visa issuance after the Secretary notifies the Secretary of State that
30 the country has accepted the aliens.”.

31 **SEC. 1722. ENHANCED PENALTIES FOR**
32 **CONSTRUCTION AND USE OF BORDER TUNNELS.**

33 Section 555 of title 18, United States Code, is amended—

34 (1) in subsection (a), by striking “not more than 20 years.” and inserting “not less than 7
35 years and not more than 20 years.”; and

36 (2) in subsection (b), by striking “not more than 10 years.” and inserting “not less than 3
37 years and not more than 10 years.”.

38 **SEC. 1723. ENHANCED PENALTIES FOR FRAUD AND**

1 MISUSE OF VISAS, PERMITS, AND OTHER
2 DOCUMENTS.

3 Section 1546(a) of title 18, United States Code, is amended—

4 (1) by striking “Commissioner of the Immigration and Naturalization Service” each place
5 it appears and inserting “Secretary of Homeland Security”; and

6 (2) by striking “Shall be fined” and all that follows and inserting “Shall be fined under
7 this title or imprisoned for not less than 12 years and not more than 25 years (if the offense
8 was committed to facilitate an act of international terrorism (as defined in section 2331)),
9 not less than 10 years and not more than 20 years (if the offense was committed to facilitate
10 a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more
11 than 10 years (for the first or second such offense, if the offense was not committed to
12 facilitate such an act of international terrorism or a drug trafficking crime), or not less than
13 7 years and not more than 15 years (for any other offense), or both.”.

14 SEC. 1724. EXPANSION OF CRIMINAL ALIEN
15 REPATRIATION PROGRAMS.

16 (a) Expansion of Criminal Alien Repatriation Flights.—Not later than 90 days after the date of
17 the enactment of this Act, the Secretary of Homeland Security shall increase the number of
18 criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs
19 and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not
20 less than 15 percent compared to the number of such flights operated, and authorized to be
21 operated, under existing appropriations and funding on the date of the enactment of this Act.

22 (b) U.S. Immigration and Customs Enforcement Air Operations.—Not later than 90 days after
23 the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive
24 to expand U.S. Immigration and Customs Enforcement Air Operations (referred to in this
25 subsection as “ICE Air Ops”) so that ICE Air Ops provides additional services with respect to
26 aliens who are illegally present in the United States. Such expansion shall include—

27 (1) increasing the daily operations of ICE Air Ops with buses and air hubs in the top 5
28 geographic regions along the southern border;

29 (2) allocating a set number of seats for such aliens for each metropolitan area; and

30 (3) allowing a metropolitan area to trade or give some of seats allocated to such area
31 under paragraph (2) for such aliens to other areas in the region of such area based on the
32 transportation needs of each area.

33 (c) Authorization of Appropriations.—In addition to the amounts otherwise authorized to be
34 appropriated, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2018
35 through 2022 to carry out this section.

36 SEC. 1725. PROHIBITION ON FLIGHT TRAINING AND
37 NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK
38 COUNTRIES.

1 (a) IN GENERAL.--The Secretary of State shall deny a visa to, and the Secretary of
2 Homeland Security shall not admit or parole into the United States, any alien who is a citizen of
3 Libya, Iran, Syria, or any country designated by the Secretary of State as a state sponsor of
4 terrorism--

5 (1) who is an applicant for a visa and who the Secretary of State determines seeks to enter the
6 United States--

7 (A) to participate in coursework at an institution of higher education (as defined in
8 section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the
9 alien for a career in nuclear science, nuclear engineering, or a related field;

10 (B) to participate in coursework or training or otherwise engage in aviation maintenance
11 or flight operations;

12 (2) who is applying for admission to the United States and who the Secretary of Homeland
13 Security determines seeks to participate in coursework, training, or activities described in
14 paragraph (1);

15 (3) who is in the United States and who the Secretary of Homeland Security determines is
16 applying to change status to participate in such coursework, training, or activities; or

17 (4) who is lawfully present in the United States, either as a nonimmigrant student or otherwise
18 authorized to study at an institution of higher education, and who the Secretary of Homeland
19 Security determines is participating in such coursework, training, or activities or seeks to change
20 his or her field of study to participate in such coursework, training, or activities.

21 (b) TERMINATION OF STATUS. The Secretary of Homeland Security shall terminate the
22 nonimmigrant status or otherwise revoke the authorization to remain in the United States of any
23 alien currently in the United States and described in subsection (a).

24 (c) HIGH-RISK COUNTRIES. The Secretary of Homeland Security may in his discretion
25 designate additional countries whose nationals are subject to the restrictions described in
26 subsection (a) where he determines that it is in the national interest to do so.

27 CHAPTER 2—STRONG VISA INTEGRITY SECURES 28 AMERICA ACT

29 SEC. 1731. SHORT TITLE.

30 This chapter may be cited as the “Strong Visa Integrity Secures America Act”.

31 SEC. 1732. VISA SECURITY.

32 (a) Visa Security Units at High Risk Posts.—Section 428(e)(1) of the Homeland Security Act
33 of 2002 (6 U.S.C. 236(e)(1)) is amended—

34 (1) by striking “The Secretary” and inserting the following:

35 “(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph
36 (B), the Secretary”; and

37 (2) by adding at the end the following:

1 “(B) RISK-BASED ASSIGNMENTS.—

2 “(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign,
3 in a risk-based manner, and considering the criteria described in clause (ii),
4 employees of the Department to not fewer than 5075 diplomatic and consular
5 posts at which visas are issued. Such assignments shall be made —

6 “(I) in a risk-based manner;

7 “(II) considering the criteria described in clause (iii); and

8 “(III) in accordance with Nationality Security Decision Directive 38 of June 2,
9 1982, or any superseding presidential directive concerning staffing at diplomatic
10 and consular posts.

11 “(ii) Priority Consideration. — In carrying out National Security Decision
12 Directive 38 of June 2, 1982, the Secretary of State shall ensure priority
13 consideration of any staffing assignment pursuant to this subparagraph.

14 “(iii) CRITERIA DESCRIBED.—The criteria referred to described in this clause (i)
15 are the following:

16 “(I) The number of nationals of a country in which any of the diplomatic
17 and consular posts referred to in clause (i) are located who were identified in
18 United States Government databases related to the identities ofas known or
19 suspected terrorists during the previous year.

20 “(II) Information on cooperation of the country referred to in subclause (I)
21 with the counterterrorism efforts of the United States.

22 “(III) Information analyzing the presence, activity, or movement of
23 terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi)
24 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or
25 through suchthe country referred to in subclause (I).

26 “(IV) The number of formal objections based on derogatory information
27 issued by the Visa Security Advisory Opinion Unit pursuant to paragraph
28 (10) regarding nationals of a country in which any of the diplomatic and
29 consular posts referred to in clause (i) are located.

30 “(V) The adequacy of the border and immigration control of suchthe
31 country referred to in subclause (I).

32 “(VI) Any other criteria the Secretary determines appropriate.

33 “(iii) RULE OF CONSTRUCTION.—The Secretary has the final authority to
34 assign employees of the Department pursuant to this subparagraph. The
35 Secretary may consult with the Chief of Mission regarding placement and
36 locations for assigned personnel at relevant diplomatic or consular posts but
37 the Secretary’s decision on assignment may not be altered or rejected by the
38 Secretary of State.”.

39 (b) State Department Accommodation of Visa Security Units.—Section 428 of the Homeland
40 Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

1 “(j) Expedited clearance and placement of Department of Homeland Security personnel at
2 overseas embassies and consular posts.—Notwithstanding any other provision of law, and the
3 processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any
4 successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security
5 has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the
6 date on which the Secretary of Homeland Security communicates such assignment to the
7 Secretary of State, that such personnel have been stationed and accommodated at post and are
8 able to carry out their duties.”.

9 (c) Funding for the visa security program.

10 (1) In general.—The Department of State and Related Agency Appropriations Act, 2005 (title
11 IV of division B of Public Law 108–447) is amended, in the fourth paragraph under the heading
12 “Diplomatic and Consular Programs”, by striking “Beginning” and all that follows through the
13 period at the end and inserting the following: “Beginning in fiscal year 2005 and thereafter, the
14 Secretary of State is authorized to charge surcharges related to consular services in support of
15 enhanced border security that are in addition to the immigrant visa fees in effect on January 1,
16 2004: Provided, That funds collected pursuant to this authority shall be credited to the
17 appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the
18 fees were collected, and shall be available until expended for the funding of the Visa Security
19 Program established by the Secretary of Homeland Security under section 428(e) of the
20 Homeland Security Act of 2002 (Public Law 107–296): Provided further, That such surcharges
21 shall be 10 percent of the fee assessed on immigrant visa applications.”.

22 (2) Repayment of appropriated funds.—Twenty percent of the funds collected each fiscal year
23 under the heading “Diplomatic and Consular Programs” in the Department of State and Related
24 Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447), as amended by
25 subsection (a), shall be deposited into the general fund of the Treasury as repayment of funds
26 appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been
27 repaid.

28 (bd) Counterterrorism Vetting and Screening.—Section 428(e)(2) of the Homeland Security
29 Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

30 (1) by redesignating subparagraph (C) as subparagraph (D); and

31 (2) by inserting after subparagraph (B) the following:

32 “(C) Screen any such applications against the appropriate criminal, national security,
33 and terrorism databases maintained by the Federal Government.”.

34 (ee) Training and Hiring.—Section 428(e)(6)(A) of the Homeland Security Act of 2002 (6
35 U.S.C. 236(e)(6)(A)) is amended—

36 (1) by striking “The Secretary shall ensure, to the extent possible, that any employees”
37 and inserting “The Secretary, acting through the Commissioner of U.S. Customs and Border
38 Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide
39 training to any employees”; and

40 (2) by striking “shall be provided the necessary training”.

41 (fd) Pre-adjudicated Visa Security Assistance and Visa Security Advisory Opinion Unit.—
42 Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended by adding at

1 the end the following:

2 “(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at
3 which employees of the Department are not assigned pursuant to paragraph (1), the
4 Secretary shall, in a risk-based manner, assign employees of the Department to remotely
5 perform the functions required under paragraph (2) at not fewer than 50 of such posts.

6 “(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S.
7 Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond
8 to requests from the Secretary of State to conduct a visa security review using information
9 maintained by the Department on visa applicants, including terrorism association, criminal
10 history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

11 (g) DEADLINES.—The requirements established under paragraphs (1) and (9) of section
12 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this
13 section, shall be implemented not later than three years after the date of the enactment of this
14 Act.

15 ~~(e) Schedule of Implementation.—The requirements established under paragraphs (1) and (10)~~
16 ~~of section 428(e) of the Homeland Security Act of 2002, as amended and added by this section,~~
17 ~~shall be implemented not later than 3 years after the date of the enactment of this Act.~~

18 ~~(f) Authorization of Appropriations.—There are authorized to be appropriated \$30,000,000 to~~
19 ~~implement this section and the amendments made by this section.~~

20 SEC. 1733. ELECTRONIC PASSPORT SCREENING AND 21 BIOMETRIC MATCHING.

22 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
23 seq.) is amended by adding at the end the following:

24 “SEC. 420. ELECTRONIC PASSPORT SCREENING AND 25 BIOMETRIC MATCHING.

26 “(a) In General.—Not later than 1 year after the date of the enactment of the Strong Visa
27 Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection
28 shall—

29 “(1) screen electronic passports at airports of entry by reading each such passport’s
30 embedded chip; and

31 “(2) to the greatest extent practicable, utilize facial recognition technology or other
32 biometric technology, as determined by the Commissioner, to inspect travelers at United
33 States airports of entry.

34 “(b) Applicability.—

35 “(1) ELECTRONIC PASSPORT SCREENING.—Paragraph (1) of Subsubsection (a)(1) shall
36 apply to passports belonging to individuals who are United States citizens, individuals who
37 are nationals of a program country pursuant to section 217 of the Immigration and
38 Nationality Act (8 U.S.C. 1187), and individuals who are nationals of any other foreign
39 country that issues electronic passports.

1 “(2) FACIAL RECOGNITION MATCHING.—Paragraph (2) of subsection (a)~~(2)~~ shall apply,
2 at a minimum, to individuals who are nationals of a program country pursuant to section
3 217 of such Act.

4 “(c) Annual Report.—

5 “(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in
6 collaboration with the Chief Privacy Officer of the Department, shall submit an annual
7 report, through fiscal year 2022, to the Committee on Homeland Security and Governmental
8 Affairs of the Senate and the Committee on Homeland Security of the House of
9 Representatives that describes the utilization of facial recognition technology and other
10 biometric technology pursuant to subsection (a)(2).

11 “(2) REPORT CONTENTS.—Each report submitted pursuant to paragraph (1) shall
12 include—

13 “(A) information on the type of technology used at each airport of entry;

14 “(B) the number of individuals who were subject to inspection using either of such
15 technologies at each airport of entry;

16 “(C) within the group of individuals subject to such inspection, the number of those
17 individuals who were United States citizens and lawful permanent residents;

18 “(D) information on the disposition of data collected during the year covered by
19 such report; and

20 “(E) information on protocols for the management of collected biometric data,
21 including time frames and criteria for storing, erasing, destroying, or otherwise
22 removing such data from databases utilized by the Department.

23 “SEC. 420A. CONTINUOUS SCREENING BY U.S. 24 CUSTOMS AND BORDER PROTECTION.

25 “The Commissioner of U.S. Customs and Border Protection shall, in a risk-based manner,
26 continuously screen individuals issued any visa, and individuals who are nationals of a program
27 country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are
28 present, or expected to arrive within 30 days, in the United States, against the appropriate
29 criminal, national security, and terrorism databases maintained by the Federal Government.”.

30 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
31 of 2002 is amended by inserting after the item relating to section 419 the following:

32 “Sec.420.Electronic passport screening and biometric matching.

33 “Sec.420A.Continuous screening by U.S. Customs and Border Protection.”.

34 SEC. 1734. REPORTING VISA OVERSTAYS.

35 Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

36 (1) in subsection (a)—

37 (A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
38 and

1 (B) by inserting “, and any additional information that the Secretary determines
2 necessary for purposes of the report under subsection (b)” before the period at the end;
3 and

4 (2) by amending subsection (b) to read as follows:

5 “(b) Annual Report.—Not later than September 30, 2018, and annually thereafter, the
6 Secretary of Homeland Security shall submit a report to the Committee on Homeland Security
7 and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
8 Committee on Homeland Security of the House of Representatives, and the Committee on the
9 Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical
10 estimates (including information on the methodology utilized to develop such numerical
11 estimates) of—

12 “(1) for each country, the number of aliens from the country who are described in
13 subsection (a), including—

14 “(A) the total number of such aliens within all classes of nonimmigrant aliens
15 described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
16 1101(a)(15)); and

17 “(B) the number of such aliens within each of the classes of nonimmigrant aliens, as
18 well as the number of such aliens within each of the subclasses of such classes of
19 nonimmigrant aliens, as applicable;

20 “(2) for each country, the percentage of the total number of aliens from the country who
21 were present in the United States and were admitted to the United States as nonimmigrants
22 who are described in subsection (a);

23 “(3) the number of aliens described in subsection (a) who arrived by land at a port of
24 entry into the United States;

25 “(4) the number of aliens described in subsection (a) who entered the United States using
26 a border crossing identification card (as defined in section 101(a)(6) of the Immigration and
27 Nationality Act (8 U.S.C. 1101(a)(6)); and

28 “(5) the number of Canadian nationals who entered the United States without a visa and
29 whose authorized period of stay in the United States terminated during the previous fiscal
30 year, but who remained in the United States.”.

31 **SEC. 1735. STUDENT AND EXCHANGE VISITOR**
32 **INFORMATION SYSTEM VERIFICATION.**

33 Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland
34 Security shall ensure that the information collected under the program established under section
35 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
36 1372) is available to officers of U.S. Customs and Border Protection conducting primary
37 inspections of aliens seeking admission to the United States at each port of entry of the United
38 States.

39 **SEC. 1736. SOCIAL MEDIA REVIEW OF VISA**

1 **APPLICANTS.**

2 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et.
3 seq.), as amended by sections 1117~~5~~ and 1730 of this Act, is further amended by adding at the
4 end the following:

5 **“SEC. 438~~6~~. SOCIAL MEDIA SCREENING.**

6 “(a) In General.—Not later than 180 days after the date of the enactment of the Strong Visa
7 Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk
8 based manner and on an individualized basis, review the social media accounts of visa applicants
9 who are citizens of, or who reside in, high risk countries, as determined by the Secretary based
10 on the criteria described in subsection (b).

11 “(b) High-risk Criteria Described.—In determining whether a country is high-risk pursuant to
12 subsection (a), the Secretary shall consider the following criteria:

13 “(1) The number of nationals of the country who were identified in United States
14 Government databases related to the identities of known or suspected terrorists during the
15 previous year.

16 “(2) The level of cooperation of the country with the counter-terrorism efforts of the
17 United States.

18 “(3) Any other criteria the Secretary determines appropriate.

19 “(c) Collaboration.—To develop the technology and procedures required to carry out the
20 requirements under subsection (a), the Secretary shall collaborate with—

21 “(1) the head of a national laboratory within the Department’s laboratory network with
22 relevant expertise;

23 “(2) the head of a relevant university-based center within the Department’s centers of
24 excellence network; and

25 “(3) the heads of other appropriate Federal agencies, including the Secretary of State, the
26 Director of National Intelligence, and the Attorney General.

27 “(d) Waiver. – The Secretary, in collaboration with the Secretary of State, is authorized to waive
28 the requirements of subsection (a) as necessary to comply with international obligations of the
29 United States.

30 “(e) Rule of Construction. The screening of social information under paragraph (a) shall not
31 limit the authority of the Secretaries of Homeland Security or State to screen social media
32 information from any individual filing with the Department of Homeland Security or the
33 Department of State an application, petition, or other request for an immigration benefit or
34 immigration status or seeking an immigration benefit or other authorization, employment
35 authorization, identity, or travel document, or requesting relief or protection under any
36 provision of the immigration laws.”

37 **“SEC. 439~~7~~. OPEN SOURCE SCREENING.**

38 “The Secretary shall, to the greatest extent practicable, and in a risk-based manner, review

1 open source information of visa applicants.”.

2 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
3 of 2002, as amended by this Act, is further amended by inserting after the item relating to section
4 435 the following:

5 “Sec.43~~86~~.Social media screening.

6 “Sec.43~~97~~.Open source screening.”.

7 CHAPTER 3—VISA CANCELLATION AND REVOCATION

8 SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

9 (a) In General.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is
10 amended—

11 (1) in paragraph (1)—

12 (A) by striking “Attorney General,” and inserting “Secretary,”; and

13 (B) by inserting “and any other nonimmigrant visa issued by the United States that is
14 in the possession of the alien” after “such visa”; and

15 (2) in paragraph (2)(A), by adding “or foreign residence” after “the alien’s nationality”.

16 (b) Effective Date and Application.—The amendments made by subsection (a) shall take
17 effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after
18 such date.

19 SEC. 1742. VISA INFORMATION SHARING.

20 (a) In General.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is
21 amended—

22 (1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting
23 “issuance, refusal, or revocation”; and

24 (2) in paragraph (2)—

25 (A) in the matter preceding subparagraph (A), by striking “and on the basis of
26 reciprocity” and all that follows and inserting “may provide to a foreign government
27 information in a Department of State computerized visa database and, when necessary
28 and appropriate, other records covered by this section related to information in such
29 database”;

30 (B) by amending subparagraph (A) to read as follows:

31 “(A) on the basis of reciprocity, with regard to individual aliens, at any time on a
32 case-by-case basis for the purpose of—

33 “(i) preventing, investigating, or punishing acts that would constitute a crime in
34 the United States, including, but not limited to, terrorism or trafficking in
35 controlled substances, persons, or illicit weapons; or

36 “(ii) determining a person’s removability or eligibility for a visa, admission, or

1 other immigration benefit;”;

2 (C) in subparagraph (B)—

3 (i) by inserting “on basis of reciprocity,” before “with regard to”;

4 (ii) by striking “in the database” and inserting “such database”;

5 (iii) by striking “for the purposes” and inserting “for 1 of the purposes”; and

6 (iv) by striking “or to deny visas to persons who would be inadmissible to the
7 United States.” and inserting “; or”; and

8 (D) by adding at the end the following:

9 “(C) with regard to any or all aliens in such database, specified data elements from
10 each record, if the Secretary of State determines that it is required for national security
11 or public safety or in the national interest to provide such information to a foreign
12 government.”.

13 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that
14 is 60 days after the date of the enactment of the Act.

15 SEC. 1743. VISA INTERVIEWS.

16 (a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is
17 amended—

18 (1) in paragraph (1)—

19 (A) in subparagraph (B), by striking “or” at the end;

20 (B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

21 (C) by adding at the end the following:

22 “(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable
23 discretion, determines upon review of the application, that an interview is unnecessary
24 because the alien is ineligible for a visa; and”.

25 (2) in paragraph (2)—

26 (A) in subparagraph (E), by striking “or” at the end;

27 (B) in subparagraph (F), by striking the period at the end and inserting “; or”; and

28 (C) by adding at the end the following:

29 “(G) is an individual within a class of aliens that the Secretary of State, in his or her
30 sole and unreviewable discretion, has determined may pose a threat to national security
31 or public safety.”.

32 SEC. 1744. VISA REVOCATION AND LIMITS ON 33 JUDICIAL REVIEW OF VISA REVOCATION.

34 (a) In General. — Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is
35 amended—

1 ~~(1) (4)~~ by inserting “(1)” after “(i)”;

2 ~~(2) In subparagraph (i)(1),~~

3 ~~(A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;~~

4 ~~(B) by striking “shall invalidate the visa or other documentation from the date of~~
5 ~~issuance” and inserting “of any visa or documentation shall take effect~~
6 ~~immediately.”; and~~

7 ~~(C) “There shall be no means of judicial review” and all that follows and inserting~~
8 ~~the following:~~

9 ~~“Notwithstanding any other provision of law, including section 2241 of title 28,~~
10 ~~United States Code, any other habeas corpus provision, and sections 1361 and~~
11 ~~1651 of such title, a revocation under this subsection may not be reviewed by any~~
12 ~~court, and no court shall have jurisdiction to hear any claim arising from, or any~~
13 ~~challenge to, such a revocation, provided that the revocation is executed by the~~
14 ~~Secretary.”; and and~~

15 ~~(32)~~ by adding at the end the following:

16 “(2) A revocation under this subsection of a visa or other documentation from an
17 alien shall automatically cancel any other valid visa that is in the alien’s possession.”.

18 ~~(b) EFFECTIVE DATE- The amendment made by subsection (a) shall--~~

19 ~~(1) take effect on the date of the enactment of this Act; and~~

20 ~~(2) apply to all revocations made on or after such date.~~

21 CHAPTER 4—SECURE VISAS ACT

22 SEC. 1751. SHORT TITLE.

23 This chapter may be cited as the “Secure Visas Act”.

24 SEC. 1752. AUTHORITY OF THE SECRETARY OF 25 HOMELAND SECURITY AND THE SECRETARY OF 26 STATE.

27 (a) In General.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is
28 amended by striking subsections (b) and (c) and inserting the following:

29 “(b) Authority of the Secretary of Homeland Security.—

30 “(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality
31 Act (8 U.S.C. 1104(a)) and any other provision of law, and except for the authority of the
32 Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the
33 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

34 “(A) shall have exclusive authority to issue regulations, establish policy, and
35 administer and enforce the provisions of the Immigration and Nationality Act (8
36 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the

1 functions of consular officers of the United States in connection with the granting and
2 refusal of a visa; and

3 “(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or
4 his or her designee, determines that such refusal or revocation is necessary or advisable
5 in the security interests of the United States.

6 “(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

7 “(A) shall take effect immediately; and

8 “(B) shall automatically cancel any other valid visa that is in the alien’s possession.

9 “(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section
10 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361
11 and 1651 of such title, no United States court has jurisdiction to review a decision by the
12 Secretary or a consular officer to refuse or revoke a visa.

13 “(c) Visa Refusal Authority of the Secretary of State.—

14 “(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse or
15 revoke a visa to an alien if the Secretary determines that such refusal or revocation is
16 necessary or advisable in the foreign policy interests of the United States.

17 “(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override
18 a decision by the Secretary under subsection (b).”.

19 (b) Visa Revocation.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended
20 by adding at the end the following:

21 “(j) Visa Revocation Information.—If the Secretary or the Secretary of State revokes a visa—

22 “(1) the relevant consular, law enforcement, and terrorist screening databases shall be
23 immediately updated on the date of the revocation; and

24 “(2) look-out notices shall be posted to all Department port inspectors and Department of
25 State consular officers.”.

26 (c) Conforming Amendment.—Section 104(a)(1) of the Immigration and Nationality Act (8
27 U.S.C. 1104(a)(1)) is amended by inserting “and the power authorized under section 428(c) of
28 the Homeland Security Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

29 CHAPTER 5—VISA FRAUD AND SECURITY 30 IMPROVEMENT ACT OF 2017

31 SEC. 1761. SHORT TITLE.

32 This chapter may be cited as the “Visa Fraud and Security Improvement Act of 2018”.

33 SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION 34 AND DETECTION FEES.

35 Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is
36 amended—

1 (1) in the matter preceding clause (i), by striking “at United States embassies and
2 consulates abroad”;

3 (2) by amending clause (i) to read as follows:

4 “(i) to increase the number of diplomatic security personnel assigned
5 exclusively or primarily to the function of preventing and detecting visa fraud;”;
6 and

7 (3) in clause (ii), by striking “, including primarily fraud by applicants for visas described
8 in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)”.

9 SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS 10 AND DAUGHTERS OF TRAFFICKERS.

11 Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

12 (1) in subparagraph (C)(ii), by inserting “, or has been,” after “is”; and

13 (2) in subparagraph (H)(ii), by inserting “, or has been,” after “is”.

14 SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.

15 (a) DNA Testing for Visa Applicants.—Section 222(b) of the Immigration and Nationality Act
16 (8 U.S.C. 1202(b)) is amended by inserting after the second sentence the following: “If
17 considered necessary by the consular officer ~~or immigration official of the Department of~~
18 ~~Homeland Security~~ to establish the bona fides of a family relationship, the immigrant shall
19 provide DNA evidence of such relationship in accordance with procedures established for
20 submitting such evidence. The ~~Secretary and the~~ Secretary of State may, ~~in consultation,~~
21 issue regulations to require the submission of DNA evidence to establish family
22 relationship from applicants for certain visa classifications.”

23 (b) Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as amended by
24 sections 1806 and 1807, is further amended by adding at the end a new paragraph (o) to
25 read as follows:

26 “(o) Required Documentary Evidence and DNA Testing for Adjustment of Status.

27 “(1) Required Documentary Evidence. —Any alien applying for adjustment of status
28 under the immigration laws shall present a valid unexpired passport or other suitable
29 travel document, or document of identity and nationality, if such documentation is
30 required under the regulations issued by the Secretary of Homeland Security. The
31 alien shall furnish with his or her application a copy of a certification by the
32 appropriate police authorities stating what their records show concerning the alien; a
33 certified copy of any existing prison record, military record, and record of his or her
34 birth; and a certified copy of all other records or documents concerning him or her or
35 his or her case which may be required by the Secretary or Attorney General.

36 “(2) DNA Testing. — Where considered necessary by the Secretary or the Attorney
37 General to establish the bona fides of a family relationship, the immigrant shall
38 provide DNA evidence of such relationship in accordance with procedures
39 established for submitting such evidence. The Secretary may issue regulations to

1 require the submission of DNA evidence to establish family relationship from
2 applicants for certain visa classifications. In the event that the alien establishes to the
3 satisfaction of the Secretary or Attorney General that any document or record
4 required by this subsection is unobtainable, the Secretary or Attorney General may
5 permit the alien to submit in lieu of such document or record other satisfactory
6 evidence of the fact to which such document or record, if obtainable, pertain.”.

7 **SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY**
8 **DATABASE FOR DIPLOMATIC VISAS.**

9 Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy
10 Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting “, except for diplomatic
11 visa applications for which only full biographical information is required” before the period at
12 the end.

13 **SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH**
14 **REQUIREMENT FOR VISA APPLICATIONS.**

15 Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by
16 striking the first sentence and insert the following: “Each alien who applies for a visa shall be
17 registered in connection with his or her application and shall furnish copies of his or her
18 photograph for such use as may be required by regulation.”.

19 **CHAPTER 6—OTHER MATTERS**

20 **SEC. 1771. REQUIREMENT FOR COMPLETION OF**
21 **BACKGROUND CHECKS.**

22 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103) is amended
23 by adding at the end the following:

24 “(h) Completion of Background and Security Checks.—

25 “(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law
26 (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa
27 Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
28 States Code, and section 706(1) of title 5, United States Code, the Secretary and the
29 Attorney General may not approve or grant to an alien any status, relief, protection from
30 removal, employment authorization, or any other benefit under the immigration laws,
31 including an adjustment of status to lawful permanent residence or a grant of United States
32 citizenship or issue to the alien any documentation evidencing a status or grant of any
33 status, relief, protection from removal, employment authorization, or other benefit under the
34 immigration laws until—

35 “(A) all background and security checks required by statute or regulation or deemed
36 necessary by the Secretary or the Attorney General, in his or her sole and unreviewable
37 discretion, for the alien have been completed; and

38 “(B) the Secretary or the Attorney General has determined that the results of such

1 checks do not preclude the approval or grant of any status, relief, protection from
2 removal, employment authorization, or any other benefit under the immigration laws
3 or approval, grant, or the issuance of any documentation evidencing such status, relief,
4 protection, authorization, or benefit.

5 “(2) PROHIBITION ON JUDICIAL ACTION.—No court shall have authority to order the
6 approval of, grant, mandate, or require any action in a certain time period, or award any
7 relief for the Secretary’s or Attorney General’s failure to complete or delay in completing
8 any action to provide any status, relief, protection from removal, employment authorization,
9 or any other benefit under the immigration laws, including an adjustment of status to lawful
10 permanent residence, naturalization, or a grant of United States citizenship for an alien
11 until—

12 “(A) all background and security checks for the alien have been completed; and

13 “(B) the Secretary or the Attorney General has determined that the results of such
14 checks do not preclude the approval or grant of such status, relief, protection,
15 authorization, or benefit, or issuance of any documentation evidencing such status,
16 relief, protection, authorization, or benefit.”.

17 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
18 on the date of the enactment of this Act and shall apply to any application, petition, or request for
19 any benefit or relief or any other case or matter under the immigration laws pending with on or
20 filed with the Secretary of Homeland Security, the Attorney General, the Secretary of State, the
21 Secretary of Labor, or a consular officer on or after such date of enactment.

22 SEC. 1772. WITHHOLDING OF ADJUDICATION.

23 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103), as amended
24 by section 1771 of this Act, is further amended by adding at the end the following:

25 “(i) Withholding of Adjudication.—

26 “(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any
27 other law, including sections 1361 and 1651 of title 28, United States Code, may be
28 construed to require, and no court can order, the Secretary, the Attorney General, the
29 Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other
30 application, approve any petition, or grant or continue any relief, protection from removal,
31 employment authorization, or any other status or benefit under the immigration laws by, to,
32 or on behalf of any alien with respect to whom a criminal proceeding or investigation is
33 open or pending (including the issuance of an arrest warrant or indictment), if such
34 proceeding or investigation is deemed by such official to be material to the alien’s eligibility
35 for the status, relief, protection, or benefit sought.

36 “(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the
37 Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold
38 adjudication any application, petition, request for relief, request for protection from
39 removal, employment authorization, status or benefit under the immigration laws pending
40 final resolution of the criminal or other proceeding or investigation.

41 “(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or
42 nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry

1 Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States
2 Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to
3 review a decision to withhold adjudication pursuant to this subsection.

4 “(4) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This subsection does not
5 limit or modify the applicability of section 241(b)(3) or the United Nations Convention
6 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject
7 to any reservations, understandings, declarations and provisos contained in the United
8 States Senate resolution of ratification of the Convention, as implemented by section 2242
9 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with
10 respect to an alien otherwise eligible for protection under such provisions.”.

11 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
12 on the date of the enactment of this Act and shall apply to any application, petition, or request for
13 any benefit or relief or any other case or matter under the immigration laws pending with or filed
14 with the Secretary of Homeland Security on or after such date of enactment.

15 SEC. 1773. ACCESS TO THE NATIONAL CRIME 16 INFORMATION CENTER INTERSTATE IDENTIFICATION 17 INDEX.

18 (a) Criminal Justice Activities.—Section 104 of the Immigration and Nationality Act (8 U.S.C.
19 1104) is amended by adding at the end the following:

20 “(f) Notwithstanding any other provision of law, any Department of State personnel with
21 authority to grant or refuse visas or passports may carry out activities that have a criminal justice
22 purpose.”.

23 (b) Liaison With Internal Security Officers; Data Exchange.—Section 105 of the Immigration
24 and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting
25 the following:

26 “(b) Access to NCIC-III.—

27 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General
28 and the Director of the Federal Bureau of Investigation shall provide to the Department of
29 Homeland Security and the Department of State access to the criminal history record
30 information contained in the National Crime Information Center’s Interstate Identification
31 Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the
32 National Crime Information Center for the purpose of determining whether an applicant or
33 petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws,
34 or any beneficiary of an application, petition, relief, or status under the immigration laws,
35 has a criminal history record indexed in the file.

36 “(2) AUTHORIZED ACTIVITIES.—

37 “(A) IN GENERAL.—The Secretary and the Secretary of State—

38 “(i) shall have direct access, without any fee or charge, to the information
39 described in paragraph (1) to conduct name-based searches, file number searches,
40 and any other searches that any criminal justice or other law enforcement officials

1 are entitled to conduct; and

2 “(ii) may contribute to the records maintained by the National Crime
3 Information Center.

4 “(B) SECRETARY OF HOMELAND SECURITY.—The Secretary shall receive, upon
5 request, access to the information described in paragraph (1) by means of extracts of
6 the records for placement in the appropriate database without any fee or charge.

7 “(c) Criminal Justice and Law Enforcement Purposes.—Notwithstanding any other provision
8 of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and
9 other purposes relating to citizenship and immigration services, shall be considered to be
10 criminal justice or law enforcement purposes with respect to access to or use of any information
11 maintained by the National Crime Information Center or other criminal history information or
12 records.”.

13 SEC. 1774. APPROPRIATE REMEDIES FOR 14 IMMIGRATION LITIGATION.

15 (a) Limitation on Class Actions.—

16 (1) IN GENERAL.—Except as provided in paragraph (2), no court may certify **or continue**
17 **the certification of** a class under Rule 23 of the Federal Rules of Civil Procedure in any civil
18 action that—

19 (A) is **pending or** filed **on or** after the date of the enactment of this Act; and

20 (B) pertains to the administration or enforcement of the immigration laws.

21 (2) EXCEPTION.—A court may certify a class upon a motion by the Government if the
22 Government is requesting such a certification to ensure efficiency in case management or
23 uniformity in application of precedent decisions or interpretations of laws when there is a
24 nationwide class.

25 (b) Requirements for an Order Granting Prospective Relief Against the Government.—

26 (1) IN GENERAL.—If a court determines that prospective relief should be ordered against
27 the Government in any civil action pertaining to the administration or enforcement of the
28 immigration laws, the court shall—

29 (A) limit the relief to the minimum necessary to correct the violation of law;

30 (B) adopt the least intrusive means to correct the violation of law;

31 (C) minimize, to the greatest extent practicable, the adverse impact on national
32 security, border security, immigration administration and enforcement, and public
33 safety; and

34 (D) provide for the expiration of the relief on a specific date, which is not later than
35 the earliest date necessary for the Government to remedy the violation.

36 (2) WRITTEN EXPLANATION.—The requirements described in paragraph (1) shall be
37 discussed and explained in writing in the order granting prospective relief and shall be
38 sufficiently detailed to allow review by another court.

1 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief
2 granted under paragraph (1) shall automatically expire on the date that is 90 days after the
3 date on which such relief is entered, unless the court—

4 (A) finds that such relief meets the requirements described in subparagraphs (A)
5 through (D) of paragraph (1) for the entry of permanent prospective relief; and

6 (B) orders the preliminary relief to become a final order granting prospective relief
7 before the expiration of such 90-day period.

8 (c) Procedure for Motion Affecting Order Granting Prospective Relief Against the
9 Government.—

10 (1) IN GENERAL.—A court shall promptly rule on a motion made by the United States
11 Government to vacate, modify, dissolve, or otherwise terminate an order granting
12 prospective relief in any civil action pertaining to the administration or enforcement of the
13 immigration laws.

14 (2) AUTOMATIC STAYS.—

15 (A) IN GENERAL.—A motion to vacate, modify, dissolve, or otherwise terminate an
16 order granting prospective relief made by the United States Government in any civil
17 action pertaining to the administration or enforcement of the immigration laws shall
18 automatically, and without further order of the court, stay the order granting
19 prospective relief on the date that is 15 days after the date on which such motion is
20 filed unless the court previously has granted or denied the Government’s motion.

21 (B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A)
22 shall continue until the court enters an order granting or denying the Government’s
23 motion.

24 (C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay
25 under subparagraph (A) for not longer than 15 days.

26 (D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending,
27 delaying, or otherwise barring the effective date of the automatic stay described in
28 subparagraph (A), other than an order to postpone the effective date of the automatic
29 stay for not longer than 15 days under subparagraph (C)—

30 (i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise
31 terminate an injunction; and

32 (ii) shall be immediately appealable under section 1292(a)(1) of title 28, United
33 States Code.

34 (d) Settlements.—

35 (1) CONSENT DECREES.—In any civil action pertaining to the administration or
36 enforcement of the immigration laws of the United States, the court may not enter, approve,
37 or continue a consent decree that does not comply with the requirements under subsection
38 (b)(1).

39 (2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection may be construed to
40 preclude parties from entering into a private settlement agreement that does not comply

1 with subsection (b)(1).

2 (e) Expedited Proceedings.—It shall be the duty of every court to advance on the docket and
3 to expedite the disposition of any civil action or motion considered under this section.

4 (f) Consent Decree Defined.—In this section, the term “consent decree”—

5 (1) means any relief entered by the court that is based in whole or in part on the consent
6 or acquiescence of the parties; and

7 (2) does not include private settlements.

8 (g) Costs and Fees. — Section 2412(d)(2)(B) of title 28, U.S. Code, is amended —

9 (1) by striking “an individual” and inserting “a United States citizen”; and

10 (2) by inserting “United States citizen” before “owner”.

11 SEC. 1775. USE OF 1986 IRCA LEGALIZATION 12 INFORMATION FOR NATIONAL SECURITY PURPOSES.

13 (a) Special Agricultural Workers.—Section 210(b)(6) of the Immigration and Nationality Act
14 (8 U.S.C. 1160(b)(6)) is amended—

15 (1) by striking “Attorney General” each place it appears and inserting “Secretary”;

16 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
17 inserting “Homeland Security”;

18 (3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E),
19 respectively;

20 (4) inserting after subparagraph (B) the following:

21 “(C) AUTHORIZED DISCLOSURES.—

22 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
23 discretion, for the furnishing of information furnished under this section in the
24 same manner and circumstances as census information may be disclosed under
25 section 8 of title 13, United States Code.”.

26 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
27 Secretary’s discretion, for the furnishing, use, publication, or release of
28 information furnished under this section in any investigation, case, or matter, or
29 for any purpose, relating to terrorism, national intelligence or the national
30 security.

31 “(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary
32 may use the information furnished under this section to adjudicate subsequent
33 applications, petitions, or requests for immigration benefits filed by the alien.

34 “(iv) ALIEN CONSENT.—The Secretary may use the information furnished under
35 this section for any purpose when the alien consents to its disclosure or use by the
36 Secretary.

37 “(v) OTHER CIRCUMSTANCES.—The Secretary may use the information

1 furnished under this section for other purposes and in other circumstances in
2 which disclosure of the information is not related to removal of the alien from the
3 United States.”; and

4 (5) in subparagraph (D), as redesignated, striking “Service” and inserting “Department of
5 Homeland Security”.

6 (b) Adjustment of Status.—Section 245A(c)(5) of the Immigration and Nationality Act (8
7 U.S.C. 1255a(c)(5)) is amended—

8 (1) by striking “Attorney General” each place it appears and inserting “Secretary”;

9 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
10 inserting “Homeland Security”; and

11 (3) by amending subparagraph (C) to read as follows:

12 “(C) AUTHORIZED DISCLOSURES.—

13 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
14 discretion, for the furnishing of information furnished under this section in the
15 same manner and circumstances as census information may be disclosed under
16 section 8 of title 13, United States Code.

17 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
18 Secretary’s discretion, for the furnishing, use, publication, or release of
19 information furnished under this section in any investigation, case, or matter, or
20 for any purpose, relating to terrorism, national intelligence or the national
21 security.”.

22 SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR 23 CERTAIN IMMIGRATION, NATURALIZATION, AND 24 PEONAGE OFFENSES.

25 Section 3291 of title 18, United States Code, is amended to read as follows:

26 “3291. Nationality, citizenship and passports

27 “No person shall be prosecuted, tried, or punished for a violation of any section of chapter 69
28 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration
29 offenses), for a violation of any criminal provision of section 243, 274, 275, 276, 277, or 278 of
30 the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
31 attempt or conspiracy to violate any such section, unless the indictment is returned or the
32 information is filed within 10 years after the commission of the offense.”.

33 SEC. 1777. CONFORMING AMENDMENT TO THE 34 DEFINITION OF RACKETEERING ACTIVITY.

35 Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all
36 that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other
37 documents)” and inserting “sections 1541 through 1547 (relating to passports and visas)”.

1 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

2 (a) Civil Cases.—

3 (1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C.
4 1351 et seq.), as amended by section 1126(a) of this Act, is further amended by adding at
5 the end the following:

6 **“SEC. 296. VALIDITY OF SIGNATURES.**

7 “(a) In General.—In any proceeding, adjudication, or any other matter arising under the
8 immigration laws, an individual’s hand written or electronic signature on any petition,
9 application, or any other document executed or provided for any purpose under the immigration
10 laws establishes a rebuttable presumption that the signature executed is that of the individual
11 signing, that the individual is aware of the contents of the document, and intends to sign it.”.

12 “(b) Record Integrity.—The Secretary shall establish procedures to ensure that when any
13 electronic signature is captured for any petition, application, or other document submitted for
14 purposes of obtaining an immigration benefit, the identity of the person is verified and
15 authenticated, and the record of such identification and verification is preserved for litigation
16 purposes.”.

17 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
18 and Nationality Act is amended by inserting after the item relating to section 295, as added
19 by section 1126(a)(2) of this Act, the following:

20 “Sec.296.Validity of signatures.”.

21 (b) Criminal Cases.—

22 (1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at
23 the end the following:

24 **“3513. Signatures relating to immigration matters**

25 “In a criminal proceeding in a court of the United States, if an individual’s handwritten or
26 electronic signature appears on a petition, application, or other document executed or provided
27 for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration
28 and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was
29 signed by that individual, and that the individual knew the contents of the document and intended
30 to sign the document.”.

31 (2) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United
32 States Code, is amended by inserting after the item relating to section 3512 the following:

33 “3513. Signatures relating to immigration matters.”.

34 **Subtitle H—Prohibition on Terrorists Obtaining Lawful Status**
35 **in the United States**

36 **CHAPTER 1—PROHIBITION ON ADJUSTMENT TO**

1 **LAWFUL PERMANENT RESIDENT STATUS**

2 **SEC. 1801. LAWFUL PERMANENT RESIDENTS AS**
3 **APPLICANTS FOR ADMISSION.**

4 Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is
5 amended—

6 (1) in clauses (i), (ii), (iii), and (iv), by striking the comma at the end of each clause and
7 inserting a semicolon;

8 (2) in clause (v), by striking the “, or” and inserting a semicolon;

9 (3) in clause (vi), by striking the period at the end and inserting “; or” and

10 (4) by adding at the end the following:

11 “(vii) is described in section 212(a)(3) or 237(a)(4).”.

12 **SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF**
13 **ADJUSTMENT OF STATUS.**

14 (a) Applicants for Admission.—Section 101(a)(13) of the Immigration and Nationality Act (8
15 U.S.C. 1101(a)(13)), as amended by section 1801, is further amended by adding at the end the
16 following:

17 “(D) Notwithstanding subparagraph (A), adjustment of status of an alien to that of an alien
18 lawfully admitted for permanent residence under section 245 or under any other provision of law
19 is an admission of the alien.”.

20 (b) Eligibility to Be Removed for a Crime Involving Moral Turpitude.—Section
21 237(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking “date of
22 admission,” inserting “alien’s most recent date of admission;”.

23 **SEC. 1803. PRECLUDING ASYLEE AND REFUGEE**
24 **ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF**
25 **INADMISSIBILITY AND DEPORTABILITY.**

26 (a) Grounds of Inadmissibility.—Section 209(c) of the Immigration and Nationality Act (8
27 U.S.C. 1159(c)) is amended by striking “(other than paragraph (2)(C) or subparagraph (A), (B),
28 (C), or (E) of paragraph (3))”, and inserting “(other than subparagraph (C) or (G) of paragraph
29 (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3))”.

30 (b) Grounds of Deportability.—Section 209 of such Act, as amended by subsection (a), is
31 further amended by adding at the end the following:

32 “(d) An alien’s status may not be adjusted under this section if the alien **is in removal**
33 **proceedings under section 238 or 240 and is charged with deportability under any**
34 **subparagraph(s) of section 237(a)(2), (a)(30), (a)(4), or (a)(6).”—**

35 ~~“(1) is in removal proceedings under section 238 or 240; and~~

1 ~~“(2) is charged with a deportable offense under paragraph (2), (3), (4), or (6) of section~~
2 ~~237.”.~~

3 (c) Effective Date.—The amendments made by this section shall apply to—

4 (1) any act that occurred before, on, or after the date of the enactment of this Act; and

5 (2) all aliens who are required to establish admissibility on or after such date in all
6 removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or
7 after such date.

8 SEC. 1804. REVOCATION OF LAWFUL PERMANENT 9 RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

10 Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)) is amended
11 by adding at the end the following:

12 “(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES
13 WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through
14 (E) shall apply to any alien placed in proceedings under this section who—

15 “(i) is outside of the United States;

16 “(ii) has been provided written notice in accordance with section 239(a)
17 (whether the alien is within or outside the United States); and

18 “(iii) is described in section 212(a)(2)(G) (persons who have committed
19 particularly severe violations of religious freedom), 212(a)(3)(E) (Nazi and other
20 persecution, genocide, war crimes, crimes against humanity, extrajudicial killing,
21 torture, or specified human rights violations), or 212(a)(3)(G) (recruitment or use
22 of child soldiers).”.

23 SEC. 1805. REMOVAL OF CONDITION ON LAWFUL 24 PERMANENT RESIDENT STATUS PRIOR TO 25 NATURALIZATION.

26 Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is
27 amended—

28 (1) in section 216(e) (8 U.S.C. 1186a(e)), by inserting “, if the alien has had the
29 conditional basis removed pursuant to this section” before the period at the end; and

30 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by inserting “, if the alien has had the
31 conditional basis removed pursuant to this section” before the period at the end.

32 SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS 33 WHO POSE A THREAT TO NATIONAL SECURITY OR 34 PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT 35 OF STATUS.

1 (a) Application for Adjustment of Status in the United States.—

2 (1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is
3 amended by striking the section heading and subsection (a) and inserting the following:

4 “SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A
5 PERSON ADMITTED FOR PERMANENT RESIDENCE.

6 “(a) In General.—

7 “(1) ELIGIBILITY FOR ADJUSTMENT.—The status of an alien who was inspected and
8 admitted or paroled into the United States or the status of any other alien having an
9 approved petition for classification under the Violence Against Women Act of 1994 (42
10 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme
11 cruelty may be adjusted by the Secretary or by the Attorney General, in the discretion of the
12 Secretary or the Attorney General, and under such regulations as the Secretary or the
13 Attorney General may prescribe, to that of an alien lawfully admitted for permanent
14 residence if—

15 “(A) the alien files an application for such adjustment;

16 “(B) the alien is eligible to receive an immigrant visa and; is admissible to the
17 United States for permanent residence, and is not subject to exclusion, deportation, or
18 removal from the United States; and

19 “(C) an immigrant visa is immediately available to the alien at the time the alien’s
20 application is filed.

21 “(2) IMMEDIATELY AVAILABLE.—For purposes of this section, the term ‘immediately
22 available’ means that on the date on which the application for adjustment of status is filed,
23 the visa category under which the alien is seeking permanent residence is current, as
24 determined by the Secretary of State and reflected in the Department of State’s visa bulletin
25 for the month in which the application for adjustment of status is filed.

26 “(23) REQUIREMENT TO OBTAIN AN IMMIGRANT VISA OUTSIDE OF THE UNITED STATES.—
27 Notwithstanding any other provision of this section, if the Secretary determines that an alien
28 may be a threat to national security or public safety or if the Secretary determines that a
29 favorable exercise of discretion to allow an alien to seek to adjust his or her status in the
30 United States ~~rather than to obtain an immigrant visa outside of the United States~~ is not
31 warranted, the Secretary, in the Secretary’s sole and unreviewable discretion, may ~~prohibit~~
32 ~~the alien from seeking an adjustment of status under paragraph (1) while the alien is present~~
33 ~~in the United States.~~ deny the application for adjustment of status. If the Secretary denies
34 adjustment of status on the authority of this paragraph, the Secretary shall communicate that
35 determination to the Attorney General, in which case the Attorney General must deny any
36 application for adjustment of status filed by the alien in immigration proceedings.”.

37 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
38 and Nationality Act is amended by striking the item relating to section 245 and inserting the
39 following:

40 “Sec.245.Adjustment of status to that of a person admitted for permanent residence.”.

1 (b) Prohibition on Terrorists and Aliens Who Pose a Threat to National Security or Public
2 Safety on Adjustment to Lawful Permanent Resident Status.—Section 245(c) of the Immigration
3 and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

4 “(c) Except for an alien who has an approved petition for classification as a VAWA self-
5 petitioner, subsection (a) shall not apply to—

6 “(1) an alien crewman;

7 “(2) subject to subsection (k), any alien (other than an immediate relative (as defined in
8 section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of
9 section 101(a)(27))) who—

10 “(A) continues in or accepts unauthorized employment before filing an application
11 for adjustment of status;

12 “(B) is in unlawful immigration status on the date he or she files an application for
13 adjustment of status; or

14 “(C) has failed (other than through no fault of his or her own or for technical
15 reasons) to maintain continuously a lawful status since entry into the United States;

16 “(3) any alien admitted in transit without a visa under section 212(d)(4)(C);

17 “(4) an alien (other than an immediate relative (as defined in section 201(b))) who was
18 admitted as a nonimmigrant visitor without a visa under section 212(l) or 217;

19 “(5) an alien who was admitted as a nonimmigrant under section 101(a)(15)(S);

20 “(6) an alien described in subparagraph (B) of section 212, or subparagraph (B), (F), or
21 (G) of section 237(a)(4);

22 “(7) any alien who seeks adjustment of status to that of an immigrant under section
23 203(b) and is not in a lawful nonimmigrant status;

24 “(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in
25 the persecution of any person on account of race, religion, nationality, membership in a
26 particular social group, or political opinion; or

27 “(9) any alien who—

28 “(A) was employed while the alien was an unauthorized alien (as defined in section
29 274A(h)(3)); or

30 “(B) has otherwise violated the terms of a nonimmigrant visa.”.

31 **SEC. 1807. TREATMENT OF APPLICATIONS FOR**
32 **ADJUSTMENT OF STATUS DURING PENDING**
33 **DENATURALIZATION PROCEEDINGS.**

34 (a) Visa Issuance.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g))
35 is amended—

36 (1) by inserting “(1)” before “No visa”;

37 (2) by striking “if (1) it appears” and inserting the following: “if—

- 1 “(A) it appears”;
- 2 (3) by striking “law, (2) the application” and inserting the following: “law;
- 3 “(B) the application”;
- 4 (4) by striking “thereunder, or (3) the consular officer” and inserting the following:
- 5 “thereunder;
- 6 “(C) the consular officer”;
- 7 (5) by striking “provision of law: Provided, That a visa” and inserting the following:
- 8 “provision of law; or
- 9 “(D) the approved petition for classification under section 203 or 204 that is the
- 10 underlying basis for the application for a visa was filed by an individual who has a judicial
- 11 proceeding pending against him or her that would result in the individual’s denaturalization
- 12 under section 340.
- 13 “(2) A visa”; and
- 14 (6) by striking “section 213: Provided further, That a visa” and inserting the following:
- 15 “section 213.
- 16 “(3) A visa”.
- 17 (b) Adjustment of Status.—Section 245 of the Immigration and Nationality Act (8 U.S.C.
- 18 1451), as amended by 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 for
- 21 adjustment of status if the approved petition for classification under section 204 that is the
- 22 underlying basis for the application for adjustment of status was filed by an individual who has a
- 23 judicial proceeding pending against him or her that would result in the revocation of the
- 24 individual’s naturalization under section 340.”.
- 25 **SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT**
- 26 **RESCISSION OF PERMANENT RESIDENT STATUS.**
- 27 Section 246 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—
- 28 (1) in subsection (a)—
- 29 (A) by inserting “(1)” after “(a)”;
- 30 (B) by striking “within five years” and inserting “within 10 years”;
- 31 (C) by striking “Attorney General” each place that term appears and inserting
- 32 “Secretary”; and
- 33 (D) by adding at the end the following:
- 34 “(2) In any removal proceeding involving an alien whose status has been rescinded under this
- 35 subsection, the determination by the Secretary that the alien was not eligible for adjustment of
- 36 status is not subject to review or reconsideration during such proceedings.”.
- 37 (2) by redesignating subsection (b) as subsection (c); and

1 (3) by inserting after subsection (a) the following:

2 “(b) Nothing in subsection (a) may be construed to require the Secretary to rescind the alien’s
3 status before the commencement of removal proceedings under section 240. The Secretary may
4 commence removal proceedings at any time against any alien who is removable, including aliens
5 whose status was adjusted to that of an alien lawfully admitted for permanent residence under
6 section 245 or 249 or under any other provision of law. There is no statute of limitations with
7 respect to the commencement of removal proceedings under section 240. An order of removal
8 issued by an immigration judge shall be sufficient to rescind the alien’s status.”.

9 **SEC. 1809. BARRING PERSECUTORS AND TERRORISTS**
10 **FROM REGISTRY.**

11 Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as
12 follows:

13 **“SEC. 249. RECORD OF ADMISSION FOR PERMANENT**
14 **RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO**
15 **ENTERED THE UNITED STATES PRIOR TO JANUARY 1,**
16 **1972.**

17 “(a) In General.—The Secretary, in the discretion of the Secretary and under such regulations
18 as the Secretary may prescribe, may enter a record of lawful admission for permanent residence
19 in the case of any alien, if no such record is otherwise available and the alien—

20 “(1) entered the United States before January 1, 1972;

21 “(2) has continuously resided in the United States since such entry;

22 “(3) has been a person of good moral character since such entry;

23 “(4) is not ineligible for citizenship;

24 “(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), (8), or (9)(C) of
25 section 212(a);

26 “(6) is not described in paragraph (1)(E), (1)(G), (2), (4) of section 237(a); and

27 “(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in
28 attendance at a proceeding to determine the alien’s inadmissibility or deportability.

29 “(b) Recordation Date of Permanent Residence.—The record of an alien’s lawful admission
30 for permanence residence shall be the date on which the Secretary approves the application for
31 such status under this section.”.

32 **CHAPTER 2—PROHIBITION ON NATURALIZATION AND**
33 **UNITED STATES CITIZENSHIP**

34 **SEC. 1821. BARRING TERRORISTS FROM BECOMING**
35 **NATURALIZED UNITED STATES CITIZENS.**

1 (a) In General.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is
2 amended by adding at the end the following:

3 “(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the
4 Secretary determines, in the discretion of the Secretary, that the alien is described in section
5 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an
6 application for naturalization.

7 “(B) Subparagraph (A) shall not apply to an alien described in section 212(a)(3) if—

8 “(i) the alien received an exemption under section 212(d)(3)(B)(i); and

9 “(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and
10 would bar the alien from naturalization under this paragraph) are specifically covered by the
11 exemption referred to in clause (i).

12 “(2) A determination under paragraph (1) may be based upon any relevant information or
13 evidence, including classified, sensitive, or national security information.”.

14 (b) Applicability to Citizenship Through Naturalization of Parent or Spouse.—Section 340(d)
15 of such Act (8 U.S.C. 1451(d)) is amended—

16 (1) by striking the first sentence and inserting the following:

17 “(1) A person who claims United States citizenship through the naturalization of a parent or
18 spouse shall be deemed to have lost his or her citizenship, and any right or privilege of
19 citizenship which he or she may have acquired, or may hereafter acquire by virtue of the
20 naturalization of such parent or spouse, if the order granting citizenship to such parent or spouse
21 is revoked and set aside under the provisions of—

22 “(A) subsection (a) on the ground that the order and certificate of naturalization were
23 procured by concealment of a material fact or by willful misrepresentation; or

24 “(B) subsection (e) pursuant to a conviction under section 1425 of title 18, United States
25 Code.”.

26 (2) in the second sentence, by striking “Any person” and inserting the following:

27 “(2) Any person”.

28 SEC. 1822. TERRORIST BAR TO GOOD MORAL 29 CHARACTER.

30 (a) Definition of Good Moral Character.—Section 101(f) of the Immigration and Nationality
31 Act (8 U.S.C. 1101(f)), as amended by sections 1710(d), 1712(h), and 1713(d), is further
32 amended—

33 (1) in paragraph (8), by inserting “, regardless of whether the crime was classified as an
34 aggravated felony at the time of conviction” before the semicolon at the end;

35 (2) by inserting after paragraph (11), the following:

36 “(12) one who the Secretary or the Attorney General determines, in the unreviewable
37 discretion of the Secretary or the Attorney General, to have been an alien described in
38 section 212(a)(3) or 237(a)(4), which determination—

1 “(A) may be based upon any relevant information or evidence, including classified,
2 sensitive, or national security information; and

3 “(B) shall be binding upon any court regardless of the applicable standard of
4 review.”; and

5 (3) in the undesignated matter at the end, by striking the first sentence and inserting
6 following:

7 “The fact that a person is not within any of the foregoing classes shall not preclude a
8 discretionary finding for other reasons that such a person is or was not of good moral character.
9 The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the
10 period for which good moral character is required, but may take into consideration as a basis for
11 determination the applicant’s conduct and acts at any time. The Secretary or the Attorney
12 General, in the unreviewable discretion of the Secretary or the Attorney General, may determine
13 that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder,
14 manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a
15 minor) for which completion of the term of imprisonment or the sentence (whichever is later)
16 occurred 15 years or longer before the date on which the person filed an application under this
17 Act.”.

18 (b) Aggravated Felons.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note;
19 Public Law 101–649) is amended by striking “convictions” and all that follows and inserting
20 “convictions occurring before, on, or after such date.”.

21 (c) Effective Dates; Application.—

22 (1) SUBSECTION (A).—The amendments made by subsection (a) shall take effect on the
23 date of the enactment of this Act, shall apply to any act that occurred before, on, or after
24 such date of enactment, and shall apply to any application for naturalization or any other
25 benefit or relief, or any other case or matter under the immigration laws pending on or filed
26 after such date of enactment.

27 (2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect as if
28 included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004
29 (Public Law 108–458).

30 **SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF**
31 **NATURALIZATION APPLICATIONS FOR ALIENS IN**
32 **REMOVAL PROCEEDINGS.**

33 Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read as
34 follows:

35 **“SEC. 318. PREREQUISITE TO NATURALIZATION;**
36 **BURDEN OF PROOF.**

37 “(a) In General.—Except as otherwise provided in this chapter, no person may be naturalized
38 unless he or she has been lawfully admitted to the United States for permanent residence in
39 accordance with all applicable provisions of this chapter.

1 “(b) Burden of Proof.—A person described in subsection (a) shall have the burden of proof to
2 show that he or she entered the United States lawfully, and the time, place, and manner of such
3 entry into the United States. In presenting such proof, the person is entitled to the production of
4 his or her immigrant visa, if any, or of other entry document, if any, and of any other documents
5 and records, not considered by the Secretary to be confidential, pertaining to such entry, in the
6 custody of the Department.

7 “(c) Limitations on Review.—Notwithstanding section 405(b), and except as provided in
8 sections 328 and 329—

9 “(1) a person may not be naturalized against whom there is outstanding a final finding of
10 removal, exclusion, or deportation;

11 “(2) an application for naturalization may not be considered by the Secretary or by any
12 court if there is pending against the applicant any removal proceeding or other proceeding
13 to determine whether the applicant’s lawful permanent resident status should be rescinded,
14 regardless of when such proceeding was commenced; and

15 “(3) the findings of the Attorney General in terminating removal proceedings or in
16 cancelling the removal of an alien pursuant to this Act may not be deemed binding in any
17 way upon the Secretary with respect to the question of whether such person has established
18 his or her eligibility for naturalization under this Act.”.

19 **SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN**
20 **AGENCY HAS NOT MADE DECISION ON**
21 **NATURALIZATION APPLICATION AND ON DENIALS.**

22 (a) Limitation on Review of Pending Naturalization Applications.—Section 336 of the
23 Immigration and Nationality Act (8 U.S.C. 1447) is amended—

24 (1) in subsection (a), by striking “If,” and inserting the following:

25 “(b) In General.—If,”; and

26 (2) by amending subsection (b) to read as follows:

27 “(b) Request for Hearing Before District Court.—If a final administrative determination is not
28 made on an application for naturalization under section 335 before the end of the 180-day period
29 beginning on the date on which the Secretary completes all examinations and interviews under
30 such section (as such terms are defined by the Secretary, by regulation), the applicant may apply
31 to the district court for the district in which the applicant resides for a hearing on the matter.
32 Such court shall only have jurisdiction to review the basis for delay and remand the matter to the
33 Secretary for the Secretary’s determination on the application.”.

34 (b) Limitations on Review of Denial.—Section 310 of the Immigration and Nationality Act (8
35 U.S.C. 1421) is amended—

36 (1) by amending subsection (c) to read as follows:

37 “(c) Judicial Review.—

38 “(1) JUDICIAL REVIEW OF DENIAL.—A person whose application for naturalization under
39 this title is denied may, not later than 120 days after the date of the Secretary’s

1 administratively final determination on the application and after a hearing before an
2 immigration officer under section 336(a), seek review of such denial before the United
3 States district court for the district in which such person resides in accordance with chapter
4 7 of title 5, United States Code.

5 “(2) BURDEN OF PROOF.—The petitioner shall have burden of proof to show that the
6 Secretary’s denial of the application for naturalization was not supported by facially
7 legitimate and bona fide reasons.

8 “(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and
9 notwithstanding any other provision of law, including section 2241 of title 28, United States
10 Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court
11 shall have jurisdiction to determine, or to review a determination of the Secretary made at
12 any time regarding, whether, for purposes of an application for naturalization, an alien—

13 “(A) is a person of good moral character;

14 “(B) understands and is attached to the principles of the Constitution of the United
15 States; or

16 “(C) is well disposed to the good order and happiness of the United States.”;

17 (2) in subsection (d)—

18 (A) by inserting “subpoenas.—” before “The immigration officer”;

19 (B) by striking “subpena” and inserting “subpoena”; and

20 (C) by striking “subpenas” each place such term appears and inserting “subpoenas”;
21 and

22 (3) in subsection (e), by inserting “Name Change.—” before “It shall”.

23 (c) Effective Date; Application.—The amendments made by this section—

24 (1) shall take effect on the date of the enactment of this Act;

25 (2) shall apply to any act that occurred before, on, or after such date of enactment; and

26 (3) shall apply to any application for naturalization or any other case or matter under the
27 immigration laws that is pending on, or filed after, such date of enactment.

28 SEC. 1825. CLARIFICATION OF DENATURALIZATION 29 AUTHORITY.

30 Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451) is amended—

31 (1) in subsection (a), by striking “United States attorneys for the respective districts” and
32 inserting “Attorney General”; and

33 (2) by amending subsection (c) to read as follows:

34 “(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and
35 convincing evidence, that an order granting citizenship to an alien should be revoked and a
36 certificate of naturalization cancelled because such order and certificate were illegally procured
37 or were procured by concealment of a material fact or by willful misrepresentation.”.

1 SEC. 1826. DENATURALIZATION OF TERRORISTS.

2 (a) Denaturalization for Terrorists Activities.—Section 340 of the Immigration and Nationality
3 Act, as amended by section 1825, is further amended—

4 (1) by redesignating subsections (d) through (h) as subsections (f) through (j),
5 respectively; and

6 (2) by inserting after subsection (c) the following:

7 “(d)(1) If a person who has been naturalized, during the 15-year period after such
8 naturalization, participates in any act described in paragraph (2)—

9 “(A) such act shall be considered prima facie evidence that such person was not attached
10 to the principles of the Constitution of the United States and was not well disposed to the
11 good order and happiness of the United States at the time of naturalization; and

12 “(B) in the absence of countervailing evidence, such act shall be sufficient in the proper
13 proceeding to authorize the revocation and setting aside of the order admitting such person
14 to citizenship and the cancellation of the certificate of naturalization as having been
15 obtained by concealment of a material fact or by willful misrepresentation; and

16 “(C) such revocation and setting aside of the order admitting such person to citizenship
17 and such canceling of certificate of naturalization shall be effective as of the original date of
18 the order and certificate, respectively.

19 “(2) The acts described in this paragraph that shall subject a person to a revocation and setting
20 aside of his or her naturalization under paragraph (1)(B) are—

21 “(A) any activity a purpose of which is the opposition to, or the control or overthrow of,
22 the Government of the United States by force, violence, or other unlawful means;

23 “(B) engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section
24 212(a)(3)(B));

25 “(C) ~~incitement of terrorist activity under circumstances indicating an intention to cause~~
26 ~~death, serious bodily harm, or substantial damage to property~~ endorsing or espousing
27 ~~terrorist activity, or persuading others to endorse or espouse terrorist activity or a terrorist~~
28 ~~organization~~; and

29 “(D) receiving military-type training (as defined in section 2339D(c)(1) of title 18,
30 United States Code) from or on behalf of any organization that, at the time the training was
31 received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)).”

32 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of
33 the enactment of this Act and shall apply to acts that occur on or after such date.

34 SEC. 1827. TREATMENT OF PENDING APPLICATIONS 35 DURING DENATURALIZATION PROCEEDINGS.

36 (a) In General.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is
37 amended—

38 (1) by striking “After” and inserting “(1) Except as provided in paragraph (2), after”; and

1 (2) by adding at the end the following:

2 “(2) The Secretary may not adjudicate or approve any petition filed under this section by an
3 individual who has a judicial proceeding pending against him or her that would result in the
4 individual’s denaturalization under section 340 until—

5 “(A) such proceedings have concluded; and

6 “(B) the period for appeal has expired or any appeals have been finally decided, if
7 applicable.”.

8 (b) Withholding of Immigration Benefits.—Section 340 of such Act (8 U.S.C. 1451), as
9 amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as
10 added by section 1826(a)(2), the following:

11 “(e) The Secretary may not approve any application, petition, or request for any immigration
12 benefit from an individual against whom there is a judicial proceeding pending that would result
13 in the individual’s denaturalization under this section until—

14 “(1) such proceedings have concluded; and

15 “(2) the period for appeal has expired or any appeals have been finally decided, if
16 applicable.”.

17 SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

18 (a) In General.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421
19 et seq.) is amended by inserting after section 344 the following:

20 “SEC. 345. NATURALIZATION DOCUMENT RETENTION.

21 “(a) In General.—The Secretary shall retain all documents described in subsection (b) for a
22 minimum of 7 years for law enforcement and national security investigations and for litigation
23 purposes, regardless of whether such documents are scanned into U.S. Citizenship and
24 Immigration Services’ electronic immigration system or stored in any electronic format.

25 “(b) Documents to Be Retained.—The documents described in this subsection are—

26 “(1) the original paper naturalization application and all supporting paper documents
27 submitted with the application at the time of filing, subsequent to filing, and during the
28 course of the naturalization interview; and

29 “(2) any paper documents submitted in connection with an application for naturalization
30 that is filed electronically.”.

31 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
32 Nationality Act is amended by inserting after the item relating to section 344 the following:

33 “Sec.345.Naturalization document retention.”.

34 CHAPTER 3—FORFEITURE OF PROCEEDS FROM 35 PASSPORT AND VISA OFFENSES, AND PASSPORT 36 REVOCATION.

1 **SEC. 1831. FORFEITURE OF PROCEEDS FROM**
2 **PASSPORT AND VISA OFFENSES.**

3 Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the
4 following:

5 “(J) Any real or personal property that has been used to commit, or to facilitate the
6 commission of, a violation of chapter 75, the gross proceeds of such violation, and any
7 property traceable to any such property or proceeds.”.

8 **SEC. 1832. PASSPORT REVOCATION ACT.**

9 (a) Short Title.—This section may be cited as the “Passport Revocation Act”.

10 (b) Revocation or Denial of Passports and Passport Cards to Individuals Who Are Affiliated
11 With Foreign Terrorist Organizations.—The Act entitled “An Act to regulate the issue and
12 validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.),
13 which is commonly known as the “Passport Act of 1926”, is amended by adding at the end the
14 following:

15 **“SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT**
16 **AND PASSPORT CARD.**

17 “(a) Ineligibility.—

18 “(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall
19 refuse to issue a passport or a passport card to any individual—

20 “(A) who has been convicted of a violation of chapter 113B of title 18, United States
21 Code; or

22 “(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated
23 with an organization the Secretary has designated as a foreign terrorist organization
24 pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

25 “(ii) has aided, abetted, or provided material support to an organization described in
26 clause (i).

27 “(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to
28 any individual described in paragraph (1).

29 “(b) Exceptions.—

30 “(1) EMERGENCY CIRCUMSTANCES, HUMANITARIAN REASONS, AND LAW ENFORCEMENT
31 PURPOSES.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to
32 revoke, a passport of an individual described in such subsection in emergency
33 circumstances, for humanitarian reasons, or for law enforcement purposes.

34 “(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the
35 Secretary of State, before revocation, may—

36 “(A) limit a previously issued passport for use only for return travel to the United
37 States; or

1 “(B) issue a limited passport that only permits return travel to the United States.

2 “(c) Right of Review.—Any individual who, in accordance with this section, is denied
3 issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise
4 limited by the Secretary of State, may request a hearing before the Secretary of State not later
5 than 60 days after receiving notice of such denial, revocation, or limitation.

6 “(d) Report.—If the Secretary of State denies, issues, limits, or declines to revoke a passport
7 or passport card under subsection (b), the Secretary, not later than 30 days after such denial,
8 issuance, limitation, or revocation, shall submit a report to Congress that describes such denial,
9 issuance, limitation, or revocation, as appropriate.”.

10 TITLE II—PERMANENT REAUTHORIZATION OF 11 VOLUNTARY E-VERIFY

12 SEC. 2001. PERMANENT REAUTHORIZATION.

13 Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
14 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking “Unless the
15 Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program
16 on September 30, 2015.”.

17 SEC. 2002. PREEMPTION; LIABILITY.

18 Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
19 U.S.C. 1324a note) is amended by adding at the end the following:

20 “(g) Limitation on State Authority.—

21 “(1) PREEMPTION.—A State or local government may not prohibit a person or other entity
22 from verifying the employment authorization of new hires or current employees through E-
23 Verify.

24 “(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held
25 liable under any Federal, State, or local law for any employment-related action taken with
26 respect to the wrongful termination of an individual in good faith reliance on information
27 provided through E-Verify.”.

28 SEC. 2003. INFORMATION SHARING.

29 The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary
30 of the Treasury shall jointly establish a program to share information among their respective
31 agencies that could lead to the identification of unauthorized aliens (as defined in section
32 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match
33 letters and any information in the earnings suspense file.

34 SEC. 2004. SMALL BUSINESS DEMONSTRATION 35 PROGRAM.

36 Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
37 U.S.C. 1324a note) is amended—

1 (1) by redesignating subsection (d) as subsection (e); and

2 (2) by inserting after subsection (c) the following:

3 “(d) Small Business Demonstration Program.—Not later than 9 months after the date of
4 enactment of the ~~Immigration Reform and Technical Corrections Act of 2018~~SECURE and
5 SUCCEED Act, the Director of U.S. Citizenship and Immigration Services shall establish a
6 demonstration program that assists small businesses in rural areas or areas without internet
7 capabilities to verify the employment eligibility of newly hired employees solely through the use
8 of publicly accessible internet terminals.”.

9 SEC. 2005. FRAUD PREVENTION.

10 (a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland
11 Security, in consultation with the Commissioner of Social Security, shall establish a program in
12 which Social Security account numbers that have been identified to be subject to unusual
13 multiple use in the employment eligibility verification system established under section 274A(d)
14 of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or
15 determined to have been compromised by identity fraud or other misuse, shall be blocked from
16 use for such system purposes unless the individual using such number is able to establish,
17 through secure and fair additional security procedures, that the individual is the legitimate holder
18 of the number.

19 (b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary
20 of Homeland Security, in consultation with the Commissioner of Social Security, shall establish
21 a program that provides a reliable, secure method by which victims of identity fraud and other
22 individuals may suspend or limit the use of their Social Security account number or other
23 identifying information for purposes of the employment eligibility verification system
24 established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)).
25 The Secretary may implement the program on a limited pilot program basis before making it
26 fully available to all individuals.

27 (c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland
28 Security, in consultation with the Commissioner of Social Security, shall establish a program that
29 provides a reliable, secure method by which parents or legal guardians may suspend or limit the
30 use of the Social Security account number or other identifying information of a minor under their
31 care for the purposes of the employment eligibility verification system established under
32 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may
33 implement the program on a limited pilot program basis before making it fully available to all
34 individuals.

35 SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT 36 ELIGIBILITY VERIFICATION PILOT PROGRAMS.

37 (a) In General.—Not later than 2 years after the date of the enactment of this Act, the
38 Secretary of Homeland Security, after consultation with the Commissioner of Social Security
39 and the Director of the National Institute of Standards and Technology, shall establish, by
40 regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot
41 programs (referred to in this section as the “Authentication Pilots”), each of which shall use a

1 separate and distinct technology.

2 (b) Purpose.—The purpose of the Authentication Pilots shall be to provide for identity
3 authentication and employment eligibility verification with respect to enrolled new employees to
4 any employer that elects to participate in an Authentication Pilot.

5 (c) Cancellation.—Any participating employer may cancel the employer’s participation in an
6 Authentication Pilot after 1 year after electing to participate without prejudice to future
7 participation.

8 (d) Report.—Not later than 12 months after commencement of the Authentication Pilots, the
9 Secretary shall submit a report to the Committee on the Judiciary of the Senate and the
10 Committee on the Judiciary of the House of Representatives that includes the Secretary’s
11 findings on the Authentication Pilots and the authentication technologies chosen.

12 TITLE III—SUCCEED ACT

13 SEC. 3001. SHORT TITLES.

14 This title may be cited as the “Solution for Undocumented Children through Careers,
15 Employment, Education, and Defending our Nation Act” or the “SUCCEED Act”.

16 SEC. 3002. DEFINITIONS.

17 In this title:

18 (1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title
19 that is also used in the immigration laws shall have the meaning given such term in the
20 immigration laws.

21 (2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional **permanent**
22 **temporary** resident that seeks to maintain or extend such status by complying with the
23 requirements under this title relating to enlistment and service in the Armed Forces of the
24 United States.

25 (3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a
26 conditional **temporarypermanent** resident that seeks to maintain or extend such status by
27 complying with the requirements under this title relating to enrollment in, and graduation
28 from, an institution of higher education in the United States.

29 (4) CONDITIONAL **temporaryPERMANENT** RESIDENT.—

30 (A) DEFINITION.—The term “conditional **temporarypermanent** resident” means an
31 alien described in subparagraph (B) who is granted conditional permanent resident
32 status under this title.

33 (B) DESCRIPTION.—An alien granted conditional **temporarypermanent** resident
34 status under this title—

35 (i) shall not be considered to be an alien who is unlawfully present in the
36 United States for purposes of the immigration laws, including section 505 of the
37 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
38 1623);

1 (ii) shall not be ~~permitted to apply for adjustment of status under section 245(a)~~
2 ~~of the Immigration and Nationality Act (8 U.S.C. 1255(a)) until permitted to do so~~
3 ~~under section 3005~~ ~~considered a lawful permanent resident for the purpose of—~~

4 ~~(I) petitioning for relatives under section 204(a) of the Immigration and~~
5 ~~Nationality Act (8 U.S.C. 1154(a)); or~~

6 ~~(II) seeking adjustment of status under section 245(a) of such Act (8 U.S.C.~~
7 ~~1255(a));~~

8 (iii) has the intention to permanently reside in the United States;

9 (iv) is not required to have a foreign residence which the alien has no intention
10 of abandoning; and

11 (v) shall be considered to have been inspected and admitted for the purposes of
12 section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) ~~once the~~
13 ~~alien is eligible to apply for adjustment of status to that of an alien lawfully~~
14 ~~admitted for permanent residence~~ ~~after the condition on the alien's permanent-~~
15 ~~resident status has been removed~~ pursuant to section 3005.

16 (5) FEDERAL PUBLIC BENEFIT.—~~For purposes of this Act, T~~the term “Federal public
17 benefit” means—

18 (A) the American Opportunity Tax Credit authorized under section 25A(i) of the
19 Internal Revenue Code of 1986;

20 (B) the Earned Income Tax Credit authorized under section 32 of the Internal
21 Revenue Code of 1986;

22 (C) the Health Coverage Tax Credit authorized under section 35 of the Internal
23 Revenue Code of 1986;

24 (D) Social Security benefits authorized under title II of the Social Security Act (42
25 U.S.C. 401 et seq.);

26 (E) Medicare benefits authorized under title XVIII of the Social Security Act (42
27 U.S.C. 1395 et seq.); and

28 (F) benefits received under the Federal-State Unemployment Compensation Act of
29 1970 (26 U.S.C. 3304 note).

30 (6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term
31 in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

32 (7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has
33 the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C.
34 1002), except that the term does not include an institution of higher education outside of the
35 United States.

36 (8) MILITARY-RELATED TERMS.—The terms “active duty”, “active service”, “active
37 status”, and “armed forces” have the meanings given those terms in section 101 of title 10,
38 United States Code.

39 (9) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability”
40 means liability for Federal taxes imposed under the Internal Revenue Code of 1986,

1 including any penalties and interest on such taxes.

2 (10) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

3 (11) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means—

4 (A) a criminal offense involving—

5 (i) domestic violence;

6 (ii) sexual abuse or exploitation, including sexually explicit conduct involving
7 minors (as such terms are defined in section 2256 of title 18, United States Code);

8 (iii) burglary;

9 (iv) unlawful possession or use of a firearm;

10 (v) drug distribution or trafficking; or

11 (vi) driving under the influence or driving while intoxicated; or

12 (B) any other misdemeanor for which the individual was sentenced to a term of
13 imprisonment of not less than 90 days (excluding a suspended sentence).

14 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**
15 **LONG-TERM RESIDENTS WHO ENTERED THE UNITED**
16 **STATES AS CHILDREN.**

17 (a) Special Rule for Certain Long-term Residents Who Entered the United States as
18 Children.—

19 (1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise
20 provided in this title, the Secretary may cancel the removal of an alien who is inadmissible
21 or deportable from the United States and grant the alien conditional ~~temporary~~ permanent
22 resident status under this title, if—

23 (A) the alien has been physically present in the United States for a continuous period
24 since June 15, 2012;

25 (B) the alien was younger than 16 years of age on the date on which the alien
26 initially entered the United States;

27 (C) on June 15, 2012, the alien—

28 (i) was younger than ~~31~~26 years of age; and

29 (ii) had no lawful status in the United States;

30 (D) in the case of an alien who is 18 years of age or older on the date of enactment
31 of this Act, the alien—

32 (i) meets the other requirements of this section; and

33 (ii)(I) has, while in the United States, earned a high school diploma, obtained a
34 general education development certificate recognized under State law, or received
35 a high school equivalency diploma;

1 (II) has been admitted to an institution of higher education in the United States;
2 or

3 (III) has served, is serving, or has enlisted in the Armed Forces of the United
4 States;

5 (E) in the case of an alien who is younger than 18 years of age on the date of
6 enactment of this Act, the alien—

7 (i) meets the other requirements of this section; and

8 (ii)(I) is attending, or has enrolled in, a primary or secondary school; or

9 (II) is attending, or has enrolled in, a postsecondary school;

10 (F) the alien has been a person of good moral character (as defined in section 101(f)
11 of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date on which the
12 alien initially entered the United States;

13 (G) the alien has paid any applicable Federal tax liability or has agreed to cure such
14 liability through a payment installment plan that has been approved by the Internal
15 Revenue Service; and

16 (H) the alien, subject to paragraph (2)—

17 (i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8),
18 (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C.
19 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of
20 such Act (unless the Secretary determines that the sole basis for the alien's
21 removal under such subparagraph was unlawful presence under subparagraph (B)
22 or (C) of such section 212(a)(9));

23 (ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or
24 (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

25 (iii) has not ordered, incited, assisted, or otherwise participated in the
26 persecution of any person on account of race, religion, nationality, membership in
27 a particular social group, or political opinion; ~~and~~

28 (iv) does not, in the Secretary's sole and unreviewable discretion, pose a threat
29 to national security or public safety.

30 (v) is not a person who the Secretary knows or has reason to believe —

31 (I) is a member of a criminal gang; or

32 (II) has participated in the activities of a criminal gang, knowing or
33 having reason to believe that such activities promoted or will promote,
34 further, aid, or support the illegal activity of the criminal gang; and

35 (vi) has not been convicted of—

36 (I) a felony under Federal or State law, regardless of the sentence
37 imposed;

38 (II) any combination of offenses under Federal or State law for which the
39 alien was sentenced to imprisonment for at least 1 year;

1 (III) a significant misdemeanor;

2 (IV) three or more misdemeanors; and

3 (I) the alien has never been under a final administrative or judicial order of
4 exclusion, deportation, or removal, unless the alien—

5 (i) has remained in the United States under color of law after such final order
6 was issued; or

7 (ii) received the final order before attaining 18 years of age.

8 (2) WAIVER.—

9 (A) IN GENERAL.—The Secretary in the Secretary's discretion may waive, on a case-
10 by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of
11 section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and a
12 ground of deportability under paragraph (A), (B), (C), or (E) of section 237(a)(1) of
13 such Act (8 U.S.C. 1227(a)(1)) for humanitarian purposes or if such waiver is
14 otherwise in the public interest.

15 (B) QUARTERLY REPORT.—Not later than 180 days after the date of the enactment of
16 this Act, and quarterly thereafter, the Secretary shall submit a report to Congress that
17 identifies—

18 (i) the number of waivers under this paragraph that were requested by aliens
19 during the preceding quarter;

20 (ii) the number of such requests that were granted; and

21 (iii) the number of such requests that were denied.

22 (C) Judicial review. – Notwithstanding any other provision of law (statutory or
23 nonstatutory), including sections 2241 of title 28, United States Code, any other
24 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
25 jurisdiction to review a determination by the Secretary under subparagraph (A).

26 (3) PROCEDURES.—

27 (A) APPLICATION FOR AFFIRMATIVE RELIEF.—

28 (i) IN GENERAL.—The Secretary shall issue regulations that provide a procedure
29 for eligible individuals to affirmatively apply for the relief available under this
30 subsection without being placed in removal proceedings. Such regulations must
31 establish an end-date during which relief under this Act may be sought and may
32 not permit affidavits or sworn statements to be considered sufficient evidence to
33 establish any claim for relief under this Act.

34 (ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an
35 application for relief under this title that includes all supporting documentation, in
36 accordance with the regulations issued under clause (i).

37 (iii) Judicial review. – Notwithstanding any other provision of law (statutory or
38 nonstatutory), including sections 2241 of title 28, United States Code, any other
39 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
40 jurisdiction to review a determination by the Secretary under subparagraph (A).

1 (iv) Deadline for Application. — Applications shall be accepted by the Secretary
2 only during a one-year period beginning on the date that is one year from the date of
3 enactment of this Act.

4 (v) Fee. — the Secretary shall collect a fee from applicants set at a level that will
5 ensure recovery of the full costs of administering the process.

6
7 (B) ACKNOWLEDGMENT TO BARS TO RELIEF.—

8 (i) ACKNOWLEDGMENT OF NOTIFICATION.—The regulations issued pursuant to
9 subparagraph (A) shall include a requirement that each alien applying for
10 conditional permanent resident status under this title who is at least 18 years of
11 age sign, under penalty of perjury, an acknowledgment confirming that the alien
12 was notified and understands that he or she will be ineligible for any form of
13 relief or immigration benefit under this title or other immigration laws other than
14 withholding of removal under section 241(b)(3), or relief from removal based on
15 a claim under the Convention Against Torture and Other Cruel, Inhuman or
16 Degrading Treatment or Punishment, done at New York, December 10, 1984, if
17 the alien violates a term for conditional permanent resident status under this title.

18 (ii) EXCEPTION.—Notwithstanding an acknowledgment under clause (i), the
19 Secretary, in the Secretary's discretion, may allow an alien who violated the terms
20 of conditional permanent resident status (other than a criminal alien or an alien
21 deemed to be a national security or public safety risk) to seek relief from removal
22 if the Secretary determines that such relief is warranted for humanitarian purposes
23 or if otherwise in the public interest.

24 (iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory
25 or nonstatutory), including section 2241 of title 28, United States Code, any other
26 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall
27 have jurisdiction to review a determination by the Secretary under clause (i).

28 (4) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

29 (A) IN GENERAL.—The Secretary may not cancel the removal of, or grant
30 conditional permanent temporary resident status to, an alien under this title before the
31 date on which—

32 (i) the alien submits biometric and biographic data, in accordance with
33 procedures established by the Secretary; and

34 (ii) the Secretary receives and reviews the results of the background and
35 security checks of the alien under paragraph (5).

36 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
37 procedure for any applicant who is unable to provide the biometric or biographic data
38 referred to in subparagraph (A) due to a physical disability or impairment.

39 (5) BACKGROUND CHECKS.—

40 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize
41 biometric, biographic, and other data that the Secretary determines to be appropriate,

1 including information obtained pursuant to subparagraph (C)—

2 (i) to conduct security and law enforcement background checks of an alien
3 seeking relief under this subsection; and

4 (ii) to determine whether there is any criminal, national security, or other factor
5 that would render the alien ineligible for such relief.

6 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
7 background checks required under subparagraph (A) shall be completed, to the
8 satisfaction of the Secretary, before the date on which the Secretary cancels the
9 removal of an alien under this title.

10 (C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary
11 of State, shall seek to obtain information about any criminal activity the alien engaged
12 in, or for which the alien was convicted in his or her country of nationality, country of
13 citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any
14 other international or national law enforcement agency of the alien’s country of
15 nationality, country of citizenship, or country of last habitual residence.

16 (6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection
17 shall undergo a medical examination conducted by a designated civil surgeon pursuant to
18 procedures established by the Secretary.

19 (7) Interview. – The Secretary may conduct an in-person interview of each applicant for
20 conditional temporary resident status as part of the determination as to whether the alien
21 meets the eligibility requirements set forth in this section.

22 (78) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this
23 subsection shall establish that the alien has registered for the Selective Service under the
24 Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such
25 registration requirement under such Act.

26 (98) TREATMENT OF EXPUNGED CONVICTIONS.—

27 (A) IN GENERAL.—The Secretary shall evaluate expunged convictions on a case-by-
28 case basis according to the nature and severity of the offense to determine whether,
29 under the particular circumstances, an alien may be eligible for—

30 (i) conditional ~~permanent~~ temporary resident status under this title;

31 (ii) ~~removal of the conditional basis of adjustment to that of an alien lawfully~~
32 ~~admitted for the~~ permanent resident ~~cet~~ status under section 3005; or

33 (iii) adjustment to permanent resident status under this title.

34 (B) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or
35 nonstatutory), including section 2241 of title 28, United States Code, any other habeas
36 corpus provision, and sections 1361 and 1651 of such title, no court shall have
37 jurisdiction to review a determination by the Secretary under subparagraph (A).

38 (b) Termination of Continuous Period.—For purposes of this section, any period of continuous
39 residence or continuous physical presence in the United States of an alien who applies for
40 cancellation of removal under subsection (a) shall not terminate when the alien is served a notice

1 to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

2 (c) Treatment of Certain Breaks in Presence.—

3 (1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to
4 have failed to maintain continuous physical presence in the United States under subsection
5 (a)(1)(A) if the alien has departed from the United States for—

6 (A) any period exceeding 90 days; or

7 (B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

8 (2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the
9 periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to
10 timely return to the United States was due to exceptional circumstances. The exceptional
11 circumstances determined sufficient to justify an extension should be not less compelling
12 than the serious illness of the alien, or the death or serious illness of the alien's parent,
13 grandparent, sibling, or child.

14 (3) EXCEPTION FOR MILITARY SERVICE.—Any time spent outside of the United States that
15 is due to the alien's active service in the Armed Forces of the United States shall not be
16 counted towards the time limits set forth in paragraph (1).

17 (d) Rulemaking.—

18 (1) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this
19 Act, the Secretary shall publish regulations implementing this section.

20 (2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
21 the regulations required under paragraph (1) shall be effective, on an interim basis,
22 immediately upon publication but may be subject to change and revision after public notice
23 and opportunity for a period of public comment.

24 (3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim
25 regulations under paragraph (1), the Secretary shall publish final regulations implementing
26 this section.

27 (e) Removal of Alien.—The Secretary may not seek to remove an alien who establishes prima
28 facie eligibility for cancellation of removal and conditional permanent temporary resident status
29 under this title until the alien has been provided with a reasonable opportunity to file an
30 application for conditional permanent temporary resident status under this title.

31 **SEC. 3004. CONDITIONAL PERMANENT-TEMPORARY**
32 **RESIDENT STATUS.**

33 (a) Initial Length of Status.—Conditional permanent temporary resident status granted to an
34 alien under this title shall be valid—

35 (1) for an initial period of 7 years, subject to termination under subsection (c), if
36 applicable; and

37 (2) if the alien will not reach 18 years of age before the end of the period described in
38 paragraph (1), until the alien reaches 18 years of age.

39 (b) Terms of Conditional Permanent Temporary Resident Status.—

1 (1) EMPLOYMENT.—A conditional ~~permanent~~ temporary resident may—

2 (A) be employed in the United States incident to conditional ~~permanent~~ temporary
3 resident status under this title; and

4 (B) enlist in the Armed Forces of the United States in accordance with section
5 504(b)(1)(D) of title 10, United States Code.

6 (2) TRAVEL.—A conditional ~~temporary~~ permanent resident may travel outside the United
7 States and may be admitted (if otherwise admissible) upon returning to the United States
8 without having to obtain a visa if—

9 (A) the alien is the bearer of valid, unexpired documentary evidence of conditional
10 ~~temporary~~ permanent resident status under this title; and

11 (B) the alien's absence from the United States—

12 (i) was not for a period of 180 days or longer, or for multiple periods exceeding
13 180 days in the aggregate; or

14 (ii) was due to active service in the Armed Forces of the United States.

15 (c) Termination of Status.—The Secretary shall immediately terminate the conditional
16 ~~temporary~~ permanent resident status of an alien under this title—

17 (1) in the case of an alien who is 18 years of age or older, if the Secretary determines that
18 the alien is a postsecondary student who was admitted to an accredited institution of higher
19 education in the United States, but failed to enroll in such institution within 1 year after the
20 date on which the alien was granted conditional ~~temporary~~ permanent resident status under
21 this title or to remain so enrolled;

22 (2) in the case of an alien who is younger than 18 years of age, if the Secretary
23 determines that the alien enrolled in a primary or secondary school as a full-time student,
24 but has failed to attend such school for a period exceeding 1 year during the 7-year period
25 beginning on the date on which the alien was granted conditional ~~temporary~~ permanent
26 resident status under this title;

27 (3) in the case of an alien who was granted conditional ~~temporary~~ permanent resident
28 status under this title as an enlistee, if the alien—

29 (A) failed to complete basic training and begin active duty service or service in
30 Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United
31 States within 1 year after the date on which the alien was granted conditional
32 permanent resident status under this title; or

33 (B) has received a dishonorable or other than honorable discharge from the Armed
34 Forces of the United States;

35 (4) if the alien was granted conditional ~~temporary~~ permanent resident status under this
36 title as a result of fraud or misrepresentation;

37 (5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of
38 section 3003(a)(1);

39 (6) if the alien violated a term or condition of his or her conditional resident status;

1 (7) if the alien has become a public charge;

2 (8) if the alien has not maintained employment in the United States for a period of at least
3 1 year since the alien was granted conditional ~~temporary~~ permanent resident status under this
4 title and while the alien was not enrolled as a student in a postsecondary school or
5 institution of higher education or serving in the Armed Forces of the United States; or

6 (9) if the alien has not completed a combination of employment, military service, or
7 postsecondary school totaling 4862 months during the 7-year period beginning on the date
8 on which the alien was granted conditional ~~temporary~~ permanent resident status under this
9 title.

10 (d) Return to Previous Immigration Status.—The immigration status of an alien the
11 conditional ~~temporary~~ permanent resident status of whom is terminated under subsection (c)
12 shall return to the immigration status of the alien on the day before the date on which the alien
13 received conditional ~~temporary~~ permanent resident status under this title.

14 (e) Extension of Conditional ~~Temporary~~ Permanent Resident Status.—The Secretary shall
15 extend the conditional ~~temporary~~ permanent resident status of an alien granted such status under
16 this title for an additional 5 years beyond the period specified in subsection (a) if the alien—

17 (1) has demonstrated good moral character during the entire period the alien has been a
18 conditional ~~temporary~~ permanent resident under this title;

19 (2) is in compliance with section 3003(a)(1);

20 (3) has not abandoned the alien's residence in the United States by being absent from the
21 United States for a period of 180 days, or multiple periods of at least 180 days, in the
22 aggregate, during the period of conditional ~~temporary~~ permanent resident status under this
23 title, unless the absence was due to active service in the Armed Forces of the United States;

24 (4) does not have any delinquent tax liabilities;

25 (5) has not received any Federal public benefit; and

26 (6) while the alien has been a conditional ~~temporary~~ permanent resident under this title—

27 (A) has graduated from an accredited institution of higher education in the United
28 States;

29 (B) has attended an accredited institution of higher education in the United States on
30 a full-time basis postsecondary school for not less than 8 semesters;

31 (C)(i) has served as a member of a regular or reserve component of the Armed
32 Forces of the United States in an active duty status for at least 3 years; and

33 (ii) if discharged from such service, received an honorable discharge; or

34 (D) has for a cumulative total of not less than 48 months —

35 (i) attended an accredited institution of higher education in the United States on a
36 full-time basis a postsecondary school,

37 (ii) honorably served in the Armed Forces of the United States, or maintained
38 employment in the United States,

39 (iii) attended an accredited institution of higher education in the United States,

1 ~~honorably served in the Armed Forces of the United States, and otherwise maintained~~
2 ~~lawful employment in the United States for a cumulative total of not less than 48~~
3 ~~months.~~

4 SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR
5 ~~PERMANENT-TEMPORARY~~ RESIDENCE.

6 (a) In General.—An alien who has been a conditional ~~permanent-temporary~~ resident under this
7 title for at least 7 years may file an application with the Secretary, in accordance with subsection
8 (c), to ~~remove the conditional basis on~~ ~~adjust status to that of~~ ~~permanent residence and to have~~
9 ~~the alien's status adjusted to that of~~ an alien lawfully admitted for permanent residence. The
10 application shall include the required fee and shall be filed in accordance with the procedures
11 established by the Secretary.

12 (b) Adjudication of Application for Adjustment of Status.—

13 (1) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines
14 that an alien who filed an application under subsection (a) meets the requirements described
15 in subsection (d), the Secretary shall—

16 (A) notify the alien of such determination; and

17 (B) adjust the alien's status to that of an alien lawfully admitted for permanent
18 residence.

19 (2) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that an alien
20 who files an application under subsection (a) does not meet the requirements described in
21 subsection (d), the Secretary shall—

22 (A) notify the alien of such determination; and

23 (B) terminate the conditional ~~permanent-temporary~~ resident status of the alien.

24 (c) Time to File Application.—

25 (1) IN GENERAL.—Applications for adjustment of status described in subsection (a) shall
26 be filed during the period—

27 (A) beginning 180 days before the expiration of the 7-year period of conditional
28 ~~permanent-temporary~~ resident status under this title; and

29 (B) ending—

30 (i) 7 years after the date on which conditional ~~permanent-temporary~~ resident
31 status was initially granted to the alien under this title; or

32 (ii) after the conditional ~~temporary resident~~ ~~basis on such~~ status has been
33 ~~terminated~~ ~~removed~~.

34 (2) STATUS DURING PENDENCY.—An alien shall be deemed to be in conditional
35 permanent resident status in the United States during the period in which an application
36 filed by the alien under subsection (a) is pending.

37 (d) Contents of Application.—

38 (1) IN GENERAL.—Each application filed by an alien under subsection (a) shall contain

1 information to permit the Secretary to determine whether the alien—

2 (A) has been a conditional **permanent temporary** resident under this title for at least
3 7 years;

4 (B) has demonstrated good moral character during the entire period the alien has
5 been a conditional **permanent temporary** resident under this title;

6 (C) is in compliance with section 3003(a)(1); and

7 (D) has not abandoned the alien's residence in the United States.

8 (2) PRESUMPTIONS.—For purposes of paragraph (1)—

9 (A) the Secretary shall presume that an alien has abandoned the alien's residence in
10 the United States if the alien is absent from the United States for more than 365 days,
11 in the aggregate, during the period of conditional permanent resident status under this
12 title, unless the alien demonstrates that the alien has not abandoned the alien's
13 residence; and

14 (B) an alien who is absent from the United States due to active service in the Armed
15 Forces of the United States has not abandoned the alien's residence in the United
16 States during the period of such service.

17 (e) Citizenship Requirement.—

18 (1) IN GENERAL.—Except as provided in paragraph (2), an alien granted conditional
19 **permanent temporary** resident status under this title may not ~~have the conditional basis for~~
20 ~~permanent residency removed or~~ be adjusted to permanent resident status unless the alien
21 demonstrates to the satisfaction of the Secretary that the alien satisfies the requirements
22 under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)).

23 (2) EXCEPTION.—Paragraph (1) shall not apply to an alien whom the Secretary
24 determines is unable because of a physical or developmental disability or mental
25 impairment to meet the requirements of such paragraph. The Secretary, in coordination with
26 the Secretary of Health and Human Services and the Surgeon General, shall establish
27 procedures for making determinations under this subsection.

28 (f) Payment of Federal Taxes.—Not later than the date on which an application for adjustment
29 of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability
30 due and owing on such date **as determined and verified by the Internal Revenue Service,**
31 **notwithstanding section 6103 of title 26, United States Code, or any other law.**

32 (g) Submission of Biometric and Biographic Data.—

33 (1) IN GENERAL.—The Secretary may not adjust the status of an alien under this section
34 unless the alien submits biometric and biographic data, in accordance with procedures
35 established by the Secretary.

36 (2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for
37 an applicant who is unable to provide the biometric or biographic data referred to in
38 paragraph (1) due to a physical disability or impairment.

39 (h) Background Checks.—

40 (1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric,

1 biographic, and other data that the Secretary determines to be appropriate—

2 (A) to conduct security and law enforcement background checks of an alien
3 applying for adjustment of status under this section; and

4 (B) to determine whether there is any criminal, national security, or other factor that
5 would render the alien ineligible for such adjustment of status.

6 (2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
7 background checks required under paragraph (1) shall be completed with respect to an alien,
8 to the satisfaction of the Secretary, before the date on which the Secretary makes a decision
9 on the application for adjustment of status of the alien.

10 (i) Exemption From Numerical Limitations.—Nothing in this section or in any other law may
11 be construed to apply a numerical limitation on the number of aliens who may be eligible for
12 adjustment of status under this section.

13 (j) Treatment of Aliens Meeting Requirements for Extension of Conditional **Permanent**
14 **Temporary** Resident Status.—If an alien has satisfied all of the requirements under section
15 3003(a)(1) as of the date of enactment of this Act, the Secretary may cancel the removal of the
16 alien and permit the alien to apply for conditional **permanent-temporary** resident status under this
17 title. After the initial period of conditional **permanent-temporary** resident status described in
18 section 3004(a), the Secretary shall extend such alien's conditional **permanent-temporary** resident
19 status and permit the alien to apply for adjustment of status in accordance with subsection (a) if
20 the alien has met the requirements under section 3004(e) during the entire period of conditional
21 **permanent-temporary** resident status under this title.

22 SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS 23 GRANTED CONDITIONAL PERMANENT RESIDENT 24 STATUS.

25 Notwithstanding any other provision of law, **nothing in this title may be construed to provide**
26 **ano natural parent, prior adoptive parent, spouse, parent, child, or other family member of an**
27 **alien provided temporary or lawful permanent resident status granted conditional permanent**
28 **resident status or lawful permanent resident status shall thereafter, by virtue of parentage or**
29 **familial relationship, be accorded any right, privilege, or status under the immigration laws under**
30 **this title with any immigration benefit or special consideration for such relatives to be admitted**
31 **into or remain in the United States.**

32 SEC. 3007. EXCLUSIVE JURISDICTION.

33 (a) Secretary of Homeland Security.—Except as provided in subsection (b), the Secretary shall
34 have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of
35 deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties
36 delegated to the Secretary under this title. If a final order is entered before relief is granted under
37 this title, the Attorney General shall terminate such order only after the alien has been granted
38 conditional **permanent-temporary** resident status under this title.

39 (b) Attorney General.—The Attorney General shall have exclusive jurisdiction to determine
40 eligibility for relief under this title for any alien who has been placed into deportation, exclusion,

1 or removal proceedings, whether such placement occurred before or after the alien filed an
2 application for cancellation of removal and conditional permanent resident status or adjustment
3 of status under this title. Such exclusive jurisdiction shall continue until such proceedings are
4 terminated.

5 SEC. 3008. CONFIDENTIALITY OF INFORMATION.

6 (a) Prohibition.—Except as provided in subsection (b), an officer or employee of the United
7 States may not—

8 (1) use the information provided by an individual pursuant to an application filed under
9 this title to initiate removal proceedings against any person identified in the application;

10 (2) make any publication whereby the information provided by any particular individual
11 pursuant to an application under this title can be identified; or

12 (3) permit anyone other than an officer or employee of the United States Government to
13 examine such application filed under this title.

14 (b) Required Disclosure.—The Attorney General or the Secretary shall disclose the
15 information provided by an individual under this title and any other information derived from
16 such information to—

17 (1) a Federal, State, Tribal, or local law enforcement agency, intelligence agency,
18 national security agency, component of the Department of Homeland Security, court, or
19 grand jury in connection with an administrative, civil, or criminal investigation or
20 prosecution, a background check conducted pursuant to the Brady Handgun Violence
21 Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act,
22 or for homeland security or national security purposes, if such information is requested by
23 such entity or consistent with an information sharing agreement or mechanism;

24 (2) an official coroner for purposes of affirmatively identifying a deceased individual
25 (whether or not such individual is deceased as a result of a crime); or

26 (3) the Bureau of the Census in the same manner and circumstances as the information
27 may be disclosed under section 8 of title 13, United States Code.

28 (c) Fraud in Application Process or Criminal Conduct.—Nothing in this section may be
29 construed to prevent the disclosure and use of information provided by an alien under this title to
30 determine whether an alien seeking relief under this title has engaged in fraud in an application
31 for such relief or at any time committed a crime from being used or released for immigration
32 enforcement, law enforcement, or national security purposes.

33 (d) Subsequent Applications for Immigration Benefits.—The Secretary may use the
34 information provided by an individual pursuant to an application filed under this title to
35 adjudicate an application, petition, or other request for an immigration benefit made by the
36 individual on a date after the date on which the individual filed the application under this title.

37 (e) Penalty.—Any person who knowingly uses, publishes, or permits information to be
38 examined in violation of this section shall be fined not more than \$10,000.

39 SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR

1 CONDITIONAL PERMANENT-TEMPORARY RESIDENTS.

2 An individual who has met the requirements under section 3005 for adjustment from
3 conditional permanent-temporary resident status to lawful permanent resident status shall be
4 considered, as of the date of such adjustment, to have completed the 5-year eligibility waiting
5 period under section 403 of the Personal Responsibility and Work Opportunity Reconciliation
6 Act of 1996 (8 U.S.C. 1613).

7 SEC. 3010. GAO REPORT.

8 Not later than 7 years 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 and the
10 Committee on the Judiciary of the House of Representatives that sets forth—

11 (1) the number of aliens who were eligible for cancellation of removal and grant of
12 conditional permanent-temporary resident status under section 3003(a);

13 (2) the number of aliens who applied for cancellation of removal and grant of conditional
14 permanent-temporary resident status under section 3003(a);

15 (3) the number of aliens who were granted conditional permanent-temporary resident
16 status under section 3003(a); and

17 (4) the number of aliens whose status was adjusted to that of an alien lawfully admitted
18 for permanent residence pursuant to section 3005.

19 SEC. 3011. MILITARY ENLISTMENT.

20 Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the
21 following:

22 “(D) An alien who is a conditional permanent-temporary resident (as defined in
23 section 3002 of the SUCCEED Act).”.

24 SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

25 Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8
26 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of
27 an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2
28 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years
29 after such adjustment of status.

30 SEC. 3013. FUNDING.

31 (a) Department of Homeland Security Immigration Reform Implementation Account.—

32 (1) IN GENERAL.—There is established in the Treasury a separate account, which shall be
33 known as the “Department of Homeland Security Immigration Reform Implementation
34 Account” (referred to in this section as the “Implementation Account”).

35 (2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the
36 Implementation Account, out of any funds in the Treasury not otherwise appropriated,
37 \$400,000,000, which shall remain available until September 30, 2022.

1 (3) USE OF APPROPRIATIONS.—The Secretary is authorized to use funds appropriated to
2 the Implementation Account to pay for one-time and startup costs necessary to implement
3 this title, including, but not limited to—

4 (A) personnel required to process applications and petitions;

5 (B) equipment, information technology systems, infrastructure, and human
6 resources;

7 (C) outreach to the public, including development and promulgation of any
8 regulations, rules, or other public notice; and

9 (D) anti-fraud programs and actions related to implementation of this title.

10 (4) REPORTING.—Not later than 180 days after the date of the enactment of this Act, the
11 Secretary shall submit a plan to the Committee on Appropriations of the Senate, the
12 Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of
13 Representatives, and the Committee on the Judiciary of the House of Representatives for
14 spending the funds appropriated under paragraph (2) that describes how such funds will be
15 obligated in each fiscal year, by program.

16 (b) Deposit and Use of Processing Fees.—

17 (1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration
18 and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be
19 deposited monthly in the general fund of the Treasury until the funding provided by
20 subsection (a)(2) has been repaid.

21 (2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected under
22 this title in excess of the amount referenced in paragraph (1) shall be deposited in the
23 Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and
24 Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to
25 section 286(n) of such Act (8 U.S.C. 1356(n)).

26 TITLE IV—ENSURING FAMILY REUNIFICATION

27 SEC. 4001. SHORT TITLE.

28 This title may be cited as the “Ensuring Family Reunification Act of 2018”.

29 SEC. 4002. FAMILY-SPONSORED IMMIGRATION 30 PRIORITIES.

31 (a) Redefinition of Immediate Relative.—The Immigration and Nationality Act (8 U.S.C.
32 1101 et seq.) is amended—

33 (1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking “under
34 twenty-one years of age who” and inserting “who is younger than 18 years of age and”; and

35 (2) in section 201 (8 U.S.C. 1151)—

36 (A) in subsection (b)(2)(A)—

37 (i) in clause (i), by striking “children, spouses, and parents of a citizen of the

1 United States, except that, in the case of parents, such citizens shall be at least 21
2 years of age.” and inserting “children and spouse of a citizen of the United
3 States.”; and

4 (ii) in clause (ii), by striking “such an immediate relative” and inserting “the
5 immediate relative spouse of a United States citizen”;

6 (B) by amending subsection (c) to read as follows:

7 “(c) Worldwide Level of Family-Sponsored Immigrants.—(1) The worldwide level of family-
8 sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000
9 minus the number computed under paragraph (2).

10 “(2) The number computed under this paragraph for a fiscal year is the number of aliens who
11 were paroled into the United States under section 212(d)(5) in the second preceding fiscal year
12 who—

13 “(A) did not depart from the United States (without advance parole) within 1 year; and

14 “(B)(i) did not acquire the status of an alien lawfully admitted to the United States for
15 permanent residence during the 2 preceding fiscal years; or

16 “(ii) acquired such status during such period under a provision of law (other than
17 subsection (b)) that exempts adjustment to such status from the numerical limitation on the
18 worldwide level of immigration under this section.”; and

19 (C) in subsection (f)—

20 (i) in paragraph (2), by striking “section 203(a)(2)(A)” and inserting “section
21 203(a)”;

22 (ii) by striking paragraph (3);

23 (iii) by redesignating paragraph (4) as paragraph (3); and

24 (iv) in paragraph (3), as redesignated, by striking “(1) through (3)” and
25 inserting “(1) and (2)”.

26 (b) Family-Based Visa Preferences.—Section 203(a) of the Immigration and Nationality Act
27 (8 U.S.C. 1153(a)) is amended to read as follows:

28 “(a) Spouses and Minor Children of Permanent Resident Aliens.—Family-sponsored
29 immigrants described in this subsection are qualified immigrants who are the spouse or a child of
30 an alien lawfully admitted for permanent residence.”.

31 (c) Conforming Amendments.—

32 (1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and
33 Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking “section 203(a)(2)(A)”
34 each place such term appears and inserting “section 203(a)”.

35 (2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8
36 U.S.C. 1152) is amended—

37 (A) in subsection (a)(4)—

38 (i) by striking subparagraphs (A) and (B) and inserting the following:

1 “(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY
2 LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal
3 year, 75 percent shall be issued without regard to the numerical limitation under
4 paragraph (2).

5 “(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO
6 SUBSECTION (E).—

7 “(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in
8 any fiscal year, 25 percent shall be available, in the case of a foreign state or
9 dependent area that is subject to subsection (e) only to the extent that the total
10 number of visas issued in accordance with subparagraph (A) to natives of the
11 foreign state or dependent area is less than the subsection (e) ceiling.

12 “(ii) SUBSECTION (E) CEILING DEFINED.—In clause (i), the term ‘subsection (e)
13 ceiling’ means, for a foreign state or dependent area, 77 percent of the maximum
14 number of visas that may be made available under section 203(a) to immigrants
15 who are natives of the state or area, consistent with subsection (e).’; and

16 (ii) by striking subparagraphs (C) and (D); and

17 (B) in subsection (e)—

18 (i) in paragraph (1), by adding “and” at the end;

19 (ii) by striking paragraph (2);

20 (iii) by redesignating paragraph (3) as paragraph (2); and

21 (iv) in the undesignated matter after paragraph (2), as redesignated, by striking
22 “, respectively,” and all that follows and inserting a period.

23 (3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 203(h)
24 of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by striking
25 “(a)(2)(A)” each place such term appears and inserting “(a)(2)”.

26 (4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C.
27 1154) is amended—

28 (A) in subsection (a)(1)—

29 (i) in subparagraph (A)(i), by striking “to classification by reason of a
30 relationship described in paragraph (1), (3), or (4) of section 203(a) or”;

31 (ii) in subparagraph (B), by striking “203(a)(2)(A)” each place such term
32 appears and inserting “203(a)”; and

33 (iii) in subparagraph (D)(i)(I), by striking “a petitioner” and all that follows
34 through “(a)(1)(B)(iii).” and inserting “an individual younger than 21 years of age
35 for purposes of adjudicating such petition and for purposes of admission as an
36 immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant
37 under section 203(a), as appropriate, notwithstanding the actual age of the
38 individual.”;

39 (B) in subsection (f)(1), by striking “, 203(a)(1), or 203(a)(3), as appropriate”; and

1 (C) by striking subsection (k).

2 (5) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act
3 (8 U.S.C. 1182) is amended—

4 (A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section
5 203(a)”; and

6 (B) in subsection (d)(11), by striking “(other than paragraph (4) thereof)”.

7 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C.
8 1184(q)(1)(B)(i)) is amended by striking “section 203(a)(2)(A)” each place such term
9 appears and inserting “section 203(a)”.

10 (7) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C.
11 1186a(h)(1)(C)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

12 (8) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C.
13 1227(a)(1)(E)(ii)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.

14 (d) Creation of Nonimmigrant Classification for Alien Parents of Adult United States
15 Citizens.—

16 (1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
17 1101(a)(15)) is amended—

18 (A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a
19 semicolon;

20 (B) in subparagraph (U)(iii), by striking “or” at the end;

21 (C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”;
22 and

23 (D) by adding at the end the following:

24 “(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States,
25 if the citizen is at least 21 years of age.”.

26 (2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8
27 U.S.C. 1184) is amended by adding at the end the following:

28 “(s)(1) The initial period of authorized admission for a nonimmigrant described in section
29 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for
30 additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still
31 residing in the United States.

32 “(2) A nonimmigrant described in section 101(a)(15)(W)—

33 “(A) is not authorized to be employed in the United States; and

34 “(B) is not eligible for any Federal, State, or local public benefit.

35 “(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the
36 United States citizen son or daughter who sponsored the nonimmigrant parent shall be
37 responsible for the nonimmigrant’s support while the nonimmigrant resides in the United States.

38 “(4) An alien is ineligible to receive a visa or to be admitted into the United States as a

1 nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof
2 that the United States citizen son or daughter has arranged for health insurance coverage for the
3 alien, at no cost to the alien, during the anticipated period of the alien's residence in the United
4 States.”.

5 (e) Effective Date; Applicability.—

6 (1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date
7 of enactment of this Act.

8 (2) NEW PETITIONS.—

9 (A) IN GENERAL.—The Director of U. S. Citizenship and Immigration Services shall
10 only accept new family-based petitions for spouses and minor children of United States
11 citizens and lawful permanent residents under—

12 (i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C.
13 1151(b)(1)(A)); or

14 (ii) subsection (a) or (b) of section 203 of such Act (8 U.S.C. 1153).

15 (B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services may
16 not accept any new family-based petition other than a petition described in
17 subparagraph (A).

18 (3) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the termination by this
19 title of the family-sponsored immigrant visa categories under section 203(a) of the
20 Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of
21 enactment of this Act), the amendments made by this section shall not apply, and visas shall
22 remain available to, any alien who has—

23 (A) an approved family-based petition that has not been terminated or revoked, or

24 (B) a properly-filed family-based petition that is—

25 (i) pending with U.S. Citizenship and Immigration Services; and

26 (ii) based on subsection (a) of section 203 of the Immigration and Nationality
27 Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this
28 Act).

29 (4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall
30 continue to allocate a sufficient number of visas in family-sponsored immigrant visa
31 categories until the date on which a visa has been made available, in conformance with the
32 numeric and per country limitations in effect on the day before the date of enactment of this
33 Act, to each beneficiary of an approved or pending petition described in subparagraph (A)
34 or (B) of paragraph (3), if the beneficiary—

35 (A) indicates an intent to pursue the immigrant visa not later than 1 year after the
36 date on which the Secretary of State notifies the beneficiary of the availability of the
37 visa; and

38 (B) is otherwise qualified to receive a visa under this Act.

39 (f) Termination of Registration.—Section 203(g) of the Immigration and Nationality Act (8
40 U.S.C. 1153(g)) is amended—

- 1 (1) by striking the second sentence;
2 (2) by striking the subsection designation and heading and all that follows through “For
3 purposes” in the first sentence and inserting the following:

4 “(g) Lists.—

5 “(1) IN GENERAL.—For purposes”; and

6 (3) by adding at the end the following:

7 “(2) TERMINATION OF REGISTRATION.—

8 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State
9 shall terminate the registration of any alien who fails to apply for an immigrant visa
10 within the 1-year period beginning on the date on which the Secretary of State notifies
11 the alien of the availability of the immigrant visa.

12 “(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an
13 alien under subparagraph (A) if the alien demonstrates that the failure of the alien to
14 apply for an immigrant visa during the period described in that subparagraph was due
15 to an extenuating circumstance beyond the control of the alien.”.

16 SEC. 4003. ELIMINATION OF DIVERSITY VISA 17 PROGRAM.

18 (a) In General.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is
19 amended—

20 (1) by striking subsection (c);

21 (2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f),
22 and (g), respectively;

23 (3) in subsection (c), as redesignated, by striking “subsection (a), (b), or (c)” and inserting
24 “subsection (a) or (b)”;

25 (4) in subsection (d), as redesignated—

26 (A) by striking paragraph (2); and

27 (B) by redesignating paragraph (3) as paragraph (2);

28 (5) in subsection (e), as redesignated, by striking “subsection (a), (b), or (c) of this
29 section” and inserting “subsection (a) or (b)”;

30 (6) in subsection (f), as redesignated, by striking “subsections (a), (b), and (c)” and
31 inserting “subsections (a) and (b)”;

32 (7) in subsection (g), as redesignated—

33 (A) by striking “(d)” each place it appears and inserting “(c)”;

34 (B) in paragraph (2)(B), by striking “subsection (a), (b), or (c)” and inserting
35 “subsection (a) or (b)”.

36 (b) Technical and Conforming Amendments.—

1 (1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8
2 U.S.C. 1101 et seq.) is amended—

3 (A) in section 101(a)(15)(V), by striking “section 203(d)” and inserting “section
4 203(c)”;

5 (B) in section 201—

6 (i) in subsection (a)—

7 (I) in paragraph (1), by adding “and” at the end;

8 (II) in paragraph (2), by striking “; and” and inserting a period; and

9 (III) by striking paragraph (3);

10 (ii) by striking subsection (e); and

11 (iii) by redesignating subsection (f) as subsection (e);

12 (C) in section 203(b)(2)(B)(ii)(IV), by striking “section 203(b)(2)(B)” each place
13 such term appears and inserting “clause (i)”;

14 (D) in section 204—

15 (i) in subsection (a)(1)—

16 (I) by striking subparagraph (I); and

17 (II) by redesignating subparagraphs (J) through (L) as subparagraphs (I)
18 through (K), respectively;

19 (ii) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and
20 inserting “subsection (a) or (b) of section 203”; and

21 (iii) in subsection (l)(2)—

22 (I) in subparagraph (B), by striking “section 203 (a) or (d)” and inserting
23 “subsection (a) or (c) of section 203”; and

24 (II) in subparagraph (C), by striking “section 203(d)” and inserting
25 “section 203(c)”;

26 (E) in section 214(q)(1)(B)(i), by striking “section 203(d)” and inserting “section
27 203(c)”;

28 (F) in section 216(h)(1), in the undesignated matter following subparagraph (C), by
29 striking “section 203(d)” and inserting “section 203(c)”;

30 (G) in section 245(i)(1)(B), by striking “section 203(d)” and inserting “section
31 203(c)”.

32 ~~(2) IMMIGRANT INVESTOR PILOT PROGRAM.—Section 610(d) of the Departments of~~
33 ~~Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act,~~
34 ~~1993 (Public Law 102–395) is amended by striking “section 203(e) of such Act (8 U.S.C.~~
35 ~~1153(e))” and inserting “section 203(d) of such Act (8 U.S.C. 1153(d))”.~~

36 (c) Effective Date.—The amendments made by this section shall take effect on the first day of
37 the first fiscal year beginning on or after the date of the enactment of this Act.

1 (d) Reallocation of Visas; Grandfathered Petitions.—

2 (1) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this
3 section of the diversity visa program described in sections 201(e) and 203(c) of the
4 Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before
5 the date of enactment of this Act), the amendments made by this section shall not apply, and
6 visas shall remain available, to any alien whom the Secretary of State has selected to
7 participate in the diversity visa lottery for fiscal year 2018.

8 (2) REALLOCATION OF VISAS.—

9 (A) REALLOCATION.—

10 (i) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on
11 which the number of visas allocated for aliens who qualify for visas under the
12 Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8
13 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make
14 available the annual allocation of diversity visas as follows:

15 (I) 25,000 visas shall be made available to aliens who have an approved
16 family-based petition based on section 203(a) of the Immigration and
17 Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or revoked
18 as of the date of enactment of this Act.

19 (II) 25,000 visas shall be made available to qualified aliens who have an
20 approved employment-based petition based on paragraphs (1), (2), or (3) of
21 section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153) that
22 has not been terminated or revoked as of the date of enactment of this Act.

23 (ii) NACARA VISAS.—On the exhaustion of 5,000 visas made available under
24 the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–
25 100; 8 U.S.C. 1153 note), the remainder of the visas made available under that
26 Act shall be equally divided and added to the visas provided under subclauses (I)
27 and (II) of clause (i).

28 (B) NOTIFICATION.—

29 (i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation
30 with the Secretary of State, shall publish a notice in the Federal Register to notify
31 affected aliens with respect to—

32 (I) the availability of visas under subparagraph (A);

33 (II) the manner in which the visas shall be allocated.

34 (ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the
35 monthly visa bulletin of the Department of State with respect to—

36 (I) the availability of visas under subparagraph (A);

37 (II) the manner in which the visas shall be allocated.

38 TITLE V—OTHER MATTERS

39 SEC. 5001. OTHER IMMIGRATION AND NATIONALITY

1 ACT AMENDMENTS.

2 (a) Notice of Address Change.—Section 265(a) of the Immigration and Nationality Act (8
3 U.S.C. 1305(a)) is amended to read as follows:

4 “(a) Each alien required to be registered under this Act who is physically present in the United
5 States shall notify the Secretary of Homeland Security of each change of address and new
6 address not later than 10 days after the date of such change and shall furnish such notice in the
7 manner prescribed by the Secretary.”.

8 (b) Photographs for Naturalization Certificates.—Section 333 of the Immigration and
9 Nationality Act (8 U.S.C. 1444) is amended—

10 (1) in subsection (b)—

11 (A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

12 (B) by inserting “(1)” after “(b)”; and

13 (C) by striking the undesignated matter at the end and inserting the following:

14 “(2) Of the photographs furnished pursuant to paragraph (1)—

15 “(A) 1 shall be affixed to each certificate issued by the Attorney General; and

16 “(B) 1 shall be affixed to the copy of such certificate retained by the Department.”; and

17 (2) by adding at the end the following:

18 “(c) The Secretary may modify the technical requirements under this section in the Secretary’s
19 discretion and as the Secretary may consider necessary to provide for photographs to be
20 furnished and used in a manner that is efficient, secure, and consistent with the latest
21 developments in technology.”.

22 SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE 23 PROCEDURE ACT.

24 Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States
25 Code (commonly known as the “Freedom of Information Act” (5 U.S.C. 522)), and section 552a
26 of such title (commonly known as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title 5, United
27 States Code (commonly known as the “Administrative Procedures Act”), and any other law
28 relating to rulemaking, information collection, or publication in the Federal Register, shall not
29 apply to any action to implement this Act or the amendments made by this Act, to the extent the
30 Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that
31 compliance with any such law would impede the expeditious implementation of this Act or the
32 amendments made by this Act.

33 SEC. 5003. EXEMPTION FROM THE PAPERWORK 34 REDUCTION ACT.

35 (1) Chapter 35 of title 44, United States Code, shall not apply to any action to implement this
36 Act or the amendments made by this Act to the extent the Secretary of Homeland Security,
37 the Secretary of State, or the Attorney General determines that compliance with such law

1 would impede the expeditious implementation of this Act or the amendments made by this
2 Act.

3 (2) The exemption provided under this section shall sunset no later than three years after the
4 date of enactment of this title, provided that, such sunset shall not be construed to impose
5 any requirements on, or affect the validity of, any rule issued or other action taken by the
6 Secretary under such exemptions.

7 **SEC. 5004. EXEMPTION FROM GOVERNMENT**
8 **CONTRACTING AND HIRING RULES.—**

9 (1) Competition Requirements. – For purposes of implementing this title, the competition
10 requirements of 41 U.S.C. § 253(a) shall not apply. The agency's determination under 41 USC
11 § 253(c) is not subject to challenge by protest to either the Government Accountability Office,
12 under 31 U.S.C. §§ 3551-3556, or to the Court of Federal Claims, under 28 U.S.C. § 1491.
13 An agency shall immediately advise the Congress of the exercise of the authority granted in
14 this subsection.

15 (2) Contracting. – Notwithstanding any other provision of law, the Department of Homeland
16 Security may enter into contracts for the purpose of implementing the programs described in
17 this title in advance of the receipt of any fees imposed on any beneficiary or petitioner for
18 benefits under this title. The Department shall not exceed the amount necessary to defray the
19 cost of the programs.

20 (3) Notice to Congress. – The Secretary of Homeland Security shall immediately advise the
21 Congress of the exercise of the authority granted in subsection (b) of this section, and shall
22 report quarterly on the estimated obligations incurred pursuant to the authority granted in
23 subsection (b) of this section.

24 (4) Appointments. – Notwithstanding any other provision of law, the Secretary of Homeland
25 Security shall have authority to make term, temporary limited, and part-time appointments
26 without regard to the number of such employees, their ratio to permanent full-time employees,
27 and the duration of their employment. Nothing in 5 U.S.C., Chapter 71, shall affect the
28 authority of any Department of Homeland Security management official to hire term,
29 temporary limited or part-time employees under this subsection.

30 **SEC. 500~~5~~4. ABILITY TO FILL AND RETAIN**
31 **DEPARTMENT OF HOMELAND SECURITY POSITIONS**
32 **IN UNITED STATES TERRITORIES.**

33 (a) In General.—Section 530C of title 28, United States Code, is amended—

34 (1) in subsection (a), in the matter preceding paragraph (1)—

35 (A) by inserting “or the Department of Homeland Security” after “Department of
36 Justice”; and

37 (B) by inserting “or the Secretary of Homeland Security” after “Attorney General”;

38 (2) in subsection (b)—

1 (A) in paragraph (1)—

2 (i) in the matter preceding subparagraph (A), by inserting “or to the Secretary
3 of Homeland Security” after “Attorney General”; and

4 (ii) in subparagraph (K)—

5 (I) in clause (i)—

6 (aa) by inserting “or within United States territories or
7 commonwealths” after “outside United States”; and

8 (bb) by inserting “or the Secretary of Homeland Security” after
9 “Attorney General”;

10 (II) in clause (ii), by inserting “or the Secretary of Homeland Security”
11 after “Attorney General”;

12 (B) in paragraph (2)—

13 (i) in subparagraph (A), by striking “for the Drug Enforcement Administration,
14 and for the Immigration and Naturalization Service” and inserting “and for the
15 Drug Enforcement Administration”; and

16 (ii) in subparagraph (B), in the matter preceding clause (i), by striking “the
17 Immigration and Naturalization Service” and inserting “the Department of
18 Homeland Security”;

19 (C) in paragraph (5), by striking “IMMIGRATION AND NATURALIZATION SERVICE.—
20 Funds available to the Attorney General” and replacing with “DEPARTMENT OF
21 HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security”; and

22 (D) in paragraph (7)—

23 (i) by inserting “or the Secretary of Homeland Security” after “Attorney
24 General”; and

25 (ii) by striking “the Immigration and Naturalization Service” and inserting
26 “U.S. Immigration and Customs Enforcement”; and

27 (3) in subsection (d), by inserting “or the Department of Homeland Security” after
28 “Department of Justice”.

29 **SEC. 500~~65~~. SEVERABILITY.**

30 If any provision of this Act or any amendment made by this Act, or any application of such
31 provision or amendment to any person or circumstance, is held to be unconstitutional, the
32 remainder of the provisions of this Act and the amendments made by this Act and the application
33 of the provision or amendment to any other person or circumstance shall not be affected.

34 **SEC. 500~~76~~. FUNDING.**

35 (a) Implementation.—The Director of the Office of Management and Budget shall determine
36 and identify—

37 (1) the appropriation accounts which have unobligated funds that could be rescinded and

1 used to fund the provisions of this Act; and

2 (2) the amount of the rescission that shall be applied to each such account.

3 (b) Report.—Not later than 60 days after the date of enactment of this Act, the Director of the
4 Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury
5 a report that describes the accounts and amounts determined and identified for rescission
6 pursuant to subsection (a).

7 (c) Exceptions.—This section shall not apply to unobligated funds of—

8 (1) the Department of Homeland Security;

9 (2) the Department of Defense; or

10 (3) the Department of Veterans Affairs.

11 TITLE VI—TECHNICAL AMENDMENTS

12 SEC. 6001. REFERENCES TO THE IMMIGRATION AND 13 NATIONALITY ACT.

14 Except as otherwise expressly provided, whenever in this title an amendment or repeal is
15 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
16 shall be considered to be made to a section or other provision of the Immigration and Nationality
17 Act (8 U.S.C. 1101 et seq.).

18 SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF 19 THE IMMIGRATION AND NATIONALITY ACT.

20 (a) Section 101.—

21 (1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as
22 follows:

23 “(8) The term ‘Department’ means the Department of Homeland Security.”.

24 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

25 (A) in subparagraph (F)(i)—

26 (i) by striking the term “Attorney General” each place that term appears and
27 inserting “Secretary”; and

28 (ii) by striking “214(l)” and inserting “214(m)”;

29 (B) in subparagraph (H)(i)—

30 (i) in subclause (b), by striking “certifies to the Attorney General that the
31 intending employer has filed with the Secretary” and inserting “certifies to the
32 Secretary of Homeland Security that the intending employer has filed with the
33 Secretary of Labor”; and

34 (ii) in subclause (c), by striking “certifies to the Attorney General” and
35 inserting “certifies to the Secretary of Homeland Security”; and

1 (C) in subparagraph (M)(i), by striking the term “Attorney General” each place that
2 term appears and inserting “Secretary”.

3 (3) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
4 striking “Service or of the United States designated by the Attorney General,” and inserting
5 “Department or of the United States designated by the Secretary,”.

6 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as
7 follows:

8 “(34) The term ‘Secretary’ means the Secretary of Homeland Security, except as provided in
9 section 219(d)(4).”.

10 (5) SPECIAL IMMIGRANT.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
11 amended by adding “; or” at the end.

12 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPACITY.—Section 101(a)(44)(C) (8 U.S.C.
13 1101(a)(44)(C)) is amended by striking “Attorney General” and inserting “Secretary”.

14 (7) ORDER OF REMOVAL.—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended
15 to read as follows:

16 “(A) The term ‘order of removal’ means the order of the immigration judge, or other such
17 administrative officer to whom the Attorney General or the Secretary has delegated the
18 responsibility for determining whether an alien is removable, concluding that the alien is
19 removable or ordering removal.”.

20 (8) TITLE I AND II DEFINITIONS.—Section 101(b) (8 U.S.C. 1101(b)) is amended—

21 (A) in paragraph (1)(F)(i), by striking “Attorney General” and inserting “Secretary”;
22 and

23 (B) in paragraph (4), by striking “Immigration and Naturalization Service.” and
24 inserting “Department.”.

25 (b) Section 103.—

26 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by striking the section
27 heading and subsection (a)(1) and inserting the following:

28 **“SEC. 103. POWERS AND DUTIES.**

29 “(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and
30 all other laws relating to the immigration and naturalization of aliens, except insofar as this Act
31 or such laws relate to the powers, functions, and duties conferred upon the President, the
32 Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health
33 and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of
34 the Department of State, or diplomatic or consular officers. A determination and ruling by the
35 Attorney General with respect to all questions of law shall be controlling.”.

36 (2) TECHNICAL AND CONFORMING CORRECTIONS.—Section 103 (8 U.S.C. 1103), as
37 amended by paragraph (1), is further amended—

38 (A) in subsection (a)—

39 (i) in paragraph (2), by striking “He” and inserting “The Secretary”;

- 1 (ii) in paragraph (3)—
2 (I) by striking “He” and inserting “The Secretary”;
3 (II) by striking “he” and inserting “the Secretary”; and
4 (III) by striking “his authority” and inserting “the authority of the
5 Secretary”;
- 6 (iii) in paragraph (4)—
7 (I) by striking “He” and inserting “The Secretary”; and
8 (II) by striking “Service or the Department of Justice” and insert the
9 “Department”;
- 10 (iv) in paragraph (5)—
11 (I) by striking “He” and inserting “The Secretary”;
12 (II) by striking “his discretion,” and inserting “the discretion of the
13 Secretary,” and
14 (III) by striking “him” and inserting “the Secretary”;
- 15 (v) in paragraph (6)—
16 (I) by striking “He” and inserting “The Secretary”;
17 (II) by striking “Department” and inserting “agency, department,”; and
18 (III) by striking “Service.” and inserting “Department or upon consular
19 officers with respect to the granting or refusal of visas”;
- 20 (vi) in paragraph (7)—
21 (I) by striking “He” and inserting “The Secretary”;
22 (II) by striking “countries;” and inserting “countries”;
23 (III) by striking “he” and inserting “the Secretary”; and
24 (IV) by striking “his judgment” and inserting “the judgment of the
25 Secretary”;
- 26 (vii) in paragraph (8), by striking “Attorney General” and inserting “Secretary”;
27 (viii) in paragraph (10), by striking “Attorney General” each place that term
28 appears and inserting “Secretary”; and
29 (ix) in paragraph (11), by striking “Attorney General,” and inserting
30 “Secretary,”;
- 31 (B) by amending subsection (c) to read as follows:
32 “(c) Secretary; Appointment.—The Secretary shall be a citizen of the United States and shall
33 be appointed by the President, by and with the advice and consent of the Senate. The Secretary
34 shall be charged with any and all responsibilities and authority in the administration of the
35 Department and of this Act. The Secretary may enter into cooperative agreements with State and
36 local law enforcement agencies for the purpose of assisting in the enforcement of the

1 immigration laws.”;

2 (C) in subsection (e)—

3 (i) in paragraph (1), by striking “Commissioner” and inserting “Secretary”; and

4 (ii) in paragraph (2), by striking “Service” and inserting “U.S. Citizenship and
5 Immigration Services”;

6 (D) in subsection (f)—

7 (i) by striking “Attorney General” and inserting “Secretary”;

8 (ii) by striking “Immigration and Naturalization Service” and inserting
9 “Department”; and

10 (iii) by striking “Service,” and inserting “Department,”; and

11 (E) in subsection (g)(1), by striking “Immigration Reform, Accountability and
12 Security Enhancement Act of 2002” and inserting “Homeland Security Act of 2002
13 (Public Law 107–296; 116 Stat. 2135)”.

14 (3) CLERICAL AMENDMENT.—The table of contents in the first section is amended by
15 striking the item relating to section 103 and inserting the following:

16 “Sec.103.Powers and duties.”.

17 (c) Section 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking “Commissioner”
18 each place that term appears and inserting “Secretary”.

19 SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF 20 THE IMMIGRATION AND NATIONALITY ACT.

21 (a) Section 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting “the
22 Secretary or” after “the authority of”.

23 (b) Section 203.—Section 203 (8 U.S.C. 1153) is amended—

24 (1) in subsection (b)(2)(B)(ii)—

25 (A) in subclause (II)—

26 (i) by inserting “the Secretary or” before “the Attorney General”; and

27 (ii) by moving such subclause 4 ems to the left; and

28 (B) by moving subclauses (III) and (IV) 4 ems to the left; and

29 (2) in subsection (f) (as redesignated by section 4003(a)(2))—

30 (A) by striking “Secretary’s” and inserting “Secretary of State’s”; and

31 (B) by inserting “of State” after “but the Secretary”.

32 (c) Section 204.—Section 204 (8 U.S.C. 1154) is amended—

33 (1) in subsection (a)(1)(G)(ii), by inserting “of State” after “by the Secretary”;

34 (2) in subsection (c), by inserting “the Secretary or” before “the Attorney General” each
35 place that term appears; and

- 1 (3) in subsection (e), by inserting “to” after “admitted”.
- 2 (d) Section 208.—Section 208 (8 U.S.C. 1158) is amended—
- 3 (1) in subsection (a)(2)—
- 4 (A) by inserting “the Secretary or” before “Attorney General” in subparagraph (A);
- 5 (B) by inserting “the Secretary or” before “Attorney General” in subparagraph (D);
- 6 (2) in subsection (b)(2)—
- 7 (A) in subparagraph (B)(ii), by inserting “the Secretary or” before “Attorney
- 8 General”;
- 9 (B) in subparagraph (C), by inserting “the Secretary or” before “Attorney General”;
- 10 and
- 11 (C) in subparagraph (D), by inserting “the Secretary or” before “Attorney General”.
- 12 (3) in subsection (c)—
- 13 (A) in paragraph (1), by striking “the Attorney General” and inserting “the
- 14 Secretary”;
- 15 (B) in paragraphs (2) and (3), by inserting “the Secretary or” before “Attorney
- 16 General” each place that term appears; and
- 17 (4) in subsection (d)—
- 18 (A) in paragraph (1), by inserting “the Secretary or” before “the Attorney General”,
- 19 (B) in paragraph (2), by striking “Attorney General” and inserting “Secretary”;
- 20 (C) in paragraph (3)—
- 21 (i) by striking “Attorney General” each place that term appears and inserting
- 22 “Secretary”; and
- 23 (ii) by striking “Attorney General’s” and inserting “Secretary’s”; and
- 24 (D) in paragraphs (4) through (6), by inserting “the Secretary or” before “the
- 25 Attorney General”; and
- 26 (e) Section 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking
- 27 “Secretary of Homeland Security or the Attorney General” each place that term appears and
- 28 inserting “Secretary”.
- 29 (f) Section 212.—Section 212 (8 U.S.C. 1182) is amended—
- 30 (1) in subsection (a)—
- 31 (A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting “, the
- 32 Secretary,” before “or the Attorney General” each place that term appears;
- 33 (B) in paragraph (3)—
- 34 (i) in subparagraph (B)(ii)(II), by inserting “, the Secretary,” before “or the
- 35 Attorney General” each place that term appears; and
- 36 (ii) in subparagraph (D), by inserting “the Secretary or” before “the Attorney

- 1 General” each place that term appears;
2 (C) in paragraph (4)—
3 (i) in subparagraph (A), by inserting “the Secretary or” before “the Attorney
4 General”; and
5 (ii) in subparagraph (B), by inserting “, the Secretary,” before “or the Attorney
6 General” each place that term appears;
7 (D) in paragraph (5)(C), by striking “or, in the case of an adjustment of status, the
8 Attorney General, a certificate from the Commission on Graduates of Foreign Nursing
9 Schools, or a certificate from an equivalent independent credentialing organization
10 approved by the Attorney General” and inserting “or, in the case of an adjustment of
11 status, the Secretary or the Attorney General, a certificate from the Commission on
12 Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent
13 credentialing organization approved by the Secretary”;
14 (E) in paragraph (9)—
15 (i) in subparagraph (B)(v)—
16 (I) by inserting “or the Secretary” after “Attorney General” each place that
17 term appears; and
18 (II) by striking “has sole discretion” and inserting “have discretion”; and
19 (ii) in subparagraph (C)(iii), by inserting “or the Attorney General” after
20 “Secretary of Homeland Security”; and
21 (F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking “Secretary’s”
22 and inserting “Secretary of State’s”;
23 (2) in subsection (d), in paragraphs (11) and (12), by inserting “or the Secretary” after
24 “Attorney General” each place that term appears;
25 (3) in subsection (e), by striking the first proviso and inserting the following: “Provided,
26 That upon the favorable recommendation of the Director, pursuant to the request of an
27 interested United States Government agency (or, in the case of an alien described in clause
28 (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of
29 the Secretary after the Secretary has determined that departure from the United States would
30 impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a
31 citizen of the United States or a lawfully resident alien), or that the alien cannot return to the
32 country of his or her nationality or last residence because the alien would be subject to
33 persecution on account of race, religion, or political opinion, the Secretary may waive the
34 requirement of such two-year foreign residence abroad in the case of any alien whose
35 admission to the United States is found by the Secretary to be in the public interest except
36 that in the case of a waiver requested by a State Department of Public Health, or its
37 equivalent, or in the case of a waiver requested by an interested United States Government
38 agency on behalf of an alien described in clause (iii), the waiver shall be subject to the
39 requirements under section 214(l);”
40 (4) in subsections (g), (h), (i), and (k), by inserting “or the Secretary” after “Attorney
41 General” each place that term appears;

1 (5) in subsection (m)(2)(E)(iv), by inserting “of Labor” after “Secretary” the second and
2 third place that term appears;

3 (6) in subsection (n), by inserting “of Labor” after “Secretary” each place that term
4 appears, except that this amendment shall not apply to references to the “Secretary of
5 Labor”; and

6 (7) in subsection (s), by inserting “, the Secretary,” before “or the Attorney General”.

7 (g) Section 213A.—Section 213A (8 U.S.C. 1183a) is amended—

8 (1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting “, the
9 Secretary,” after “the Attorney General”; and

10 (2) in subsection (f)(6)(B), by inserting “the Secretary,” after “The Secretary of State,”.

11 (h) Section 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter
12 preceding clause (i), by striking “before”.

13 (i) Section 217.—Section 217 (8 U.S.C. 1187) is amended—

14 (1) in subsection (e)(3)(A), by inserting a comma after “Regulations”;

15 (2) in subsection (f)(2)(A), by striking “section (c)(2)(C),” and inserting “subsection
16 (c)(2)(C),”; and

17 (3) in subsection (h)(3)(A), by striking “the alien” and inserting “an alien”.

18 (j) Section 218.—Section 218 (8 U.S.C. 1188) is amended—

19 (1) by inserting “of Labor” after “Secretary” each place that term appears, except that this
20 amendment shall not apply to references to the “Secretary of Labor” or to the “Secretary of
21 Agriculture”;

22 (2) in subsection (c)(3)(B)(iii), by striking “Secretary’s” and inserting “Secretary of
23 Labor’s”; and

24 (3) in subsection (g)(4), by striking “Secretary’s” and inserting “Secretary of
25 Agriculture’s”.

26 (k) Section 219.—Section 219 (8 U.S.C. 1189) is amended—

27 (1) in subsection (a)(1)(B)—

28 (A) by inserting a close parenthesis after “section 212(a)(3)(B)”;

29 (B) by striking the close parenthesis before the semicolon;

30 (2) in subsection (c)(3)(D), by striking “(2),” and inserting “(2),”; and

31 (3) in subsection (d)(4), by striking “the Secretary of the Treasury” and inserting “the
32 Secretary of Homeland Security, the Secretary of the Treasury,”.

33 (l) Section 222.—Section 222 (8 U.S.C. 1202)—

34 (1) by inserting “or the Secretary” after “Secretary of State” each place that term appears;
35 and

36 (2) in subsection (f)—

1 (A) in the matter preceding paragraph (1), by inserting “, the Department,” after
2 “Department of State”; and

3 (B) in paragraph (2), by striking “Secretary’s” and inserting “their”.

4 (m) Section 231.—Section 231 (8 U.S.C. 1221) is amended—

5 (1) in subsection (c)(10), by striking “Attorney General,” and inserting “Secretary,”;

6 (2) in subsection (f), by striking “Attorney General” each place that term appears and
7 inserting “Secretary”;

8 (3) in subsection (g)—

9 (A) by striking “Attorney General” each places that term appears and inserting
10 “Secretary”;

11 (B) by striking “Commissioner” each place that term appears and inserting
12 “Secretary”; and

13 (4) in subsection (h), by striking “Attorney General” each place that term appears and
14 inserting “Secretary”.

15 (n) Section 236.—Section 236(e) (8 U.S.C. 1226(e)) is amended—

16 (1) by striking “review.” and inserting “review, other than administrative review by the
17 Attorney General pursuant to the authority granted under section 103(g).”; and

18 (2) by inserting “the Secretary or” before “the Attorney General under”.

19 (o) Section 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking
20 “Deputy Attorney General” both places that term appears and inserting “Deputy Secretary of
21 Homeland Security”.

22 (p) Section 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—

23 (1) in the matter preceding paragraph (1), by inserting “following the initiation by the
24 Secretary of removal proceedings” after “upon the order of the Attorney General”; and

25 (2) in paragraph (2)(E), in the subparagraph heading, by striking “, CRIMES AGAINST
26 CHILDREN AND” and inserting “; CRIMES AGAINST CHILDREN”.

27 (q) Section 238.—Section 238 (8 U.S.C. 1228) is amended—

28 (1) in subsection (a)—

29 (A) in paragraph (2), by striking “Attorney General” each place that term appears
30 and inserting “Secretary”; and

31 (B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney
32 General” each place that term appears; and

33 (2) in subsection (e) (as redesignated by section 1703(a)(4))—

34 (A) by striking “Commissioner” each place that term appears and inserting
35 “Secretary”;

36 (B) by striking “Attorney General” each place that term appears and inserting
37 “Secretary”; and

- 1 (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United
2 States Attorney”.
- 3 (r) Section 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting “and the
4 Secretary” after “Attorney General” each place that term appears.
- 5 (s) Section 240.—Section 240 (8 U.S.C. 1229a) is amended—
6 (1) in subsection (b)—
7 (A) in paragraph (1), by inserting “, with the concurrence of the Secretary with
8 respect to employees of the Department” after “Attorney General”; and
9 (B) in paragraph (5)(A), by inserting “the Secretary or” before “the Attorney
10 General”; and
11 (2) in subsection (c)—
12 (A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before
13 “to be confidential”; and
14 (B) in paragraph (7)(C)(iv)(I), by striking “240A(b)(2)” and inserting “section
15 240A(b)(2)”.
- 16 (t) Section 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—
17 (1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”;
18 and
19 (2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”.
- 20 (u) Section 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3),
21 by inserting “or the Secretary” after “Attorney General” each place that term appears.
- 22 (v) Section 241.—Section 241 (8 U.S.C. 1231) is amended—
23 (1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after “(L)”;
24 (2) in subsection (g)(2)—
25 (A) by striking the paragraph heading and inserting “DETENTION FACILITIES OF THE
26 DEPARTMENT OF HOMELAND SECURITY.—”; and
27 (B) by striking “Service, the Commissioner” and inserting “Department, the
28 Secretary”.
- 29 (w) Section 242.—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting “the Secretary
30 or” before “the Attorney General”.
- 31 (x) Section 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in
32 subsection (b)(1)—
33 (1) by striking “Attorney General” each place that term appears and inserting
34 “Secretary”; and
35 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 36 (y) Section 244.—Section 244 (8 U.S.C. 1254a) is amended—

1 (1) in subsection (c)(2), by inserting “or the Secretary” after “Attorney General” each
2 place the term appears; and

3 (2) in subsection (g), by inserting “or the Secretary” after “Attorney General”.

4 (z) Section 245.—Section 245 (8 U.S.C. 1255) is amended—

5 (1) by inserting “or the Secretary” after “Attorney General” each place that term appears
6 except in subsections (j) (other than the first reference), (l), and (m);

7 (2) in subsection (k)(1), adding an “and” at the end; and

8 (3) in subsection (l)—

9 (A) in paragraph (1), by inserting a comma after “appropriate”; and

10 (B) in paragraph (2)—

11 (i) in the matter preceding paragraph (1), by striking “Attorney General’s” and
12 inserting “Secretary’s”; and

13 (ii) in subparagraph (B), by striking “(10(E))” and inserting “(10)(E))”.

14 (aa) Section 245A.—Section 245A (8 U.S.C. 1255a) is amended—

15 (1) in subsection (c)(7), by striking subparagraph (C); and

16 (2) in subsection (h)—

17 (A) in paragraph (4)(C), by striking “The The” and inserting “The”; and

18 (B) in paragraph (5), by striking “(Public Law 96–122),” and inserting “(8 U.S.C.
19 1522 note),”.

20 (bb) Section 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—

21 (1) by striking “Attorney General” each place that term appears and inserting
22 “Secretary”; and

23 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.

24 (cc) Section 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking “Commissioner”
25 each place that term appears and inserting “Secretary”.

26 (dd) Section 255.—Section 255 (8 U.S.C. 1285) is amended by striking “Commissioner” each
27 place that term appears and inserting “Secretary”.

28 (ee) Section 256.—Section 256 (8 U.S.C. 1286) is amended—

29 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;

30 (2) in the first and second sentences, by striking “Attorney General” each place that term
31 appears and inserting “Secretary”.

32 (ff) Section 258.—Section 258 (8 U.S.C. 1288) is amended—

33 (1) by inserting “of Labor” after “Secretary” each place that term appears (except for in
34 subsection (e)(2)), except that this amendment shall not apply to references to the
35 “Secretary of Labor”, “the Secretary of State”;

36 (2) in subsection (d)(2)(A), by striking “at” after “while”; and

1 (3) in subsection (e)(2), by striking “the Secretary shall” and inserting “the Secretary of
2 State shall”.

3 (gg) Section 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking “Attorney
4 General is” and inserting “Attorney General and the Secretary are”.

5 (hh) Section 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each
6 place that term appears and inserting “Secretary”.

7 (ii) Section 273.—Section 273 (8 U.S.C. 1323) is amended—

8 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
9 and

10 (2) by striking “Attorney General” each place that term appears (except in subsection (e),
11 in the matter preceding paragraph (1)) and inserting “Secretary”.

12 (jj) Section 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking “Secretary
13 of the Treasury” and inserting “Secretary”.

14 (kk) Section 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking
15 “subsection” and inserting “section”.

16 (ll) Section 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting
17 “or the Secretary” after “subsection (a), the Attorney General”.

18 (mm) Section 274D.—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking
19 “Commissioner” and inserting “Secretary”.

20 (nn) Section 286.—Section 286 (8 U.S.C. 1356) is amended—

21 (1) in subsection (q)(1)(B), by striking “, in consultation with the Secretary of the
22 Treasury,”;

23 (2) in subsection (r)(2), by striking “section 245(i)(3)(b)” and inserting “section
24 245(i)(3)(B)”;

25 (3) in subsection (s)(5)—

26 (A) by striking “5 percent” and inserting “USE OF FEES FOR DUTIES RELATING TO
27 PETITIONS.—Five percent”;

28 (B) by striking “paragraph (1) (C) or (D) of section 204” and inserting
29 “subparagraph (C) or (D) of section 204(a)(1)”.

30 (oo) Section 294.—Section 294 (8 U.S.C. 1363a) is amended—

31 (1) in subsection (a), in the undesignated matter following paragraph (4), by striking
32 “Commissioner, in consultation with the Deputy Attorney General,” and inserting
33 “Secretary”; and

34 (2) in subsection (d), by striking “Deputy Attorney General” and inserting “Secretary”.

35 **SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF**
36 **THE IMMIGRATION AND NATIONALITY ACT.**

37 (a) Section 316.—Section 316 (8 U.S.C. 1427) is amended—

1 (1) in subsection (d), by inserting “or by the Secretary” after “Attorney General”; and

2 (2) in subsection (f)(1), by striking “Intelligence, the Attorney General and the
3 Commissioner of Immigration” and inserting “Intelligence and the Secretary”.

4 (b) Section 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

5 (1) by inserting “is” before “(or,”; and

6 (2) by striking “is” before “a citizen”.

7 (c) Section 342.—

8 (1) SECTION HEADING.—

9 (A) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended by striking the section
10 heading and inserting “cancellation of certificates; action not to affect citizenship
11 status”.

12 (B) CLERICAL AMENDMENT.—The table of contents in the first section is amended
13 by striking the item relating to section 342 and inserting the following:

14 “Sec.342.Cancellation of certificates; action not to affect citizenship status.”.

15 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended—

16 (A) by striking “heretofore issued or made by the Commissioner or a Deputy
17 Commissioner or hereafter made by the Attorney General”; and

18 (B) by striking “practiced upon, him or the Commissioner or a Deputy
19 Commissioner;”.

20 SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF 21 THE IMMIGRATION AND NATIONALITY ACT.

22 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i)) is amended by striking “insure” and
23 inserting “ensure”.

24 SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF 25 THE IMMIGRATION AND NATIONALITY ACT.

26 (a) Section 504.—Section 504 (8 U.S.C. 1534) is amended—

27 (1) in subsection (a)(1)(A), by striking “a” before “removal proceedings”;

28 (2) in subsection (i), by striking “Attorney General” inserting “Government”; and

29 (3) in subsection (k)(2), by striking “by”.

30 (b) Section 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting “and the
31 Secretary” after “Attorney General”.

32 SEC. 6007. OTHER AMENDMENTS.

33 (a) Correction of Commissioner of Immigration and Naturalization.—

34 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as

1 amended by this Act, is further amended by striking “Commissioner” and “Commissioner
2 of Immigration and Naturalization” each place those terms appear and inserting “Secretary”.

3 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by
4 paragraph (1) shall not apply to any reference to the “Commissioner of Social Security”.

5 **(b) Correction of Bureau of Citizenship and Immigration Services. — Section 451(a)(1) of the**
6 **Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is amended by striking “a bureau to be**
7 **known as the ‘Bureau of Citizenship and Immigration Services’” and inserting “an agency to be**
8 **known as the United States Citizenship and Immigration Services, whose headquarters shall be**
9 **in the same State as the office of the Secretary.”**

10 **(cb)** Correction of Immigration and Naturalization Service.—The Immigration and Nationality
11 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Service”
12 and “Immigration and Naturalization Service” each place those terms appear and inserting
13 “Department”.

14 **(ed)** Correction of Department of Justice.—

15 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as
16 amended by this Act, is further amended by striking “Department of Justice” each place that
17 term appears and inserting “Department”.

18 (2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

19 (A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

20 (B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

21 (C) title V (8 U.S.C. 1531 et seq.).

22 **(ed)** Correction of Attorney General.—The Immigration and Nationality Act (8 U.S.C. 1101 et
23 seq.) as amended by this Act, is further amended by striking “Attorney General” each place that
24 term appears and inserting “Secretary”, except for in the following:

25 (1) Any joint references to the “Attorney General and the Secretary of Homeland
26 Security” or “the Secretary of Homeland Security and the Attorney General”.

27 (2) Section 101(a)(5).

28 (3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

29 (4) Section 101(a)(47)(A).

30 (5) Section 101(b)(4).

31 (6) Subsections (a)(1) and (g) of section 103.

32 (7) Subsections (b)(1) and (c) of section 105.

33 (8) Section 204(c).

34 (9) Section 208.

35 (10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

36 (11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

37 (12) Section 212(a)(9)(C)(iii).

- 1 (13) Paragraphs (11) and (12) of section 212(d).
- 2 (14) Subsections (g), (h), (i), (k), and (s) of section 212.
- 3 (15) Subsections (a)(1) and (f)(6)(B) of section 213A.
- 4 (16) Section 216(d)(2)(c).
- 5 (17) Section 219(d)(4).
- 6 (18) Section 235(b)(1)(B)(iii)(III).
- 7 (19) The second sentence of section 236(e).
- 8 (20) Section 237.
- 9 (21) Paragraphs (1), (3), and (4)(A) of section 238(a).
- 10 (22) Paragraphs (1) and (5) of section 238(b).
- 11 (23) Section 238(c)(2)(D)(iv).
- 12 (24) Subsections (a) and (b) of section 239.
- 13 (25) Section 240.
- 14 (26) Section 240A.
- 15 (27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.
- 16 (28) The first reference in section 241(a)(4)(B)(i).
- 17 (29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the
18 amendment shall apply).
- 19 (30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).
- 20 (31) Section 242(a)(2)(B).
- 21 (32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).
- 22 (33) Section 242(g).
- 23 (34) Subsections (a)(3)(C), (c)(2), (e), and (g) of section 244.
- 24 (35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first
25 reference to the Attorney General in subsection 245(j)).
- 26 (36) Section 245A(a)(1)(A).
- 27 (37) Section 246(a).
- 28 (38) Section 249.
- 29 (39) Section 264(f).
- 30 (40) Section 274(e).
- 31 (41) Section 274A.
- 32 (42) Section 274B.
- 33 (43) Section 274C.

- 1 (44) Section 292.
2 (45) Subsections (d) and (f)(1) of section 316.
3 (46) Section 342.
4 (47) Section 412(f)(1)(A).
5 (48) Title V (except for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to
6 which the amendment shall apply).

7 SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

8 (a) Repeals.—

9 (1) IMMIGRATION AND NATURALIZATION SERVICE.—

10 (A) IN GENERAL.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter
11 552; 8 U.S.C. 1551) is repealed.

12 (B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8
13 of the United States Code shall be removed from the compilation of such title 8.

14 (2) COMMISSIONER OF IMMIGRATION AND NATURALIZATION; OFFICE.—

15 (A) IN GENERAL.—Section 7 of the Act of March 3, 1891 (26 Stat. 1085, chapter
16 551; 8 U.S.C. 1552) is repealed.

17 (B) 8 U.S.C. 1552.—The language of the compilers set out in section 1552 of title 8
18 of the United States Code shall be removed from the compilation of such title 8.

19 (3) ASSISTANT COMMISSIONERS AND DISTRICT DIRECTOR; COMPENSATION AND SALARY
20 GRADE.—Title II of the Department of Justice Appropriation Act, 1957 (70 Stat. 307,
21 chapter 414; 8 U.S.C. 1553) is amended, in the matter under the heading “Immigration and
22 Naturalization Service” and under the subheading “SALARIES AND EXPENSES”, by
23 striking “That the compensation of the five assistant commissioners and one district director
24 shall be at the rate of grade GS–16: Provided further”.

25 (4) SPECIAL IMMIGRANT INSPECTORS AT WASHINGTON.—The Act of March 2, 1895 (28
26 Stat. 780, chapter 177; 8 U.S.C. 1554) is amended in the matter following the heading
27 “Bureau of Immigration:” by striking “That hereafter special immigrant inspectors, not to
28 exceed three, may be detailed for duty in the Bureau at Washington: And provided further.”.

29 (b) Rule of Construction.—Nothing in this title may be construed to repeal or limit the
30 applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and
31 552) with respect to any provision of law or matter not specifically addressed by the amendments
32 made by this title.

33 SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.

34 Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by
35 striking “Commissioner of Immigration” and inserting “Secretary of Homeland Security”.

1 Purpose: In the nature of a substitute.

2

3

4 H. R. 2579

5 To amend the Internal Revenue Code of 1986 to allow the
6 premium tax credit with respect to unsubsidized COBRA
7 continuation coverage.

8 Referred to the Committee on _____ and ordered to be
9 printed

10 Ordered to lie on the table and to be printed

11 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE
12 PROPOSED BY MR. GRASSLEY, ERNST, TILLIS, LANKFORD,
13 COTTON, PERDUE, CORNYN

14 Viz:

15 Strike all after the enacting clause and insert the following:

16 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS.**

17 (a) Short Titles.—This Act may be cited as the “SECURE and SUCCEED Act”.

18 (b) Table of Contents.—The table of contents for this Act is as follows:

19 Sec.1.Short titles; table of contents.

20 **TITLE I—BUILDING AMERICA’S TRUST ACT**

21 Sec.1001.Short title.

22 **Subtitle A—Border Security**

23 Sec.1101.Definitions.

24 **Chapter 1—Infrastructure and Equipment**

25 Sec.1111.Strengthening the requirements for barriers along the southern border.

26 Sec.1112.Air and Marine Operations flight hours.

27 Sec.1113.Capability deployment to specific sectors and transit zone.

28 Sec.1114.Deployment of assets.

29 Sec.1115.U.S. Border Patrol activities.

30 Sec.1116.Border security technology program management.

- 1 Sec.1117.National Guard support to secure the southern border and reimbursement of States for
2 deployment of the National Guard at the southern border.
- 3 Sec.1118.Operation Phalanx.
- 4 Sec.1119.Merida Initiative.
- 5 Sec.1120.Prohibitions on actions that impede border security on certain Federal land.
- 6 Sec.1121.Landowner and rancher security enhancement.
- 7 Sec.1122.Limitation on land owner's liability.
- 8 Sec.1123.Eradication of carrizo cane and salt cedar.
- 9 Sec.1124.Prevention, detection, control, and eradication of diseases and pests.
- 10 Sec.1125.Transnational criminal organization illicit spotter prevention and detection.
- 11 Sec.1126.Southern border threat analysis.
- 12 Sec.1127.Amendments to U.S. Customs and Border Protection.
- 13 Sec.1128.Agent and officer technology use.
- 14 Sec.1129.Integrated Border Enforcement Teams.
- 15 Sec.1130.Land use or acquisition.
- 16 Sec.1131.Tunnel Task Forces.
- 17 Sec.1132.Pilot program on use of electromagnetic spectrum in support of border security
18 operations.
- 19 Sec.1133.Homeland security foreign assistance.

20 Chapter 2—Personnel

- 21 Sec.1141.Additional U.S. Customs and Border Protection agents and officers.
- 22 Sec.1142.Fair labor standards for border patrol agents.
- 23 Sec.1143.U.S. Customs and Border Protection retention incentives.
- 24 Sec.1144.Anti-Border Corruption Reauthorization Act.
- 25 Sec.1145.Training for officers and agents of U.S. Customs and Border Protection.
- 26 Sec.1146.Additional U.S. Immigration and Customs Enforcement personnel.
- 27 Sec.1147.Other immigration and law enforcement personnel.
- 28 Sec.1148.Judicial resources for border security.
- 29 Sec.1149.Reimbursement to State and local prosecutors for federally initiated, immigration-
30 related criminal cases.

31 Chapter 3—Grants

- 32 Sec.1151.State Criminal Alien Assistance Program.
- 33 Sec.1152.Southern border security assistance grants.

- 1 Sec.1153.Operation Stonegarden.
- 2 Sec.1154.Grants for identification of victims of cross-border human smuggling.
- 3 Sec.1155.Grant accountability.

4 Subtitle B—Emergency Port of Entry Personnel and 5 Infrastructure Funding

- 6 Sec.1201.Definitions.
- 7 Sec.1202.Ports of entry infrastructure.
- 8 Sec.1203.Secure communications.
- 9 Sec.1204.Border security deployment program.
- 10 Sec.1205.Pilot and upgrade of license plate readers at ports of entry.
- 11 Sec.1206.Biometric technology.
- 12 Sec.1207.Nonintrusive inspection operational demonstration project.
- 13 Sec.1208.Biometric exit data system.
- 14 Sec.1209.Sense of Congress on cooperation between agencies.

15 Subtitle C—Border Security Enforcement Fund

- 16 Sec.1301.Border Security Enforcement Fund.

17 Subtitle D—Stop the Importation and Trafficking of Synthetic 18 Analogues Act

- 19 Sec.1401.Short titles.
- 20 Sec.1402.Establishment of Schedule A.
- 21 Sec.1403.Temporary and permanent scheduling of schedule A substances.
- 22 Sec.1404.Penalties.
- 23 Sec.1405.False labeling of schedule A controlled substances.
- 24 Sec.1406.Registration requirements for handlers of schedule A substances.
- 25 Sec.1407.Additional conforming amendments.
- 26 Sec.1408.Clarification of the definition of controlled substance analogue under the Analogue
27 Enforcement Act.
- 28 Sec.1409.Rules of construction.

29 Subtitle E—Domestic Security

30 Chapter 1—General Matters

- 31 Sec.1501.Ending catch and release for repeat immigration violators and criminals aliens.

- 1 Sec.1502.Deterring visa overstays.
- 2 Sec.1503.Increase in immigration detention capacity.
- 3 Sec.1504.Collection of DNA from criminal and detained aliens.
- 4 Sec.1505.Collection, use, and storage of biometric data.
- 5 Sec.1506.Pilot program for electronic field processing.
- 6 Sec.1507.Ending abuse of parole authority.
- 7 Sec.1508.Reports to Congress on parole.
- 8 Sec.1509.Limits on continuances in removal proceedings.
- 9 Sec.1510.Reinstatement of the Secure Communities Program.

10 Chapter 2—Protection and Due Process for Unaccompanied 11 Alien Children

- 12 Sec.1520.Short title.
- 13 Sec.1521.Repatriation of unaccompanied alien children.
- 14 Sec.1522.Expedited due process and screening for unaccompanied alien children.
- 15 Sec.1523.Child welfare and law enforcement information sharing.
- 16 Sec.1524.Accountability for children and taxpayers.
- 17 Sec.1525.Custody of unaccompanied alien children in formal removal proceeding.
- 18 Sec.1526.Fraud in connection with the transfer of custody of unaccompanied alien children.
- 19 Sec.1527.Notification of States and foreign governments, reporting, and monitoring.
- 20 Sec.1528.Emergency immigration judge resources.
- 21 Sec.1529.Reports to Congress.

22 Chapter 3—Cooperation With Mexico and Other Countries on 23 Asylum and Refugee Issues

- 24 Sec.1540.Strengthening internal asylum systems in Mexico and other countries.
- 25 Sec.1541.Expanding refugee processing in Mexico and Central America for third country
26 resettlement.

27 Subtitle F—Penalties for Smuggling, Drug Trafficking, Human 28 Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to 29 Readmission of Removed Aliens

- 30 Sec.1601.Dangerous human smuggling, human trafficking, and human rights violations.
- 31 Sec.1602.Putting the Brakes on Human Smuggling Act.
- 32 Sec.1603.Drug trafficking and crimes of violence committed by illegal aliens.

- 1 Sec.1604.Establishing inadmissibility and deportability.
- 2 Sec.1605.Penalties for illegal entry; enhanced penalties for entering with intent to aid, abet, or
- 3 commit terrorism.
- 4 Sec.1606.Penalties for reentry of removed aliens.
- 5 Sec.1607.Laundering of monetary instruments.
- 6 Sec.1608.Freezing bank accounts of international criminal organizations and money launderers.
- 7 Sec.1609.Criminal proceeds laundered through prepaid access devices, digital currencies, or
- 8 other similar instruments.
- 9 Sec.1610.Closing the loophole on drug cartel associates engaged in money laundering.

10 Subtitle G—Protecting National Security and Public Safety

11 Chapter 1—General Matters

- 12 Sec.1701.Definitions of terrorist activity, engage in terrorist activity, and terrorist organization.
- 13 Sec.1702.Terrorist and security-related grounds of inadmissibility.
- 14 Sec.1703.Expedited removal for aliens inadmissible on criminal or security grounds.
- 15 Sec.1704.Detention of removable aliens.
- 16 Sec.1705.GAO study on deaths in custody.
- 17 Sec.1706.GAO study on migrant deaths.
- 18 Sec.1707.Statute of limitations for visa, naturalization, and other fraud offenses involving war
- 19 crimes, crimes against humanity, or human rights violations.
- 20 Sec.1708.Criminal detention of aliens to protect public safety.
- 21 Sec.1709.Recruitment of persons to participate in terrorism.
- 22 Sec.1710.Barring and removing persecutors, war criminals, and participants in crimes against
- 23 humanity from the United States.
- 24 Sec.1711.Child soldier recruitment ineligibility technical correction.
- 25 Sec.1712.Gang membership, removal, and increased criminal penalties related to gang violence.
- 26 Sec.1713.Barring aliens with convictions for driving under the influence or while intoxicated.
- 27 Sec.1714.Barring aggravated felons, border checkpoint runners, and sex offenders from
- 28 admission to the United States.
- 29 Sec.1715.Protecting immigrants from convicted sex offenders.
- 30 Sec.1716.Enhanced criminal penalties for high speed flight.
- 31 Sec.1717.Prohibition on asylum and cancellation of removal for terrorists.
- 32 Sec.1718.Aggravated felonies.
- 33 Sec.1719.Convictions.

- 1 Sec.1720.Failure to obey removal orders.
- 2 Sec.1721.Sanctions for countries that delay or prevent repatriation of their nationals.
- 3 Sec.1722.Enhanced penalties for construction and use of border tunnels.
- 4 Sec.1723.Enhanced penalties for fraud and misuse of visas, permits, and other documents.
- 5 Sec.1724.Expansion of criminal alien repatriation programs.
- 6 Sec.1725. Prohibition on flight training and nuclear studies for nationals of high-risk countries.

7 Chapter 2—Strong Visa Integrity Secures America Act

- 8 Sec.1731.Short title.
- 9 Sec.1732.Visa security.
- 10 Sec.1733.Electronic passport screening and biometric matching.
- 11 Sec.1734.Reporting visa overstays.
- 12 Sec.1735.Student and exchange visitor information system verification.
- 13 Sec.1736.Social media review of visa applicants.

14 Chapter 3—Visa Cancellation and Revocation

- 15 Sec.1741.Cancellation of additional visas.
- 16 Sec.1742.Visa information sharing.
- 17 Sec.1743.Visa interviews.
- 18 Sec.1744.Judicial review of visa revocation.

19 Chapter 4—Secure Visas Act

- 20 Sec.1751.Short title.
- 21 Sec.1752.Authority of the Secretary of Homeland Security and the Secretary of State.

22 Chapter 5—Visa Fraud and Security Improvement Act of 2017

- 23 Sec.1761.Short title.
- 24 Sec.1762.Expanded usage of fraud prevention and detection fees.
- 25 Sec.1763.Inadmissibility of spouses and sons and daughters of traffickers.
- 26 Sec.1764.DNA testing.
- 27 Sec.1765.Access to NCIC criminal history database for diplomatic visas.
- 28 Sec.1766.Elimination of signed photograph requirement for visa applications.

29 Chapter 6—Other Matters

- 30 Sec.1771.Requirement for completion of background checks.
- 31 Sec.1772.Withholding of adjudication.

- 1 Sec.1773.Access to the National Crime Information Center Interstate Identification Index.
- 2 Sec.1774.Appropriate remedies for immigration litigation.
- 3 Sec.1775.Use of 1986 IRCA legalization information for national security purposes.
- 4 Sec.1776.Uniform statute of limitations for certain immigration, naturalization, and peonage
- 5 offenses.
- 6 Sec.1777.Conforming amendment to the definition of racketeering activity.
- 7 Sec.1778.Validity of electronic signatures.

8 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status

9 in the United States

10 Chapter 1—Prohibition on Adjustment to Lawful Permanent

11 Resident Status

- 12 Sec.1801.Lawful permanent residents as applicants for admission.
- 13 Sec.1802.Date of admission for purposes of adjustment of status.
- 14 Sec.1803.Precluding asylee and refugee adjustment of status for certain grounds of
- 15 inadmissibility and deportability.
- 16 Sec.1804.Revocation of lawful permanent resident status for human rights violators.
- 17 Sec.1805.Removal of condition on lawful permanent resident status prior to naturalization.
- 18 Sec.1806.Prohibition on terrorists and aliens who pose a threat to national security or public
- 19 safety from receiving an adjustment of status.
- 20 Sec.1807.Treatment of applications for adjustment of status during pending denaturalization
- 21 proceedings.
- 22 Sec.1808.Extension of time limit to permit rescission of permanent resident status.
- 23 Sec.1809.Barring persecutors and terrorists from registry.

24 Chapter 2—Prohibition on Naturalization and United States

25 Citizenship

- 26 Sec.1821.Barring terrorists from becoming naturalized United States citizens.
- 27 Sec.1822.Terrorist bar to good moral character.
- 28 Sec.1823.Prohibition on judicial review of naturalization applications for aliens in removal
- 29 proceedings.
- 30 Sec.1824.Limitation on judicial review when agency has not made decision on naturalization
- 31 application and on denials.
- 32 Sec.1825.Clarification of denaturalization authority.
- 33 Sec.1826.Denaturalization of terrorists.

1 Sec.1827.Treatment of pending applications during denaturalization proceedings.

2 Sec.1828.Naturalization document retention.

3 **Chapter 3—Forfeiture of Proceeds From Passport and Visa**
4 **Offenses, and Passport Revocation.**

5 Sec.1831.Forfeiture of proceeds from passport and visa offenses.

6 Sec.1832.Passport Revocation Act.

7 **TITLE II—PERMANENT REAUTHORIZATION OF**
8 **VOLUNTARY E–VERIFY**

9 Sec.2001.Permanent reauthorization.

10 Sec.2002.Preemption; liability.

11 Sec.2003.Information sharing.

12 Sec.2004.Small Business Demonstration Program.

13 Sec.2005.Fraud prevention.

14 Sec.2006.Identity authentication employment eligibility verification pilot programs.

15 **TITLE III—SUCCEED ACT**

16 Sec.3001.Short titles.

17 Sec.3002.Definitions.

18 Sec.3003.Cancellation of removal of certain long-term residents who entered the United States as
19 children.

20 Sec.3004.Conditional permanent resident status.

21 Sec.3005.Removal of conditional basis for permanent residence.

22 Sec.3006.Benefits for relatives of aliens granted conditional permanent resident status.

23 Sec.3007.Exclusive jurisdiction.

24 Sec.3008.Confidentiality of information.

25 Sec.3009.Restriction on welfare benefits for conditional permanent residents.

26 Sec.3010.GAO report.

27 Sec.3011.Military enlistment.

28 Sec.3012.Eligibility for naturalization.

29 Sec.3013.Funding.

30 **TITLE IV—ENSURING FAMILY REUNIFICATION**

31 Sec.4001.Short title.

1 Sec.4002.Family-Sponsored immigration priorities.

2 Sec.4003.Elimination of Diversity Visa Program.

3 TITLE V—OTHER MATTERS

4 Sec.5001.Other Immigration and Nationality Act amendments.

5 Sec.5002.Exemption from the Administrative Procedure Act.

6 Sec.5003.Exemption from the Paperwork Reduction Act.

7 Sec.5004.Ability to fill and retain Department of Homeland Security positions in United States
8 territories.

9 Sec.5005.Severability.

10 Sec.5006.Funding.

11 TITLE VI—TECHNICAL AMENDMENTS

12 Sec.6001.References to the Immigration and Nationality Act.

13 Sec.6002.Technical amendments to title I of the Immigration and Nationality Act.

14 Sec.6003.Technical amendments to title II of the Immigration and Nationality Act.

15 Sec.6004.Technical amendments to title III of the Immigration and Nationality Act.

16 Sec.6005.Technical amendment to title IV of the Immigration and Nationality Act.

17 Sec.6006.Technical amendments to title V of the Immigration and Nationality Act.

18 Sec.6007.Other amendments.

19 Sec.6008.Repeals; rule of construction.

20 Sec.6009.Miscellaneous technical correction.

21 TITLE I—BUILDING AMERICA’S TRUST ACT

22 SEC. 1001. SHORT TITLE.

23 This title may be cited as the “Building America’s Trust Act”.

24 Subtitle A—Border Security

25 SEC. 1101. DEFINITIONS.

26 In this subtitle:

27 (1) ADVANCED UNATTENDED SURVEILLANCE SENSORS.—The term “advanced unattended
28 surveillance sensors” means sensors that utilize an onboard computer to analyze detections
29 in an effort to discern between vehicles, humans, and animals, and ultimately filter false
30 positives before transmission.

31 (2) APPROPRIATE CONGRESSIONAL COMMITTEE.—The term “appropriate congressional
32 committee” has the meaning given the term in section 2(2) of the Homeland Security Act of

1 2002 (6 U.S.C. 101(2)).

2 (3) COMMISSIONER.—The term “Commissioner” means the Commissioner of U.S.
3 Customs and Border Protection.

4 (4) HIGH TRAFFIC AREAS.—The term “high traffic areas” has the meaning given the term
5 in section 102(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of
6 1996, as added by section 1111.

7 (5) OPERATIONAL CONTROL.—The term “operational control” has the meaning given the
8 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
9 367).

10 (6) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

11 (7) SITUATIONAL AWARENESS.—The term “situational awareness” has the meaning given
12 the term in section 1092(a)(7) of the National Defense Authorization Act for Fiscal Year
13 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

14 (8) SMALL UNMANNED AERIAL VEHICLE.—The term “small unmanned aerial vehicle” has
15 the meaning given the term “small unmanned aircraft” in section 331 of the FAA
16 Modernization and Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

17 (9) TRANSIT ZONE.—The term “transit zone” has the meaning given the term in section
18 1092(a)(8) of the National Defense Authorization Act for Fiscal Year 2017 (6 U.S.C.
19 223(a)(7); Public Law 114–328).

20 (10) UNMANNED AERIAL SYSTEM.—The term “unmanned aerial system” has the meaning
21 given the term “unmanned aircraft system” in section 331 of the FAA Modernization and
22 Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

23 (11) UNMANNED AERIAL VEHICLE.—The term “unmanned aerial vehicle” has the meaning
24 given the term “unmanned aircraft system” in section 331 of the FAA Modernization and
25 Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).

26 CHAPTER 1—INFRASTRUCTURE AND EQUIPMENT

27 SEC. 1111. STRENGTHENING THE REQUIREMENTS FOR 28 BARRIERS ALONG THE SOUTHERN BORDER.

29 Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
30 (Division C of Public Law 104–208; 8 U.S.C. 1103 note) is amended—

31 (1) by amending subsection (a) to read as follows:

32 “(a) In General.—The Secretary of Homeland Security shall take such actions as may be
33 necessary (including the removal of obstacles to detection of illegal entrants) to construct, install,
34 deploy, operate, and permanently maintain physical barriers, tactical infrastructure and
35 technology in the vicinity of the United States border to achieve situational awareness and
36 operational control of the border and deter, impede, and detect illegal activity in high traffic
37 areas.”;

38 (2) in subsection (b)—

1 (A) in the subsection heading, by striking “Fencing and Road Improvements” and
2 inserting “Physical Barriers”;

3 (B) in paragraph (1)—

4 (i) in subparagraph (A)—

5 (I) by striking “subsection (a)” and inserting “this section”;

6 (II) by striking “roads, lighting, cameras, and sensors” and inserting
7 “tactical infrastructure, and technology”; and

8 (III) by striking “gain” and inserting “achieve situational awareness and”;
9 and

10 (ii) by amending subparagraph (B) to read as follows:

11 “(B) PHYSICAL BARRIERS AND TACTICAL INFRASTRUCTURE.—

12 “(i) IN GENERAL.—Not later than September 30, 2022, the Secretary of
13 Homeland Security, in carrying out this section, shall deploy along the United
14 States border the most practical and effective physical barriers and tactical
15 infrastructure available for achieving situational awareness and operational
16 control of the border.

17 “(ii) CONSIDERATION FOR CERTAIN PHYSICAL BARRIERS AND TACTICAL
18 INFRASTRUCTURE.—The deployment of physical barriers and tactical
19 infrastructure under this subparagraph shall not apply in any area or region along
20 the border where natural terrain features, natural barriers, or the remoteness of
21 such area or region would make any such deployment ineffective, as determined
22 by the Secretary, for the purposes of gaining situational awareness or operational
23 control of such area or region.”;

24 (iii) in subparagraph (C)—

25 (I) by amending clause (i) to read as follows:

26 “(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland
27 Security shall, before constructing physical barriers in a specific area or region,
28 shall consult with the Secretary of the Interior, the Secretary of Agriculture,
29 appropriate representatives of Federal, State, local, and tribal governments, and
30 appropriate private property owners in the United States to minimize the impact
31 on the environment, culture, commerce, and quality of life for the communities
32 and residents located near the sites at which such physical barriers are to be
33 constructed.”;

34 (II) by redesignating clause (ii) as clause (iii); and

35 (III) by inserting after clause (i), as amended, the following:

36 “(ii) NOTIFICATION.—Not later than 60 days after the consultation required
37 under clause (i), the Secretary of Homeland Security shall notify the Committee
38 on Homeland Security of the House of Representatives and the Committee on
39 Homeland Security and Governmental Affairs of the Senate of the type of
40 physical barriers, tactical infrastructure, or technology the Secretary has

1 determined is most practical and effective to achieve situational awareness and
2 operational control in a specific area and the other alternatives the Secretary
3 considered before making such a determination.”; and

4 (iv) by striking subparagraph (D);

5 (IV) in clause (iii), as so redesignated –

6 (aa) in subclause (I), by striking “or” after the semicolon at the end;

7 (bb) by amending subclause (II) to read as follows:

8 “(II) delay the transfer of the possession of property to the United States or
9 affect the validity of any property acquisition by purchase or eminent domain, or
10 to otherwise affect the eminent domain laws of the United States or of any state;
11 or; and

12 (cc) by adding at the end the following new subclause:

13 “(III) create any right or liability for any party.”; and

14 (C) in paragraph (2)—

15 (i) by striking “Attorney General” and inserting “Secretary of Homeland
16 Security”;

17 (ii) by striking “this subsection” and inserting “this section”; and

18 (iii) by striking “construction of fences” and inserting “the construction of
19 physical barriers”; and

20 (D) by amending paragraph (3) to read as follows:

21 “(3) AGENT SAFETY.—In carrying out this section, the Secretary of Homeland Security,
22 when designing, constructing, and deploying physical barriers, tactical infrastructure, or
23 technology, shall incorporate such safety features into the design, construction, or
24 deployment of such physical barriers, tactical infrastructure, or technology, as the case may
25 be, that the Secretary determines, in the Secretary’s sole discretion, are necessary to
26 maximize the safety and effectiveness of officers or agents of the Department of Homeland
27 Security or of any other Federal agency deployed in the vicinity of such physical barriers,
28 tactical infrastructure, or technology.”;

29 (3) in subsection (c), by amending paragraph (1) to read as follows:

30 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of
31 Homeland Security shall have the authority to waive all legal requirements that the
32 Secretary, in the Secretary’s sole discretion, determines necessary to ensure the expeditious
33 design, testing, construction, installation, deployment, operation, and maintenance of the
34 physical barriers, tactical infrastructure and technology under this section. Any such
35 decision by the Secretary shall be effective upon publication in the Federal Register.”; and

36 (4) by adding after subsection (d) the following:

37 “(e) Technology.—Not later than September 30, 2022, the Secretary of Homeland Security, in
38 carrying out this section, shall deploy, operate, and permanently maintain along the United States
39 border the most practical and effective technology available for achieving situational awareness

1 and operational control of the border.

2 “(f) Limitation on requirements. – Nothing in this section may be construed as requiring the
3 Secretary to install tactical infrastructure, technology, and physical barriers in a particular
4 location along an international border of the United States, if the Secretary determines that the
5 use or placement of such resources is not the most appropriate means to achieve and maintain
6 situational awareness and operational control over the international border at such location.

7 “(g) Definitions.—In this section:

8 “(1) HIGH TRAFFIC AREAS.—The term ‘high traffic areas’ means areas in the vicinity of
9 the United States border that—

10 “(A) are within the responsibility of U.S. Customs and Border Protection; and

11 “(B) have significant unlawful cross-border activity, as determined by the Secretary
12 of Homeland Security.

13 “(2) OPERATIONAL CONTROL.—The term ‘operational control’ has the meaning given the
14 term in section 2(b) of the Secure Fence Act of 2006 (8 U.S.C. 1701 note; Public Law 109–
15 367).

16 “(3) Physical Barriers. – The term ‘physical barriers’ includes reinforced fencing, border
17 wall system, and levee walls.

18 “(4) SITUATIONAL AWARENESS DEFINED.—The term ‘situational awareness’ has the
19 meaning given the term in section 1092(a)(7) of the National Defense Authorization Act for
20 Fiscal Year 2017 (6 U.S.C. 223(a)(7); Public Law 114–328).

21 “(5) TACTICAL INFRASTRUCTURE.—The term ‘tactical infrastructure’ includes boat ramps,
22 access gates, checkpoints, lighting, and roads.

23 “(6) TECHNOLOGY.—The term ‘technology’ means border surveillance and detection
24 technology, including—

25 “(A) tower-based surveillance technology;

26 “(B) deployable, lighter-than-air ground surveillance equipment;

27 “(C) Vehicle and Dismount Exploitation Radars (VADER);

28 “(D) 3-dimensional, seismic acoustic detection and ranging border tunneling
29 detection technology;

30 “(E) advanced unattended surveillance sensors;

31 “(F) mobile vehicle-mounted and man-portable surveillance capabilities;

32 “(G) unmanned aerial vehicles; and

33 “(H) other border detection, communication, and surveillance technology.

34 “(7) UNMANNED AERIAL VEHICLES.—The term ‘unmanned aerial vehicle’ has the
35 meaning given the term ‘unmanned aircraft’ in section 331 of the FAA Modernization and
36 Reform Act of 2012 (Public Law 112–95; 49 U.S.C. 40101 note).”.

37 SEC. 1112. AIR AND MARINE OPERATIONS FLIGHT

1 **HOURS.**

2 (a) Increased Flight Hours.—The Secretary shall ensure that not fewer than 95,000 annual
3 flight hours are carried out by Air and Marine Operations of U.S. Customs and Border
4 Protection.

5 (b) Unmanned Aerial System.—The Secretary, after coordination with the Administrator of
6 the Federal Aviation Administration, shall ensure that Air and Marine Operations operate
7 unmanned aerial systems on the southern border of the United States for not fewer than 24 hours
8 per day for 5 days per week.

9 (c) Contract Air Support Authorization.—The Commissioner shall contract for the unfulfilled
10 identified air support mission critical hours, as identified by the Chief of the U.S. Border Patrol.

11 (d) Primary Mission.—The Commissioner shall ensure that—

12 (1) the primary missions for Air and Marine Operations are to directly support U.S.
13 Border Patrol activities along the southern border of the United States and Joint Interagency
14 Task Force South operations in the transit zone; and

15 (2) the Executive Assistant Commissioner of Air and Marine Operations assigns the
16 greatest priority to support missions established by the Commissioner to carry out the
17 requirements under this Act.

18 (e) High-demand Flight Hour Requirements.—In accordance with subsection (d), the
19 Commissioner shall ensure that U.S. Border Patrol Sector Chiefs—

20 (1) identify critical flight hour requirements; and

21 (2) direct Air and Marine Operations to support requests from Sector Chiefs as their
22 primary mission.

23 (f) Small Unmanned Aerial Vehicles.—

24 (1) IN GENERAL.—The Chief of the U.S. Border Patrol shall be the executive agent for
25 U.S. Customs and Border Protection’s use of small, unmanned aerial vehicles for the
26 purpose of meeting the U.S. Border Patrol’s unmet flight hour operational requirements and
27 to achieve situational awareness and operational control.

28 (2) COORDINATION.—In carrying out paragraph (1), the Chief of the U.S. Border Patrol
29 shall—

30 (A) coordinate flight operations with the Administrator of the Federal Aviation
31 Administration to ensure the safe and efficient operation of the National Airspace
32 System; and

33 (B) coordinate with the Executive Assistant Commissioner for Air and Marine
34 Operations of U.S. Customs and Border Protection to ensure the safety of other aircraft
35 flying in the vicinity of small, unmanned aerial vehicles operated by the U.S. Border
36 Patrol.

37 (3) CONFORMING AMENDMENT.—Section 411(e)(3) of the Homeland Security Act of
38 2002 (6 U.S.C. 211(e)(3)) is amended—

39 (A) in subparagraph (B), by striking “and” at the end;

1 (B) by redesignating subparagraph (C) as subparagraph (D); and
2 (C) by inserting after subparagraph (B) the following:

3 “(C) carry out the small unmanned aerial vehicle requirements pursuant to section
4 1112(f) of the Building America’s Trust Act; and”.

5 (g) Savings Clause.—Nothing in this section may be construed to confer, transfer, or delegate
6 to the Secretary, the Commissioner, the Executive Assistant Commissioner for Air and Marine
7 Operations of U.S. Customs and Border Protection, or the Chief of the U.S. Border Patrol any
8 authority of the Secretary of Transportation or the Administrator of the Federal Aviation
9 Administration relating to the use of airspace or aviation safety.

10 **SEC. 1113. CAPABILITY DEPLOYMENT TO SPECIFIC**
11 **SECTORS AND TRANSIT ZONE.**

12 (a) In General.—Not later than September 30, 2022, the Secretary, in implementing section
13 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended
14 by section 1111, and acting through the appropriate component of the Department of Homeland
15 Security, shall deploy to each sector or region of the southern border and the northern border, in
16 a prioritized manner to achieve situational awareness and operational control of such borders, the
17 following additional capabilities:

18 (1) SAN DIEGO SECTOR.—For the San Diego sector, the following:

- 19 (A) Tower-based surveillance technology.
- 20 (B) Subterranean surveillance and detection technologies.
- 21 (C) To increase coastal maritime domain awareness, the following:
 - 22 (i) Deployable, lighter-than-air surface surveillance equipment.
 - 23 (ii) Unmanned aerial vehicles with maritime surveillance capability.
 - 24 (iii) U.S. Customs and Border Protection maritime patrol aircraft.
 - 25 (iv) Coastal radar surveillance systems.
 - 26 (v) Maritime signals intelligence capabilities.
- 27 (D) Ultralight aircraft detection capabilities.
- 28 (E) Advanced unattended surveillance sensors.
- 29 (F) A rapid reaction capability supported by aviation assets.
- 30 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 31 (H) Man-portable unmanned aerial vehicles.
- 32 (I) Improved agent communications capabilities.

33 (2) EL CENTRO SECTOR.—For the El Centro sector, the following:

- 34 (A) Tower-based surveillance technology.
- 35 (B) Deployable, lighter-than-air ground surveillance equipment.

- 1 (C) Man-portable unmanned aerial vehicles.
2 (D) Ultralight aircraft detection capabilities.
3 (E) Advanced unattended surveillance sensors.
4 (F) A rapid reaction capability supported by aviation assets.
5 (G) Man-portable unmanned aerial vehicles.
6 (H) Improved agent communications capabilities.
- 7 (3) YUMA SECTOR.—For the Yuma sector, the following:
8 (A) Tower-based surveillance technology.
9 (B) Deployable, lighter-than-air ground surveillance equipment.
10 (C) Ultralight aircraft detection capabilities.
11 (D) Advanced unattended surveillance sensors.
12 (E) A rapid reaction capability supported by aviation assets.
13 (F) Mobile vehicle-mounted and man-portable surveillance systems.
14 (G) Man-portable unmanned aerial vehicles.
15 (H) Improved agent communications capabilities.
- 16 (4) TUCSON SECTOR.—For the Tucson sector, the following:
17 (A) Tower-based surveillance technology.
18 (B) Increased flight hours for aerial detection, interdiction, and monitoring
19 operations capability.
20 (C) Deployable, lighter-than-air ground surveillance equipment.
21 (D) Ultralight aircraft detection capabilities.
22 (E) Advanced unattended surveillance sensors.
23 (F) A rapid reaction capability supported by aviation assets.
24 (G) Man-portable unmanned aerial vehicles.
25 (H) Improved agent communications capabilities.
- 26 (5) EL PASO SECTOR.—For the El Paso sector, the following:
27 (A) Tower-based surveillance technology.
28 (B) Deployable, lighter-than-air ground surveillance equipment.
29 (C) Ultralight aircraft detection capabilities.
30 (D) Advanced unattended surveillance sensors.
31 (E) Mobile vehicle-mounted and man-portable surveillance systems.
32 (F) A rapid reaction capability supported by aviation assets.
33 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.

- 1 (H) Man-portable unmanned aerial vehicles.
2 (I) Improved agent communications capabilities.
3 (6) BIG BEND SECTOR.—For the Big Bend sector, the following:
4 (A) Tower-based surveillance technology.
5 (B) Deployable, lighter-than-air ground surveillance equipment.
6 (C) Improved agent communications capabilities.
7 (D) Ultralight aircraft detection capabilities.
8 (E) Advanced unattended surveillance sensors.
9 (F) A rapid reaction capability supported by aviation assets.
10 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
11 (H) Man-portable unmanned aerial vehicles.
12 (I) Improved agent communications capabilities.
13 (7) DEL RIO SECTOR.—For the Del Rio sector, the following:
14 (A) Tower-based surveillance technology.
15 (B) Increased monitoring for cross-river dams, culverts, and footpaths.
16 (C) Improved agent communications capabilities.
17 (D) Improved maritime capabilities in the Amistad National Recreation Area.
18 (E) Advanced unattended surveillance sensors.
19 (F) A rapid reaction capability supported by aviation assets.
20 (G) Mobile vehicle-mounted and man-portable surveillance capabilities.
21 (H) Man-portable unmanned aerial vehicles.
22 (I) Improved agent communications capabilities.
23 (8) LAREDO SECTOR.—For the Laredo sector, the following:
24 (A) Tower-based surveillance technology.
25 (B) Maritime detection resources for the Falcon Lake region.
26 (C) Increased flight hours for aerial detection, interdiction, and monitoring
27 operations capability.
28 (D) Increased monitoring for cross-river dams, culverts, and footpaths.
29 (E) Ultralight aircraft detection capability.
30 (F) Advanced unattended surveillance sensors.
31 (G) A rapid reaction capability supported by aviation assets.
32 (H) Man-portable unmanned aerial vehicles.
33 (I) Improved agent communications capabilities.

- 1 (9) RIO GRANDE VALLEY SECTOR.—For the Rio Grande Valley sector, the following:
- 2 (A) Tower-based surveillance technology.
- 3 (B) Deployable, lighter-than-air ground surveillance equipment.
- 4 (C) Increased flight hours for aerial detection, interdiction, and monitoring
- 5 operations capability.
- 6 (D) Ultralight aircraft detection capability.
- 7 (E) Advanced unattended surveillance sensors.
- 8 (F) Increased monitoring for cross-river dams, culverts, footpaths.
- 9 (G) A rapid reaction capability supported by aviation assets.
- 10 (H) Increased maritime interdiction capabilities.
- 11 (I) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 12 (J) Man-portable unmanned aerial vehicles.
- 13 (K) Improved agent communications capabilities.
- 14 (10) BLAINE SECTOR.—For the Blaine sector, the following:
- 15 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 16 operations capability.
- 17 (B) Coastal radar surveillance systems.
- 18 (C) Increased maritime interdiction capabilities.
- 19 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 20 (E) Advanced unattended surveillance sensors.
- 21 (F) Ultralight aircraft detection capabilities.
- 22 (G) Man-portable unmanned aerial vehicles.
- 23 (H) Improved agent communications capabilities.
- 24 (11) SPOKANE SECTOR.—For the Spokane sector, the following:
- 25 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 26 operations capability.
- 27 (B) Increased maritime interdiction capabilities.
- 28 (C) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 29 (D) Advanced unattended surveillance sensors.
- 30 (E) Ultralight aircraft detection capabilities.
- 31 (F) Completion of six miles of the Bog Creek road.
- 32 (G) Man-portable unmanned aerial vehicles.
- 33 (H) Improved agent communications systems.

- 1 (12) HAVRE SECTOR.—For the Havre sector, the following:
- 2 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 3 operations capability.
- 4 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 5 (C) Advanced unattended surveillance sensors.
- 6 (D) Ultralight aircraft detection capabilities.
- 7 (E) Man-portable unmanned aerial vehicles.
- 8 (F) Improved agent communications systems.
- 9 (13) GRAND FORKS SECTOR.—For the Grand Forks sector, the following:
- 10 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 11 operations capability.
- 12 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 13 (C) Advanced unattended surveillance sensors.
- 14 (D) Ultralight aircraft detection capabilities.
- 15 (E) Man-portable unmanned aerial vehicles.
- 16 (F) Improved agent communications systems.
- 17 (14) DETROIT SECTOR.—For the Detroit sector, the following:
- 18 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 19 operations capability.
- 20 (B) Coastal radar surveillance systems.
- 21 (C) Increased maritime interdiction capabilities.
- 22 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 23 (E) Advanced unattended surveillance sensors.
- 24 (F) Ultralight aircraft detection capabilities.
- 25 (G) Man-portable unmanned aerial vehicles.
- 26 (H) Improved agent communications systems.
- 27 (15) BUFFALO SECTOR.—For the Buffalo sector, the following:
- 28 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 29 operations capability.
- 30 (B) Coastal radar surveillance systems.
- 31 (C) Increased maritime interdiction capabilities.
- 32 (D) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 33 (E) Advanced unattended surveillance sensors.
- 34 (F) Ultralight aircraft detection capabilities.

- 1 (G) Man-portable unmanned aerial vehicles.
- 2 (H) Improved agent communications systems.
- 3 (16) SWANTON SECTOR.—For the Swanton 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 (17) HOULTON SECTOR.—For the Houlton sector, the following:
- 12 (A) Increased flight hours for aerial detection, interdiction, and monitoring
- 13 operations capability.
- 14 (B) Mobile vehicle-mounted and man-portable surveillance capabilities.
- 15 (C) Advanced unattended surveillance sensors.
- 16 (D) Ultralight aircraft detection capabilities.
- 17 (E) Man-portable unmanned aerial vehicles.
- 18 (F) Improved agent communications systems.
- 19 (18) TRANSIT ZONE.—For the transit zone, the following:
- 20 (A) Not later than 2 years after the date of the enactment of this Act, an increase in
- 21 the number of overall cutter, boat, and aircraft hours spent conducting interdiction
- 22 operations over the average number of such hours during the preceding 3 fiscal years.
- 23 (B) Increased maritime signals intelligence capabilities.
- 24 (C) To increase maritime domain awareness—
- 25 (i) unmanned aerial vehicles with maritime surveillance capability; and
- 26 (ii) increased maritime aviation patrol hours.
- 27 (D) Increased operational hours for maritime security components dedicated to joint
- 28 counter-smuggling and interdiction efforts with other Federal agencies, including the
- 29 Deployable Specialized Forces of the Coast Guard.
- 30 (E) Coastal radar surveillance systems with long range day and night cameras
- 31 capable of providing full maritime domain awareness of the United States territorial
- 32 waters surrounding Puerto Rico, Mona Island, Desecheo Island, Vieques Island,
- 33 Culebra Island, Saint Thomas, Saint John, and Saint Croix.
- 34 (b) Reimbursement Related to the Lower Rio Grande Valley Flood Control Project.—The
- 35 International Boundary and Water Commission is authorized to reimburse State and local
- 36 governments for any expenses incurred before, on, or after the date of the enactment of this Act

1 by such governments in designing, constructing, and rehabilitating the Lower Rio Grande Valley
2 Flood Control Project of the Commission.

3 (c) Tactical Flexibility.—

4 (1) SOUTHERN AND NORTHERN LAND BORDERS.—

5 (A) IN GENERAL.—Beginning on September 30, 2021, or after the Secretary has
6 deployed at least 25 percent of the capabilities required in each sector specified in
7 subsection (a), whichever comes later, the Secretary may deviate from such capability
8 deployments if the Secretary determines that such deviation is required to achieve
9 situational awareness or operational control.

10 (B) NOTIFICATION.—If the Secretary exercises the authority described in
11 subparagraph (A), the Secretary shall, not later than 90 days after such exercise, notify
12 the Committee on Homeland Security and Governmental Affairs of the Senate and the
13 Committee on Homeland Security of the House of Representatives regarding the
14 deviation under such subparagraph that is the subject of such exercise. If the Secretary
15 makes any changes to such deviation, the Secretary shall, not later than 90 days after
16 any such change, notify such committees regarding such change.

17 (2) TRANSIT ZONE.—

18 (A) NOTIFICATION.—The Secretary shall notify the Committee on Homeland
19 Security and Governmental Affairs of the Senate, the Committee on Commerce,
20 Science, and Transportation of the Senate, the Committee on Homeland Security of the
21 House of Representatives, and the Committee on Transportation and Infrastructure of
22 the House of Representatives regarding the capability deployments for the transit zone
23 specified in paragraph (18) of subsection (a), including information relating to—

24 (i) the number and types of assets and personnel deployed; and

25 (ii) the impact such deployments have on the capability of the Coast Guard to
26 conduct its mission in the transit zone referred to in paragraph (18) of subsection
27 (a).

28 (B) ALTERATION.—The Secretary may alter the capability deployments referred to
29 in this section if the Secretary—

30 (i) determines, after consultation with the committees referred to in
31 subparagraph (A), that such alteration is necessary; and

32 (ii) not later than 30 days after making a determination under clause (i), notifies
33 the committees referred to in such subparagraph regarding such alteration,
34 including information relating to—

35 (I) the number and types of assets and personnel deployed pursuant to
36 such alteration; and

37 (II) the impact such alteration has on the capability of the Coast Guard to
38 conduct its mission in the transit zone referred to in paragraph (18) of
39 subsection (a).

40 (d) Exigent Circumstances.—

1 (1) IN GENERAL.—Notwithstanding subsection (b), the Secretary may deploy the
2 capabilities referred to in subsection (a) in a manner that is inconsistent with the
3 requirements specified in such subsection if, after the Secretary has deployed at least 25
4 percent of such capabilities, the Secretary determines that exigent circumstances demand
5 such an inconsistent deployment or that such an inconsistent deployment is vital to the
6 national security interests of the United States.

7 (2) NOTIFICATION.—The Secretary shall notify the Committee on Homeland Security of
8 the House of Representatives and the Committee on Homeland Security and Governmental
9 Affairs of the Senate not later than 30 days after making a determination under paragraph
10 (1). Such notification shall include a detailed justification for such determination.

11 SEC. 1114. U.S. BORDER PATROL ACTIVITIES.

12 The Chief of the U.S. Border Patrol shall prioritize the deployment of U.S. Border Patrol
13 agents to as close to the physical land border as possible, consistent with border security
14 enforcement priorities and accessibility to such areas.

15 SEC. 1115. BORDER SECURITY TECHNOLOGY 16 PROGRAM MANAGEMENT.

17 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
18 seq.) is amended by adding at the end the following:

19 “SEC. 435. BORDER SECURITY TECHNOLOGY 20 PROGRAM MANAGEMENT.

21 “(a) Major Acquisition Program Defined.—In this section, the term ‘major acquisition
22 program’ means an acquisition program of the Department that is estimated by the Secretary to
23 require an eventual total expenditure of at least \$300,000,000 (based on fiscal year 2017 constant
24 dollars) over its life cycle cost.

25 “(b) Planning Documentation.—For each border security technology acquisition program of
26 the Department that is determined to be a major acquisition program, the Secretary shall—

27 “(1) ensure that each such program has a written acquisition program baseline approved
28 by the relevant acquisition decision authority;

29 “(2) document that such program is meeting cost, schedule, and performance thresholds
30 as specified in such baseline, in compliance with relevant departmental acquisition policies
31 and the Federal Acquisition Regulation; and

32 “(3) have a plan for meeting program implementation objectives by managing contractor
33 performance.

34 “(c) Adherence to Standards.—The Secretary, acting through the Under Secretary for
35 Management and the Commissioner of U.S. Customs and Border Protection, shall ensure border
36 security technology acquisition program managers who are responsible for carrying out this
37 section adhere to relevant internal control standards identified by the Comptroller General of the
38 United States. The Commissioner shall provide information, as needed, to assist the Under
39 Secretary in monitoring management of border security technology acquisition programs under

1 this section.

2 “(d) Plan.—The Secretary, acting through the Under Secretary for Management, in
3 coordination with the Under Secretary for Science and Technology and the Commissioner of
4 U.S. Customs and Border Protection, shall submit to the appropriate congressional committees a
5 plan for testing, evaluating, and using independent verification and validation resources for
6 border security technology. Under the plan, new border security technologies shall be evaluated
7 through a series of assessments, processes, and audits to ensure—

8 “(1) compliance with relevant departmental acquisition policies and the Federal
9 Acquisition Regulation; and

10 “(2) the effective use of taxpayer dollars.”.

11 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
12 of 2002 is amended by inserting after the item relating to section 434 the following:

13 “Sec.435.Border security technology program management.”.

14 (c) Prohibition on Additional Authorization of Appropriations.—No additional funds are
15 authorized to be appropriated to carry out section 435 of the Homeland Security Act of 2002, as
16 added by subsection (a). Such section shall be carried out using amounts otherwise authorized
17 for such purposes.

18 SEC. 1117. NATIONAL GUARD SUPPORT TO SECURE 19 THE SOUTHERN BORDER.

20 (a) In General.—The Secretary may request that the Secretary of Defense support, pursuant to
21 chapter 15 of title 10, United States Code, the Secretary’s efforts to secure the southern border of
22 the United States. The Secretary of Defense may authorize the provision of such support under
23 section 502(f) of title 32, United States Code, including pursuant to chapter 9 of such title.

24 (b) Type of Support Authorized.—The support provided in accordance with subsection (a)
25 may include—

26 (1) construction of reinforced fencing or other physical barriers;

27 (2) operation of ground-based surveillance systems;

28 (3) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-
29 based surveillance systems to support continuous surveillance of the southern border;

30 (4) intelligence analysis support.

31 (c) Materiel and Logistical Support.—The Secretary of Defense may deploy such materiel,
32 equipment, and logistical support as may be necessary to ensure the effectiveness of the
33 assistance provided under subsection (a).

34 (d) Readiness. – To ensure that the use of units and personnel of the National Guard of a State
35 authorized pursuant to this section does not degrade the training and readiness of such units and
36 personnel, the following requirements shall apply in determining the homeland defense activities
37 that such units and personnel may perform:

38 (1) The performance of such activities shall not affect adversely the quality of such
39 training or readiness or otherwise interfere with the ability of a unit or personnel of the National

1 Guard of a State to perform the military functions of such member or unit.

2 (2) The performance of such activities shall not degrade the military skills of the units or
3 personnel of the National Guard of a State performing such activities.

4 (e) Reimbursement Notification.— Prior to providing any support in accordance with
5 subsection (a), the Secretary of Defense shall notify the Secretary whether such support qualifies
6 for a reimbursement waiver under chapter 15 of title 10, United States Code.

7 (f) Reports. —

8 (1) In General. — Not later than 180 days after the date of the enactment of this Act and
9 biannually thereafter through December 31, 2021, the Secretary of Defense shall submit to
10 the appropriate congressional defense committees (as defined in section 101(a)(16) of title
11 10, United States Code) a report regarding any support provided pursuant to subsection (a)
12 for the six month period preceding each such report.

13 (2) Elements. — Each report under paragraph (1) shall include a description of —

14 (A) the support provided; and

15 (B) the sources and amounts of funds obligated and expended to provide such support.

16 SEC. 1118. OPERATION PHALANX.

17 (a) In General.—The Secretary of Defense, with the concurrence of the Secretary, shall
18 provide assistance to U.S. Customs and Border Protection for purposes of increasing ongoing
19 efforts to secure the southern border.

20 (b) Types of Assistance Authorized.—The assistance provided under subsection (a) may
21 include—

22 (1) deployment of manned aircraft, unmanned aerial surveillance systems, and ground-
23 based surveillance systems to support continuous surveillance of the southern border; and

24 (2) intelligence analysis support.

25 (c) Materiel and Logistical Support.—The Secretary of Defense may deploy such materiel,
26 equipment, and logistics support as may be necessary to ensure the effectiveness of the
27 assistance provided under subsection (a).

28 (d) Authorization of Appropriations.—There are authorized to be appropriated for the
29 Department of Defense \$75,000,000 to provide assistance under this section. The Secretary of
30 Defense may not seek reimbursement from the Secretary for any assistance provided under this
31 section.

32 (e) Reports.—

33 (1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act and
34 annually thereafter, the Secretary of Defense shall submit a report to the appropriate
35 congressional defense committees (as defined in section 101(a)(16) of title 10, United States
36 Code) regarding any assistance provided under subsection (a) during the period specified in
37 paragraph (3).

38 (2) ELEMENTS.—Each report under paragraph (1) shall include, for the period specified in
39 paragraph (3), a description of—

1 (A) the assistance provided;

2 (B) the sources and amounts of funds used to provide such assistance; and

3 (C) the amounts obligated to provide such assistance.

4 (3) PERIOD SPECIFIED.—The period specified in this paragraph is—

5 (A) in the case of the first report required under paragraph (1), the 90-day period
6 beginning on the date of the enactment of this Act; and

7 (B) in the case of any subsequent report submitted under paragraph (1), the calendar
8 year for which the report is submitted.

9 **SEC. 1119. MERIDA INITIATIVE.**

10 (a) Sense of Congress.—It is the sense of Congress that assistance to Mexico, including
11 assistance from the Department of State and the Department of Defense and any aid related to
12 the Merida Initiative—

13 (1) should be focused on providing enhanced border security at Mexico’s northern and
14 southern borders, judicial reform, and support for Mexico’s anti-drug efforts; and

15 (2) should return to its original focus and prioritize security, training, and acquisition of
16 equipment for Mexican security forces involved in border security and anti-drug efforts as
17 well as be used to train prosecutors in ongoing justice reform efforts.

18 (b) Assistance for Mexico.—The Secretary of State, in coordination with the Secretary and the
19 Secretary of Defense, shall provide level and consistent assistance to Mexico—

20 (1) to combat drug production and trafficking and related violence, transnational
21 organized criminal organizations, and corruption;

22 (2) to build a secure, modern border security system capable of preventing illegal
23 migration;

24 (3) to support border security and cooperation with United States military, intelligence,
25 and law enforcement agencies on border incursions;

26 (4) to support judicial reform, institution building, and rule of law activities to build
27 judicial capacity, address corruption and impunity, and support human rights; and

28 (5) to provide for training and equipment for Mexican security forces involved in efforts
29 to eradicate and interdict drugs.

30 (c) Allocation of Funds; Report.—

31 (1) IN GENERAL.—Notwithstanding any other provision of law, 50 percent of any
32 assistance appropriated in any appropriations Act to implement this section shall be
33 withheld until after the Secretary of State submits a written report to the congressional
34 committees specified in paragraph (3) certifying that the Government of Mexico is—

35 (A) significantly reducing illegal migration, drug trafficking, and cross-border
36 criminal activities on Mexico’s northern and southern borders;

37 (B) taking significant action to address corruption, impunity, and human rights
38 abuses; and

1 (C) improving the transparency and accountability of Mexican Federal police forces
2 and working with Mexican State and municipal authorities to improve the transparency
3 and accountability of Mexican State and municipal police forces.

4 (2) MATTERS TO INCLUDE.—The report required under paragraph (1) shall include a
5 description of—

6 (A) actions taken by the Government of Mexico to address the matters described in
7 such paragraph;

8 (B) any relevant assessments by civil society and non-government organizations in
9 Mexico relating to such matters; and

10 (C) any instances in which the Secretary determines that the actions taken by the
11 Government of Mexico are inadequate to address such matters.

12 (3) CONGRESSIONAL COMMITTEES SPECIFIED.—The congressional committees specified in
13 this paragraph are—

14 (A) the Committee on Appropriations of the Senate;

15 (B) the Committee on Homeland Security and Governmental Affairs of the Senate;

16 (C) the Committee on the Judiciary of the Senate;

17 (D) the Committee on Foreign Relations of the Senate;

18 (E) the Committee on Appropriations of the House of Representatives;

19 (F) the Committee on Homeland Security of the House of Representatives;

20 (G) the Committee on the Judiciary of the House of Representatives; and

21 (H) the Committee on Foreign Affairs of the House of Representatives.

22 (d) Notifications.—Any assistance made available by the Secretary of State under this section
23 shall be subject to—

24 (1) the notification procedures set forth in section 634A of the Foreign Assistance Act of
25 1961 (22 U.S.C. 2394–1); and

26 (2) the notification requirements of—

27 (A) the Committee on Homeland Security and Governmental Affairs of the Senate;

28 (B) the Committee on the Judiciary of the Senate;

29 (C) the Committee on Foreign Relations of the Senate;

30 (D) the Committee on Homeland Security of the House of Representatives;

31 (E) the Committee on the Judiciary of the House of Representatives; and

32 (F) the Committee on Foreign Affairs of the House of Representatives.

33 (e) Spending Plan.—Not later than 60 days after the date of the enactment of this Act, the
34 Secretary of State shall submit, to the congressional committees specified in subsection (c)(3), a
35 detailed spending plan for assistance to Mexico under this section, which shall include a strategy,
36 developed after consulting with relevant authorities of the Government of Mexico, for—

1 (1) combating drug trafficking and related violence and organized crime; and

2 (2) anti-corruption and rule of law activities, which shall include concrete goals, actions
3 to be taken, budget proposals, and a description of anticipated results.

4 **SEC. 1120. PROHIBITIONS ON ACTIONS THAT IMPEDE**
5 **BORDER SECURITY ON CERTAIN FEDERAL LAND.**

6 (a) Prohibition on Interference With U.S. Customs and Border Protection.—

7 (1) IN GENERAL.—The Secretary concerned shall not impede, prohibit, or restrict
8 activities of U.S. Customs and Border Protection on covered Federal land to carry out the
9 activities described in subsection (b).

10 (2) APPLICABILITY.—The authority of U.S. Customs and Border Protection to conduct
11 activities described in subsection (b) on covered Federal land applies without regard to
12 whether a state of emergency exists.

13 (b) Authorized Activities of U.S. Customs and Border Protection.—

14 (1) IN GENERAL.—U.S. Customs and Border Protection shall have immediate access to
15 covered Federal land to conduct the activities described in paragraph (2) on such land to
16 prevent all unlawful entries into the United States, including entries by terrorists, unlawful
17 aliens, instruments of terrorism, narcotics, and other contraband through the southern border
18 or the northern border.

19 (2) ACTIVITIES DESCRIBED.—The activities described in this paragraph are—

20 (A) the execution of search and rescue operations:

21 (B) the use of motorized vehicles, foot patrols, and horseback to patrol the border
22 area, apprehend illegal entrants, and rescue individuals; and

23 (C) the design, testing, construction, installation, deployment, and operation of
24 physical barriers, tactical infrastructure, and technology pursuant to section 102 of the
25 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (as amended by
26 section 1111 of this title).

27 (c) Clarification Relating to Waiver Authority.—

28 (1) IN GENERAL.—The activities of U.S. Customs and Border Protection described in
29 subsection (b)(2) may be carried out without regard to the provisions of law specified in
30 paragraph (2).

31 (2) PROVISIONS OF LAW SPECIFIED.—The provisions of law specified in this paragraph are
32 all Federal, State, or other laws, regulations, and legal requirements of, deriving from, or
33 related to the subject of, the following laws:

34 (A) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

35 (B) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

36 (C) The Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (commonly
37 referred to as the “Clean Water Act”).

38 (D) Division A of subtitle III of title 54, United States Code (54 U.S.C. 300301 et

- 1 seq.) (formerly known as the “National Historic Preservation Act”).
- 2 (E) The Migratory Bird Treaty Act (16 U.S.C. 703 et seq.).
- 3 (F) The Clean Air Act (42 U.S.C. 7401 et seq.).
- 4 (G) The Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).
- 5 (H) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).
- 6 (I) The Noise Control Act of 1972 (42 U.S.C. 4901 et seq.).
- 7 (J) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).
- 8 (K) The Comprehensive Environmental Response, Compensation, and Liability Act
9 of 1980 (42 U.S.C. 9601 et seq.).
- 10 (L) Chapter 3125 of title 54, United States Code (formerly known as the
11 “Archeological and Historic Preservation Act”).
- 12 (M) The Antiquities Act (16 U.S.C. 431 et seq.).
- 13 (N) Chapter 3203 of title 54, United States Code (formerly known as the “Historic
14 Sites, Buildings, and Antiquities Act”).
- 15 (O) The Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).
- 16 (P) The Farmland Protection Policy Act (7 U.S.C. 4201 et seq.).
- 17 (Q) The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).
- 18 (R) The Wilderness Act (16 U.S.C. 1131 et seq.).
- 19 (S) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
- 20 (T) The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C.
21 668dd et seq.).
- 22 (U) The Fish and Wildlife Act of 1956 (16 U.S.C. 742a et seq.).
- 23 (V) The Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.).
- 24 (W) Subchapter II of chapter 5, and chapter 7, of title 5, United States Code
25 (commonly known as the “Administrative Procedure Act”).
- 26 (X) The Otay Mountain Wilderness Act of 1999 (Public Law 106–145).
- 27 (Y) Sections 102(29) and 103 of the California Desert Protection Act of 1994
28 (Public Law 103–433).
- 29 (Z) Division A of subtitle I of title 54, United States Code (formerly known as the
30 “National Park Service Organic Act”).
- 31 (AA) The National Park Service General Authorities Act (Public Law 91–383, 16
32 U.S.C. 1a–1 et seq.).
- 33 (BB) Sections 401(7), 403, and 404 of the National Parks and Recreation Act of
34 1978 (Public Law 95–625).
- 35 (CC) Sections 301(a) through (f) of the Arizona Desert Wilderness Act (Public Law
36 101–628).

1 (DD) The Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2 (EE) The Eagle Protection Act (16 U.S.C. 668 et seq.).

3 (FF) The Native American Graves Protection and Repatriation Act (25 U.S.C. 3001
4 et seq.).

5 (GG) The American Indian Religious Freedom Act (42 U.S.C. 1996).

6 (HH) The Religious Freedom Restoration Act (42 U.S.C. 2000bb).

7 (II) The National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

8 (JJ) The Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.).

9 (3) APPLICABILITY OF WAIVER TO SUCCESSOR LAWS.—If a provision of law specified in
10 paragraph (2) was repealed and incorporated into title 54, United States Code, after April 1,
11 2008, and before the date of the enactment of this Act, the waiver described in paragraph (1)
12 shall apply to the provision of such title that corresponds to the provision of law specified in
13 paragraph (2) to the same extent the waiver applied to that provision of law.

14 (4) SAVINGS CLAUSE.—The waiver authority under this subsection may not be construed
15 as affecting, negating, or diminishing in any manner the applicability of section 552 of title
16 5, United States Code (commonly referred to as the “Freedom of Information Act”), in any
17 relevant matter.

18 (d) Protection of Legal Uses.—Nothing in this section may be construed to provide—

19 (1) authority to restrict legal uses, such as grazing, hunting, mining, or recreation or the
20 use of backcountry airstrips, on land under the jurisdiction of the Secretary of the Interior or
21 the Secretary of Agriculture; or

22 (2) any additional authority to restrict legal access to such land.

23 (e) Effect on State and Private Land.—This section shall have no force or effect on State lands
24 or private lands and shall not provide authority, on or access to, State lands or private lands.

25 (f) Tribal Sovereignty.—Nothing in this section may be construed to supersede, replace,
26 negate, or diminish treaties or other agreements between the United States and Indian tribes.

27 (g) Memoranda of Understanding.—The requirements under this section shall not apply to the
28 extent that such requirements are incompatible with any memorandum of understanding or
29 similar agreement entered into between the Commissioner of U.S. Customs and Border
30 Protection and a National Park Unit before, on, or after the date of the enactment of this Act.

31 (h) Definitions.—In this section:

32 (1) COVERED FEDERAL LAND.—The term “covered Federal land” includes all land under
33 the control of the Secretary concerned that is located within 100 miles of the southern
34 border or the northern border.

35 (2) SECRETARY CONCERNED.—The term “Secretary concerned” means—

36 (A) with respect to land under the jurisdiction of the Department of Agriculture, the
37 Secretary of Agriculture; and

38 (B) with respect to land under the jurisdiction of the Department of the Interior, the

1 Secretary of the Interior.

2 **SEC. 1121. LANDOWNER AND RANCHER SECURITY**
3 **ENHANCEMENT.**

4 (a) Establishment of National Border Security Advisory Committee.—The Secretary shall
5 establish a National Border Security Advisory Committee, which—

6 (1) may advise, consult with, report to, and make recommendations to the Secretary on
7 matters relating to border security matters, including—

8 (A) verifying security claims and the border security metrics established by the
9 Department of Homeland Security under section 1092 of the National Defense
10 Authorization Act for Fiscal Year 2017 (Public Law 114–328; 6 U.S.C. 223); and

11 (B) discussing ways to improve the security of high traffic areas along the northern
12 border and the southern border; and

13 (2) may provide, through the Secretary, recommendations to Congress.

14 (b) Consideration of Views.—The Secretary shall consider the information, advice, and
15 recommendations of the National Border Security Advisory Committee in formulating policy
16 regarding matters affecting border security.

17 (c) Membership.—The National Border Security Advisory Committee shall consist of at least
18 1 member from each State who—

19 (1) has at least 5 years practical experience in border security operations; or

20 (2) lives and works in the United States within 80 miles of the southern border or within
21 80 miles of the northern border.

22 (d) Nonapplicability of Federal Advisory Committee Act.—The Federal Advisory Committee
23 Act (5 U.S.C. App.) shall not apply to the National Border Security Advisory Committee.

24 **SEC. 1122. LIMITATION ON LAND OWNER’S LIABILITY.**

25 Section 287 of the Immigration and Nationality Act (8 U.S.C. 1357) is amended by adding at
26 the end the following:

27 “(i) Indemnity for Actions of Law Enforcement Officers.—

28 “(1) DEFINITIONS.—In this subsection—

29 “(A) the term ‘land’ includes roads, water, watercourses, and private ways, and
30 buildings, structures, machinery, and equipment that is attached to real property; and

31 “(B) the term ‘owner’ includes the possessor of a fee interest, a tenant, a lessee, an
32 occupant, the possessor of any other interest in land, and any person having a right to
33 grant permission to use the land.

34 “(2) REIMBURSEMENT AUTHORIZED.—Notwithstanding any other provision of law, and
35 subject to the availability of appropriations, any owner of land located in the United States
36 within 150 miles of the southern border of the United States may seek reimbursement from
37 the Department and the Secretary shall pay for any adverse final tort judgment for

1 negligence (excluding attorneys' fees and costs) authorized under Federal or State tort law,
2 arising directly from any border patrol action, such as apprehensions, tracking, and
3 detention of aliens, that is conducted on privately-owned land if—

4 “(A) such land owner has been found negligent by a Federal or State court in any
5 tort litigation;

6 “(B) such land owner has not already been reimbursed for the final tort judgment,
7 including outstanding attorneys' fees and costs;

8 “(C) such land owner did not have or does not have sufficient property insurance to
9 cover the judgment and has had an insurance claim for such coverage denied; and

10 “(D) such tort action was brought against such land owner as a direct result of
11 activity of law enforcement officers of the Department of Homeland Security, acting in
12 their official capacity, on the owner's land.

13 “(3) EXCEPTIONS.—Nothing in this subsection may be construed to require the Secretary
14 to reimburse a land owner under paragraph (2) for any adverse final tort judgment for
15 negligence or to limit land owner liability which would otherwise exist for—

16 “(A) willful or malicious failure to guard or warn against a known dangerous
17 condition, use, structure, or activity likely to cause harm;

18 “(B) maintaining an attractive nuisance;

19 “(C) gross negligence; or

20 “(D) direct interference with, or hindrance of, any agent or officer of the Federal
21 Government who is authorized to enforce the immigration laws during—

22 “(i) a patrol of such landowner's land; or

23 “(ii) any action taken to apprehend or detain any alien attempting to enter the
24 United States illegally or to evade execution of an arrest warrant for a violation of
25 any immigration law.

26 “(4) SAVINGS PROVISION.—Nothing in this subsection may be construed to affect any
27 right or remedy available pursuant to chapter 171 of title 28, United States Code (commonly
28 known as the ‘Federal Tort Claims Act’).”.

29 SEC. 1123. ERADICATION OF CARRIZO CANE AND SALT 30 CEDAR.

31 Not later than September 30, 2022, the Secretary, after coordinating with the heads of the
32 relevant Federal, State, and local agencies, shall begin eradicating the carrizo cane plant and any
33 salt cedar along the Rio Grande River.

34 SEC. 1124. PREVENTION, DETECTION, CONTROL, AND 35 ERADICATION OF DISEASES AND PESTS.

36 (a) Definitions.—In this section:

37 (1) ANIMAL.—The term “animal” means any member of the animal kingdom (except a

1 human).

2 (2) ARTICLE.—The term “article” means any pest or disease or any material or tangible
3 object that could harbor a pest or disease.

4 (3) DISEASE.—The term “disease” has the meaning given such term by the Secretary of
5 Agriculture.

6 (4) LIVESTOCK.—The term “livestock” means all farm-raised animals.

7 (5) MEANS OF CONVEYANCE.—The term “means of conveyance” means any personal
8 property used for, or intended for use for, the movement of any other personal property.

9 (6) PEST.—The term “pest” means any of the following that can directly or indirectly
10 injure, cause damage to, or cause disease in human livestock, a plant, or a plant part:

11 (A) A protozoan.

12 (B) A plant or plant part.

13 (C) An animal.

14 (D) A bacterium.

15 (E) A fungus.

16 (F) A virus or viroid.

17 (G) An infectious agent or other pathogen.

18 (H) An arthropod.

19 (I) A parasite or parasitic plant.

20 (J) A prion.

21 (K) A vector.

22 (L) Any organism similar to or allied with any of the organisms described in this
23 paragraph.

24 (7) PLANT.—The term “plant” means any plant (including any plant part) capable of
25 propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a
26 cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

27 (8) STATE.—The term “State” means any of the several States, the District of Columbia,
28 the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana
29 Islands, the Virgin Islands of the United States, and any territory or possession of the United
30 States.

31 (b) Detection, Control, and Eradication of the Spread of Diseases and Pests.—

32 (1) IN GENERAL.—The Secretary of Agriculture may carry out operations and measures to
33 prevent, detect, control, or eradicate the spread of any pest or disease of livestock or plant
34 that threatens any segment of agriculture.

35 (2) COMPENSATION.—

36 (A) IN GENERAL.—The Secretary of Agriculture may pay a claim arising out of—

1 (i) the destruction of any animal, plant, plant part, article, or means of
2 conveyance consistent with the purposes of this section; and

3 (ii) implementing measures to prevent, detect, control, or eradicate the spread
4 of any pest disease of livestock or plant that threatens any segment of agriculture.

5 (B) SPECIFIC COOPERATIVE PROGRAMS.—The Secretary of Agriculture shall
6 compensate industry participants and State agencies that cooperate with the Secretary
7 of Agriculture in carrying out operations and measures under this subsection for up to
8 100 percent of eligible costs relating to—

9 (i) cooperative programs involving Federal, State, or industry participants to
10 control diseases of low or high pathogenicity and pests in accordance with
11 regulations issued by the Secretary of Agriculture; and

12 (ii) the construction and operation of research laboratories, quarantine stations,
13 and other buildings and facilities for special purposes.

14 (C) REVIEWABILITY.—The action of any officer, employee, or agent of the Secretary
15 of Agriculture under paragraph (1) shall not be subject to review by any officer or
16 employee of the Federal Government other than the Secretary of Agriculture or a
17 designee of the Secretary of Agriculture.

18 (c) Cooperation.—

19 (1) IN GENERAL.—In carrying out this section, the Secretary of Agriculture may cooperate
20 with other Federal agencies, States, State agencies, political subdivisions of States, national
21 and local governments of foreign countries, domestic and international organizations and
22 associations, domestic nonprofit corporations, Indian tribes, and other persons.

23 (2) RESPONSIBILITY.—The person or other entity cooperating with the Secretary of
24 Agriculture shall be responsible for the authority necessary to carry out operations or
25 measures—

26 (A) on all land and property within a foreign country or State, or under the
27 jurisdiction of an Indian tribe, other than on land and property owned or controlled by
28 the United States; and

29 (B) using other facilities and means, as determined by the Secretary of Agriculture.

30 (d) Funding.—For fiscal year 2018, and for each subsequent fiscal year, the Secretary of
31 Agriculture shall use such amounts from the Commodity Credit Cooperation as may be
32 necessary to carry out operations and measures to prevent, detect, control, or eradicate the spread
33 of any pest or disease of livestock or plant that threatens any segment of agriculture.

34 (e) Reimbursement.—The Secretary of Agriculture shall reimburse any Federal agency, State,
35 State agency, political subdivision of a State, national or local government of a foreign country,
36 domestic or international organization or association, domestic nonprofit corporation, Indian
37 tribe, or other person for specified costs, as prescribed by the Secretary of Agriculture, in the
38 discretion of the Secretary of Agriculture, that result from cooperation with the Secretary of
39 Agriculture in carrying out operations and measures under this section.

40 **SEC. 1125. TRANSNATIONAL CRIMINAL**

1 ORGANIZATION ILLICIT SPOTTER PREVENTION AND
2 DETECTION.

3 (a) BRINGING IN AND HARBORING OF CERTAIN ALIENS.—Section 274(a) of the
4 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

5 (1) in subsection (a)(2), by striking “brings to or attempts to” and inserting the following:
6 “brings to or attempts or conspires to”; and

7 (2) by adding at the end the following:

8 “(5) In the case of a person who has brought aliens into the United States in violation of this
9 subsection, the sentence otherwise provided for may be increased by up to 10 years if that
10 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
11 crime, possessed a firearm.”.

12 (b) AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.—
13 Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended—

14 (1) by inserting after “knowingly aids or assists” the following: “or attempts to aid or assist”;
15 and

16 (2) by adding at the end the following: “In the case of a person convicted of an offense under
17 this section, the sentence otherwise provided for may be increased by up to 10 years if that
18 person, at the time of the offense, used or carried a firearm or who, in furtherance of any such
19 crime, possessed a firearm.”.

20 (c) DESTRUCTION OF UNITED STATES BORDER CONTROLS.—Section 1361 of title
21 18, United States Code, is amended—

22 (1) by striking “If the damage” and inserting the following:

23 “(1) Except as otherwise provided in this section, if the damage”; and

24 (2) by adding at the end the following:

25 “(2) If the injury or depredation was made or attempted against any fence, barrier, sensor,
26 camera, or other physical or electronic device deployed by the Federal Government to control the
27 border or a port of entry or otherwise was intended to construct, excavate, or make any structure
28 intended to defeat, circumvent, or evade any such fence, barrier, sensor camera, or other physical
29 or electronic device deployed by the Federal Government to control the border or a port of entry,
30 by a fine under this title or imprisonment for not more than 15 years, or both.

31 “(3) If the injury or depredation was described under paragraph (2) and, in the commission of
32 the offense, the offender used or carried a firearm or, in furtherance of any such offense,
33 possessed a firearm, by a fine under this title or imprisonment for not more than 20 years, or
34 both.”.

35 (d) Unlawfully Hindering Immigration, Border, and Customs Controls.—

36 (1) ENHANCED PENALTIES.—Chapter 9 of title II of the Immigration and Nationality Act
37 (8 U.S.C. 1351 et seq.) is amended by adding at the end the following:

38 “SEC. 295. UNLAWFULLY HINDERING IMMIGRATION,

1 **BORDER, AND CUSTOMS CONTROLS.**

2 “(a) Illicit Spotting.—Any person who knowingly transmits, by any means, to another person
3 the location, movement, or activities of any Federal, State, local, or tribal law enforcement
4 agency or officer with the intent to further a Federal crime relating to United States immigration,
5 customs, controlled substances, agriculture, monetary instruments, or other border controls shall
6 be fined under title 18, imprisoned not more than 10 years, or both.

7 “(b) Destruction of United States Border Controls.—Any person who knowingly and without
8 lawful authorization destroys, alters, or damages any fence, barrier, sensor, camera, or other
9 physical or electronic device deployed by the Federal Government to control the border or a port
10 of entry or otherwise seeks to construct, excavate, or make any structure intended to defeat,
11 circumvent, or evade any such fence, barrier, sensor camera, or other physical or electronic
12 device deployed by the Federal Government to control the border or a port of entry—

13 “(1) shall be fined under title 18, imprisoned not more than 10 years, or both; and

14 “(2) if, at the time of the offense, the person uses or carries a firearm or who, in
15 furtherance of any such crime, possesses a firearm, shall be fined under title 18, imprisoned
16 not more than 20 years, or both.

17 “(c) Conspiracy and Attempt.—Any person who attempts or conspires to violate subsection
18 (a) or (b) shall be punished in the same manner as a person who completes a violation of such
19 subsection.”.

20 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
21 and Nationality Act is amended by inserting after the item relating to section 294 the
22 following:

23 “Sec.295.Unlawfully hindering immigration, border, and customs controls.”.

24 (e) Carrying or Using a Firearm During and in Relation to an Alien Smuggling Crime.—
25 Section 924(c) of title 18, United States Code, is amended—

26 (1) in paragraph (1)—

27 (A) in subparagraph (A), by inserting “, alien smuggling crime,” after “crime of
28 violence” each place that term appears; and

29 (B) in subparagraph (D)(ii), by inserting “, alien smuggling crime,” after “crime of
30 violence”;

31 (2) by striking paragraphs (2) through (4);

32 (3) by redesignating paragraph (5) as paragraph (2); and

33 (4) by adding at the end the following:

34 “(3) For purposes of this subsection—

35 “(A) the term ‘alien smuggling crime’ means any felony punishable under section 274(a),
36 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328);

37 “(B) the term ‘brandish’ means, with respect to a firearm, to display all or part of the
38 firearm, or otherwise make the presence of the firearm known to another person, in order to
39 intimidate that person, regardless of whether the firearm is directly visible to that person;

1 “(C) the term ‘crime of violence’ means a felony offense that—

2 “(i) has as an element the use, attempted use, or threatened use of physical force
3 against the person or property of another; or

4 “(ii) by its nature, involves a substantial risk that physical force against the person or
5 property of another may be used in the course of committing the offense; and

6 “(D) the term ‘drug trafficking crime’ means any felony punishable under the Controlled
7 Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act
8 (21 U.S.C. 951 et seq.), or chapter 705 of title 46.”.

9 (f) Statute of Limitations.—Section 3298 of title 18, United States Code, is amended by
10 inserting “, or 295” after “274(a)”.

11 SEC. 1126. SOUTHERN BORDER THREAT ANALYSIS.

12 (a) Threat Analysis.—

13 (1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act,
14 the Secretary shall submit to the Committee on Homeland Security and Governmental
15 Affairs of the Senate and the Committee on Homeland Security of the House of
16 Representatives a Southern border threat analysis.

17 (2) CONTENTS.—The analysis submitted under paragraph (1) shall include an assessment
18 of—

19 (A) current and potential terrorism and criminal threats posed by individuals and
20 organized groups seeking—

21 (i) to unlawfully enter the United States through the southern border; or

22 (ii) to exploit security vulnerabilities along the southern border;

23 (B) improvements needed at and between ports of entry along the southern border to
24 prevent terrorists and instruments of terror from entering the United States;

25 (C) gaps in law, policy, and coordination between State, local, or tribal law
26 enforcement, international agreements, or tribal agreements that hinder effective and
27 efficient border security, counterterrorism, and anti-human smuggling and trafficking
28 efforts;

29 (D) the current percentage of situational awareness achieved by the Department of
30 Homeland Security along the southern border;

31 (E) the current percentage of operational control achieved by the Department of
32 Homeland Security along the southern border; and

33 (F) traveler crossing times and any potential security vulnerability associated with
34 prolonged wait times.

35 (3) ANALYSIS REQUIREMENTS.—In compiling the southern border threat analysis under
36 this subsection, the Secretary shall consider and examine—

37 (A) the technology needs and challenges, including such needs and challenges
38 identified as a result of previous investments that have not fully realized the security

1 and operational benefits that were sought;

2 (B) the personnel needs and challenges, including such needs and challenges
3 associated with recruitment and hiring;

4 (C) the infrastructure needs and challenges;

5 (D) the roles and authorities of State, local, and tribal law enforcement in general
6 border security activities;

7 (E) the status of coordination among Federal, State, local, tribal, and Mexican law
8 enforcement entities relating to border security;

9 (F) the terrain, population density, and climate along the southern border; and

10 (G) the international agreements between the United States and Mexico related to
11 border security.

12 (4) CLASSIFIED FORM.—To the extent possible, the Secretary shall submit the southern
13 border threat analysis required under this subsection in unclassified form, but may submit a
14 portion of the threat analysis in classified form if the Secretary determines such action is
15 appropriate.

16 (b) U.S. Border Patrol Strategic Plan.—

17 (1) IN GENERAL.—Not later than the later of 180 days after the submission of the threat
18 analysis under subsection (a) or June 30, 2018, and every 5 years thereafter, the Secretary,
19 acting through the Chief of the U.S. Border Patrol shall issue a Border Patrol Strategic Plan.

20 (2) CONTENTS.—The Border Patrol Strategic Plan required under this subsection shall
21 include a consideration of—

22 (A) the southern border threat analysis required under subsection (a), with an
23 emphasis on efforts to mitigate threats identified in such threat analysis;

24 (B) efforts to analyze and disseminate border security and border threat information
25 between border security components of the Department of Homeland Security and
26 other appropriate Federal departments and agencies with missions associated with the
27 southern border;

28 (C) efforts to increase situational awareness, including—

29 (i) surveillance capabilities, including capabilities developed or utilized by the
30 Department of Defense, and any appropriate technology determined to be excess
31 by the Department of Defense; and

32 (ii) the use of manned aircraft and unmanned aerial systems, including camera
33 and sensor technology deployed on such assets;

34 (D) efforts to detect and prevent terrorists and instruments of terrorism from entering
35 the United States;

36 (E) efforts to detect, interdict, and disrupt aliens and illicit drugs at the earliest
37 possible point;

38 (F) efforts to focus intelligence collection to disrupt transnational criminal
39 organizations outside of the international and maritime borders of the United States;

1 (G) efforts to ensure that any new border security technology can be operationally
2 integrated with existing technologies in use by the Department of Homeland Security;

3 (H) any technology required to maintain, support, and enhance security and facilitate
4 trade at ports of entry, including nonintrusive detection equipment, radiation detection
5 equipment, biometric technology, surveillance systems, and other sensors and
6 technology that the Secretary determines to be necessary;

7 (I) operational coordination unity of effort initiatives of the border security
8 components of the Department of Homeland Security, including any relevant task
9 forces of the Department of Homeland Security;

10 (J) lessons learned from Operation Jumpstart and Operation Phalanx;

11 (K) cooperative agreements and information sharing with State, local, tribal,
12 territorial, and other Federal law enforcement agencies that have jurisdiction on the
13 northern border or the southern border;

14 (L) border security information received from consultation with State, local, tribal,
15 territorial, and Federal law enforcement agencies that have jurisdiction on the northern
16 border or the southern border, or in the maritime environment, and from border
17 community stakeholders (including through public meetings with such stakeholders),
18 including representatives from border agricultural and ranching organizations and
19 representatives from business and civic organizations along the northern border or the
20 southern border;

21 (M) staffing requirements for all departmental border security functions;

22 (N) a prioritized list of departmental research and development objectives to
23 enhance the security of the southern border;

24 (O) an assessment of training programs, including training programs for—

25 (i) identifying and detecting fraudulent documents;

26 (ii) understanding the scope of enforcement authorities and the use of force
27 policies; and

28 (iii) screening, identifying, and addressing vulnerable populations, such as
29 children and victims of human trafficking; and

30 (P) an assessment of how border security operations affect border crossing times.

31 **SEC. 1127. AMENDMENTS TO U.S. CUSTOMS AND**
32 **BORDER PROTECTION.**

33 (a) Duties.—Section 411(c) of the Homeland Security Act of 2002 (6 U.S.C. 211(c)) is
34 amended—

35 (1) in paragraph (18), by striking “and” at the end;

36 (2) by redesignating paragraph (19) as paragraph (21); and

37 (3) by inserting after paragraph (18) the following:

38 “(19) administer the U.S. Customs and Border Protection public private partnerships

1 under subtitle G;

2 “(20) administer preclearance operations under the Preclearance Authorization Act of
3 2015 (19 U.S.C. 4431 et seq.); enacted as subtitle B of title VIII of the Trade Facilitation
4 and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et. seq.); and”.

5 (b) Office of Field Operations Staffing.—Section 411(g)(5)(A) of the Homeland Security Act
6 of 2002 (6 U.S.C. 211(g)(5)(A)) is amended by inserting before the period at the end the
7 following: “compared to the number indicated by the current fiscal year work flow staffing
8 model”.

9 (c) Implementation Plan.—Subparagraph (B) of section 814(e)(1) of the Preclearance
10 Authorization Act of 2015 (19 U.S.C. 4433(e)(1)); enacted as subtitle B of title VIII of the Trade
11 Facilitation and Trade Enforcement Act of 2015; 19 U.S.C. 4301 et seq.) is amended to read as
12 follows:

13 “(B) a port of entry vacancy rate which compares the number of officers identified
14 in subparagraph (A) with the number of officers at the port at which such officer is
15 currently assigned.”.

16 (d) Definitions.—Subsection (r) of section 411 of the Homeland Security Act of 2002 (6
17 U.S.C. 211) is amended—

18 (1) by striking “this section, the terms” and inserting the following: “this section:”

19 “(1) the terms”;

20 (2) in paragraph (1), as added by subparagraph (A), by striking the period at the end and
21 inserting “; and”; and

22 (3) by adding at the end the following:

23 “(2) the term ‘unmanned aerial systems’ has the meaning given the term ‘unmanned
24 aircraft system’ in section 331 of the FAA Modernization and Reform Act of 2012 (Public
25 Law 112–95; 49 U.S.C. 40101 note).”.

26 SEC. 1128. AGENT AND OFFICER TECHNOLOGY USE.

27 In carrying out section 102 of the Illegal Immigration Reform and Immigrant Responsibility
28 Act of 1996, as amended by section 1111, and in carrying out section 1113, the Secretary, to the
29 greatest extent practicable, shall ensure that technology deployed to gain situational awareness
30 and operational control of the border be provided to front-line officers and agents of the
31 Department of Homeland Security.

32 SEC. 1129. INTEGRATED BORDER ENFORCEMENT 33 TEAMS.

34 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
35 seq.), as amended by section 1115, is further amended by adding at the end the following:

36 “SEC. 436. INTEGRATED BORDER ENFORCEMENT 37 TEAMS.

1 “(a) Establishment.—The Secretary shall establish within the Department a program, which
2 shall be known as the Integrated Border Enforcement Team program (referred to in this section
3 as the ‘IBET Program’).

4 “(b) Purpose.—The Secretary shall administer the IBET Program in a manner that results in a
5 cooperative approach between the United States and Canada to—

6 “(1) strengthen security between designated ports of entry;

7 “(2) detect, prevent, investigate, and respond to terrorism and violations of law related to
8 border security;

9 “(3) facilitate collaboration among components and offices within the Department and
10 international partners;

11 “(4) execute coordinated activities in furtherance of border security and homeland
12 security; and

13 “(5) enhance information-sharing, including the dissemination of homeland security
14 information among such components and offices.

15 “(c) Composition and Location of IBETs.—

16 “(1) COMPOSITION.—IBETs shall be led by the U.S. Border Patrol and may be comprised
17 of personnel from—

18 “(A) other subcomponents of U.S. Customs and Border Protection;

19 “(B) U.S. Immigration and Customs Enforcement, led by Homeland Security
20 Investigations;

21 “(C) the Coast Guard, for the purpose of securing the maritime borders of the United
22 States;

23 “(D) other Department personnel, as appropriate;

24 “(E) other Federal departments and agencies, as appropriate;

25 “(F) appropriate State law enforcement agencies;

26 “(G) foreign law enforcement partners;

27 “(H) local law enforcement agencies from affected border cities and communities;
28 and

29 “(I) appropriate tribal law enforcement agencies.

30 “(2) LOCATION.—The Secretary is authorized to establish IBETs in regions in which such
31 teams can contribute to IBET missions, as appropriate. When establishing an IBET, the
32 Secretary shall consider—

33 “(A) whether the region in which the IBET would be established is significantly
34 impacted by cross-border threats;

35 “(B) the availability of Federal, State, local, tribal, and foreign law enforcement
36 resources to participate in an IBET; and

37 “(C) whether, in accordance with paragraph (3), other joint cross-border initiatives

1 already take place within the region in which the IBET would be established, including
2 other Department cross-border programs such as the Integrated Cross-Border Maritime
3 Law Enforcement Operation Program established under section 711 of the Coast
4 Guard and Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border
5 Enforcement Security Task Force established under section 432.

6 “(3) DUPLICATION OF EFFORTS.—In determining whether to establish a new IBET or to
7 expand an existing IBET in a given region, the Secretary shall ensure that the IBET under
8 consideration does not duplicate the efforts of other existing interagency task forces or
9 centers within such region, including the Integrated Cross-Border Maritime Law
10 Enforcement Operation Program established under section 711 of the Coast Guard and
11 Maritime Transportation Act of 2012 (46 U.S.C. 70101 note) or the Border Enforcement
12 Security Task Force established under section 432.

13 “(d) Operation.—

14 “(1) IN GENERAL.—After determining the regions in which to establish IBETs, the
15 Secretary may—

16 “(A) direct the assignment of Federal personnel to such IBETs; and

17 “(B) take other actions to assist Federal, State, local, and tribal entities to participate
18 in such IBETs, including providing financial assistance, as appropriate, for operational,
19 administrative, and technological costs associated with such participation.

20 “(2) LIMITATION.—Coast Guard personnel assigned under paragraph (1) may be assigned
21 only for the purposes of securing the maritime borders of the United States, in accordance
22 with subsection (c)(1)(C).

23 “(e) Coordination.—The Secretary shall coordinate the IBET Program with other similar
24 border security and antiterrorism programs within the Department in accordance with the
25 strategic objectives of the Cross-Border Law Enforcement Advisory Committee.

26 “(f) Memoranda of Understanding.—The Secretary may enter into memoranda of
27 understanding with appropriate representatives of the entities specified in subsection (c)(1)
28 necessary to carry out the IBET Program. Such memoranda with entities specified in
29 subparagraph (G) of such subsection shall be entered into with the concurrence of the Secretary
30 of State.

31 “(g) Report.—Not later than 180 days after the date on which an IBET is established, and
32 biannually thereafter for the following 6 years, the Secretary shall submit a report to the
33 appropriate congressional committees, including the Committee on Homeland Security and
34 Governmental Affairs of the Senate and the Committee on Homeland Security of the House of
35 Representatives, and in the case of Coast Guard personnel used to secure the maritime borders of
36 the United States, to the Committee on Transportation and Infrastructure of the House of
37 Representatives, that—

38 “(1) describes the effectiveness of IBETs in fulfilling the purposes specified in subsection
39 (b);

40 “(2) assesses the impact of certain challenges on the sustainment of cross-border IBET
41 operations, including challenges faced by international partners;

1 “(3) addresses ways to support joint training for IBET stakeholder agencies and radio
2 interoperability to allow for secure cross-border radio communications; and

3 “(4) assesses how IBETs, Border Enforcement Security Task Forces, and the Integrated
4 Cross-Border Maritime Law Enforcement Operation Program can better align operations,
5 including interdiction and investigation activities.”.

6 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
7 of 2002 is amended by adding after the item relating to section 435, as added by section 1115,
8 the following:

9 “Sec.436.Integrated Border Enforcement Teams.”.

10 SEC. 1130. LAND USE OR ACQUISITION.

11 Section 103(b) of the Immigration and Nationality Act (8 U.S.C. 1103) is amended to read as
12 follows:

13 “(b)(1) The Secretary may lease, contract for, or buy any interest in land, including temporary
14 use rights, adjacent to or in the vicinity of an international land border when the Secretary
15 determines that such land is essential to control and guard the boundaries and borders of the
16 United States against any violation of this Act.

17 “(2) The Secretary may lease, contract for, or buy any interest in land described in paragraph
18 (1) when—

19 “(A) the lawful owner of that interest fixes a price for leasing, contracting, or buying such
20 interest; and

21 “(B) the Secretary considers the price referred to in subparagraph (A) to be reasonable.

22 “(3) If the Secretary and the lawful owner of an interest in land described in paragraph (1) are
23 unable to agree to lease, contract for, or buy such interest at a reasonable price for such lease,
24 contract, or purchase, the Secretary may commence condemnation proceedings pursuant to the
25 Act of August 1, 1888 (Chapter 728; 25 Stat. 357).

26 “(4) The Secretary may accept, on behalf of the United States, a gift of any interest in land
27 described in paragraph (1)”.

28 SEC. 1131. TUNNEL TASK FORCES.

29 The Secretary is authorized to establish Tunnel Task Forces for the purposes of detecting and
30 remediating tunnels that breach the international borders of the United States.

31 SEC. 1132. PILOT PROGRAM ON USE OF 32 ELECTROMAGNETIC SPECTRUM IN SUPPORT OF 33 BORDER SECURITY OPERATIONS.

34 (a) In General.—The Commissioner of U.S. Customs and Border Protection, in consultation
35 with the Assistant Secretary of Commerce for Communications and Information, shall conduct a
36 pilot program to test and evaluate the use of electromagnetic spectrum by U.S. Customs and
37 Border Protection in support of border security operations through—

1 (1) ongoing management and monitoring of spectrum to identify threats such as
2 unauthorized spectrum use, and the jamming and hacking of United States communications
3 assets, by persons engaged in criminal enterprises;

4 (2) automated spectrum management to enable greater efficiency and speed for U.S.
5 Customs and Border Protection in addressing emerging challenges in overall spectrum use
6 on the United States border; and

7 (3) coordinated use of spectrum resources to better facilitate interoperability and
8 interagency cooperation and interdiction efforts at or near the United States border.

9 (b) Report to Congress.—Not later than 180 days after the conclusion of the pilot program
10 under subsection (a), the Commissioner of U.S. Customs and Border Protection shall submit a
11 report to the Committee on Homeland Security of the House of Representatives, the Committee
12 on Energy and Commerce of the House of Representatives, the Committee on Homeland
13 Security and Governmental Affairs of the Senate, and the Committee on Commerce, Science,
14 and Transportation of the Senate that contains the findings and data derived from such pilot
15 program.

16 SEC. 1133. FOREIGN MIGRATION ASSISTANCE.

17 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et
18 seq.), as amended by sections 1115 and 1130, is further amended by adding at the end the
19 following:

20 “SEC. 437. FOREIGN MIGRATION ASSISTANCE.

21 “(a) In General.—The Secretary, with the concurrence of the Secretary of State, may provide,
22 to a foreign government, financial assistance for foreign country operations to address migration
23 flows that may affect the United States.

24 “(b) Determination.—Assistance provided under subsection (a) may be provided only if such
25 assistance would enhance the recipient government’s capacity to address irregular migration
26 flows that may affect the United States, including any detention or removal operations of the
27 recipient government, including procedures to screen and provide protection for certain
28 individuals.

29 “(c) Reimbursement of Expenses.— The Secretary may, if appropriate, seek reimbursement
30 from the receiving foreign government for the provision of financial assistance under this
31 section.

32 “(d) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31,
33 United States Code, any reimbursement collected pursuant to subsection (c) shall—

34 “(1) be credited as offsetting collections to the account that finances the security
35 assistance under this section for which such reimbursement is received; and

36 “(2) remain available until expended for the purpose of carrying out this section.

37 “(e) Effective Period. The authority provided under this section shall remain in effect until
38 September 30, 2022.

39 “(f) Development and Program Executive. – The Secretary and the Secretary of State shall

1 jointly develop and implement any financial assistance under this section.

2 “(g) Rule of construction. – Nothing in this section may be construed as affecting,
3 augmenting, or diminishing the authority of the Secretary of State.

4 “(h) Authorization of Appropriations. – In addition to amounts otherwise authorized to be
5 appropriated for such purpose, there is authorized to be appropriated \$50,000,000,000 for fiscal
6 years 2018 through 2022 to carry out this section.”.

7 (b) 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 436, as added by section 1130,
9 the following:

10 “Sec.437.Security assistance.”.

11 CHAPTER 2—PERSONNEL

12 SEC. 1141. ADDITIONAL U.S. CUSTOMS AND BORDER 13 PROTECTION AGENTS AND OFFICERS.

14 (a) Border Patrol Agents.—Not later than September 30, 2022, the Commissioner of U.S.
15 Customs and Border Protection shall hire, train, and assign sufficient agents to maintain an active
16 duty presence of not fewer than 26,370 full-time equivalent agents.

17 (b) CBP Officers.—In addition to positions authorized before the date of the enactment of this
18 Act and any existing officer vacancies within U.S. Customs and Border Protection as of such
19 date, the Commissioner shall hire, train, and assign to duty, not later than September 30, 2022—

20 (1) sufficient U.S. Customs and Border Protection officers to maintain an active duty
21 presence of not fewer than 27,725 full-time equivalent officers; and

22 (2) 350 full-time support staff distributed among all United States ports of entry.

23 (c) Air and Marine Operations.—Not later than September 30, 2022, the Commissioner of
24 U.S. Customs and Border Protection shall hire, train, and assign sufficient agents for Air and
25 Marine Operations of U.S. Customs and Border Protection to maintain not fewer than 1,675 full-
26 time equivalent agents and not fewer than 264 Marine and Air Interdiction Agents for southern
27 border air and maritime operations.

28 (d) U.S. Customs and Border Protection K–9 Units and Handlers.—

29 (1) K–9 UNITS.—Not later than September 30, 2022, the Commissioner shall deploy not
30 fewer than 300 new K–9 units, with supporting officers of U.S. Customs and Border
31 Protection and other required staff, at land ports of entry and checkpoints, on the southern
32 border and the northern border.

33 (2) USE OF CANINES.—The Commissioner shall prioritize the use of canines at the
34 primary inspection lanes at land ports of entry and checkpoints.

35 (e) U.S. Customs and Border Protection Horseback Units.—

36 (1) INCREASE.—Not later than September 30, 2022, the Commissioner shall increase the
37 number of horseback units, with supporting officers of U.S. Customs and Border Protection
38 and other required staff, by not fewer than 100 officers and 50 horses for security patrol

1 along the Southern border.

2 (2) HORSE UNIT SUPPORT.—The Commissioner of U.S. Customs and Border Protection
3 shall construct new stables, maintain and improve existing stables, and provide other
4 resources needed to maintain the health and well-being of the horses that serve in the
5 horseback units.

6 (f) U.S. Customs and Border Protection Search Trauma and Rescue Teams.—Not later than
7 September 30, 2022, the Commissioner shall increase by not fewer than 50 the number of
8 officers engaged in search and rescue activities along the southern border.

9 (g) U.S. Customs and Border Protection Tunnel Detection and Technology Program.—Not
10 later than September 30, 2022, the Commissioner shall increase by not fewer than 50 the number
11 of officers assisting task forces and activities related to deployment and operation of border
12 tunnel detection technology and apprehensions of individuals using such tunnels for crossing into
13 the United States, drug trafficking, or human smuggling.

14 (h) Agricultural Specialists.—Not later than September 30, 2022, the Secretary shall hire,
15 train, and assign to duty, in addition to the officers and agents authorized under subsections (a)
16 through (g), 631 U.S. Customs and Border Protection agricultural specialists to ports of entry
17 along the southern border and the northern border.

18 (i) Office of Professional Responsibility.—Not later than September 30, 2022, the
19 Commissioner shall hire, train, and assign sufficient Office of Professional Responsibility special
20 agents to maintain an active duty presence of not fewer than 550 full-time equivalent special
21 agents.

22 (j) U.S. Customs and Border Protection Office of Intelligence. – Not later than September 30,
23 2022, the Commissioner shall hire, train, and assign sufficient Office of Intelligence personnel to
24 maintain not fewer than 700 full-time equivalent employees.

25 (k) GAO Report.—If the staffing levels required under this section are not achieved by
26 September 30, 2022, the Comptroller General of the United States shall conduct a review of the
27 reasons why such levels were not achieved.

28 SEC. 1142. FAIR LABOR STANDARDS FOR BORDER 29 PATROL AGENTS.

30 (a) In General.—Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is
31 amended by adding at the end the following:

32 “(s) Employment as a Border Patrol Agent.—No public agency shall be deemed to have
33 violated subsection (a) with respect to the employment of any border patrol agent (as defined in
34 section 5550(1) of title 5, United States Code) if, during a work period of 14 consecutive days,
35 the border patrol agent receives compensation at a rate that is not less than 150 percent of the
36 regular rate at which the agent is employed for all hours of work from 80 hours to 100 hours.
37 Payments required under this section shall be in addition to any payments made under section
38 5550 of title 5, United States Code, and shall be made notwithstanding any pay limitations set
39 forth in that title.”.

40 (b) Technical and Conforming Amendments.—Section 13(a) of the Fair Labor Standards Act
41 of 1938 (29 U.S.C. 213(a)) is amended—

1 (1) in paragraph (16), by adding “or” at the end;

2 (2) in paragraph (17), in the undesignated matter following subparagraph (D), by striking
3 “; or” and inserting a period; and

4 (3) by striking paragraph (18).

5 **SEC. 1143. U.S. CUSTOMS AND BORDER PROTECTION**
6 **RETENTION INCENTIVES.**

7 (a) In General.—Chapter 97 of title 5, United States Code, is amended by adding at the end the
8 following:

9 **“SEC. 9702. U.S. CUSTOMS AND BORDER PROTECTION**
10 **TEMPORARY EMPLOYMENT AUTHORITIES.**

11 “(a) Definitions.—For purposes of this section—

12 “(1) the term ‘CBP employee’ means an employee of U.S. Customs and Border
13 Protection described under any of subsections (a) through (h) of section 1141 of the
14 Building America’s Trust Act;

15 “(2) the term ‘Commissioner’ means the Commissioner of U.S. Customs and Border
16 Protection;

17 “(3) the term ‘Director’ means the Director of the Office of Personnel Management;

18 “(4) the term ‘Secretary’ means the Secretary of Homeland Security; and

19 “(5) the term ‘appropriate congressional committees’ means—

20 “(A) the Committee on Oversight and Government Reform of the House of
21 Representatives;

22 “(B) the Committee on Homeland Security of the House of Representatives;

23 “(C) the Committee on Ways and Means of the House of Representatives;

24 “(D) the Committee on Homeland Security and Governmental Affairs of the Senate;
25 and

26 “(E) the Committee on Finance of the Senate.

27 “(b) Direct Hire Authority; Recruitment and Relocation Bonuses; Retention Bonuses.—

28 “(1) STATEMENT OF PURPOSE AND LIMITATION.—The purpose of this subsection is to
29 allow U.S. Customs and Border Protection to expeditiously meet the hiring goals and
30 staffing levels required under section 1141 of the SECURE and SUCCEED Act. The
31 Secretary may not use such authority beyond meeting the requirements under such section.

32 “(2) DIRECT HIRE AUTHORITY.—The Secretary may appoint, without regard to any
33 provision of sections 3309 through 3319, candidates to positions in the competitive service
34 as CBP employees if the Secretary has given public notice for the positions.

35 “(3) RECRUITMENT AND RELOCATION BONUSES.—The Secretary may pay a recruitment or
36 relocation bonus of up to 50 percent of the annual rate of basic pay to an individual CBP

1 employee at the beginning of the service period multiplied by the number of years
2 (including a fractional part of a year) in the required service period to an individual (other
3 than an individual described in subsection (a)(2) of section 5753) if—

4 “(A) the Secretary determines that conditions consistent with the conditions
5 described in paragraphs (1) and (2) of subsection (b) of section 5753 are satisfied with
6 respect to the individual (without regard to the regulations referenced in section
7 5753(b)(2)(B(ii)(I) or to any other provision of section 5753); and

8 “(B) the individual enters into a written service agreement with the Secretary—

9 “(i) under which the individual is required to complete a period of employment
10 as a CBP employee of not less than 2 years; and

11 “(ii) that includes—

12 “(I) the commencement and termination dates of the required service
13 period (or provisions for the determination thereof);

14 “(II) the amount of the bonus; and

15 “(III) other terms and conditions under which the bonus is payable, subject
16 to the requirements of this subsection, including—

17 “(aa) the conditions under which the agreement may be terminated
18 before the agreed-upon service period has been completed; and

19 “(bb) the effect of a termination described in item (aa).

20 “(4) RETENTION BONUSES.—The Secretary may pay a retention bonus of up to 50 percent
21 of basic pay to an individual CBP employee (other than an individual described in
22 subsection (a)(2) of section 5754) if—

23 “(A) the Secretary determines that—

24 “(i) a condition consistent with the condition described in subsection (b)(1) of
25 section 5754 is satisfied with respect to the CBP employee (without regard to any
26 other provision of that section);

27 “(ii) in the absence of a retention bonus, the CBP employee would be likely to
28 leave—

29 “(I) the Federal service; or

30 “(II) for a different position in the Federal service, including a position in
31 another agency or component of the Department of Homeland Security; and

32 “(B) the individual enters into a written service agreement with the Secretary—

33 “(i) under which the individual is required to complete a period of employment
34 as a CBP employee of not less than 2 years; and

35 “(ii) that includes—

36 “(I) the commencement and termination dates of the required service
37 period (or provisions for the determination thereof);

38 “(II) the amount of the bonus; and

1 “(III) other terms and conditions under which the bonus is payable, subject
2 to the requirements under this subsection, including—

3 “(aa) the conditions under which the agreement may be terminated
4 before the agreed-upon service period has been completed; and

5 “(bb) the effect of a termination described in item (aa).

6 “(5) RULES FOR BONUSES.—

7 “(A) MAXIMUM BONUS.— A bonus paid to an employee under –

8 “(i) paragraph (3) may not exceed 100 percent of the annual rate of basic pay of
9 the employee as of the commencement date of the applicable service period.

10 “(ii) paragraph (4) may not exceed 50 percent of the annual rate of basic pay of
11 the employee.

12 “(B) RELATIONSHIP TO BASIC PAY.—A bonus paid to an employee under paragraph
13 (3) or (4) shall not be considered part of the basic pay of the employee for any purpose,
14 including for retirement or in computing a lump-sum payment to the covered employee
15 for accumulated and accrued annual leave under section 5551 or section 5552.

16 “(C) PERIOD OF SERVICE FOR RECRUITMENT, RELOCATION, AND RETENTION
17 BONUSES.—

18 “(i) A bonus paid to an employee under paragraph (4) may not be based on any
19 period of such service which is the basis for a recruitment or relocation bonus under
20 paragraph (3).

21 “(ii) A bonus paid to an employee under paragraph (3) or (4) may not be based on
22 any period of service which is the basis for a recruitment or relocation bonus under
23 section 5753 or a retention bonus under section 5754.

24 “(c) Special Rates of Pay.—In addition to the circumstances described in subsection (b) of
25 section 5305, the Director may establish special rates of pay in accordance with that section to
26 assist the Secretary in meeting the requirements of section 1141 of SECURE and SUCCEED
27 Act. The Director shall prioritize the consideration of requests from the Secretary for such
28 special rates of pay and issue a decision as soon as practicable. The Secretary shall provide such
29 information to the Director as the Director deems necessary to evaluate special rates of pay under
30 this subsection.

31 “(d) OPM Oversight.—

32 “(1) REPORT.—Not later than September 30 of each year, the Secretary shall submit a
33 report to the Director on U.S. Customs and Border Protection’s use of authorities provided
34 under subsections (b) and (c). In each report, the Secretary shall provide such information
35 as the Director determines is appropriate to ensure appropriate use of authorities under such
36 subsections. Each report shall also include an assessment of –

37 “(A) the impact of the use of authorities under subsections (b) and (c) on
38 implementation of section 1141 of the SECURE and SUCCEED Act;

39 “(B) solving hiring and retention challenges at the agency, including at specific
40 locations;

1 “(C) whether hiring and retention challenges still exist at the agency or specific
2 locations; and

3 “(D) whether the Secretary needs to continue to use authorities provided under
4 this section at the agency or at specific locations.

5 “(2) CONSIDERATION.—In compiling each report under paragraph (1), the Secretary shall
6 consider—

7 “(A) whether any CBP employee accepted an employment incentive under
8 subsection (b) and (c) and then transferred to a new location or left U.S. Customs and
9 Border Protection; and

10 “(B) the length of time that each employee identified under subparagraph (A) stayed
11 at the original location before transferring to a new location or leaving U.S. Customs
12 and Border Protection.

13 “(3) DISTRIBUTION.—In addition to the Director, the Secretary shall submit each report
14 required under this subsection to the appropriate congressional committees.

15 “(e) OPM Action.—If the Director determines the Secretary has inappropriately used the
16 authority under subsection (b) or a special rate of pay authorized under subsection (c), the
17 Director shall notify the appropriate congressional committees in writing. Upon receipt of the
18 notification, the Secretary may not make any new appointments or issue any new bonuses under
19 subsection (b), nor provide CBP employees with further special rates of pay, until the Director
20 has provided the Secretary and the appropriate congressional committees a written notice stating
21 that the Director is satisfied that safeguards are in place to prevent further inappropriate use.

22 “(f) Improving CBP Hiring and Retention.—

23 “(1) EDUCATION OF CBP HIRING OFFICIALS.—Not later than 180 days after the date of the
24 enactment of this section, and in conjunction with the Chief Human Capital Officer of the
25 Department of Homeland Security, the Secretary shall develop and implement a strategy to
26 improve the education regarding hiring and human resources flexibilities (including hiring
27 and human resources flexibilities for locations in rural or remote areas) for all employees,
28 serving in agency headquarters or field offices, who are involved in the recruitment, hiring,
29 assessment, or selection of candidates for locations in a rural or remote area, as well as the
30 retention of current employees.

31 “(2) ELEMENTS.—Elements of the strategy developed under paragraph (1) shall include—

32 “(A) developing or updating training and educational materials on hiring and human
33 resources flexibilities for employees who are involved in the recruitment, hiring,
34 assessment, or selection of candidates, as well as the retention of current employees;

35 “(B) regular training sessions for personnel who are critical to filling open positions
36 in rural or remote areas;

37 “(C) the development of pilot programs or other programs, as appropriate, consistent
38 with authorities provided to the Secretary to address identified hiring challenges,
39 including in rural or remote areas;

40 “(D) developing and enhancing strategic recruiting efforts through the relationships
41 with institutions of higher education (as defined in section 102 of the Higher Education

1 Act of 1965 (20 U.S.C. 1002)), veterans transition and employment centers, and job
2 placement program in regions that could assist in filling positions in rural or remote
3 areas;

4 “(E) examination of existing agency programs to determine how to most effectively
5 aid spouses and families of individuals who are candidates or new hires in a rural or
6 remote area;

7 “(F) feedback from individuals who are candidates or new hires at locations in a
8 rural or remote area, including feedback on the quality of life in rural or remote areas
9 for new hires and their families;

10 “(G) feedback from CBP employees, other than new hires, who are stationed at
11 locations in a rural or remote area, including feedback on the quality of life in rural or
12 remote areas for those CBP employees and their families; and

13 “(H) evaluation of Department of Homeland Security internship programs and the
14 usefulness of such programs in improving hiring by the Secretary in rural or remote
15 areas.

16 “(3) EVALUATION.—

17 “(A) IN GENERAL.— Each year, the Secretary shall—

18 “(i) evaluate the extent to which the strategy developed and implemented under
19 paragraph (1) has improved the hiring and retention ability of the Secretary; and

20 “(ii) make any appropriate updates to the strategy developed under paragraph
21 (1).

22 “(B) INFORMATION.—The evaluation under subparagraph (A) shall include—

23 “(i) any reduction in the time taken by the Secretary to fill mission-critical
24 positions, including in rural or remote areas;

25 “(ii) a general assessment of the impact of the strategy implemented under
26 paragraph (1) on hiring challenges, including in rural or remote areas; and

27 “(iii) other information the Secretary determines relevant.

28 “(g) Inspector General Review.—Not later than 2 years after the date of the enactment of this
29 section, the Inspector General of the Department of Homeland Security shall review the use of
30 hiring and pay flexibilities under subsections (b) and (c) to determine whether the use of such
31 flexibilities is helping the Secretary meet hiring and retention needs, including in rural and
32 remote areas.

33 “(h) Report on Polygraph Requests.—The Secretary shall submit a report to the appropriate
34 congressional committees that identifies the number of requests the Secretary has received from
35 any other Federal agency for the file of an applicant for a position in U.S. Customs and Border
36 Protection that includes the results of a polygraph examination.

37 “(i) Exercise of Authority.—

38 “(1) SOLE DISCRETION.—The exercise of authority under subsection (b) shall be subject to
39 the sole and exclusive discretion of the Secretary (or the Commissioner, as applicable under
40 paragraph (2) of this subsection), notwithstanding chapter 71 and any collective bargaining

1 agreement.

2 “(2) DELEGATION.—The Secretary may delegate any authority under this section to the
3 Commissioner.

4 “(j) Rule of Construction.—Nothing in this section shall be construed to exempt the Secretary
5 or the Director from applicability of the merit system principles under section 2301.

6 “(k) Sunset.—The authorities under subsections (b) and (c) shall terminate on September 30,
7 2022. Any bonus to be paid pursuant to subsection (b) that is approved before such date may
8 continue until such bonus has been paid, subject to the conditions specified in this section.”.

9 (b) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 5,
10 United States Code, is amended by adding at the end the following:

11 “9702. U.S. Customs and Border Protection temporary employment authorities.”.

12 (c) Overtime Limitation.—Section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C.
13 267(c)(1)) is amended by striking “\$25,000” and inserting “\$45,000”.

14 SEC. 1144. ANTI-BORDER CORRUPTION 15 REAUTHORIZATION ACT.

16 (a) Short Title.—This section may be cited as the “Anti-Border Corruption Reauthorization
17 Act of 2018”.

18 (b) Hiring Flexibility.—Section 3 of the Anti-Border Corruption Act of 2010 (6 U.S.C. 221) is
19 amended by striking subsection (b) and inserting the following:

20 “(b) Waiver Authority.—The Commissioner of U.S. Customs and Border Protection may
21 waive the application of subsection (a)(1)—

22 “(1) to a current, full-time law enforcement officer employed by a State or local law
23 enforcement agency who—

24 “(A) has continuously served as a law enforcement officer for not fewer than 3
25 years;

26 “(B) is authorized by law to engage in or supervise the prevention, detection,
27 investigation, or prosecution of, or the incarceration of any person for, any violation of
28 law, and has statutory powers for arrest or apprehension;

29 “(C) is not currently under investigation, has not been found to have engaged in
30 criminal activity or serious misconduct, has not resigned from a law enforcement
31 officer position under investigation or in lieu of termination, and has not been
32 dismissed from a law enforcement officer position; and

33 “(D) has, during the past 10 years, successfully completed a polygraph examination
34 as a condition of employment with such officer’s current law enforcement agency;

35 “(2) to a current, full-time Federal law enforcement officer who—

36 “(A) has continuously served as a law enforcement officer for not fewer than 3
37 years;

38 “(B) is authorized to make arrests, conduct investigations, conduct searches, make

1 seizures, carry firearms, and serve orders, warrants, and other processes;

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) holds a current Tier 4 background investigation or current Tier 5 background
7 investigation; and

8 “(3) to a member of the Armed Forces (or a reserve component thereof) or a veteran, if
9 such individual—

10 “(A) has served in the Armed Forces for not fewer than 3 years;

11 “(B) holds, or has held within the past 5 years, a Secret, Top Secret, or Top
12 Secret/Sensitive Compartmented Information clearance;

13 “(C) holds, or has undergone within the past 5 years, a current Tier 4 background
14 investigation or current Tier 5 background investigation;

15 “(D) received, or is eligible to receive, an honorable discharge from service in the
16 Armed Forces and has not engaged in criminal activity or committed a serious military
17 or civil offense under the Uniform Code of Military Justice; and

18 “(E) was not granted any waivers to obtain the clearance referred to subparagraph
19 (B).

20 “(c) Termination of Waiver Authority.—The authority to issue a waiver under subsection (b)
21 shall terminate on the date that is 4 years after the date of the enactment of the SECURE and
22 SUCCEED Act.”.

23 (c) Supplemental Commissioner Authority and Definitions.—

24 (1) SUPPLEMENTAL COMMISSIONER AUTHORITY.—Section 4 of the Anti-Border
25 Corruption Act of 2010 (Public Law 111–376) is amended to read as follows:

26 **“SEC. 4. SUPPLEMENTAL COMMISSIONER AUTHORITY.**

27 “(a) Non-exemption.—An individual who receives a waiver under section 3(b) is not exempt
28 from other hiring requirements relating to suitability for employment and eligibility to hold a
29 national security designated position, as determined by the Commissioner of U.S. Customs and
30 Border Protection.

31 “(b) Background Investigations.—Any individual who receives a waiver under section 3(b)
32 and holds a current Tier 4 background investigation shall be subject to a Tier 5 background
33 investigation.

34 “(c) Administration of Polygraph Examination.—The Commissioner of U.S. Customs and
35 Border Protection is authorized to administer a polygraph examination to an applicant or
36 employee who is eligible for, or receives a waiver under, section 3(b) if information is
37 discovered before the completion of a background investigation that results in a determination
38 that a polygraph examination is necessary to make a final determination regarding suitability for
39 employment or continued employment, as the case may be.”.

1 (2) REPORT.—The Anti-Border Corruption Act of 2010, as amended by paragraph (1), is
2 further amended by adding at the end the following:

3 “SEC. 5. REPORTING.

4 “(a) Annual Report.—Not later than 1 year after the date of the enactment of this section, and
5 annually thereafter while the waiver authority under section 3(b) is in effect, the Commissioner
6 of U.S. Customs and Border Protection shall submit a report to Congress that includes, with
7 respect to each such reporting period—

8 “(1) the number of waivers requested, granted, and denied under section 3(b);

9 “(2) the reasons for any denials of such waiver;

10 “(3) the percentage of applicants who were hired after receiving a waiver;

11 “(4) the number of instances that a polygraph was administered to an applicant who
12 initially received a waiver and the results of such polygraph;

13 “(5) an assessment of the current impact of the polygraph waiver program on filling law
14 enforcement positions at U.S. Customs and Border Protection; and

15 “(6) additional authorities needed by U.S. Customs and Border Protection to better utilize
16 the polygraph waiver program for its intended goals.

17 “(b) Additional Information.—The first report submitted under subsection (a) shall include—

18 “(1) an analysis of other methods of employment suitability tests that detect deception
19 and could be used in conjunction with traditional background investigations to evaluate
20 potential employees for suitability; and

21 “(2) a recommendation regarding whether a test referred to in paragraph (1) should be
22 adopted by U.S. Customs and Border Protection when the polygraph examination
23 requirement is waived pursuant to section 3(b).”.

24 (3) DEFINITIONS.—The Anti-Border Corruption Act of 2010, as amended by paragraphs
25 (1) and (2), is further amended by adding at the end the following:

26 “SEC. 6. DEFINITIONS.

27 “In this Act:

28 “(1) FEDERAL LAW ENFORCEMENT OFFICER.—The term ‘Federal law enforcement officer’
29 has the meaning given the term ‘law enforcement officer’ in sections 8331(20) and
30 8401(17) of title 5, United States Code.

31 “(2) SERIOUS MILITARY OR CIVIL OFFENSE.—The term ‘serious military or civil offense’
32 means an offense for which—

33 “(A) a member of the Armed Forces may be discharged or separated from service in
34 the Armed Forces; and

35 “(B) a punitive discharge is, or would be, authorized for the same or a closely
36 related offense under the Manual for Court-Martial, as pursuant to Army Regulation
37 635-200 chapter 14–12.

1 “(3) TIER 4; TIER 5.—The terms ‘Tier 4’ and ‘Tier 5’ with respect to background
2 investigations have the meaning given such terms under the 2012 Federal Investigative
3 Standards.

4 “(4) VETERAN.—The term ‘veteran’ has the meaning given such term in section 101(2) of
5 title 38, United States Code.”.

6 (d) Polygraph Examiners.—Not later than September 30, 2022, the Secretary shall increase to
7 not fewer than 150 the number of trained full-time equivalent polygraph examiners for
8 administering polygraphs under the Anti-Border Corruption Act of 2010, as amended by this
9 section.

10 SEC. 1145. TRAINING FOR OFFICERS AND AGENTS OF 11 U.S. CUSTOMS AND BORDER PROTECTION.

12 (a) In General.—Section 411(l) of the Homeland Security Act of 2002 (6 U.S.C. 211(l)) is
13 amended to read as follows:

14 “(l) Training and Continuing Education.—

15 “(1) MANDATORY TRAINING AND CONTINUING EDUCATION.—The Commissioner shall
16 ensure that every agent and officer of U.S. Customs and Border Protection receives at least
17 21 weeks of training that is directly related to the mission of the U.S. Border Patrol, Air and
18 Marine, and the Office of Field Operations before the initial assignment of such agents and
19 officers.

20 “(2) FLETC.—The Commissioner shall work in consultation with the Director of the
21 Federal Law Enforcement Training Centers to establish guidelines and curriculum for the
22 training of agents and officers of U.S. Customs and Border Protection under subsection (a).

23 “(3) CONTINUING EDUCATION.—The Commissioner shall require all agents and officers
24 of U.S. Customs and Border Protection who are required to undergo training under
25 subsection (a) to participate in not fewer than 8 hours of continuing education annually to
26 maintain and update understanding of Federal legal rulings, court decisions, and
27 Department policies, procedures, and guidelines related to relevant subject matters.

28 “(4) LEADERSHIP TRAINING.—Not later than 1 year after the date of the enactment of the
29 Solution for Undocumented Children through Careers, Employment, Education, and
30 Defending our Nation Act, the Commissioner shall develop and require training courses
31 geared towards the development of leadership skills for mid- and senior-level career
32 employees not later than 1 year after such employees assume duties in supervisory roles.”.

33 (b) Report.—Not later than 180 days after the date of the enactment of this Act, the
34 Commissioner shall submit a report to the Committee on Finance of the Senate, the Committee
35 on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland
36 Security of the House of Representatives, and the Committee on Ways and Means of the House
37 of Representatives that identifies the guidelines and curriculum established to carry out
38 subsection (1) of section 411 of the Homeland Security Act of 2002, as amended by subsection
39 (a).

40 (c) Assessment.—Not later than 4 years after the date of the enactment of this Act, the
41 Comptroller General of the United States shall submit a report to the Committee on Homeland

1 Security and the Committee on Ways and Means of the House of Representatives and the
2 Committee on Homeland Security and Governmental Affairs and the Committee on Finance of
3 the Senate that assesses the training and education, including continuing education, required
4 under subsection (1) of section 411 of the Homeland Security Act of 2002, as amended by
5 subsection (a).

6 SEC. 1146. ADDITIONAL U.S. IMMIGRATION AND 7 CUSTOMS ENFORCEMENT PERSONNEL.

8 (a) Enforcement and Removal Officers.—By not later than September 30, 2022, the Director
9 of U.S. Immigration and Customs Enforcement shall increase the number of trained, full-time,
10 active duty U.S. Immigration and Customs Enforcement Enforcement and Removal Operations
11 law enforcement officers performing interior immigration enforcement functions to not fewer
12 than 8,500.

13 (b) Homeland Security Investigations Special Agents.—By not later than September 30, 2022,
14 the Director of U.S. Immigration and Customs Enforcement shall increase the number of trained,
15 full-time, active duty Homeland Security Investigations special agents by not fewer than 1,500.

16 (c) Border Enforcement Security Task Force.—By not later than September 30, 2022, the
17 Director of U.S. Immigration and Customs Enforcement shall assign not fewer than 100
18 Homeland Security Investigations special agents to the Border Enforcement Security Task Force
19 Program established under section 432 of the Homeland Security Act of 2002 (6 U.S.C. 240).

20 SEC. 1147. OTHER IMMIGRATION AND LAW 21 ENFORCEMENT PERSONNEL.

22 (a) Department of Justice.—

23 (1) UNITED STATES ATTORNEYS.—By not later than September 30, 2022, in addition to
24 positions authorized before the date of the enactment of this Act and any existing attorney
25 vacancies within the Department of Justice on such date of enactment, the Attorney General
26 shall—

27 (A) increase by not fewer than 100 the number of Assistant United States Attorneys;
28 and

29 (B) increase by not fewer than 50 the number of Special Assistant United States
30 Attorneys in the United States Attorneys' office to litigate denaturalization and other
31 immigration cases in the Federal courts.

32 (2) IMMIGRATION JUDGES.—

33 (A) ADDITIONAL IMMIGRATION JUDGES.—By not later than September 30, 2022, in
34 addition to positions authorized before the date of the enactment of this Act and any
35 existing vacancies within the Department of Justice on such date of enactment, the
36 Attorney General shall increase by 200 the number of trained full-time immigration
37 judges.

38 (B) FACILITIES, SUPPORT PERSONNEL, AND FULL-TIME INTERPRETERS.—The Attorney
39 General is authorized to procure space, temporary facilities, support staff, and full-time

1 interpreters on an expedited basis, to accommodate the additional immigration judges
2 authorized under subparagraph (A).

3 (3) BOARD OF IMMIGRATION APPEALS.—

4 (A) BOARD MEMBERS.—By not later than September 30, 2022, the Attorney General
5 shall increase the number of Board Members authorized to serve on the Board of
6 Immigration Appeals to 25.

7 (B) STAFF ATTORNEYS.—By not later than September 30, 2022, in addition to
8 positions authorized before the date of the enactment of this Act and any existing staff
9 attorney vacancies within the Department of Justice on such date of enactment, the
10 Attorney General shall increase the number of staff attorneys assigned to support the
11 Board of Immigration Appeals by not fewer than 50.

12 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General is authorized to
13 procure space, temporary facilities, and required administrative support staff, on an
14 expedited basis, to accommodate the additional Board Members authorized under
15 subparagraph (A).

16 (4) OFFICE OF IMMIGRATION LITIGATION.—By not later than September 30, 2022, in
17 addition to positions authorized before the date of the enactment of this Act and any
18 existing vacancies within the Department of Justice on such date of enactment, the Attorney
19 General shall increase by not fewer than 100 the number of attorneys for the Office of
20 Immigration Litigation.

21 (b) Department of Homeland Security.—

22 (1) FRAUD DETECTION AND NATIONAL SECURITY OFFICERS.—By not later than September
23 30, 2022, in addition to positions authorized before the date of the enactment of this Act and
24 any existing officer vacancies within the Department of Homeland Security on such date of
25 enactment, the Director of U.S. Citizenship and Immigration Services shall increase by not
26 fewer than 100 the number of trained full-time active duty Fraud Detection and National
27 Security (FDNS) officers.

28 (2) ICE HOMELAND SECURITY INVESTIGATIONS FORENSIC DOCUMENT LABORATORY
29 PERSONNEL.—By not later than September 30, 2022, in addition to positions authorized
30 before the date of the enactment of this Act and any existing officer vacancies within the
31 Department of Homeland Security on such date of enactment, the Director of U.S.
32 Immigration and Customs Enforcement shall increase—

33 (A) the number of trained, full-time Forensic Document Laboratory Examiners by
34 15;

35 (B) the number of trained, full-time Fingerprint Specialists by 15;

36 (C) the number of trained, full-time Intelligence Officers by 10; and

37 (D) the number of trained, full-time administrative staff by 3.

38 (3) IMMIGRATION ATTORNEYS.—

39 (A) OFFICE OF THE PRINCIPAL LEGAL ADVISOR ATTORNEYS.—By not later than
40 September 30, 2022, in addition to positions authorized before the date of the

1 enactment of this Act and any existing attorney vacancies within the Department of
2 Homeland Security on such date of enactment, the Director of U.S. Immigration and
3 Customs Enforcement shall increase the number of trained, full-time, active duty
4 Office of Principal Legal Advisor attorneys by not fewer than 1,200. The majority of
5 such attorneys shall perform duties related to litigation of removal proceedings and
6 representing the Department of Homeland Security in immigration matters before the
7 immigration courts within the Department of Justice, the Executive Office for
8 Immigration Review, and enforcement of U.S. customs and trade laws. At least 50 of
9 these additional attorney positions shall be used by the Attorney General to increase
10 the number of U.S. Immigration and Customs Enforcement attorneys serving as
11 Special Assistant U.S. Attorneys, on detail to the Department of Justice, Offices of the
12 U.S. Attorneys, to assist with immigration-related litigation.

13 (B) USCIS IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in
14 addition to positions authorized before the date of the enactment of this Act and any
15 existing attorney vacancies within the Department of Homeland Security on such date
16 of enactment, the Director of U.S. Citizenship and Immigration Services shall increase
17 the number of trained, full-time, active duty Office of Chief Counsel attorneys by not
18 fewer than 250. Such attorneys shall primarily handle national security and public
19 safety cases, denaturalization cases, and legal sufficiency reviews of immigration
20 benefit decisions. At least 50 of these additional attorney positions shall be used by the
21 Attorney General to increase the number of U.S. Citizenship and Immigration Service
22 attorneys serving as Special Assistant U.S. Attorneys, on detail to the Department of
23 Justice, Offices of the U.S. Attorneys, to assist with immigration-related litigation.

24 (C) FACILITIES AND SUPPORT PERSONNEL.—The Attorney General and Secretary are
25 authorized to procure space, temporary facilities, and to hire the required
26 administrative and legal support staff, on an expedited basis, to accommodate the
27 additional positions authorized under this paragraph.

28 (D) AUTHORITY TO ACQUIRE LEASEHOLD. – Notwithstanding any other provision of
29 law, the Secretary of Homeland Security may acquire a leasehold interest in real
30 property, and may provide in a lease entered into under this subsection for the
31 construction or modification of any facility on the leased property, if Secretary
32 determines that the acquisition of such interest, and such construction or modification,
33 are necessary in order to facilitate the implementation of this Act.

34 (E) USE OF USCIS FEE FUNDS.—Adjudication fees described in section 286(m) of the
35 Immigration and Nationality Act (8 U.S.C. 1356(m)) may not be used to pay for the
36 cost of employing or contracting for the services of any person who is not an employee
37 or contractor of U.S. Citizenship and Immigration Services or the Department of
38 Homeland Security's Administrative Appeals Office.

39 (c) Department of State.—

40 (1) VISA SPECIALISTS.—By not later than September 30, 2022, in addition to positions
41 authorized before the date of the enactment of this Act and any existing attorney vacancies
42 within the Department on such date of enactment, the Assistant Secretary of State for
43 Consular Affairs shall increase the number of trained, full-time analysts within the Bureau
44 of Consular Affairs by not fewer than 50. Such analysts primarily should handle and advise

1 on cases and matters involving the potential for visa denial on the basis of national security
2 and public safety concerns.

3 (2) IMMIGRATION ATTORNEYS.—By not later than September 30, 2022, in addition to
4 positions authorized before the date of the enactment of this Act and any existing attorney
5 vacancies within the Department on such date of enactment, the Assistant Secretary of State
6 for Consular Affairs shall increase the number of trained, full-time, active attorneys adviser
7 within the Bureau of Consular Affairs by not fewer than 25. Such attorneys primarily
8 should handle and advise on cases and matters involving the potential for visa denial on the
9 basis of national security and public safety concerns.

10 (3) FOREIGN SERVICE CONSULAR FELLOWS PROGRAM.—By not later than September 30,
11 2020, the Secretary of State shall—

12 (i) increase the number of Consular Fellows to double the number of Consular Fellows
13 employed on the date of enactment of this Act;

14 (ii) offer Consular Fellows permanent career appointments; and

15 (iii) make language training available to Consular Fellows for assignment to posts outside
16 of their area of core linguistic ability.

17 (d) Authorization of Appropriations.—There are authorized to be appropriated, for each of the
18 fiscal years 2018 through 2022, such sums as may be necessary to carry out this section.

19 SEC. 1148. JUDICIAL RESOURCES FOR BORDER 20 SECURITY.

21 (a) Border Crossing Prosecutions; Criminal Consequence Initiative.—

22 (1) IN GENERAL.—Amounts appropriated pursuant to paragraph (3) shall be used—

23 (A) to increase the number of criminal prosecutions for unlawful border crossing in
24 each and every sector of the southern border by not less than 80 percent per day, as
25 compared to the average number of such prosecutions per day during the 12-month
26 period preceding the date of the enactment of this Act, by increasing funding for—

27 (i) attorneys and administrative support staff in offices of United States
28 attorneys;

29 (ii) support staff and interpreters in court clerks' offices;

30 (iii) pre-trial services;

31 (iv) activities of the Office of the Federal Public Defender, including payments
32 to retain appointed counsel under section 3006A of title 18, United States Code;
33 and

34 (v) additional personnel, including deputy United States marshals in the United
35 States Marshals Service, to perform intake, coordination, transportation, and court
36 security; and

37 (B) to reimburse Federal, State, local, and tribal law enforcement agencies for any
38 detention costs related to the increased border crossing prosecutions carried out
39 pursuant to subparagraph (A).

1 (2) ADDITIONAL MAGISTRATE JUDGES TO ASSIST WITH INCREASED CASELOAD.—The chief
2 judge of each judicial district located within a sector of the southern border is authorized to
3 appoint additional full-time magistrate judges, who, consistent with the Constitution and
4 laws of the United States, shall have the authority to hear cases and controversies in the
5 judicial district in which the magistrate judges are appointed.

6 (3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for
7 each of the fiscal years 2018 through 2022, such sums as may be necessary to carry out this
8 subsection.

9 (b) Additional Permanent District Court Judgeships in Southern Border States.—

10 (1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the
11 Senate—

12 (A) 4 additional district judges for the District of Arizona;

13 (B) 2 additional district judges for the Southern District of California;

14 (C) 4 additional district judges for the Western District of Texas; and

15 (D) 2 additional district judges for the Southern District of Texas.

16 (2) CONVERSIONS OF TEMPORARY DISTRICT COURT JUDGESHIPS.—The judgeships for the
17 District of Arizona and the Central District of California authorized under section 312(c) of
18 the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 133
19 note), in existence on the day before the date of the enactment of this Act, shall be
20 authorized under section 133 of title 28, United States Code, and the individuals holding
21 such judgeships on such day shall hold office under section 133 of title 28, United States
22 Code, as amended by paragraph (3).

23 (3) TECHNICAL AND CONFORMING AMENDMENTS.—The table contained in section 133(a)
24 of title 28, United States Code, is amended—

25 (A) by striking the item relating to the district of Arizona and inserting the
26 following:2,L0,tp0,p0,10/12,s190n,xs95n11

27 “Arizonal17”;

28 (B) by striking the items relating to California and inserting the following
29 :2,L0,tp0,p0,10/12,s190n,xs95n11

30 l“California:l

31 Northernl19

32 Easternl12

33 Centrall28

34 Southernl15”;

35 (C) by striking the items relating to Texas and inserting the following
36 :2,L0,tp0,p0,10/12,s190n,xs95n11

37 l“Texas:l

38 Northernl12

1 Southernl21
2 Easternl7
3 Westernl17”.

4 (c) Increase in Filing Fees.—

5 (1) IN GENERAL.—Section 1914(a) of title 28, United States Code, is amended—

6 (A) by striking “\$350” and inserting “\$375”; and

7 (B) by striking “\$5” and inserting “\$7”.

8 (2) EXPENDITURE LIMITATION.—Incremental amounts collected pursuant to the
9 amendments made by paragraph (1)—

10 (A) shall be deposited as offsetting receipts in the special fund of the Treasury
11 established under section 1931 of title 28, United States Code; and

12 (B) shall be available solely for the purpose of facilitating the processing of civil
13 cases, but only to the extent specifically appropriated by an Act of Congress enacted
14 after the date of the enactment of this Act.

15 **SEC. 1149. REIMBURSEMENT TO STATE AND LOCAL**
16 **PROSECUTORS FOR FEDERALLY INITIATED,**
17 **IMMIGRATION-RELATED CRIMINAL CASES.**

18 (a) In General.—The Attorney General shall reimburse State, county, tribal, and municipal
19 governments for costs associated with the prosecution of federally initiated criminal cases
20 declined to be prosecuted by local offices of the United States attorneys, including costs relating
21 to pre-trial services, detention, clerical support, and public defenders’ services associated to such
22 prosecution.

23 (b) Exception.—Reimbursement under subsection (a) shall not be available, at the discretion
24 of the Attorney General, if the Attorney General determines that there is reason to believe that
25 the jurisdiction seeking reimbursement has engaged in unlawful conduct in connection with
26 immigration-related apprehensions.

27 **CHAPTER 3—GRANTS**

28 **SEC. 1151. STATE CRIMINAL ALIEN ASSISTANCE**
29 **PROGRAM.**

30 Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended—

31 (1) in paragraph (1)—

32 (A) by inserting “AUTHORIZATION.—” before “If the chief”; and

33 (B) by inserting “or an alien with an unknown status” after “undocumented criminal
34 alien” each place that term appears;

35 (2) by striking paragraphs (2) and (3) and inserting the following:

1 “(2) COMPENSATION.—

2 “(A) CALCULATION OF COMPENSATION.—Compensation under paragraph (1)(A)

3 shall be the average cost of incarceration of a prisoner in the relevant State, as

4 determined by the Attorney General.

5 “(B) COMPENSATION OF STATE FOR INCARCERATION.—The Attorney General shall

6 compensate the State or political subdivision of the State, in accordance with

7 subparagraph (A), for the incarceration of an alien—

8 “(i) whose immigration status cannot be verified by the Secretary; and

9 “(ii) who would otherwise be an undocumented criminal alien if the alien is

10 unlawfully present in the United States.

11 “(3) DEFINITIONS.—In this subsection:

12 “(A) ALIEN WITH AN UNKNOWN STATUS.—The term ‘alien with an unknown status’

13 means an individual—

14 “(i) who has been incarcerated by a Federal, State, or local law enforcement

15 entity; and

16 “(ii) whose immigration status cannot be definitively identified.

17 “(B) UNDOCUMENTED CRIMINAL ALIEN.—The term ‘undocumented criminal alien’

18 means an alien who—

19 “(i) has been charged with or convicted of a felony or any misdemeanors; and

20 “(ii)(I) entered the United States without inspection or at any time or place

21 other than as designated by the Secretary;

22 “(II) was the subject of exclusion or deportation or removal proceedings at the

23 time he or she was taken into custody by the State or a political subdivision of the

24 State; or

25 “(III) was admitted as a nonimmigrant and, at the time he or she was taken into

26 custody by the State or a political subdivision of the State, has failed to maintain

27 the nonimmigrant status in which the alien was admitted or to which it was

28 changed under section 248, or to comply with the conditions of any such status.”;

29 (3) in paragraph (4), by inserting “and aliens with an unknown status” after

30 “undocumented criminal aliens” each place that term appears;

31 (4) in paragraph (5)(C), by striking “to carry out this subsection” and all that follows and

32 inserting “\$950,000,000, for each of the fiscal years 2018 through 2022, to carry out this

33 subsection.”; and

34 (5) by adding at the end the following:

35 “(7) DISTRIBUTION OF REIMBURSEMENT.—Any amounts provided to a State or to a

36 political subdivision of a State as compensation under paragraph (1)(A) for a fiscal year

37 shall be distributed to such State or political subdivision not later than 120 days after the last

38 day of the period specified by the Attorney General for the submission of requests under

39 that paragraph for that fiscal year.”.

1 SEC. 1152. SOUTHERN BORDER SECURITY ASSISTANCE
2 GRANTS.

3 (a) Authority.—

4 (1) IN GENERAL.—The Secretary, in consultation with State and local law enforcement
5 agencies, may award border security assistance grants to law enforcement agencies located
6 in the Southwest border region for the purposes described in subsection (b).

7 (2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to
8 law enforcement agencies located in a county that is located within 25 miles of the Southern
9 border.

10 (b) Purposes.—Each grant awarded under subsection (a) shall be used to address drug
11 trafficking, smuggling, and border violence—

12 (1) by obtaining law enforcement equipment and tools, including secure 2-way
13 communication devices, portable laptops and office computers, license plate readers,
14 unmanned aerial vehicles, unmanned aircraft systems, manned aircraft, cameras with night
15 viewing capabilities, and any other appropriate law enforcement equipment;

16 (2) by hiring additional personnel, including administrative support personnel,
17 dispatchers, and jailers, and to provide overtime pay for such personnel;

18 (3) by purchasing law enforcement vehicles;

19 (4) by providing high performance aircraft and helicopters for border surveillance and
20 other critical mission applications and paying for the operational and maintenance costs
21 associated with such craft;

22 (5) by providing critical power generation systems, infrastructure, and technological
23 upgrades to support State and local data management systems and fusion centers; or

24 (6) by providing specialized training and paying for the direct operating expenses
25 associated with detecting and prosecuting drug trafficking, human smuggling, and other
26 illegal activity or violence that occurs at or near the Southern border.

27 (c) Application.—

28 (1) REQUIREMENT.—A law enforcement agency seeking a grant under subsection (a), or a
29 nonprofit organization or coalition acting as an agent for 1 or more such law enforcement
30 entities, shall submit an application to the Secretary that includes the information described
31 in paragraph (2) at such time and in such manner as the Secretary may require.

32 (2) CONTENT.—Each application submitted under paragraph (1) shall include—

33 (A) a description of the activities to be carried out with a grant awarded under
34 subsection (a);

35 (B) if equipment will be purchased with the grant, a detailed description of—

36 (i) the type and quantity of such equipment; and

37 (ii) the personnel who will be using such equipment;

38 (C) a description of the need of the law enforcement agency or agencies for the

1 grant, including a description of the inability of the agency or agencies to carry out the
2 proposed activities without the grant; and

3 (D) an assurance that the agency or agencies will, to the extent practicable, seek,
4 recruit, and hire women and members of racial and ethnic minority groups in law
5 enforcement positions of the agency or agencies.

6 (d) Review and Award.—

7 (1) REVIEW.—Not later than 90 days after receiving an application submitted under
8 subsection (c), the Secretary shall review and approve or reject the application.

9 (2) AWARD OF FUNDS.—Subject to the availability of appropriations, not later than 45
10 days after the date an application is approved under paragraph (1), the Secretary shall
11 transmit the grant funds to the applicant.

12 (3) PRIORITY.—In distributing grant funds under this subsection, priority shall be given to
13 high-intensity areas for drug trafficking, smuggling, and border violence.

14 (e) Authorization of Appropriations.—There is authorized to be appropriated, for each of the
15 fiscal years 2018 through 2022, \$300,000,000 for grants authorized under this section.

16 SEC. 1153. OPERATION STONEGARDEN.

17 (a) In General.—Subtitle A of title XX of the Homeland Security Act of 2002 (6 U.S.C. 601 et
18 seq.) is amended by adding at the end the following:

19 “SEC. 2009. OPERATION STONEGARDEN.

20 “(a) Establishment.—There is established in the Department a program to be known as
21 ‘Operation Stonegarden’, under which the Secretary, acting through the Administrator, shall
22 make grants to eligible law enforcement agencies, through the State administrative agency, to
23 enhance border security in accordance with this section.

24 “(b) Eligible Recipients.—To be eligible to receive a grant under this section, a law
25 enforcement agency—

26 “(1) shall be located in—

27 “(A) a State bordering Canada or Mexico; or

28 “(B) a State or territory with a maritime border; and

29 “(2) shall be involved in an active, ongoing, U.S. Customs and Border Protection
30 operation coordinated through a U.S. Border Patrol sector office.

31 “(c) Permitted Uses.—The recipient of a grant under this section may use such grant for—

32 “(1) equipment, including maintenance and sustainment costs;

33 “(2) personnel, including overtime and backfill, in support of enhanced border law
34 enforcement activities;

35 “(3) any activity permitted for Operation Stonegarden under the Department of
36 Homeland Security’s most recent Homeland Security Grant Program Notice of Funding
37 Opportunity; and

1 “(4) any other appropriate activity, as determined by the Administrator, in consultation
2 with the Commissioner of U.S. Customs and Border Protection.

3 “(d) Period of Performance.—The Secretary shall award grants under this section to grant
4 recipients for a period of not less than 36 months.

5 “(e) Report.—For each of the fiscal years 2018 through 2022, the Administrator shall submit a
6 report to the Committee on Homeland Security and Governmental Affairs of the Senate and the
7 Committee on Homeland Security of the House of Representatives containing information on the
8 expenditure of grants made under this section by each grant recipient.

9 “(f) Authorization of Appropriations.—There is authorized to be appropriated \$110,000,000,
10 for each of the fiscal years 2018 through 2022, for grants under this section.”.

11 (b) Conforming Amendment.—Section 2002(a) of the Homeland Security Act of 2002 (6
12 U.S.C. 603(a)) is amended to read as follows:

13 “(a) Grants Authorized.—The Secretary, through the Administrator, may award grants under
14 sections 2003, 2004, and 2009 to State, local, and tribal governments, as appropriate.”.

15 (c) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
16 of 2002 is amended by inserting after the item relating to section 2008 the following:

17 “Sec.2009.Operation Stonegarden.”.

18 SEC. 1154. GRANTS FOR IDENTIFICATION OF VICTIMS 19 OF CROSS-BORDER HUMAN SMUGGLING.

20 In addition to any funding for grants made available to the Attorney General for State and
21 local law enforcement assistance, the Attorney General shall award grants to county, municipal,
22 or tribal governments in States along the southern border for costs, or reimbursement of costs,
23 associated with the transportation and processing of unidentified alien remains that have been
24 transferred to an official medical examiner’s office or an institution of higher education in the
25 area with the capacity to analyze human remains using forensic best practices, including DNA
26 testing, where such expenses may contribute to the collection and analysis of information
27 pertaining to missing and unidentified persons.

28 SEC. 1155. GRANT ACCOUNTABILITY.

29 (a) Definitions.—In this section:

30 (1) AWARDING ENTITY.—The term “awarding entity” means the Secretary, the
31 Administrator of the Federal Emergency Management Agency, the Director of the National
32 Science Foundation, or the Chief of the Office of Citizenship and New Americans.

33 (2) NONPROFIT ORGANIZATION.—The term “nonprofit organization” means an
34 organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986 and
35 is exempt from taxation under section 501(a) of such Code.

36 (3) UNRESOLVED AUDIT FINDING.—The term “unresolved audit finding” means a finding
37 in a final audit report conducted by the Inspector General of the Department of Homeland
38 Security, or the Inspector General for the National Science Foundation for grants awarded
39 by the Director of the National Science Foundation, that the audited grantee has utilized

1 grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed
2 or resolved within 1 year after the date when the final audit report is issued.

3 (b) Accountability.—All grants awarded by an awarding entity pursuant to this subtitle shall
4 be subject to the following accountability provisions:

5 (1) AUDIT REQUIREMENT.—

6 (A) AUDITS.—Beginning in the first fiscal year beginning after the date of the
7 enactment of this Act, and in each fiscal year thereafter, the Inspector General of the
8 Department of Homeland Security, or the Inspector General for the National Science
9 Foundation for grants awarded by the Director of the National Science Foundation,
10 shall conduct audits of recipients of grants under this subtitle or any amendments made
11 by this subtitle to prevent waste, fraud, and abuse of funds by grantees. Such
12 Inspectors General shall determine the appropriate number of grantees to be audited
13 each year.

14 (B) MANDATORY EXCLUSION.—A recipient of grant funds under this subtitle that is
15 found to have an unresolved audit finding shall not be eligible to receive grant funds
16 under this subtitle or any amendment made by this subtitle during the first 2 fiscal
17 years beginning after the end of the fiscal year in which a finding described in
18 subsection (A) was discovered.

19 (C) PRIORITY.—In awarding a grant under this subtitle or any amendment made by
20 this subtitle, the awarding entity shall give priority to eligible applicants that did not
21 have an unresolved audit finding during the 3 fiscal years immediately preceding the
22 date on which the entity submitted the application for such grant.

23 (D) REIMBURSEMENT.—If an entity is awarded grant funds under this subtitle or any
24 amendment made by this subtitle during the 2-year period when the entity is barred
25 from receiving grants under subparagraph (B), the awarding entity shall—

26 (i) deposit an amount equal to the amount of the grant funds that were
27 improperly awarded to such entity into the general fund of the Treasury; and

28 (ii) seek to recover the costs of the repayment under clause (i) from such entity.

29 (2) NONPROFIT ORGANIZATION REQUIREMENTS.—

30 (A) PROHIBITION.—An awarding entity may not award a grant under this subtitle or
31 any amendment made by this subtitle to a nonprofit organization that holds money in
32 offshore accounts for the purpose of avoiding the tax imposed under section 511(a) of
33 the Internal Revenue Code of 1986.

34 (B) DISCLOSURE.—Each nonprofit organization that is awarded a grant under this
35 subtitle or any amendment made by this subtitle and uses the procedures prescribed by
36 Internal Revenue regulations to create a rebuttable presumption of reasonableness for
37 the compensation of its officers, directors, trustees, and key employees, shall disclose
38 to the awarding entity, in the application for the grant, the process for determining such
39 compensation, including the independent persons involved in reviewing and approving
40 such compensation, the comparability data used, and contemporaneous substantiation
41 of the deliberation and decision. Upon request, the awarding entity shall make the
42 information disclosed under this subparagraph available for public inspection.

1 (3) CONFERENCE EXPENDITURES.—

2 (A) LIMITATION.—Amounts authorized to be appropriated to the Department of
3 Homeland Security or the National Science Foundation for grant programs under this
4 subtitle or any amendment made by this subtitle may not be used by an awarding entity
5 to host or support any expenditure for conferences that uses more than \$20,000 in
6 funds made available by the Department of Homeland Security or the National Science
7 Foundation unless the Deputy Secretary for Homeland Security, or the Deputy Director
8 of the National Science Foundation, or their designee, provides prior written
9 authorization that the funds may be expended to host the conference.

10 (B) WRITTEN APPROVAL.—Written approval under subparagraph (A) shall include a
11 written estimate of all costs associated with the conference, including the cost of all
12 food, beverages, audio-visual equipment, honoraria for speakers, and entertainment.

13 (C) REPORT.—The Deputy Secretary of Homeland Security and the Deputy Director
14 of the National Science Foundation shall submit an annual report to Congress that
15 identifies all conference expenditures approved under this paragraph.

16 (4) ANNUAL CERTIFICATION.—Beginning in the first fiscal year beginning after the date
17 of the enactment of this Act, and annually thereafter, each awarding entity shall submit a
18 report to Congress that—

19 (A) indicates whether—

20 (i) all audits issued by the Offices of the Inspector General under paragraph (1)
21 have been completed and reviewed by the appropriate individuals;

22 (ii) all mandatory exclusions required under paragraph (1)(B) have been issued;
23 and

24 (iii) all reimbursements required under paragraph (1)(D) have been made; and

25 (B) includes a list of any grant recipients excluded under paragraph (1) during the
26 previous year.

27 **Subtitle B—Emergency Port of Entry Personnel and**
28 **Infrastructure Funding**

29 **SEC. 1201. DEFINITIONS.**

30 In this subtitle:

31 (1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional
32 committees” means—

33 (A) the Committee on Homeland Security and Governmental Affairs of the Senate;

34 (B) the Committee on Finance of the Senate;

35 (C) the Committee on the Judiciary of the Senate;

36 (D) the Committee on Homeland Security of the House of Representatives;

37 (E) the Committee on Ways and Means of the House of Representatives; and

1 (F) the Committee on the Judiciary of the House of Representatives.

2 (2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

3 **SEC. 1202. PORTS OF ENTRY INFRASTRUCTURE.**

4 (a) Additional Ports of Entry.—

5 (1) AUTHORITY.—The Administrator of General Services may, subject to section 3307 of
6 title 40, United States Code, construct new ports of entry along the northern border and
7 along the southern border at locations determined by the Secretary.

8 (2) CONSULTATION.—

9 (A) REQUIREMENT TO CONSULT.—The Secretary shall consult with the Secretary of
10 State, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of
11 Transportation, the Administrator of General Services, and appropriate representatives
12 of State and local governments, Indian tribes, and property owners in the United States
13 prior to determining a location for any new port constructed pursuant to paragraph (1).

14 (B) CONSIDERATIONS.—The purpose of the consultations required under
15 subparagraph (A) shall be to minimize any negative impacts of such a new port on the
16 environment, culture, commerce, and quality of life of the communities and residents
17 located near such new port.

18 (b) Expansion and Modernization of High-volume Southern Border Ports of Entry.—Not later
19 than September 30, 2022, the Administrator of General Services, subject to section 3307 of title
20 40, United States Code, and in coordination with the Secretary, shall expand or modernize high-
21 priority ports of entry on the southern border, as determined by the Secretary, for the purposes of
22 reducing wait times and enhancing security.

23 (c) Port of Entry Prioritization.—Prior to constructing any new ports of entry pursuant to
24 subsection (a), the Administrator of General Services shall complete the expansion and
25 modernization of ports of entry pursuant to subsection (b) to the extent practicable.

26 (d) Notifications.—

27 (1) Relating to NEW PORTS OF ENTRY.—Not later than 15 days after determining the
28 location of any new port of entry for construction pursuant to subsection (a), the Secretary
29 and the Administrator of General Services shall jointly notify the Members of Congress
30 who represent the State or congressional district in which such new port of entry will be
31 located, as well as the Committee on Homeland Security and Governmental Affairs, the
32 Committee on Finance, the Committee on Commerce, Science, and Transportation, and the
33 Committee on the Judiciary of the Senate, and the Committee on Homeland Security, the
34 Committee on Ways and Means, the Committee on Transportation and Infrastructure, and
35 the Committee on the Judiciary of the House of Representatives. Such notification shall
36 include—

37 (A) information relating to the location of such new port of entry;

38 (B) a description of the need for such new port of entry and associated anticipated
39 benefits;

40 (C) a description of the consultations undertaken by the Secretary and the

- 1 Administrator pursuant to paragraph (2) of such subsection;
- 2 (D) any actions that will be taken to minimize negative impacts of such new port of
3 entry; and
- 4 (E) the anticipated time line for the construction and completion of such new port of
5 entry.

6 (2) EXPANSION AND MODERNIZATION OF PORTS OF ENTRY.—Not later than 180 days after
7 the date of the enactment of this Act, the Secretary and the Administrator of General
8 Services shall jointly notify the Committee on Homeland Security and Governmental
9 Affairs, the Committee on Finance, the Committee on Commerce, Science, and
10 Transportation, and the Committee on the Judiciary of the Senate, and the Committee on
11 Homeland Security, the Committee on Ways and Means, the Committee on Transportation
12 and Infrastructure, and the Committee on the Judiciary of the House of Representatives of—

- 13 (A) the ports of entry on the southern border selected for expansion or
14 modernization pursuant to subsection (b); and
- 15 (B) the Secretary’s and Administrator’s plan for expanding or modernizing each
16 such port of entry.

17 (e) SAVINGS PROVISION.—Nothing in this section may be construed to—

- 18 (1) create or negate any right of action for a State, local government, or other
19 person or entity affected by this section;
- 20 (2) delay the transfer of the possession of property to the United States or affect
21 the validity of any property acquisitions by purchase or eminent domain, or to
22 otherwise affect the eminent domain laws of the United States or of any State; or
- 23 (3) create any right or liability for any party.

24 (f) RULE OF CONSTRUCTION.—Nothing in this section may be construed as
25 providing the Secretary new authority related to the construction, acquisition, or renovation of
26 real property.

27 SEC. 1203. SECURE COMMUNICATIONS.

28 (a) In General.—The Secretary shall ensure that each U.S. Customs and Border Protection and
29 U.S. Immigration and Customs Enforcement officer or agent, if appropriate, is equipped with a
30 secure radio or other 2-way communication device, supported by system interoperability, that
31 allows each such officer to communicate—

- 32 (1) between ports of entry and inspection stations; and
- 33 (2) with other Federal, State, tribal, and local law enforcement entities.

34 (b) U.S. Border Agents.—The Secretary shall ensure that each U.S. Customs and Border
35 Protection agent or officer assigned or required to patrol on foot, by horseback, or with a canine
36 unit, in remote mission critical locations, and at border checkpoints, has a multi- or dual-band
37 encrypted portable radio.

38 SEC. 1204. BORDER SECURITY DEPLOYMENT

1 PROGRAM.

2 (a) Expansion.—Not later than September 30, 2022, the Secretary shall fully implement U.S.
3 Customs and Border Protection’s Border Security Deployment Program and expand the
4 integrated surveillance and intrusion detection system at land ports of entry along the southern
5 border and the northern border.

6 (b) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
7 appropriated for such purpose, there is authorized to be appropriated \$33,000,000, for each of the
8 fiscal year 2018 through 2022, to carry out subsection (a).

9 SEC. 1205. PILOT AND UPGRADE OF LICENSE PLATE
10 READERS AT PORTS OF ENTRY.

11 (a) Upgrade.—Not later than two years after the date of the enactment of this Act, the
12 Commissioner of U.S. Customs and Border Protection shall upgrade all existing license plate
13 readers on the northern border and on the southern border on incoming and outgoing vehicle
14 lanes.

15 (b) Pilot Program.—Not later than 90 days after the date of the enactment of this Act, the
16 Commissioner of U.S. Customs and Border Protection shall conduct a 1-month pilot program on
17 the southern border using license plate readers for 1 to 2 cargo lanes at the top 2 high-volume
18 southern border land ports of entry or checkpoints and at the top 2 high-volume northern border
19 land ports of entry or checkpoints to determine their effectiveness in reducing cross-border wait
20 times for commercial traffic and tractor-trailers.

21 (c) Report.—Not later than 180 days after the date of the enactment of this Act, the Secretary
22 shall submit a report to the Committee on Homeland Security and Governmental Affairs, the
23 Committee on Finance, and the Committee on the Judiciary of the Senate, and the Committee on
24 Homeland Security, the Committee on Ways and Means, and the Committee on the Judiciary of
25 the House of Representatives the results of the pilot program under subsection (b) and make
26 recommendations for using such technology on the southern border.

27 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
28 appropriated for such purpose, there is authorized to be appropriated \$125,000,000 for fiscal year
29 2018 through 2019 to carry out subsection (a).

30 SEC. 1206. BIOMETRIC TECHNOLOGY.

31 (a) Biometric Storage.—

32 (1) CREATION OR EXPANSION OF SYSTEM.—Not later than 180 days after the date of the
33 enactment of this Act, the Secretary shall create a system (or upgrade and expand the
34 capability and capacity of an existing system, if a Department of Homeland Security system
35 already has capability and capacity for storage) to allow for the storage of fingerprints,
36 photographs, iris scans, voice prints, and any other biometric data of aliens that can be used
37 by the Department of Homeland Security, other Federal agencies, and State and local law
38 enforcement agencies for identity verification, authentication, background checks, and
39 document production.

40 (2) COMPATIBILITY.—The Secretary shall ensure, to the extent possible, that the system

1 created or expanded under paragraph (1) is compatible with existing State and local law
2 enforcement systems that are used for the collection and storage of biometric data for
3 criminal aliens.

4 (b) Pilot Program.—When the system created under subsection (a) is operational, U.S.
5 Immigration and Customs Enforcement and U.S. Citizenship and Immigration Services shall
6 conduct a 6-month pilot program on the collection and use of iris scans and voice prints for
7 identity verification, authentication, background checks, and document production.

8 (c) Report.—Not later than 6 months after the conclusion of the pilot program under
9 subsection (b), the Secretary shall submit a report containing the results of the pilot program and
10 recommendations for using such technology to—

11 (1) the Committee on Homeland Security and Governmental Affairs of the Senate;

12 (2) the Committee on the Judiciary of the Senate;

13 (3) the Committee on Homeland Security of the House of Representatives; and

14 (4) the Committee on the Judiciary of the House of Representatives.

15 (d) Authorization of Appropriations.—In addition to amounts otherwise authorized to be
16 appropriated, there are authorized to be appropriated, for each of the fiscal years 2018 through
17 2022, \$10,000,000 carry out this section.

18 SEC. 1207. NONINTRUSIVE INSPECTION OPERATIONAL 19 DEMONSTRATION PROJECT.

20 (a) In General.—

21 (1) ESTABLISHMENT.—Not later than 6 months after the date of the enactment of this Act,
22 the Commissioner shall establish a 6-month operational demonstration project to deploy a
23 high-throughput nonintrusive passenger vehicle inspection system at not fewer than 3 land
24 ports of entry along the United States-Mexico border with significant cross-border traffic.

25 (2) LOCATION.—The demonstration project established under paragraph (1)—

26 (A) shall be located within the pre-primary traffic flow; and

27 (B) should be scalable to span up to 26 contiguous in-bound traffic lanes without
28 reconfiguration of existing lanes.

29 (b) Report.—Not later than 90 days after the conclusion of the operational demonstration
30 project under subsection (a), the Commissioner shall submit a report to the Committee on
31 Homeland Security and Governmental Affairs of the Senate, the Committee on Finance of the
32 Senate, the Committee on Homeland Security of the House of Representatives, and the
33 Committee on Ways and Means of the House of Representatives that describes—

34 (1) the effects of the demonstration project on legitimate travel and trade;

35 (2) the effects of the demonstration project on wait times, including processing times, for
36 non-pedestrian traffic; and

37 (3) the effectiveness of the demonstration project in combating terrorism and smuggling.

1 SEC. 1208. BIOMETRIC EXIT DATA SYSTEM.

2 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 211 et
3 seq.) is amended by inserting after section 415 the following:

4 “SEC. 416. BIOMETRIC ENTRY-EXIT.

5 “(a) Establishment.—The Secretary—

6 “(1) not later than 180 days after the date of the enactment of this section, shall submit an
7 implementation plan to the Committee on Homeland Security and Governmental Affairs of
8 the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland
9 Security of the House of Representatives, and the Committee on the Judiciary of the House
10 of Representatives for establishing a biometric exit data system to complete the integrated
11 biometric entry and exit data system required under section 7208 of the Intelligence Reform
12 and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b), including—

13 “(A) an integrated master schedule and cost estimate, including requirements and
14 design, development, operational, and maintenance costs of such a system, that takes
15 into account prior reports on such matters issued by the Government Accountability
16 Office and the Department;

17 “(B) cost-effective staffing and personnel requirements of such a system that
18 leverages existing resources of the Department that takes into account prior reports on
19 such matters issued by the Government Accountability Office and the Department;

20 “(C) a consideration of training programs necessary to establish such a system that
21 takes into account prior reports on such matters issued by the Government
22 Accountability Office and the Department;

23 “(D) a consideration of how such a system will affect arrival and departure wait
24 times that takes into account prior reports on such matter issued by the Government
25 Accountability Office and the Department;

26 “(E) information received after consultation with private sector stakeholders,
27 including the—

28 “(i) trucking industry;

29 “(ii) airport industry;

30 “(iii) airline industry;

31 “(iv) seaport industry;

32 “(v) travel industry; and

33 “(vi) biometric technology industry;

34 “(F) a consideration of how trusted traveler programs in existence as of the date of
35 the enactment of this section may be impacted by, or incorporated into, such a system;

36 “(G) defined metrics of success and milestones;

37 “(H) identified risks and mitigation strategies to address such risks;

1 “(I) a consideration of how other countries have implemented a biometric exit data
2 system; and

3 “(J) a list of statutory, regulatory, or administrative authorities needed to integrate
4 such a system into the operations of the Transportation Security Administration; and

5 “(2) not later than 2 years after the date of the enactment of this section, shall establish a
6 biometric exit data system at the—

7 “(A) 15 United States airports that support the highest volume of international air
8 travel, as determined by available Federal flight data;

9 “(B) 10 United States seaports that support the highest volume of international sea
10 travel, as determined by available Federal travel data; and

11 “(C) 15 United States land ports of entry that support the highest volume of vehicle,
12 pedestrian, and cargo crossings, as determined by available Federal border crossing
13 data.

14 “(b) Implementation.—

15 “(1) PILOT PROGRAM AT LAND PORTS OF ENTRY.—Not later than 6 months after the date of
16 the enactment of this section, the Secretary, in collaboration with industry stakeholders,
17 shall establish a 6-month pilot program to test the biometric exit data system referred to in
18 subsection (a)(2) on nonpedestrian outbound traffic at not fewer than 3 land ports of entry
19 with significant cross-border traffic, including at not fewer than 2 land ports of entry on the
20 southern land border and at least 1 land port of entry on the northern land border. Such pilot
21 program may include a consideration of more than 1 biometric mode, and shall be
22 implemented to determine—

23 “(A) how a nationwide implementation of such biometric exit data system at land
24 ports of entry shall be carried out;

25 “(B) the infrastructure required to carry out subparagraph (A);

26 “(C) the effects of such pilot program on legitimate travel and trade;

27 “(D) the effects of such pilot program on wait times, including processing times, for
28 such nonpedestrian traffic;

29 “(E) the effects of such pilot program on combating terrorism; and

30 “(F) the effects of such pilot program on identifying visa holders who violate the
31 terms of their visas.

32 “(2) EXPANSION TO LAND PORTS OF ENTRY.—

33 “(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this
34 section, the Secretary shall expand the biometric exit data system referred to in
35 subsection (a)(2) to all land ports of entry.

36 “(B) EXTENSION.—The Secretary may extend for a single 2-year period the date
37 specified in subparagraph (A) if the Secretary certifies to the Committee on Homeland
38 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
39 the Senate, the Committee on Homeland Security of the House of Representatives, and
40 the Committee on the Judiciary of the House of Representatives that the 15 land ports

1 of entry that support the highest volume of passenger vehicles, as determined by
2 available Federal data, do not have the physical infrastructure or characteristics to
3 install the systems necessary to implement a biometric exit data system. Such
4 extension shall only apply in the case of non-pedestrian outbound traffic.

5 “(3) EXPANSION TO AIR AND SEA PORTS OF ENTRY.—Not later than 5 years after the date
6 of the enactment of this section, the Secretary shall expand the biometric exit data system
7 referred to in subsection (a)(2) to all air and sea ports of entry.

8 “(c) Effects on Air, Sea, and Land Transportation.—The Secretary, in consultation with
9 appropriate private sector stakeholders, shall ensure that the collection of biometric data under
10 this section causes the least possible disruption to the movement of people or cargo in air, sea, or
11 land transportation, while fulfilling the goals of improving counterterrorism efforts and
12 identifying visa holders who violate the terms of their visas.

13 “(d) Termination of Proceeding.—Notwithstanding any other provision of law, the Secretary
14 shall, on the date of the enactment of this section, terminate the proceeding entitled ‘Collection
15 of Alien Biometric Data Upon Exit From the United States at Air and Sea Ports of Departure;
16 United States Visitor and Immigrant Status Indicator Technology Program (“US-VISIT”)’,
17 issued on April 24, 2008 (73 Fed. Reg. 22065).

18 “(e) Data-matching.—The biometric exit data system established under this section shall—

19 “(1) match biometric information for an individual who is departing the United States
20 against biometric data previously provided to the United States Government by such
21 individual for the purposes of international travel;

22 “(2) leverage the infrastructure and databases of the current biometric entry and exit
23 system established pursuant to section 7208 of the Intelligence Reform and Terrorism
24 Prevention Act of 2004 (8 U.S.C. 1365b) for the purpose described in paragraph (1); and

25 “(3) be interoperable with, and allow matching against, other Federal databases that—

26 “(A) store biometrics of known or suspected terrorists; and

27 “(B) identify visa holders who violate the terms of their visas.

28 “(f) Scope.—

29 “(1) IN GENERAL.—The biometric exit data system established under this section shall
30 include a requirement for the collection of biometric exit data at the time of departure for all
31 categories of individuals who are required by the Secretary to provide biometric entry data.

32 “(2) EXCEPTION FOR CERTAIN OTHER INDIVIDUALS.—This section shall not apply in the
33 case of an individual who exits and then enters the United States on a passenger vessel (as
34 such term is defined in section 2101 of title 46, United States Code) the itinerary of which
35 originates and terminates in the United States.

36 “(3) EXCEPTION FOR LAND PORTS OF ENTRY.—This section shall not apply in the case of a
37 United States or Canadian citizen who exits the United States through a land port of entry.

38 “(g) Collection of Data.—The Secretary may not require any entity that is not part of the
39 Federal Government to collect biometric data, or to contribute to the costs of collecting or
40 administering the biometric exit data system established under this section, except through a

1 mutual agreement.

2 “(h) Multi-modal Collection.—In carrying out subsections (a)(1) and (b), the Secretary shall
3 make every effort to collect biometric data using multiple modes of biometrics.

4 “(i) Facilities.—All facilities at which the biometric exit data system established under this
5 section is implemented shall provide and maintain space for Federal use that is adequate to
6 support biometric data collection and other inspection-related activity. For non-federally owned
7 facilities, such space shall be provided and maintained at no cost to the Government.

8 “(j) Northern Land Border.—In the case of the northern land border, the requirements under
9 subsections (a)(2)(C) and (b)(2)(A) may be achieved through the sharing of biometric data
10 provided to the Department by the Canadian Border Services Agency pursuant to the 2011
11 Beyond the Border agreement.

12 “(k) Full and Open Competition.—The Secretary shall procure goods and services to
13 implement this section via full and open competition in accordance with the Federal Acquisition
14 Regulation.

15 “(l) Other Biometric Initiatives.—The Secretary may pursue biometric initiatives at air, land,
16 and sea ports of entry for the purposes of border security and trade facilitation distinct from the
17 biometric exit data system described in this section.

18 “(m) Congressional Review.—Not later than 90 days after the date of the enactment of this
19 section, the Secretary shall submit reports and recommendations to the Committee on Homeland
20 Security and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate,
21 the Committee on Homeland Security of the House of Representatives, and the Committee on
22 the Judiciary of the House of Representatives regarding the Science and Technology
23 Directorate’s Air Entry and Exit Re-Engineering Program of the Department and the U.S.
24 Customs and Border Protection entry and exit mobility program demonstrations.

25 “(n) Savings Clause.—Nothing in this section may be construed to prohibit the collection of
26 user fees permitted by section 13031 of the Consolidated Omnibus Budget Reconciliation Act of
27 1985 (19 U.S.C. 58c).”.

28 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
29 of 2002 is amended by inserting after the item relating to section 415 the following:

30 “Sec.416.Biometric entry-exit.”.

31 SEC. 1209. SENSE OF CONGRESS ON COOPERATION 32 BETWEEN AGENCIES.

33 (a) Finding.—Congress finds that personnel constraints exist at land ports of entry with regard
34 to sanitary and phytosanitary inspections for exported goods.

35 (b) Sense of Congress.—It is the sense of Congress that, in the best interest of cross-border
36 trade and the agricultural community—

37 (1) any lack of certified personnel for inspection purposes at ports of entry should be
38 addressed by seeking cooperation between agencies and departments of the United States,
39 whether in the form of a memorandum of understanding or through a certification process,
40 whereby additional existing agents are authorized for additional hours to facilitate the

1 crossing and trade of perishable goods in a manner consistent with rules of the Department
2 of Agriculture; and

3 (2) cross designation should be available for personnel who will assist more than 1
4 agency or department at land ports of entry to facilitate increased trade and commerce.

5 Subtitle C—Border Security Enforcement Fund

6 SEC. 1301. BORDER SECURITY ENFORCEMENT FUND.

7 (a) Purpose.—It is the purpose of this section to establish a Border Security Enforcement Fund
8 (referred to in this section as the “Fund”), to be administered through the Department of
9 Homeland Security and, in fiscal year 2018 only, through the Department of State, to carry out
10 activities necessary to implement this Act and other Acts related to border security, including—

11 (1) the construction, installation, deployment, operation, and maintenance of tactical
12 infrastructure and technology in the vicinity of the United States border—

13 (A) to achieve situational awareness and operational control of such border;

14 (B) to deter, impede, and detect illegal activity in high traffic areas; and

15 (C) to implement other border security provisions under titles I and II;

16 (2) the implementation of port of entry provisions under titles I and II;

17 (3) the purchase of new aircraft, vessels, spare parts, and equipment to maintain such
18 craft; and

19 (4) hiring and recruitment.

20 (b) Funding.—There are appropriated to the Fund, out of any amounts in the Treasury not
21 otherwise appropriated, \$25,000,000,000, of which—

22 (1) \$2,947,000,000 is appropriated for fiscal year 2018, and shall remain available
23 through September 30, 2022;

24 (2) \$2,225,000,000 is appropriated for fiscal year 2019, and shall remain available
25 through September 30, 2023;

26 (3) \$2,467,000,000 is appropriated for fiscal year 2020, and shall remain available
27 through September 30, 2024;

28 (4) \$2,644,000,000 is appropriated for fiscal year 2021, and shall remain available
29 through September 30, 2025;

30 (5) \$2,862,000,000 is appropriated for fiscal year 2022, and shall remain available
31 through September 30, 2026;

32 (6) \$2,370,000,000 is appropriated for fiscal year 2023, and shall remain available
33 through September 30, 2027;

34 (7) \$2,371,000,000 is appropriated for fiscal year 2024, and shall remain available
35 through September 30, 2028;

36 (8) \$2,401,000,000 is appropriated for fiscal year 2025, and shall remain available
37 through September 30, 2029;

1 (9) \$2,371,000,000 is appropriated for fiscal year 2026, and shall remain available
2 through September 30, 2030; and

3 (10) \$2,342,000,000 is appropriated for fiscal year 2027, and shall remain available
4 through September 30, 2031.

5 (c) Physical Barriers.—

6 (1) TRANSFERS.—The Secretary shall transfer, from the Fund to the “U.S. Customs and
7 Border Protection—Procurement, Construction and Improvements” account, for the purpose
8 of constructing, replacing, or planning physical barriers along the United States land border,
9 \$18,000,000,000, of which—

10 (A) \$1,571,000,000 shall be transferred in fiscal year 2018;

11 (B) \$1,600,000,000 shall be transferred in fiscal year 2019;

12 (C) \$1,842,000,000 shall be transferred in fiscal year 2020;

13 (D) \$2,019,000,000 shall be transferred in fiscal year 2021;

14 (E) \$2,237,000,000 shall be transferred in fiscal year 2022;

15 (F) \$1,745,000,000 shall be transferred in fiscal year 2023;

16 (G) \$1,746,000,000 shall be transferred in fiscal year 2024;

17 (H) \$1,776,000,000 shall be transferred in fiscal year 2025;

18 (I) \$1,746,000,000 shall be transferred in fiscal year 2026; and

19 (J) \$1,718,000,000 shall be transferred in fiscal year 2027.

20 (2) AVAILABILITY OF FUNDS.—Notwithstanding section 1552(a) of title 31, United States
21 Code, any amounts transferred pursuant to paragraph (1) shall remain available for
22 disbursement until expended.

23 (d) Specified Technology.—During fiscal year 2018, the Secretary of Homeland Security and
24 the Secretary of State shall transfer from the Fund to accounts within their respective
25 Departments the following amounts for the following purposes:

26 (1) \$10,000,000 for the Department of Homeland Security to implement Vehicle and
27 Dismount Exploitation Radars (VADER) in border security operations.

28 (2) \$3,000,000 for the Department of Homeland Security to implement southern border
29 tunneling detection technology, including 3-dimensional, seismic, acoustic detection and
30 ranging border tunneling detection technology.

31 (3) \$200,000,000 for the Department of State to implement section 1120.

32 (4) \$200,000,000 for the United States Coast Guard to implement section 1114(a)(18).

33 (5) \$2,000,000 for the Department of Homeland Security—

34 (A) to hire additional Uniform Management Center support personnel;

35 (B) to purchase uniforms for U.S. Customs and Border Protection officers and
36 agents;

1 (C) to acquire additional motor vehicles to support vehicle mounted surveillance
2 systems;

3 (D) to hire additional motor vehicle program support personnel; and

4 (E) to contract support for customer service, vendor management, and operations
5 management.

6 (6) \$250,000,000 for the implementation of the biometric exit data system described in
7 section 419 of the Homeland Security Act of 2002, as added by section 1208.

8 (7) \$200,000,000 for the Department of Homeland Security to purchase—

9 (A) AS350, UH-60L, and UAS-Native MQ-9 aircraft;

10 (B) required support equipment for such aircraft; and

11 (C) initial spare parts for southern and northern border security and maritime
12 operations.

13 (e) Transfer Authority.—In addition to the amounts transferred by the Secretary and the
14 Secretary of State pursuant to subsections (c) and (d), the Committee on Appropriations of the
15 Senate and the Committee on Appropriations of the House of Representatives may provide for
16 the transfer of amounts in the Fund for each fiscal year to eligible activities under this section,
17 including—

18 (1) constructing, replacing, or planning for physical barriers along the United States land
19 border; or

20 (2) acquiring any of the technologies described in subsection (d).

21 (f) Use of Fund.—If the Committee on Appropriations of the Senate and the Committee on
22 Appropriations of the House of Representatives does not provide for the transfer of funds in a
23 full-year appropriation in any given fiscal year pursuant to subsection (e), the Secretary of
24 Homeland Security may transfer amounts in the Fund to accounts within the Department of
25 Homeland Security for eligible activities under this section, including—

26 (1) not less than the amounts specified in subsection (c) for the purpose of constructing,
27 replacing, or planning for physical barriers along the United States land border; and

28 (2) not less than the amounts specified in subsection (d) for the purpose of the
29 technologies described in that subsection.

30 (g) Budget Request.—A request for the transfer of amounts from the Fund pursuant to this
31 section—

32 (1) shall be included in each budget for a fiscal year submitted by the President under
33 section 1105 of title 31, United States Code; and

34 (2) shall describe planned obligations by program, project, and activity in the receiving
35 account at the same level of detail provided for in the request for other appropriations in that
36 account.

37 **Subtitle D—Stop the Importation and Trafficking of Synthetic**
38 **Analogues Act**

1 **SEC. 1401. SHORT TITLES.**

2 This subtitle may be cited as the “Stop the Importation and Trafficking of Synthetic Analogues
3 Act of 2018” or the “SITSA Act”.

4 **SEC. 1402. ESTABLISHMENT OF SCHEDULE A.**

5 Section 202 of the Controlled Substances Act (21 U.S.C. 812) is amended—

6 (1) in subsection (a), by striking “five schedules of controlled substances, to be known as
7 schedules I, II, III, IV, and V” and inserting “six schedules of controlled substances, to be
8 known as schedules I, II, III, IV, V, and A”;

9 (2) in subsection (b), by adding at the end the following:

10 “(6) Schedule A.—

11 “(A) IN GENERAL.—The drug or substance—

12 “(i) has—

13 “(I) a chemical structure that is substantially similar to the chemical structure of
14 a controlled substance in schedule I, II, III, IV, or V; and

15 “(II) an actual or predicted stimulant, depressant, or hallucinogenic effect on
16 the central nervous system that is substantially similar to or greater than the
17 stimulant, depressant, or hallucinogenic effect on the central nervous system of a
18 controlled substance in schedule I, II, III, IV, or V; and

19 “(ii) is not—

20 “(I) listed or otherwise included in any other schedule in this section or by
21 regulation of the Attorney General; and

22 “(II) with respect to a particular person, subject to an exemption that is in effect
23 for investigational use, for that person, under section 505 of the Federal Food,
24 Drug, and Cosmetic Act (21 U.S.C. 355) to the extent conduct with respect to
25 such substance is pursuant to such exemption.

26 “(B) PREDICTED STIMULANT, DEPRESSANT, OR HALLUCINOGENIC EFFECT.—For purpose of
27 this paragraph, a predicted stimulant, depressant, or hallucinogenic effect on the central
28 nervous system may be based on—

29 “(i) the chemical structure, structure activity relationships, binding receptor assays,
30 or other relevant scientific information about the substance;

31 “(ii)(I) the current or relative potential for abuse of the substance; and

32 “(II) the clandestine importation, manufacture, or distribution, or diversion from
33 legitimate channels, of the substance; or

34 “(iii) the capacity of the substance to cause a state of dependence, including physical
35 or psychological dependence that is similar to or greater than that of a controlled
36 substance in schedule I, II, III, IV, or V.”; and

37 (3) in subsection (c)—

1 (A) in the matter preceding schedule I, by striking “IV, and V” and inserting “IV, V,
2 and A”; and

3 (B) by adding at the end the following:

4 “schedule a

5 “(a) Unless specifically excepted or unless listed in another schedule, any of the following
6 substances, as scheduled in accordance with section 201(k)(5):

7 “(1) 4-fluoroisobutyryl fentanyl.

8 “(2) Valeryl fentanyl.

9 “(3) 4-methoxybutyryl fentanyl.

10 “(4) 4-methylphenethyl acetyl fentanyl.

11 “(5) 3-furanyl fentanyl.

12 “(6) Ortho-fluorofentanyl.

13 “(7) Tetrahydrofuranyl fentanyl.

14 “(8) Ocfentanil.

15 “(9) 4-fluorobutyryl fentanyl.

16 “(10) Methoxyacetyl fentanyl.

17 “(11) Meta-fluorofentanyl.

18 “(12) Isobutyryl fentanyl.

19 “(13) Acryl fentanyl.”.

20 SEC. 1403. TEMPORARY AND PERMANENT 21 SCHEDULING OF SCHEDULE A SUBSTANCES.

22 Section 201 of the Controlled Substances Act (21 U.S.C. 811) is amended by adding at the end
23 the following:

24 “(k) Temporary and Permanent Scheduling of Schedule A Substances.—

25 “(1) The Attorney General may issue a temporary order adding a drug or substance to
26 schedule A if the Attorney General finds that—

27 “(A) the drug or other substance satisfies the criteria for being considered a schedule
28 A substance; and

29 “(B) adding such drug or substance to schedule A will assist in preventing abuse or
30 misuse of the drug or other substance.

31 “(2)(A) A temporary scheduling order issued under paragraph (1) shall not take effect
32 until 30 days after the date on which the Attorney General publishes a notice in the Federal
33 Register of the intention to issue such order and the grounds upon which such order is to be
34 issued.

35 “(B) The Attorney General may amend, withdraw, or rescind a temporary scheduling

1 order at any time by publication of a notice in the Federal Register.

2 “(C) Subject to paragraph (B), the temporary scheduling order shall expire not later than
3 5 years after the date on which it becomes effective, except that the Attorney General may,
4 during the pendency of proceedings under paragraph (5), extend the temporary scheduling
5 order for up to 180 days.

6 “(3) A temporary scheduling order issued under paragraph (1) shall be vacated upon the
7 issuance of a permanent order issued under paragraph (5) with regard to the same substance,
8 or upon the subsequent issuance of any scheduling order under this section.

9 “(4) A temporary scheduling order issued under paragraph (1) shall not be subject to
10 judicial review.

11 “(5) The Attorney General may, by rule, issue a permanent order adding a drug or other
12 substance to schedule A if such drug or substance satisfies the criteria for being considered
13 a schedule A substance. Such rulemaking may be commenced simultaneously with the
14 issuance of the temporary scheduling order issued under paragraph (1) with regard to the
15 same substance.

16 “(6) Before initiating proceedings under paragraph (1) or (5), the Attorney General shall
17 transmit notice of an order proposed to be issued to the Secretary of Health and Human
18 Services. In issuing an order under paragraph (1) or (5), the Attorney General shall take into
19 consideration any comments submitted by the Secretary of Health and Human Services in
20 response to a notice transmitted pursuant to this paragraph.”

21 SEC. 1404. PENALTIES.

22 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
23 amended—

24 (1) in section 401(b)(1) (21 U.S.C. 841(b)(1)), by adding at the end the following:

25 “(F)(i) In the case of any controlled substance in schedule A, such person shall be
26 sentenced to a term of imprisonment of not more than 10 years and if death or serious
27 bodily injury results from the use of such substance shall be sentenced to a term of
28 imprisonment of not more than 15 years, a fine not to exceed the greater of that
29 authorized in accordance with the provisions of title 18, United States Code, or
30 \$500,000 if the defendant is an individual or \$2,500,000 if the defendant is other than
31 an individual, or both.

32 “(ii) If any person commits such a violation after a prior conviction for a felony drug
33 offense has become final, such person shall be sentenced to a term of imprisonment of
34 not more than 20 years and if death or serious bodily injury results from the use of
35 such substance shall be sentenced to a term of imprisonment of not more than 30 years,
36 a fine not to exceed the greater of twice that authorized in accordance with the
37 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an
38 individual or \$5,000,000 if the defendant is other than an individual, or both.

39 “(iii) Any sentence imposing a term of imprisonment under this subparagraph shall,
40 in the absence of such a prior conviction, impose a term of supervised release of not
41 less than 2 years in addition to such term of imprisonment and shall, if there was such a

1 prior conviction, impose a term of supervised release of not less than 4 years in
2 addition to such term of imprisonment.”;

3 (2) in section 403(a) (21 U.S.C. 843(a))—

4 (A) in paragraph (8), by striking “or” at the end;

5 (B) in paragraph (9), by striking the period at the end and inserting “; or”; and

6 (C) by inserting after paragraph (9) the following:

7 “(10) to export a substance in violation of the controlled substance laws of the country to
8 which the substance is exported.”; and

9 (3) in section 404 (21 U.S.C. 844), by inserting after subsection (a) the following:

10 “(b) A person shall not be subject to a criminal or civil penalty under this title or under any
11 other Federal law solely for possession of a schedule A controlled substance.”.

12 (b) Controlled Substances Import and Export Act.—Section 1010(b) of the Controlled
13 Substances Import and Export Act (21 U.S.C. 960(b)) is amended by adding at the end the
14 following:

15 “(8) In the case of a violation under subsection (a) involving a controlled substance in
16 schedule A, the person committing such violation shall be sentenced to a term of
17 imprisonment of not more than 20 years and if death or serious bodily injury results from
18 the use of such substance shall be sentenced to a term of imprisonment for any term of years
19 or for life, a fine not to exceed the greater of that authorized in accordance with the
20 provisions of title 18, United States Code, or \$1,000,000 if the defendant is an individual or
21 \$5,000,000 if the defendant is other than an individual, or both. If any person commits such
22 a violation after a prior conviction for a felony drug offense has become final, such person
23 shall be sentenced to a term of imprisonment of not more than 30 years and if death or
24 serious bodily injury results from the use of such substance shall be sentenced to a term of
25 imprisonment for any term of years or for life, a fine not to exceed the greater of twice that
26 authorized in accordance with the provisions of title 18, United States Code, or \$2,000,000
27 if the defendant is an individual or \$10,000,000 if the defendant is other than an individual,
28 or both. Notwithstanding section 3583 of title 18, United States Code, any sentence
29 imposing a term of imprisonment under this paragraph shall, in the absence of such a prior
30 conviction, impose a term of supervised release of not less than 3 years in addition to such
31 term of imprisonment and shall, if there was such a prior conviction, impose a term of
32 supervised release of not less than 6 years in addition to such term of imprisonment.
33 Notwithstanding the prior sentence, and notwithstanding any other provision of law, the
34 court shall not place on probation or suspend the sentence of any person sentenced under
35 the provisions of this paragraph which provide for a mandatory term of imprisonment if
36 death or serious bodily injury results.”.

37 **SEC. 1405. FALSE LABELING OF SCHEDULE A**
38 **CONTROLLED SUBSTANCES.**

39 (a) In General.—Section 305 of the Controlled Substances Act (21 U.S.C. 825) is amended by
40 adding at the end the following:

1 “(f) False Labeling of Schedule A Controlled Substances.—

2 “(1) It shall be unlawful to import, export, manufacture, distribute, dispense, or possess
3 with intent to manufacture, distribute, or dispense, a schedule A substance or product
4 containing a schedule A substance, unless the substance or product bears a label clearly
5 identifying a schedule A substance or product containing a schedule A substance by the
6 nomenclature used by the International Union of Pure and Applied Chemistry.

7 “(2)(A) A product described in subparagraph (B) is exempt from the International Union
8 of Pure and Applied Chemistry nomenclature requirement of this subsection if such product
9 is labeled in the manner required under the Federal Food, Drug, and Cosmetic Act.

10 “(B) A product is described in this subparagraph if the product—

11 “(i) is the subject of an approved application as described in section 505(b) or (j) of
12 the Federal Food, Drug, and Cosmetic Act; or

13 “(ii) is exempt from the provisions of section 505 of such Act relating to new drugs
14 because—

15 “(I) it is intended solely for investigational use as described in section 505(i) of
16 such Act; and

17 “(II) such product is being used exclusively for purposes of a clinical trial that
18 is the subject of an effective investigational new drug application.”.

19 (b) Penalties.—Section 402 of the Controlled Substances Act (21 U.S.C. 842) is amended—

20 (1) in subsection (a)(16), by inserting “or subsection (f)” after “subsection (e)”; and

21 (2) in subsection (c)(1)(D), by inserting “or a schedule A substance” after “anabolic
22 steroid”.

23 SEC. 1406. REGISTRATION REQUIREMENTS FOR 24 HANDLERS OF SCHEDULE A SUBSTANCES.

25 (a) Controlled Substances Act.—Section 303 of the Controlled Substances Act (21 U.S.C.
26 823) is amended—

27 (1) in subsection (f), in the undesignated matter following paragraph (5)—

28 (A) by inserting “or A” after “schedule I” each place it appears; and

29 (B) by adding at the end the following: “A separate registration for engaging in
30 research with a controlled substance in schedule A for practitioners already registered
31 under this part to engage in research with controlled substances in schedule I shall not
32 be required. The Secretary shall determine the merits of the research protocol
33 submitted by the practitioner registering to engage in research with a controlled
34 substance in schedule A, and the Attorney General may deny or revoke the registration
35 only on a ground specified in section 304.”; and

36 (2) by adding at the end the following:

37 “(k)(1) The Attorney General shall register an applicant to manufacture schedule A substances
38 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—

8 “(A) maintenance of effective controls against diversion of particular controlled
9 substances and any controlled substance in schedule A compounded therefrom into other
10 than legitimate medical, scientific, research, or industrial channels, by limiting the
11 importation and bulk manufacture of such controlled substances to a number of
12 establishments which can produce an adequate and uninterrupted supply of these substances
13 under adequately competitive conditions for legitimate medical, scientific, research, and
14 industrial purposes;

15 “(B) compliance with applicable State and local law;

16 “(C) promotion of technical advances in the art of manufacturing substances described in
17 subparagraph (A) and the development of new substances;

18 “(D) prior conviction record of applicant under Federal and State laws relating to the
19 manufacture, distribution, or dispensing of substances described in paragraph (A);

20 “(E) past experience in the manufacture of controlled substances, and the existence in the
21 establishment of effective control against diversion; and

22 “(F) such other factors as may be relevant to and consistent with the public health and
23 safety.

24 “(3) If an applicant is registered to manufacture controlled substances in schedule I or II under
25 subsection (a), the applicant shall not be required to apply for a separate registration under this
26 subsection.

27 “(1)(1) The Attorney General shall register an applicant to distribute schedule A substances—

28 “(A) if the applicant demonstrates that the schedule A substances will be used for
29 research, analytical, or industrial purposes approved by the Attorney General; and

30 “(B) unless the Attorney General determines that the issuance of such registration is
31 inconsistent with the public interest.

32 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
33 consider—

34 “(A) maintenance of effective control against diversion of particular controlled
35 substances into other than legitimate medical, scientific, and industrial channels;

36 “(B) compliance with applicable State and local law;

37 “(C) prior conviction record of applicant under Federal or State laws relating to the
38 manufacture, distribution, or dispensing of substances described in subparagraph (A);

39 “(D) past experience in the distribution of controlled substances; and

1 “(E) such other factors as may be relevant to and consistent with the public health and
2 safety.

3 “(3) If an applicant is registered to distribute a controlled substance in schedule I or II under
4 subsection (b), the applicant shall not be required to apply for a separate registration under this
5 subsection.

6 “(m)(1) Not later than 90 days after the date on which a substance is placed in schedule A, any
7 practitioner who was engaged in research on the substance before the placement of the substance
8 in schedule A and any manufacturer or distributor who was handling the substance before the
9 placement of the substance in schedule A shall register with the Attorney General.

10 “(2)(A) Not later than 60 days after the date on which the Attorney General receives an
11 application for registration to conduct research on a schedule A substance, the Attorney General
12 shall—

13 “(i) grant, or initiate proceedings under section 304(c) to deny, the application; or

14 “(ii) request supplemental information from the applicant.

15 “(B) Not later than 30 days after the date on which the Attorney General receives
16 supplemental information requested under subparagraph (A)(ii) in connection with an application
17 described in subparagraph (A), the Attorney General shall grant or deny the application.”.

18 (b) Controlled Substances Import and Export Act.—Section 1008 of the Controlled Substances
19 Import and Export Act (21 U.S.C. 958) is amended by adding at the end the following:

20 “(j)(1) The Attorney General shall register an applicant to import or export a schedule A
21 substance if—

22 “(A) the applicant demonstrates that the schedule A substances will be used for research,
23 analytical, or industrial purposes approved by the Attorney General; and

24 “(B) the Attorney General determines that such registration is consistent with the public
25 interest and with the United States obligations under international treaties, conventions, or
26 protocols in effect on the date of enactment of this subsection.

27 “(2) In determining the public interest under paragraph (1)(B), the Attorney General shall
28 consider the factors described in subparagraphs (A) through (F) of section 303(k)(2).

29 “(3) If an applicant is registered to import or export a controlled substance in schedule I or II
30 under subsection (a), the applicant shall not be required to apply for a separate registration under
31 this subsection.”.

32 SEC. 1407. ADDITIONAL CONFORMING AMENDMENTS.

33 (a) Controlled Substances Act.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is
34 amended—

35 (1) in section 303(c) (21 U.S.C. 823(c))—

36 (A) by striking “subsections (a) and (b)” and inserting “subsection (a), (b), (k), or
37 (l)”; and

38 (B) by striking “schedule I or II” and inserting “schedule I, II, or A”;

- 1 (2) in section 306 (21 U.S.C. 826)—
- 2 (A) in subsection (a), in the first sentence, by striking “schedules I and II” and
3 inserting “schedules I, II, and A”;
- 4 (B) in subsection (b), in the second sentence, by striking “schedule I or II” and
5 inserting “schedule I, II, or A”;
- 6 (C) in subsection (c), in the first sentence, by striking “schedules I and II” and
7 inserting “schedules I, II, and A”;
- 8 (D) in subsection (d), in the first sentence, by striking “schedule I or II” and
9 inserting “schedule I, II, or A”;
- 10 (E) in subsection (e), in the first sentence, by striking “schedule I or II” and inserting
11 “schedule I, II, or A”; and
- 12 (F) in subsection (f), in the first sentence, by striking “schedules I and II” and
13 inserting “schedules I, II, and A”;
- 14 (3) in section 308(a) (21 U.S.C. 828(a)), by striking “schedule I or II” and inserting
15 “schedule I, II, or A”;
- 16 (4) in section 402(b) (21 U.S.C. 842(b)), in the matter preceding paragraph (1), by
17 striking “schedule I or II” and inserting “schedule I, II, or A”;
- 18 (5) in section 403(a)(1) (21 U.S.C. 843(a)(1)), by striking “schedule I or II” and inserting
19 “schedule I, II, or A”; and
- 20 (6) in section 511(f) (21 U.S.C. 881(f)), by striking “schedule I or II” each place it
21 appears and inserting “schedule I, II, or A”.
- 22 (b) Controlled Substances Import Export Act.—The Controlled Substances Import and Export
23 Act (21 U.S.C. 951 et seq.) is amended—
- 24 (1) in section 1002(a) (21 U.S.C. 952(a))—
- 25 (A) in the matter preceding paragraph (1), by striking “schedule I or II” and
26 inserting “schedule I, II, or A”; and
- 27 (B) in paragraph (2), by striking “schedule I or II” and inserting “schedule I, II, or
28 A”;
- 29 (2) in section 1003 (21 U.S.C. 953)—
- 30 (A) in subsection (c), in the matter preceding paragraph (1), by striking “schedule I
31 or II” and inserting “schedule I, II, or A”; and
- 32 (B) in subsection (d), by striking “schedule I or II” and inserting “schedule I, II, or
33 A”;
- 34 (3) in section 1004(1) (21 U.S.C. 954(1)), by striking “schedule I” and inserting
35 “schedule I or A”;
- 36 (4) in section 1005 (21 U.S.C. 955), by striking “schedule I or II” and inserting “schedule
37 I, II, or A”; and
- 38 (5) in section 1009(a) (21 U.S.C. 959(a)), by striking “schedule I or II” and inserting

1 “schedule I, II, or A”.

2 **SEC. 1408. CLARIFICATION OF THE DEFINITION OF**
3 **CONTROLLED SUBSTANCE ANALOGUE UNDER THE**
4 **ANALOGUE ENFORCEMENT ACT.**

5 Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

6 (1) in paragraph (6), by striking “or V” and inserting “V, or A”;

7 (2) in paragraph (14)—

8 (A) by striking “schedule I(c) and” and inserting “schedule I(c), schedule A, and”;
9 and

10 (B) by striking “schedule I(c),” and inserting “schedule I(c) and schedule A,”; and

11 (3) in paragraph (32)(A), by striking “(32)(A)” and all that follows through clause (iii)
12 and inserting the following:

13 “(32)(A) Except as provided in subparagraph (C), the term ‘controlled substance
14 analogue’ means a substance whose chemical structure is substantially similar to the
15 chemical structure of a controlled substance in schedule I or II—

16 “(i) which has a stimulant, depressant, or hallucinogenic effect on the central
17 nervous system that is substantially similar to or greater than the stimulant, depressant,
18 or hallucinogenic effect on the central nervous system of a controlled substance in
19 schedule I or II; or

20 “(ii) with respect to a particular person, which such person represents or intends to
21 have a stimulant, depressant, or hallucinogenic effect on the central nervous system
22 that is substantially similar to or greater than the stimulant, depressant, or
23 hallucinogenic effect on the central nervous system of a controlled substance in
24 schedule I or II.”.

25 **SEC. 1409. RULES OF CONSTRUCTION.**

26 Nothing in this subtitle, or the amendments made by this subtitle, may be construed to limit—

27 (1) the prosecution of offenses involving controlled substance analogues under the
28 Controlled Substances Act (21 U.S.C. 801 et seq.); or

29 (2) the authority of the Attorney General to temporarily or permanently schedule,
30 reschedule, or decontrol controlled substances under provisions of section 201 of the
31 Controlled Substances Act (21 U.S.C. 811) that are in effect on the day before the date of
32 enactment of this Act.

33 **Subtitle E—Domestic Security**

34 **CHAPTER 1—GENERAL MATTERS**

35 **SEC. 1501. ENDING CATCH AND RELEASE FOR REPEAT**

1 IMMIGRATION VIOLATORS AND CRIMINALS ALIENS.

2 (a) In General.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is
3 amended by striking the section designation and heading and all that follows through the period
4 at the end of subsection (c) and inserting the following:

5 “SEC. 236. APPREHENSION AND DETENTION OF
6 ALIENS.

7 “(a) Arrest, Detention, and Release.—

8 “(1) IN GENERAL.—The Secretary, on a warrant issued by the Secretary, may arrest an
9 alien and detain the alien pending a decision on whether the alien is to be removed from the
10 United States until the date on which the alien has an administratively final order of
11 removal. Except as provided in subsection (c) and pending such decision, the Secretary—

12 “(A) may—

13 “(i) continue to detain the arrested alien;

14 “(ii) release the alien on bond of at least \$5,000, with security approved by, and
15 containing conditions prescribed by, the Secretary; or

16 “(iii) release the alien on his or her own recognizance, subject to appropriate
17 conditions set forth by the Secretary, if the Secretary determines that the alien will
18 not pose a danger to the safety of other persons or of property and is likely to
19 appear for any scheduled proceeding; and

20 “(B) may not provide the alien with work authorization (including an ‘employment
21 authorized’ endorsement or other appropriate work permit) or advance parole to travel
22 outside of the United States, unless the alien is lawfully admitted for permanent
23 residence or otherwise would (without regard to removal proceedings) be provided
24 such authorization.

25 “(b) Revocation of Bond or Parole.—The Secretary, at any time, may revoke bond or parole
26 authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien.

27 “(c) Mandatory Detention of Criminal Aliens.—

28 “(1) CRIMINAL ALIENS.—The Secretary shall take into custody and continue to detain any
29 alien at any time, if the alien—

30 “(A)(i) has not been admitted or paroled into the United States; and

31 “(ii) was apprehended anywhere within 100 miles of the international border of the
32 United States;

33 “(B) is inadmissible by reason of having committed any offense covered in section
34 212(a)(2);

35 “(C) is deportable by reason of having committed any offense covered in section
36 237(a)(2);

37 “(D) is convicted for an offense under section 275(a);

1 “(E) is convicted for an offense under section 276;
2 “(F) is convicted for any felony; or
3 “(G) is inadmissible under section 212(a)(3)(A) or (B) or deportable under section
4 237(a)(4)(A) or (B).

5 “(2) RELEASE.—

6 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may
7 release an alien described in paragraph (1) only if the Secretary decides pursuant to
8 section 3521 of title 18, United States Code, and in accordance with a procedure that
9 considers the severity of the offense committed by the alien, that—

10 “(i) release of the alien from custody is necessary to provide protection to—

11 “(I) a witness;

12 “(II) a potential witness;

13 “(III) a person cooperating with an investigation into major criminal
14 activity; or

15 “(IV) an immediate family member or close associate of a witness,
16 potential witness, or person cooperating with such an investigation; and

17 “(ii) the alien demonstrates to the satisfaction of the Secretary that the alien—

18 “(I) is not a flight risk;

19 “(II) poses no danger to the safety of other persons or of property;

20 “(III) is not a threat to national security or public safety; and

21 “(IV) is likely to appear at any scheduled proceeding.

22 “(B) ARRESTED, BUT NOT CONVICTED, ALIENS.—

23 “(i) RELEASE FOR PROCEEDINGS.—The Secretary may release any alien held
24 pursuant to paragraph (1) to the appropriate authority for any proceedings
25 subsequent to the arrest.

26 “(ii) RESUMPTION OF CUSTODY.—If an alien is released pursuant to clause (i),
27 the Secretary shall—

28 “(I) resume custody of the alien during any period pending the final
29 disposition of any proceedings subsequent to arrest for which the alien is not
30 in the custody of the appropriate authority referred to in clause (i); and

31 “(II) if the alien is not convicted of the offense for which the alien was
32 arrested, the Secretary shall continue to detain the alien until the date on
33 which removal proceedings are completed.”.

34 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
35 Nationality Act is amended by striking the item relating to section 236 and inserting the
36 following:

37 “Sec.236.Apprehension and detention of aliens.”.

1 SEC. 1502. DETERRING VISA OVERSTAYS.

2 (a) Admission of Nonimmigrants.—Section 214 of the Immigration and Nationality Act (8
3 U.S.C. 1184) is amended by striking the section designation and heading and all that follows
4 through the end of subsection (a)(1) and inserting the following:

5 “SEC. 214. ADMISSION OF NONIMMIGRANTS.

6 “(a) In General.—

7 “(1) TERMS AND CONDITIONS OF ADMISSION.—

8 “(A) IN GENERAL.—Subject to subparagraphs (B) and (C), the admission to the
9 United States of any alien as a nonimmigrant may be for such time and under such
10 conditions as the Secretary of Homeland Security may in his or her sole and
11 unreviewable discretion prescribe, including when the Secretary deems necessary the
12 giving of a bond with sufficient surety in such sum and containing such conditions as
13 the Secretary shall prescribe, to ensure that at the expiration of such time or upon
14 failure to maintain the status under which the alien was admitted, or to maintain any
15 status subsequently acquired under section 248, such alien will depart from the United
16 States.

17 “(B) GUAM OR CNMI VISA WAIVER NONIMMIGRANTS.—No alien admitted to Guam or
18 the Commonwealth of the Northern Mariana Islands without a visa pursuant to section
19 212(l) may be authorized to enter or stay in the United States, other than in Guam or
20 the Commonwealth of the Northern Mariana Islands, or to remain in Guam or the
21 Commonwealth of the Northern Mariana Islands for a period exceeding 45 days after
22 the date on which the alien was admitted to Guam or the Commonwealth of the
23 Northern Mariana Islands.

24 “(C) VISA WAIVER PROGRAM NONIMMIGRANTS.—An alien admitted to the United
25 States without a visa pursuant to section 217 shall not be authorized to remain in the
26 United States as a nonimmigrant visitor for a period exceeding 90 days from the date
27 on which the alien was admitted.

28 “(D) BAR TO IMMIGRATION BENEFITS AND TO CONTESTING REMOVAL.—

29 “(i) DEFINITION OF GOOD CAUSE.—In this subparagraph, the term ‘good cause’
30 means extreme exigent humanitarian circumstances, determined on a case-by-case
31 basis only, such as a medical emergency or force majeure.

32 “(ii) CONSEQUENCE OF OVERSTAY.—Subject to clause (iii), except for an alien
33 admitted as a nonimmigrant under of subparagraph (A)(i), (A)(ii), (G)(i), (G)(ii),
34 or (G)(iii) of section 101(a)(15) or as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant,
35 any alien who remains in the United States for a period of more than 30 days after
36 the date on which the period of stay or parole authorized by the Secretary for the
37 alien ends, without good cause, is inadmissible and ineligible for all immigration
38 benefits or relief available under the immigration laws, including relief under
39 sections 240A(b)(1), 240B(b), 245, 248, and 249, other than—

40 “(I) asylum;

- 1 “(II) relief as a victim of trafficking under section 101(a)(15)(T);
2 “(III) relief as a victim of criminal activity under section 101(a)(15)(U);
3 “(IV) relief under the Violence Against Women Act of 1994 (42 U.S.C.
4 13701 et seq.) as a spouse or child who has been battered or subjected to
5 extreme cruelty;
6 “(V) relief as a battered spouse or child under section 240A(b)(2);
7 “(VI) withholding of removal under section 241(b)(3); or
8 “(VII) protection from removal based on a claim under the Convention
9 Against Torture and Other Cruel, Inhuman or Degrading Treatment or
10 Punishment, done at New York, December 10, 1984.

11 “(iii) EXCEPTION.—The Secretary may, in the Secretary’s sole and
12 unreviewable discretion, determine that a nonimmigrant is not subject to clause
13 (ii) if—

14 “(I) the alien was lawfully inspected and admitted to the United States as a
15 nonimmigrant;

16 “(II) the alien filed a nonfrivolous application for change of status to
17 another nonimmigrant category or for extension of stay before the date on
18 which the alien’s authorized period of stay as a nonimmigrant expired;

19 “(III) the alien has not been employed without authorization in the United
20 States, before or during pendency of the application referred to in subclause
21 (II);

22 “(IV) the alien has not otherwise violated the terms of the alien’s
23 nonimmigrant status; and

24 “(V) the Secretary, in the Secretary’s sole and unreviewable discretion,
25 determines that the alien is not a threat to national security or public safety.

26 “(iv) DETENTION AND EXPEDITED REMOVAL.—An alien described in clause (ii)
27 who remains in the United States more than 30 days after the date on which the
28 period of stay authorized by the Secretary ends, without good cause, shall be
29 detained and the Secretary shall expeditiously remove the alien from the United
30 States not later than 90 days after the date on which the alien is detained.

31 “(v) LIMITATION ON JUDICIAL REVIEW.—Notwithstanding any other provision
32 of law (statutory or nonstatutory), including section 2241 of title 28, United States
33 Code, any other habeas corpus provision, or sections 1361 and 1651 of such title,
34 no court shall have jurisdiction to review any cause or claim, arising from, or
35 relating to, the detention and expedited removal of an alien pursuant to clause
36 (iv).”.

37 (b) Visa Waiver Program Waiver of Rights.—Section 217(b) of the Immigration and
38 Nationality Act (8 U.S.C. 1187(b)) is amended to read as follows:

39 “(b) Waiver of Rights.—An alien may not be provided a waiver under the program unless the
40 alien has—

1 “(1) signed, under penalty of perjury, an acknowledgement confirming that the alien was
2 notified and understands that he or she will be—

3 “(A) ineligible for any form of relief or immigration benefit under the Act or any
4 other immigration laws, including sections 240A(b)(1), 240B(b), 245, 248, and 249
5 (other than a request for asylum), relief as a victim of trafficking under section
6 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U), relief under
7 the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse or
8 child who has been battered or subjected to extreme cruelty, relief as a battered spouse
9 or child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
10 protection from removal based on a claim under the Convention Against Torture and
11 Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York,
12 December 10, 1984; and

13 “(B) subject to detention and expedited removal from the United States, if the alien
14 fails to depart from the United States at the end of the 90-day period for admission;

15 “(2) waived any right to review or appeal under this Act of an immigration officer’s
16 determination as to the admissibility of the alien at the port of entry into the United States;
17 and

18 “(3) waived any right to contest any action for removal of the alien.”.

19 (c) Detention and Repatriation of Visa Waiver Violators.—Section 217(c)(2)(E) of the
20 Immigration and Nationality Act (8 U.S.C. 1187(c)(2)(E)) is amended to read as follows:

21 “(E) DETENTION AND REPATRIATION OF ALIENS.—Any alien who fails to depart from
22 the United States at the end of the 90-day period for admission shall be detained
23 pending removal.”.

24 (d) Issuance of Nonimmigrant Visas.—Section 221(a) of the Immigration and Nationality Act
25 (8 U.S.C. 1201(a)) is amended by adding at the end the following:

26 “(3) The Secretary of State shall ensure that every application for a nonimmigrant visa
27 includes an acknowledgment, executed by the alien under penalty of perjury, confirming that the
28 alien—

29 “(A) has been notified of the terms and conditions of the nonimmigrant visa, including
30 the waiver of rights under subsection (j); and

31 “(B) understands that he or she will be ineligible for all immigration benefits and any
32 form of relief or protection from removal, including relief under sections 240A(b)(1),
33 240B(b), 245, 248, and 249, other than a request for asylum, relief as a victim of trafficking
34 under section 101(a)(15)(T), relief as a victim of criminal activity under 101(A)(15)(U),
35 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
36 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
37 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
38 protection from removal based on a claim under the Convention Against Torture and Other
39 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
40 1984, and from contesting removal if the alien violates any term or condition of his or her
41 nonimmigrant visa or fails to depart the United States not later than 30 days after the end of
42 the alien’s authorized period of stay.”.

1 (e) Requirement that all nonimmigrants have a specified end date for authorized period of
2 stay. – Section 235(a) of the Immigration and Nationality Act (8 U.S.C. 1225(a)) is amended by
3 adding at the end the following:

4 “(6) Period of Stay. – An alien who an examining immigration officer has determined to be
5 admissible as a nonimmigrant, except for aliens admissible under subsection (A)(i), (A)(ii),
6 (G)(i), (G)(ii), or (G)(iii) of section 101(a)(15), or who such officer has determined to be eligible
7 for parole, shall be admitted or paroled, as appropriate, into the United States for a specific
8 period of time and shall be issued documentation stating the end date of the alien’s period of stay
9 in the United States.”

10 (f) Bars to Immigration Relief.—Section 221 of the Immigration and Nationality Act is
11 amended by adding at the end the following:

12 “(j) Waiver of Rights.—The Secretary of State may not issue a nonimmigrant visa under
13 section 214 to an alien (other than an alien who qualifies for a visa under subparagraph (A) or
14 (G) of section 101(a)(15), who is eligible for relief under the Violence Against Women Act of
15 1994 (42 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to
16 extreme cruelty, or qualifies for a visa as a NATO–1, 2, 3, 4, 5, or 6 nonimmigrant until the alien
17 has waived any right to relief under sections 240A(b)(1), 240B(b), 245, 248, and 249 (other than
18 relief from removal under section 241(b)(3)), or protection from removal based on a claim under
19 the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or
20 Punishment, done at New York, December 10, 1984), any form of relief established after the
21 date on which the nonimmigrant visa is issued, and from contesting removal if the alien—

22 “(1) violates a term or condition of his or her nonimmigrant status; or

23 “(2) fails to depart the United States not later than the date that is 30 days after last day of
24 the alien’s authorized period of stay (as described in section 214(a)(1)).”.

25 (f) Effective Date; Applicability.—

26 (1) IN GENERAL.—This section and the amendments made by this section shall—

27 (A) take effect on the date of enactment of this Act; and

28 (B) apply only to new visas, initial admissions of nonimmigrants, and initial requests
29 for change of status from a nonimmigrant category to another nonimmigrant category
30 under section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

31 (2) PREVIOUSLY ADMITTED INDIVIDUALS.—An individual previously admitted to the
32 United States on a nonimmigrant visa who is present in the United States before the date of
33 the enactment of this Act shall not be subject to this section or to the amendments made by
34 this section until the alien departs the United States or requests a change in status under
35 section 248 of the Immigration and Nationality Act (8 U.S.C. 1258).

36 SEC. 1503. INCREASE IN IMMIGRATION DETENTION 37 CAPACITY.

38 Not later than September 30, 2022, and subject to the availability of appropriations, the
39 Secretary of Homeland Security shall increase the immigration detention capacity to a daily
40 immigration detention capacity of not fewer than 48,879 detention beds.

1 SEC. 1504. COLLECTION OF DNA FROM CRIMINAL AND
2 DETAINED ALIENS.

3 Section 3 of the DNA Analysis Backlog Elimination Act of 2000 (34 U.S.C. 40702) is
4 amended—

5 (1) in subsection (a)(1), by adding at the end the following:

6 “(C) The Secretary of Homeland Security shall collect DNA samples from any alien
7 (as defined under section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C.
8 1101(a)(3))) who—

9 “(i) has been detained pursuant to section 235(b)(1)(B)(iii)(IV), 236, 236A, or
10 238 of such Act (8 U.S.C. 1225(b)(1)(B)(iii)(IV), 1226, 1226a, and 1228); or

11 “(ii) is the subject of a final order of removal under section 240 of such Act (8
12 U.S.C. 1229a) based on inadmissibility under section 212(a)(2) of such Act (8
13 U.S.C. 1182(a)(2)) or being subject to removal under section 237(a)(2) of such
14 Act (8 U.S.C. 1227(a)(2)).”; and

15 (2) in subsection (b), by striking “or the probation office responsible (as applicable)” and
16 inserting “the probation office responsible, or the Secretary of Homeland Security”.

17 SEC. 1505. COLLECTION, USE, AND STORAGE OF
18 BIOMETRIC DATA.

19 (a) Collection and Use of Biometric Information for Immigration Purposes.—

20 (1) COLLECTION.—The Secretaries of Homeland Security and State may require any
21 individual filing with the Department of Homeland Security or Department of State an
22 application, petition, or other request for an immigration benefit or immigration status or
23 seeking an immigration benefit or other authorization, employment authorization, identity,
24 or travel document, or requesting relief or protection under any provision of the
25 immigration laws to submit to either Secretary biometric information, including
26 fingerprints, photograph, signature, voice print, iris scan, or DNA.

27 (2) USE.—The Secretaries may use any biometric information submitted under paragraph
28 (1) to conduct background and security checks, verify an individual’s identity, adjudicate,
29 revoke, or terminate an immigration benefit or immigration status, and perform other
30 functions related to administering and enforcing the immigration laws.

31 (b) Biometric and Biographic Information Sharing.—

32 (1) SHARING WITH DEPARTMENT OF DEFENSE AND FEDERAL BUREAU OF INVESTIGATION.—
33 The Secretary of Homeland Security, the Secretary of Defense, the Secretary of State, and
34 the Director of the Federal Bureau of Investigation—

35 (A) shall exchange appropriate biometric and biographic information to determine or
36 confirm the identity of an individual and to assess whether the individual is a threat to
37 national security or public safety; and

38 (B) may use information exchanged pursuant to subparagraph (A)—

1 (i) to compare biometric and biographic information contained in applicable
2 systems of the Department of Homeland Security, the Department of Defense, the
3 Department of State or the Federal Bureau of Investigation to determine if there is
4 a match between such information; and

5 (ii) if there is a match between such information, to relay such information to
6 the requesting agency.

7 (2) USE OF BIOMETRIC DATA BY THE DEPARTMENT OF STATE.—The Secretary of State shall
8 use biometric information from applicable systems of the Department of Homeland
9 Security, the Department of Defense, and the Federal Bureau of Investigation to screen and
10 track visa applicants and other individuals who are—

11 (A)(i) known or suspected terrorists; or

12 (ii) identified as a potential threat to national security; and

13 (B) using an alias while traveling.

14 (3) REPORT ON BIOMETRIC INFORMATION SHARING WITH MEXICO AND OTHER COUNTRIES
15 FOR IDENTITY VERIFICATION.—Not later than 180 days after the date of enactment of this
16 Act, the Secretary of Homeland Security and the Secretary of State shall submit a joint
17 report on the status of efforts to engage with the Government of Mexico and the
18 governments of other appropriate foreign countries located in Central America or South
19 America—

20 (A) to discuss coordination on biometric information sharing between the United
21 States and such countries; and

22 (B) to enter into bilateral agreements that provide for the sharing of such biometric
23 information with the Department of State, the Department of Defense, the Department
24 of Justice, the Federal Bureau of Investigation, and the Department of Homeland
25 Security to use in—

26 (i) identifying individuals who are known or suspected terrorists or potential
27 threats to national security; and

28 (ii) verifying the entry and exit of individuals to and from the United States.

29 (4) RULE OF CONSTRUCTION.—The collection of biometric information under paragraph
30 (1) shall not limit the authority of the Secretary of Homeland Security to collect biometric
31 information from any individual arriving to or departing from the United States.

32 SEC. 1506. PILOT PROGRAM FOR ELECTRONIC FIELD 33 PROCESSING.

34 (a) In General.—Not later than 180 days after the date of enactment of this Act, the Secretary
35 of Homeland Security shall establish a pilot program in at least 5 of the 10 U.S. Immigration and
36 Customs Enforcement field offices or regions with the largest removal caseloads to allow U.S.
37 Immigration and Customs Enforcement officers to use handheld or vehicle-mounted computers
38 to electronically—

39 (1) process and serve charging documents, including notices to appear, while in the field;

- 1 (2) process and place detainers while in the field;
- 2 (3) collect biometric data for the purpose of identifying an alien and establishing both
3 immigration status and criminal history while in the field;
- 4 (4) enter any required data, including personal information about an alien subject and the
5 reason for issuing a document;
- 6 (5) apply the electronic signature of the issuing U.S. Immigration and Customs
7 Enforcement officer or agent;
- 8 (6) apply or capture the electronic signature of the alien on any charging document or
9 notice, including any electronic signature captured to acknowledge service of such
10 documents or notices;
- 11 (7) set the date on which the alien is required to appear before an immigration judge, in
12 the case of a notice to appear;
- 13 (8) print any documents the alien may be required to sign, along with additional copies of
14 documents to be served on the alien; and
- 15 (9) interface with the ENFORCE database so that all data is collected, stored, and
16 retrievable in real-time.
- 17 (b) Contract Support.—The Secretary of Homeland Security may contract with commercial
18 vendors to test prototypes for electronic handheld or vehicle-mounted computers capable of
19 meeting the requirements under subsection (a).
- 20 (c) Rule of Construction.—The pilot program described in subsection (a) shall be designed to
21 replace, to the extent possible, the current paperwork and data entry process used for issuing
22 charging documents and detainers referred to in that subsection.
- 23 (d) Report.—Not later than 1 year after the date on which the pilot program described in
24 subsection (a) commences, the Comptroller General of the United States shall submit to the
25 Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on
26 the Judiciary of the Senate, the Committee on Homeland Security of the House of
27 Representatives, the Committee on the Judiciary of the House of Representatives a report that
28 includes—
- 29 (1) the results of the pilot program; and
- 30 (2) recommendations for using the technology described in subsection (a) on a
31 nationwide basis.

32 SEC. 1507. ENDING ABUSE OF PAROLE AUTHORITY.

33 (a) In General.—Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C.
34 1182(d)(5)) is amended to read as follows:

35 “(5) PAROLE AUTHORITY.—

36 “(A) DEFINITIONS.—In this paragraph:

37 “(i) PUBLIC INTEREST.—With respect to a reason for parole, the term ‘public
38 interest’ means the alien has assisted the United States Government in a
39 significant matter, such as an important criminal investigation, espionage, or other

1 similar law enforcement or national security activity, and either the alien’s
2 presence in the United States is required by the Government or the alien’s life
3 would be threatened if the alien were not permitted to come to the United States.

4 “(ii) URGENT HUMANITARIAN REASON DEFINED.—With respect to an alien, the
5 term ‘urgent humanitarian reason’ means—

6 “(I) the alien has a medical emergency and the alien cannot obtain
7 necessary treatment in the foreign state in which the alien is residing or the
8 medical emergency is life-threatening and there is insufficient time for the
9 alien to be admitted through the normal visa process;

10 “(II) the alien is needed in the United States in order to donate an organ or
11 other tissue for transplant into a close family member;

12 “(III) the alien has a close family member in the United States whose
13 death is imminent and the alien could not arrive in the United States in time
14 to see such family member alive if the alien were to be admitted through the
15 normal visa process;

16 “(IV) the alien is a lawful applicant for adjustment of status under section
17 245; or

18 “(V) the alien was lawfully granted status under section 208 or lawfully
19 admitted under section 207.

20 “(B) PAROLE AUTHORIZED.—Except as provided in subparagraph (C) or section
21 214(f), the Secretary of Homeland Security may in his or her sole and unreviewable
22 discretion temporarily parole into the United States any alien applying for admission to
23 the United States, under such conditions as the Secretary may prescribe, including
24 requiring the posting of a bond, but only on a case-by-case basis and not according to
25 eligibility criteria describing an entire class of potential parole recipients, for an urgent
26 humanitarian reason or a reason deemed strictly in the public interest.

27 “(C) PAROLE NOT AN ADMISSION.—In accordance with section 101(a)(13)(B), parole
28 of an alien under subparagraph (B) shall not be regarded as an admission of the alien to
29 the United States. When the purposes of the parole of an alien have been served, as
30 determined by the Secretary, the alien shall immediately return to his or her country of
31 citizenship, nationality, or origin. If the alien was paroled from custody, the alien shall
32 be returned to the custody from which the alien was paroled and the alien shall be
33 considered for admission to the United States on the same basis as other similarly
34 situated applicants for admission.

35 “(D) PROHIBITED USES OF PAROLE AUTHORITY.—

36 “(i) IN GENERAL.—The Secretary may not use the authority under subparagraph
37 (B) to parole into the United States generalized categories of aliens or classes of
38 aliens based solely on nationality, presence, or residence in the United States,
39 family relationships, or any other criteria that would cover a broad group of
40 foreign nationals either inside or outside of the United States.

41 “(ii) ALIENS WHO ARE NATIONAL SECURITY OR PUBLIC SAFETY THREATS.—

1 “(I) DEFINITION OF EXTREME EXIGENT CIRCUMSTANCES.—In this clause,
2 the term ‘extreme exigent circumstances’ means circumstances under
3 which—

4 “(aa) the failure to parole the alien would result in the immediate
5 significant risk of loss of life or bodily function due to a medical
6 emergency;

7 “(bb) the failure to parole the alien would conflict with medical
8 advice as to the health or safety of the individual, detention facility
9 staff, or other detainees; or

10 “(cc) there is an urgent need for the alien’s presence for a law
11 enforcement purpose, including for a prosecution or securing the alien’s
12 presence to appear as a material witness, or a national security purpose.

13 “(II) PROHIBITION ON PAROLE.—The Secretary shall not parole in any alien
14 whom the Secretary, in the Secretary’s sole and unreviewable discretion,
15 determines to be a threat to national security or public safety, except in
16 extreme exigent circumstances.

17 “(E) LIMITATION ON THE USE OF PAROLE AUTHORITY.—The Secretary may not use
18 the parole authority under this paragraph to permit to come to the United States aliens
19 who have applied for and have been found to be ineligible for refugee status or any
20 alien to whom the provisions of this paragraph do not apply.

21 “(F) TERMINATION OF PAROLE.—The Secretary shall determine when the purpose of
22 parole of an alien has been served and, upon such determination—

23 “(i) the alien’s case shall continue to be dealt with in the same manner as that of
24 any other applicant for admission to the United States; and

25 “(ii) if the alien was previously detained, the alien shall be returned to the
26 custody from which the alien was paroled.

27 “(G) LIMITATIONS ON USE OF ADVANCE PAROLE.—

28 “(i) DEFINITION OF ADVANCE PAROLE.—In this subparagraph, the term ‘advance
29 parole’ means advance approval for an alien lawfully present in the United States
30 who is applying for admission to the United States to request at a port of entry in
31 the United States, a pre-inspection station, or a designated field office of the
32 Department of Homeland Security, to be paroled into the United States under
33 subparagraph (B).

34 “(ii) APPROVAL OF ADVANCE PAROLE.—The Secretary may, in the Secretary’s
35 sole and unreviewable discretion, grant an application for advance parole.
36 Approval of an application for advance parole shall not constitute a grant of
37 parole under subparagraph (B). A grant of parole into the United States based on
38 an approved application for advance parole shall not be considered a parole for
39 purposes of qualifying for adjustment of status to lawful permanent resident status
40 in the United States under 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) APPLICABILITY.—The limitation under clause (i) shall not apply to
28 continuances for completion of required background and security checks, law
29 enforcement investigations (civil or criminal), DNA tests, or forensic document
30 examinations needed to make a decision on a request for relief or an immigration
31 benefit in a 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; or

36 “(ii) the alien is the primary caretaker of a severely mentally impaired or
37 physically disabled minor child, under the age of 18 years, who is—

38 “(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) 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)”; and
- 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”; and
- 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)) or is found to not meet the criteria under paragraph (2)(A)—”;
- 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”; and
- 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)”; and

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 **“(iv) FAILURE TO APPEAR.—**

4 “(I) CIVIL PENALTY.—If an unaccompanied alien child is placed with a
5 sponsor and fails to appear in a mandatory court appearance, the sponsor
6 shall be subject to a civil penalty of \$250 for each day until the alien appears
7 in court, up to a maximum of \$5,000.

8 “(II) BURDEN OF PROOF.—The sponsor is not subject to the penalty
9 imposed under subclause (I) if the sponsor—

10 “(aa) appears in person and proves to the immigration court that the
11 failure to appear by the unaccompanied alien child was not the fault of
12 the sponsor; and

13 “(bb) supplies the immigration court with documentary evidence that
14 supports the assertion described in item (aa).

15 **“(v) PROHIBITION ON PLACEMENT WITH SEX OFFENDERS AND HUMAN**
16 **TRAFFICKERS.—**The Secretary of Health and Human Services may not place an
17 unaccompanied alien child under this subparagraph in the custody of an
18 individual who has been convicted of, or the Secretary has reason to believe was
19 otherwise involved in the commission of—

20 “(I) a sex offense (as defined in section 111 of the Sex Offender
21 Registration and Notification Act (34 U.S.C. 20911));

22 “(II) a crime involving severe forms of trafficking in persons (as defined
23 in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C.
24 7102)); or

25 “(III) an offense under Federal, State, or Tribal law that has, as an element
26 of the offense, the use or attempted use of physical force or the threatened
27 use of physical force or a deadly weapon.

28 **“(vi) REQUIREMENTS OF CRIMINAL BACKGROUND CHECK.—**A biometric
29 criminal history check required under clause (i)(III) shall be conducted using a set
30 of fingerprints or other biometric identifier through—

31 “(I) the Federal Bureau of Investigation;

32 “(II) criminal history repositories of all States that the individual lists as
33 current or former residences; and

34 “(III) any other State or Federal database or repository that the Secretary
35 of Health and Human Services determines to be appropriate.”.

36 **(b) Definition of Special Immigrant Juvenile.—** Section 101(a)(27)(J)(i) of the Immigration and
37 Nationality Act (8 U.S.C. 1101(a)(27)(J)), is amended by striking “1 or both of the immigrant’s
38 parents” and inserting “either of the immigrant’s parents”.

39 (c) Home Studies and Follow-up Services for Unaccompanied Alien Children.—Section
40 235(c)(3) of the William Wilberforce Trafficking Victims Protection Reauthorization Act of

1 2008 (8 U.S.C. 1232(c)(3)) is amended—

2 (1) by redesignating subparagraph (C) as (D); and

3 (2) by amending subparagraph (B) to read as follows:

4 “(B) HOME STUDIES.—

5 “(i) IN GENERAL.—Except as required under clause (ii), before placing a child
6 with an individual, the Secretary of Health and Human Services shall determine
7 whether a home study is necessary.

8 “(ii) REQUIRED HOME STUDIES.—A home study shall be conducted for a child—

9 “(I) who is a victim of a severe form of trafficking in persons or is a
10 special needs child with a disability (as defined in section 3 of the Americans
11 with Disabilities Act of 1990 (42 U.S.C. 12102);

12 “(II) who has been a victim of physical or sexual abuse under
13 circumstances that indicate that the child’s health or welfare has been
14 significantly harmed or threatened; or

15 “(III) whose proposed sponsor presents a risk of abuse, maltreatment,
16 exploitation, or trafficking to the child based on all available objective
17 evidence, or

18 “(IV) if more than 2 other children are residing with the proposed sponsor,
19 or if such sponsor has custody of at least one other unaccompanied alien
20 child.”.

21 “(C) FOLLOW-UP SERVICES AND ADDITIONAL HOME STUDIES.—

22 “(i) PENDENCY OF REMOVAL PROCEEDINGS.—Not less frequently than every
23 180 days until the date on which initial removal proceedings are completed and
24 the immigration judge issues an order of removal, grants voluntary departure
25 under section 240B, or grants the alien relief from removal, the Secretary of
26 Health and Human Services shall conduct follow-up services for any child for
27 whom a home study was conducted and who was placed with a nongovernmental
28 sponsor.

29 “(ii) CHILDREN WITH MENTAL HEALTH OR OTHER NEEDS.—Not less frequently
30 than every 180 days, until the date that is 2 years after the date on which a child is
31 placed with a nongovernmental sponsor, the Secretary of Health and Human
32 Services shall conduct follow-up services for any child with mental health needs
33 or other needs who could benefit from ongoing assistance from a social welfare
34 agency.

35 “(iii) CHILDREN AT RISK.—Not less frequently than every 90 days until the date
36 that is 2 years after the date on which a child is placed with a nongovernmental
37 sponsor, the Secretary of Health and Human Services shall conduct home studies
38 and follow-up services, including partnering with local community programs that
39 focus on early morning and after school programs for at-risk children who—

40 “(I) need a secure environment to engage in studying, training, and skills-

1 building programs; and

2 “(II) are at risk for recruitment by criminal gangs or other transnational
3 criminal organizations in the United States.”.

4 (d) Detention of Accompanied Minors.—

5 (1) IN GENERAL.—Section 235 of the William Wilberforce Trafficking Victims Protection
6 Reauthorization Act of 2008 (8 U.S.C. 1232) is amended—

7 (A) by redesignating subsections (d) through (i) as subsections (e) through (j)
8 respectively; and

9 (B) by inserting after subsection (c) the following:

10 “(d) Detention of Accompanied Minors.—

11 “(1) IN GENERAL.—Notwithstanding any other provision of law, a judicial determination,
12 consent decree, or settlement agreement—

13 “(A) the detention of any alien minor who is not described in section 462(g)(2) of
14 the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be governed by sections
15 217, 235, 236, and 241 of the Immigration and Nationality Act (8 U.S.C. 1187, 1225,
16 1226, and 1231); and

17 “(B) the decision whether to detain or release the alien minor shall be in the sole and
18 unreviewable discretion of the Secretary of Homeland Security.

19 “(C) the release of an alien minor who is not described in section 462(g)(2) of the
20 Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) may not be presumed and an
21 alien minor not described in such section may not be released by the Secretary to
22 anyone other than a parent or legal guardian; and

23 “(D) the conditions of confinement applicable to alien minors who are not described
24 in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)(2)) shall be
25 determined in the sole and unreviewable discretion of the Secretary of Homeland
26 Security, and specific licensing requirements may not be imposed other than
27 requirements determined appropriate by the Secretary.”.

28 (2) No appropriated funds may be used to comply with, enforce or execute the
29 requirements of the settlement agreement in *Flores v. Sessions*, 85-4544 (C.D. Cal.).

30 (3) EFFECTIVE DATE; APPLICABILITY.—The amendments made by this subsection shall—

31 (A) take effect on the date of enactment of this Act; and

32 (B) apply regardless of the date on which the actions giving rise to removability or
33 detention take place.

34 **SEC. 1526. FRAUD IN CONNECTION WITH THE**
35 **TRANSFER OF CUSTODY OF UNACCOMPANIED ALIEN**
36 **CHILDREN.**

37 (a) In General.—Chapter 47 of title 18, United States Code, is amended by adding at the end
38 the following:

1 “1041. Fraud in connection with the transfer of custody of
2 unaccompanied alien children

3 “(a) In General.—It shall be unlawful for a person to obtain custody of an unaccompanied
4 alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C.
5 279(g))) by—

6 “(1) making any materially false, fictitious, or fraudulent statement or representation; or

7 “(2) making or using any false writing or document knowing the same to contain any
8 materially false, fictitious, or fraudulent statement or entry.

9 “(b) Penalties.—

10 “(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, this
11 section shall be fined under this title and imprisoned for not less than 1 year.

12 “(2) ENHANCED PENALTY FOR TRAFFICKING.—If the primary purpose of the violation,
13 attempted violation, or conspiracy to violate this section was to subject the child to sexually
14 explicit activity or any other form of exploitation, the offender shall be fined under this title
15 and imprisoned for not less than 15 years.”.

16 (b) Clerical Amendment.—The table of sections for chapter 47 of title 18, United States Code,
17 is amended by inserting after the item relating to section 1040 the following:

18 “1041. Fraud in connection with the transfer of custody of unaccompanied alien children.”.

19 **SEC. 1527. NOTIFICATION OF STATES AND FOREIGN**
20 **GOVERNMENTS, REPORTING, AND MONITORING.**

21 (a) Notification.—Section 235 of the William Wilberforce Trafficking Victims Protection
22 Reauthorization Act of 2008 (8 U.S.C. 1232) (as amended by section 1525(c)(1)(A)) is amended
23 by adding at the end the following:

24 “(k) Notification to States.—

25 “(1) BEFORE PLACEMENT.—The Secretary of Homeland Security or the Secretary of
26 Health and Human Services shall notify the Governor of a State not later than 48 hours
27 before the placement of an unaccompanied alien child in the custody of such Secretary into
28 the care of a facility or sponsor in such State.

29 “(2) INITIAL REPORTS.—Not later than 60 days after the date of the enactment of this
30 subsection, the Secretary of Health and Human Services shall submit a report to the
31 Governor of each State in which an unaccompanied alien child was discharged to a sponsor
32 or placed in a facility while remaining in the legal custody of the Secretary during the
33 period beginning October 1, 2013 and ending on the date of enactment of this subsection.

34 “(3) MONTHLY REPORTS.—The Secretary of Health and Human Services shall submit a
35 monthly report to the Governor of each State in which, during the reporting period, an
36 unaccompanied alien child was discharged to a sponsor or placed in a facility while
37 remaining in the legal custody of the Secretary of Health and Human Services.

38 “(4) CONTENTS.—Each report required to be submitted to the Governor of a State under

1 paragraph (2) or (3) shall identify the number of unaccompanied alien children placed in the
2 State during the reporting period, disaggregated by—

3 “(A) the locality in which the aliens were placed; and

4 “(B) the age of such aliens.

5 “(l) Notification of Foreign Country.—The Secretary of Homeland Security shall provide
6 information regarding each unaccompanied alien child to the government of the country of
7 which the child is a national to assist such government with the identification and reunification
8 of such child with their parent or other qualifying relative.

9 “(m) Monitoring Requirement.—The Secretary of Health and Human Services shall—

10 “(1) require all sponsors to agree—

11 “(A) to receive approval from the Secretary of Health and Human Services before
12 changing the location in which the sponsor is housing an unaccompanied alien child
13 placed in the sponsor’s custody; and

14 “(B) to provide a current address for the child and the reason for the change of
15 address;

16 “(2) provide regular and frequent monitoring of the physical and emotional well-being of
17 each unaccompanied alien child who has been discharged to a sponsor or remained in the
18 legal custody of the Secretary until the child’s immigration case is resolved; and

19 “(3) not later than 60 days after the date of enactment of this subsection, submit a plan to
20 Congress for implementing the requirements under paragraphs (1) and (2).”.

21 SEC. 1528. EMERGENCY IMMIGRATION JUDGE 22 RESOURCES.

23 (a) Designation.—Not later than 14 days after the date of enactment of this Act, the Attorney
24 General shall designate not more than 100 immigration judges, including through the hiring of
25 retired immigration judges, magistrate judges, or administrative law judges, or the reassignment
26 of current immigration judges, who shall be dedicated—

27 (1) to conducting humane and expedited inspection and screening for unaccompanied
28 alien children under section 235B of the Immigration and Nationality Act; or

29 (2) to reducing existing backlogs in immigration court proceedings initiated under section
30 239 of the Immigration and Nationality Act (8 U.S.C. 1229).

31 (b) Requirement.—The Attorney General shall ensure that sufficient immigration judge
32 resources, including required legal support staff and full-time interpreters, are dedicated to the
33 purpose described in subsection (a)(1) and the Secretary of Homeland Security shall ensure that
34 sufficient immigration attorneys are dedicated to such purpose to comply with the requirement
35 under section 235B(b)(1) of the Immigration and Nationality Act.

36 (c) Authorization of Appropriations.—There is authorized to be appropriated to carry out this
37 section \$10,000,000, for each of the fiscal years 2018 through 2022.

38 SEC. 1529. REPORTS TO CONGRESS.

1 (a) Reports on Care of Unaccompanied Alien Children.—Not later than September 30, 2019,
2 the Secretary of Health and Human Services shall submit to Congress and make publicly
3 available a report that includes—

4 (1) a detailed summary of the contracts in effect to care for and house unaccompanied
5 alien children, including the names and locations of contractors and the facilities being
6 used;

7 (2) the cost per day to care for and house an unaccompanied alien child, including an
8 explanation of such cost;

9 (3) the number of unaccompanied alien children who have been released to a sponsor, if
10 any;

11 (4) a list of the States to which unaccompanied alien children have been released from the
12 custody of the Secretary of Health and Human Services to the care of a sponsor or
13 placement in a facility;

14 (5) the number of unaccompanied alien children who have been released to a sponsor
15 who is not lawfully present in the United States, including the country of nationality or last
16 habitual residence and age of such children;

17 (6) a determination of whether more than 1 unaccompanied alien child has been released
18 to the same sponsor, including the number of children who were released to such sponsor;

19 (7) an assessment of the extent to which the Secretary of Health and Human Services is
20 monitoring the release of unaccompanied alien children, including home studies done and
21 electronic monitoring devices used;

22 (8) an assessment of the extent to which the Secretary of Health and Human Services is
23 making efforts—

24 (A) to educate unaccompanied alien children about their legal rights; and

25 (B) to provide unaccompanied alien children with access to pro bono counsel; and

26 (9) the extent of the public health issues of unaccompanied alien children, including
27 contagious diseases, the benefits or medical services provided, and the outreach to States
28 and localities about public health issues, that could affect the public.

29 (b) Reports on Repatriation Agreements.—Not later than September 30, 2019, the Secretary of
30 State shall submit to Congress and make publicly available a report that—

31 (1) includes a copy of any repatriation agreement in effect for unaccompanied alien
32 children;

33 (2) describes any such repatriation agreement that is being considered or negotiated; and

34 (3) describes the funding provided to the 20 countries that have the highest number of
35 nationals entering the United States as unaccompanied alien children, including amounts
36 provided—

37 (A) to deter the nationals of each country from illegally entering the United States;
38 and

39 (B) to care for or reintegrate repatriated unaccompanied alien children in the country

1 of nationality or last habitual residence.

2 (c) Reports on Returns to Country of Nationality.—Not later than September 30, 2019, the
3 Secretary of Homeland Security shall submit to Congress and make publicly available a report
4 that describes—

5 (1) the number of unaccompanied alien children who have voluntarily returned to their
6 country of nationality or habitual residence, disaggregated by—

7 (A) country of nationality or habitual residence; and

8 (B) age of the unaccompanied alien children;

9 (2) the number of unaccompanied alien children who have been returned to their country
10 of nationality or habitual residence, including the length of time such children were present
11 in the United States;

12 (3) the number of unaccompanied alien children who have not been returned to their
13 country of nationality or habitual residence pending travel documents or other requirements
14 from such country, including how long they have been waiting to return; and

15 (4) the number of unaccompanied alien children who were granted relief in the United
16 States, whether through asylum, any other immigration benefit or status, or deferred action.

17 (d) Reports on Immigration Proceedings.—Not later than September 30, 2019, and not less
18 frequently than every 90 days thereafter, the Secretary of Homeland Security, in coordination
19 with the Director of the Executive Office for Immigration Review, shall submit to Congress and
20 make publicly available a report that describes—

21 (1) the number of unaccompanied alien children who, after proceedings under section
22 235B of the Immigration and Nationality Act were returned to their country of nationality or
23 habitual residence, disaggregated by—

24 (A) country of nationality or residence; and

25 (B) age and gender of such aliens;

26 (2) the number of unaccompanied alien children who, after proceedings under section
27 235B of the Immigration and Nationality Act, prove a claim of admissibility and are placed
28 in proceedings under section 240 of that Act (8 U.S.C. 1229a);

29 (3) the number of unaccompanied alien children who fail to appear at a removal hearing
30 that such alien was required to attend;

31 (4) the number of sponsors who were levied a penalty, including the amount and whether
32 the penalty was collected, for the failure of an unaccompanied alien child to appear at a
33 removal hearing; and

34 (5) the number of aliens that are classified as unaccompanied alien children, the ages and
35 countries of nationality of such children, and the orders issued by the immigration judge at
36 the conclusion of proceedings under section 235B of the Immigration and Nationality Act
37 for such children.

38 **CHAPTER 3—COOPERATION WITH MEXICO AND**
39 **OTHER COUNTRIES ON ASYLUM AND REFUGEE**

1 ISSUES

2 SEC. 1541. STRENGTHENING INTERNAL ASYLUM
3 SYSTEMS IN MEXICO AND OTHER COUNTRIES.

4 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
5 Security, shall work with international partners, including the United Nations High
6 Commissioner for Refugees, to support and provide technical assistance to strengthen the
7 domestic capacity of Mexico and other countries in the region to provide asylum to eligible
8 children and families—

9 (1) by establishing and expanding temporary and long-term in country reception centers
10 and shelter capacity to meet the humanitarian needs of those seeking asylum or other forms
11 of international protection;

12 (2) by improving the asylum registration system to ensure that all individuals seeking
13 asylum or other humanitarian protection—

14 (A) are properly screened for security, including biographic and biometric capture;

15 (B) receive due process and meaningful access to existing legal protections; and

16 (C) receive proper documents in order to prevent fraud and ensure freedom of
17 movement and access to basic social services;

18 (3) by creating or expanding a corps of trained asylum officers capable of evaluating and
19 deciding individual asylum claims consistent with international law and obligations; and

20 (4) by developing the capacity to conduct best interest determinations for unaccompanied
21 alien children to ensure that their needs are properly met, which may include family
22 reunification or resettlement based on international protection needs.

23 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
24 State, in consultation with the Secretary of Homeland Security, shall submit a report that
25 describes the plans of the Secretary of State to assist in developing the asylum processing
26 capabilities described in subsection (a) to—

27 (1) the Committee on Foreign Relations of the Senate;

28 (2) the Committee on Homeland Security and Governmental Affairs of the Senate;

29 (3) the Committee on the Judiciary of the Senate;

30 (4) the Committee on Foreign Affairs of the House of Representatives;

31 (5) the Committee on Homeland Security of the House of Representatives; and

32 (6) the Committee on the Judiciary of the House of Representatives.

33 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
34 may be necessary to carry out subsection (a).

35 SEC. 1542. EXPANDING REFUGEE PROCESSING IN
36 MEXICO AND CENTRAL AMERICA FOR THIRD

1 COUNTRY RESETTLEMENT.

2 (a) In General.—The Secretary of State, in consultation with the Secretary of Homeland
3 Security, shall coordinate with the United Nations High Commissioner for Refugees to support
4 and provide technical assistance to the Government of Mexico and the governments of other
5 countries in the region to increase access to global resettlement for eligible children and families
6 with protection needs—

7 (1) by establishing and expanding in country refugee reception centers to meet the
8 humanitarian needs of those seeking international protection;

9 (2) by improving the refugee registration system to ensure that all refugees—

10 (A) are properly screened for security, including biographic and biometric capture;

11 (B) receive due process and meaningful access to existing legal protections; and

12 (C) receive proper documents in order to prevent fraud and ensure freedom of
13 movement and access to basic social services;

14 (3) by creating or expanding a corps of trained refugee officers capable of evaluating and
15 deciding individual claims for protection, consistent with international law and obligations;
16 and

17 (4) by developing the capacity to conduct best interest determinations for unaccompanied
18 alien children to ensure that—

19 (A) such children with international protection needs are properly registered; and

20 (B) the needs of such children are properly met, which may include family
21 reunification or resettlement based on international protection needs.

22 (b) Report.—Not later than 60 days after the date of the enactment of this Act, the Secretary of
23 State, in consultation with the Secretary of Homeland Security, shall submit a report to the
24 committees listed in section 1541(b) that describes the plans of the Secretary of State to assist in
25 developing the refugee processing capabilities described in subsection (a).

26 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as
27 may be necessary to carry out subsection (a).

28 Subtitle F—Penalties for Smuggling, Drug Trafficking, Human
29 Trafficking, Terrorism, and Illegal Entry and Reentry; Bars to
30 Readmission of Removed Aliens

31 SEC. 1601. DANGEROUS HUMAN SMUGGLING, HUMAN
32 TRAFFICKING, AND HUMAN RIGHTS VIOLATIONS.

33 (a) Criminal Penalties for Human Smuggling and Trafficking.—Section 274(a) of the
34 Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

35 (1) in paragraph (1)—

36 (A) in subparagraph (A), by amending clause (ii) to read as follows:

1 “(ii) knowing, or in reckless disregard of the fact, that an alien has come to,
2 entered into, or remains in the United States in violation of law—

3 “(I) transports, moves, or attempts to transport or move such alien within
4 the United States by means of transportation or otherwise, in furtherance of
5 such violation of law; or

6 “(II) transports or moves the alien with the purpose of facilitating the
7 illegal entry of the alien into Canada or Mexico;” and

8 (B) in subparagraph (B)—

9 (i) by redesignating clauses (iii) and (iv) as clauses (vi) and (vii), respectively;

10 (ii) in clause (vi) (as so redesignated) by inserting “for not less than 10 years
11 and” before “not more than 20 years;” and

12 (iii) by inserting after clause (ii) the following:

13 “(iii) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
14 subparagraph (A) that is the third or subsequent violation committed by such
15 person under this section, shall be fined under title 18, imprisoned for not less
16 than 5 years and not more than 25 years, or both;

17 “(iv) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of
18 subparagraph (A) that recklessly, knowingly, or intentionally results in a victim
19 being involuntarily forced into labor or prostitution, shall be fined under title 18,
20 imprisoned for not less than 5 years and not more than 25 years, or both;

21 “(v) in the case of a violation of clause (i), (ii), (iii), (iv), or (v) of subparagraph
22 (A) during and in relation to which any person is subjected to an involuntary
23 sexual act (as defined in section 2246 of title 18), be fined under title 18,
24 imprisoned for not less than 5 years and not more than 25 years, or both;” and

25 (2) by adding at the end the following:

26 “(5) Any person who, knowing that a person is an alien in unlawful transit from 1 country to
27 another or on the high seas, transports, moves, harbors, conceals, or shields from detection such
28 alien outside of the United States for profit or gain when the alien is seeking to enter the United
29 States without official permission or legal authority, shall for, each alien in respect to whom a
30 violation of this paragraph occurs, be fined under title 18, United States Code, imprisoned not
31 more than 10 years, or both.”.

32 (b) Seizure and Forfeiture.—Section 274(b)(1) of the Immigration and Nationality Act (8
33 U.S.C. 1324(b)(1)) is amended to read as follows:

34 “(1) IN GENERAL.—Any real or personal property involved in or used to facilitate the
35 commission of a violation or attempted violation of subsection (a), the gross proceeds of
36 such violation or attempted violation, and any property traceable to such property or
37 proceeds, shall be seized and subject to forfeiture.”.

38 **SEC. 1602. PUTTING THE BRAKES ON HUMAN**
39 **SMUGGLING ACT.**

1 (a) Short Title.—This section may be cited as the “Putting the Brakes on Human Smuggling
2 Act”.

3 (b) First Violation.—Section 31310(b)(1) of title 49, United States Code, is amended—

4 (1) in subparagraph (D), by striking the “or” at the end;

5 (2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

6 (3) by adding at the end the following:

7 “(F) using a commercial motor vehicle in willfully aiding or abetting an alien’s illegal
8 entry into the United States by transporting, guiding, directing, or attempting to assist the
9 alien with the alien’s entry in violation of section 275 of the Immigration and Nationality
10 Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or imprisoned for an
11 act in violation of such section; or

12 “(G) using a commercial motor vehicle in willfully aiding or abetting the transport of
13 controlled substances, monetary instruments, bulk cash, or weapons by any individual
14 departing the United States.”.

15 (c) Second or Multiple Violations.—Section 31310(c)(1) of title 49, United States Code, is
16 amended—

17 (1) in subparagraph (E), by striking the “or” at the end;

18 (2) by redesignating subparagraph (F) as subparagraph (H);

19 (3) in subparagraph (H), as redesignated, by striking “(E)” and inserting “(G)”; and

20 (4) by inserting after subparagraph (E) the following:

21 “(F) using a commercial motor vehicle more than once in willfully aiding or abetting an
22 alien’s illegal entry into the United States by transporting, guiding, directing and attempting
23 to assist the alien with the alien’s entry in violation of section 275 of the Immigration and
24 Nationality Act (8 U.S.C. 1325), regardless of whether the alien is ultimately fined or
25 imprisoned for an act in violation of such section;

26 “(G) using a commercial motor vehicle more than once in willfully aiding or abetting the
27 transport of controlled substances, monetary instruments, bulk cash, or weapons by any
28 individual departing the United States; or”.

29 (d) Lifetime Disqualification.—Section 31310(d) of title 49, United States Code, is amended
30 to read as follows:

31 “(d) Lifetime Disqualification.—The Secretary shall permanently disqualify an individual
32 from operating a commercial motor if the individual uses a commercial motor vehicle—

33 “(1) in committing a felony involving manufacturing, distributing, or dispensing a
34 controlled substance, or possession with intent to manufacture, distribute, or dispense a
35 controlled substance;

36 “(2) in committing an act for which the individual is convicted under—

37 “(A) section 274 of the Immigration and Nationality Act (8 U.S.C. 1324); or

38 “(B) section 277 of such Act (8 U.S.C. 1327); or

1 “(3) in willfully aiding or abetting the transport of controlled substances, monetary
2 instruments, bulk cash, and weapons by any individual departing the United States.”.

3 (e) Reporting Requirements.—

4 (1) COMMERCIAL DRIVER’S LICENSE INFORMATION SYSTEM.—Section 31309(b)(1) of title
5 49, United States Code, is amended—

6 (A) in subparagraph (E), by striking “and” at the end;

7 (B) in subparagraph (F), by striking the period at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(G) whether the operator was disqualified, either temporarily or permanently, from
10 operating a commercial motor vehicle under section 31310, including under subsection
11 (b)(1)(F), (c)(1)(F), or (d) of such section.”.

12 (2) NOTIFICATION BY THE STATE.—Section 31311(a)(8) of title 49, United States Code, is
13 amended by inserting “including such a disqualification, revocation, suspension, or
14 cancellation made pursuant to a disqualification under subsection (b)(1)(F), (c)(1)(F), or (d)
15 of section 31310,” after “60 days,”.

16 SEC. 1603. DRUG TRAFFICKING AND CRIMES OF 17 VIOLENCE COMMITTED BY ILLEGAL ALIENS.

18 (a) In General.—Title 18, United States Code, is amended by inserting after chapter 27 the
19 following:

20 “CHAPTER 28—DRUG TRAFFICKING AND CRIMES OF 21 VIOLENCE COMMITTED BY ILLEGAL ALIENS

22 “581. Enhanced penalties for drug trafficking and crimes committed by illegal aliens.

23 “581. Enhanced penalties for drug trafficking and crimes 24 committed by illegal aliens

25 “(a) Offense.—Any alien unlawfully present in the United States, who commits, conspires to
26 commit, or attempts to commit an offense under Federal, State, or Tribal law, an element of
27 which involves the use or attempted use of physical force or the threatened use of physical force
28 or a deadly weapon or a drug trafficking crime (as defined in section 924), shall be fined under
29 this title, imprisoned for not less than 5 years, or both.

30 “(b) Enhanced Penalties for Aliens Ordered Removed.—Any alien unlawfully present in the
31 United States who violates subsection (a) and was ordered removed under the Immigration and
32 Nationality Act (8 U.S.C. 1101 et seq.) on the grounds of having committed a crime before the
33 violation of subsection (a), shall be fined under this title, imprisoned for not less than 15 years, or
34 both.

35 “(c) Requirement for Consecutive Sentences.—Any term of imprisonment imposed under this
36 section shall be consecutive to any term imposed for any other offense.”.

37 (b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United

1 States Code, is amended by inserting after the item relating to chapter 27 the following:
2 “28. Drug trafficking and crimes of violence committed by illegal aliens
3 581”.

4 SEC. 1604. ESTABLISHING INADMISSIBILITY AND 5 DEPORTABILITY.

6 (a) Inadmissible Aliens.—Section 212(a)(2)(A) of the Immigration and Nationality Act (8
7 U.S.C. 1182(a)(2)(A)) is amended by adding at the end the following:

8 “(iii) CONSIDERATION OF OTHER EVIDENCE.—If the statute of conviction or
9 conviction records do not conclusively establish whether a crime does or does not
10 constitute a crime involving moral turpitude, the Secretary, the Attorney General,
11 or the consular officer, as applicable, may consider other **documentary** evidence
12 related to the conviction, including **but not limited to** charging documents, plea
13 agreements, plea colloquies, jury instructions, and police reports, to determine
14 whether the other evidence clearly establishes that the conduct in which the alien
15 was engaged constitutes a crime involving moral turpitude.”.

16 (b) Deportable Aliens.—

17 (1) GENERAL CRIMES.—Section 237(a)(2)(A) of the Immigration and Nationality Act (8
18 U.S.C. 1227(a)(2)(A)) is amended by—

- 19 (A) redesignating clause (vi) and clause (vii); and
20 (B) inserting after clause (v) the following:

21 “(vi) CRIMES INVOLVING MORAL TURPITUDE.—If the conviction records do not
22 conclusively establish whether a crime constitutes a crime involving moral
23 turpitude, the Secretary or the Attorney General may consider other **documentary**
24 evidence related to the conviction, including **but not limited to** charging
25 documents, plea agreements, plea colloquies, jury instructions, and police reports,
26 to determine whether the other evidence clearly establishes that the conduct in
27 which the alien was engaged constitutes a crime involving moral turpitude.”.

28 (2) DOMESTIC VIOLENCE.—Section 237(a)(2)(E) of Immigration and Nationality Act (8
29 U.S.C. 1227(a)(2)(E)) is amended by adding at the end the following:

30 “(iii) CRIME OF VIOLENCE.—If the statute of conviction or conviction records
31 do not conclusively establish whether a crime of domestic violence constitutes a
32 crime of violence or an offense under Federal, State, or Tribal law that has, as an
33 element of the crime, the use or attempted use of physical force or the threatened
34 use of physical force or a deadly weapon, the Secretary or the Attorney General
35 may consider other evidence related to the conviction, including charging
36 documents, plea agreements, plea colloquies, jury instructions, and police reports,
37 to determine whether the other evidence clearly establishes that the conduct in
38 which the alien was engaged constitutes a crime of violence or an offense under
39 Federal, State, or Tribal law that has, as an element of the crime, the use or
40 attempted use of physical force or the threatened use of physical force or a deadly

1 weapon.”.

2 (c) Effective Date; Applicability.—The amendments made by this section shall—

3 (1) take effect on the date of enactment of this Act; and

4 (2) shall apply to an act that occurs before, on, or after the date of enactment of this Act.

5 **SEC. 1605. PENALTIES FOR ILLEGAL ENTRY;**
6 **ENHANCED PENALTIES FOR ENTERING WITH INTENT**
7 **TO AID, ABET, OR COMMIT TERRORISM.**

8 (a) In General.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325) is
9 amended by striking the section designation and heading and all that follows through “may be
10 imposed.” in the undesignated matter following subsection (b)(2) and inserting the following:

11 **“SEC. 275. ILLEGAL ENTRY.**

12 “(a) In General.—

13 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien shall be ineligible for all
14 immigration benefits or relief available under the immigration laws, including relief under
15 section 240B, 245, 248, and 249, other than asylum, relief as a victim of trafficking under
16 section 101(a)(15)(T), relief as a victim of criminal activity under section 101(a)(15)(U),
17 relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et seq.) as a spouse
18 or child who has been battered or subjected to extreme cruelty, relief as a battered spouse or
19 child under section 240A(b)(2), withholding of removal under section 241(b)(3), or
20 protection from removal based on a claim under the Convention Against Torture and Other
21 Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10,
22 1984, if the alien—

23 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
24 any time or place other than as designated by immigration officers;

25 “(B) eludes, at any time or place, examination or inspection by an authorized
26 immigration, customs, or agriculture officer (including failing to stop at the command
27 of such officer); or

28 “(C) enters or crosses the border to the United States and, upon examination or
29 inspection, makes a false or misleading representation or conceals a material fact,
30 including such representation or willful concealment in the context of arrival,
31 reporting, entry, or clearance, requirements of the customs laws, immigration laws,
32 agriculture laws, or shipping laws.

33 “(2) CRIMINAL OFFENSES.—An alien shall be subject to the penalties under paragraph (3)
34 if the alien—

35 “(A) enters, crosses, or attempts to enter or cross the border into, the United States at
36 any time or place other than as designated by immigration officers;

37 “(B) eludes, at any time or place, examination or inspection by an authorized
38 immigration, customs, or agriculture officer (including failing to stop at the command

1 of such officer); or

2 “(C) enters or crosses the border to the United States and, upon examination or
3 inspection, makes a false or misleading representation or conceals a material fact,
4 including such representation or concealment in the context of arrival, reporting, entry,
5 or clearance, requirements of the customs laws, immigration laws, agriculture laws, or
6 shipping laws.

7 “(3) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1) by
8 engaging in conduct described in subparagraph (A), (B), or (C) of that paragraph—

9 “(A) shall, for the first violation, be fined under title 18, United States Code,
10 imprisoned not more than 6 months, or both;

11 “(B) shall, for a second or subsequent violation, or following an order of voluntary
12 departure, be fined under such title, imprisoned not more than 2 years, or both;

13 “(C) if the violation occurs after the alien has been convicted of 3 or more
14 misdemeanors (at least 1 of which involves controlled substances, abuse of a minor,
15 trafficking or smuggling, or any offense that may result in serious bodily harm or
16 injury to another person), a significant misdemeanor, or a felony, shall be fined under
17 such title, imprisoned not more than 10 years, or both;

18 “(D) if the violation occurs after the alien has been convicted of a felony for which
19 the alien received a term of imprisonment of not less than 30 months, shall be fined
20 under such title, imprisoned not more than 15 years, or both; and

21 “(E) if the violation occurs after the alien has been convicted of a felony for which
22 the alien received a term of imprisonment of not less than 60 months, such alien shall
23 be fined under such title, imprisoned not more than 20 years, or both.

24 “(4) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through
25 (E) of paragraph (3) are elements of the offenses described in that paragraph and the
26 penalties described in such subparagraphs shall apply only in cases in which the 1 or more
27 convictions that form the basis for the additional penalty are—

28 “(A) alleged in the indictment or information; and

29 “(B) proven beyond a reasonable doubt at trial; or

30 “(C) admitted by the defendant.

31 “(5) DURATION OF OFFENSES.—An offense under this subsection continues until the alien
32 is discovered within the United States by an immigration, customs, or agriculture officer.

33 “(6) ATTEMPT.—Any person who attempts to commit any offense under this section shall
34 be punished in the same manner as for a completion of such offense.

35 “(b) Improper Time or Place; Civil Penalties.—

36 “(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or
37 crossing or attempting to cross the border to the United States at a time or place other than
38 as designated by an immigration officer shall be subject to a civil penalty, in addition to any
39 criminal or other civil penalties that may be imposed under any other provision of law, in an
40 amount equal to—

1 “(A) not less than \$50 but not more than \$250 for each such entry, crossing,
2 attempted entry, or attempted crossing; or

3 “(B) twice the amount described in subparagraph (A) if the alien had previously
4 been subject to a civil penalty under this subsection.

5 “(2) CIVIL PENALTIES.—Civil penalties under paragraph (1) are in addition to, and not in
6 place of, any criminal or other civil penalties that may be imposed.”.

7 (b) Enhanced Penalties.—Section 275 of the Immigration and Nationality Act (8 U.S.C. 1325)
8 is amended by adding at the end the following:

9 “(e) Enhanced Penalty for Terrorist Aliens.—Any alien who commits an offense described in
10 subsection (a) for the purpose of engaging in, or with the intent to engage in, any Federal crime
11 of terrorism (as defined in section 2332b(g) of title 18, United States Code) shall be imprisoned
12 for not less than 10 years and not more than 30 years.”.

13 (c) Clerical Amendment.—The table of contents in the first section of the Immigration and
14 Nationality Act is amended by striking the item relating to section 275 and inserting the
15 following:

16 “Sec.275.Illegal entry.”.

17 (d) Application.—

18 (1) PRIOR CONVICTIONS.—Section 275(a)(4) of the Immigration and Nationality Act shall
19 apply only to violations of section 275(a)(2) of that Act (8 U.S.C. 1325(a)(2)) committed on
20 or after the date of enactment of this Act.

21 (2) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Section 275(a)(1) of the Immigration
22 and Nationality Act (8 U.S.C. 1325(a)(2)) shall take effect on the date of enactment of this
23 Act and apply to any alien who, on or after that date of enactment—

24 (A) enters or crosses, or attempts to enter or cross, the border into the United States
25 at any time or place other than as designated by immigration officers;

26 (B) eludes, at any time or place, examination or inspection by an authorized
27 immigration, customs, or agriculture officer (including failing to stop at the command
28 of such officer); or

29 (C) enters or crosses the border to the United States and, upon examination or
30 inspection, makes a false or misleading representation or conceals a material fact,
31 including such representation or concealment in the context of arrival, reporting, entry,
32 or clearance, requirements of the customs laws, immigration laws, agriculture laws, or
33 shipping laws.

34 SEC. 1606. PENALTIES FOR REENTRY OF REMOVED 35 ALIENS.

36 (a) Short Titles.—This section may be cited as the “Stop Illegal Reentry Act” or “Kate’s
37 Law”.

38 (b) Increased Penalties for Reentry of Removed Alien.—

39 (1) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is

1 amended to read as follows:

2 “SEC. 276. REENTRY OF REMOVED ALIEN.

3 “(a) In General.—

4 “(1) BARS TO IMMIGRATION RELIEF AND BENEFITS.—Any alien who has been denied
5 admission, excluded, deported, or removed or has departed the United States while an order
6 of exclusion, deportation, or removal is outstanding shall be ineligible for all immigration
7 benefits or relief available under the immigration laws, including relief under sections
8 240(b)(1), 240B(b), 245, 248, and 249, other than asylum, relief as a victim of trafficking
9 under section 101(a)(15)(T), relief as a victim of criminal activity under section
10 101(a)(15)(U), relief under the Violence Against Women Act of 1994 (42 U.S.C. 13701 et
11 seq.) as a spouse or child who has been battered or subjected to extreme cruelty, relief as a
12 battered spouse or child under section 240A(b)(2), withholding of removal under section
13 241(b)(3), or protection from removal based on a claim under the Convention Against
14 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New
15 York, December 10, 1984, if, after such denial, exclusion, deportation, removal, or
16 departure, the alien enters, attempts to enter, crosses the border into, attempts to cross the
17 border into, or is at any time found in, the United States, unless—

18 “(A) if the alien is seeking admission more than 10 years after the date of the alien’s
19 last departure from the United States, the Secretary, before the alien’s reembarkation at
20 a place outside of the United States or the alien’s application for admission from a
21 foreign contiguous territory, has expressly consented to such alien’s reapplying for
22 admission; or

23 “(B) with respect to an alien previously denied admission and removed, such alien
24 establishes that the alien was not required to obtain such advance consent under this
25 Act or any other Act.

26 “(2) CRIMINAL OFFENSES.—Any alien who—

27 “(A) has been denied admission, deported, or removed or has departed the United
28 States while an order of deportation, or removal is outstanding; and

29 “(B) after such denial, removal or departure, enters, attempts to enter, crosses the
30 border into, attempts to cross the border into, or is at any time found in, the United
31 States, unless—

32 “(i) if the alien is seeking admission more than 10 years after the date of the
33 alien’s last departure from the United States, the Secretary, before the alien’s
34 reembarkation at a place outside the United States or the alien’s application for
35 admission from a foreign contiguous territory, has expressly consented to such
36 alien’s reapplying for admission; or

37 “(ii) with respect to an alien previously denied admission and removed, such
38 alien establishes that the alien was not required to obtain such advance consent
39 under this Act or any other Act,

40 “shall be fined under title 18, United States Code, imprisoned not more than 5 years, or
41 both.

1 “(b) Criminal Penalties for Reentry of Certain Removed Aliens.—

2 “(1) REENTRY AFTER REMOVAL.—Notwithstanding the penalties under subsection (a)(2),
3 and except as provided in subsection (c)—

4 “(A) an alien described in subsection (a) who has been excluded from the United
5 States pursuant to section 235(c) because the alien was excludable under section
6 212(a)(3)(B) or who has been removed from the United States pursuant to the
7 provisions of title V, and thereafter, without the permission of the Secretary, enters the
8 United States, or attempts to enter the United States, shall be fined under title 18,
9 United States Code, and imprisoned for a period of 15 years, which sentence shall not
10 run concurrently with any other sentence;

11 “(B) an alien described in subsection (a) who was removed from the United States
12 pursuant to section 237(a)(4)(B) and thereafter, without the permission of the
13 Secretary, enters, attempts to enter, or is at any time found in, the United States (unless
14 the Secretary has expressly consented to such alien’s reentry) shall be fined under title
15 18, United States Code, imprisoned for not more than 15 years, or both; and

16 “(C) an alien described in subsection (a) who has been denied admission, excluded,
17 deported, or removed 2 or more times for any reason and thereafter enters, attempts to
18 enter, crosses the border into, attempts to cross the border into, or is at any time found
19 in, the United States, shall be fined under title 18, United States Code, imprisoned not
20 more than 15 years, or both.

21 “(2) REENTRY OF CRIMINAL ALIENS AFTER REMOVAL.—Notwithstanding the penalties
22 under subsection (a)(2), and except as provided in subsection (c)—

23 “(A) an alien described in subsection (a) who was convicted, on a date that is before
24 the date on which the alien was subject to removal or departure, of a significant
25 misdemeanor shall be fined under title 18, United States Code, imprisoned not more
26 than 10 years, or both;

27 “(B) an alien described in subsection (a) who was convicted, on a date that is before
28 the date on which the alien was subject to removal or departure, of 2 or more
29 misdemeanors involving drugs, crimes against the person, or both, shall be fined under
30 title 18, United States Code, imprisoned not more than 10 years, or both;

31 “(C) an alien described in subsection (a) who was convicted, on a date that is before
32 the date on which the alien was subject to removal or departure, of 3 or more
33 misdemeanors for which the alien was sentenced to a term of imprisonment of not less
34 than 90 days for each offense, or 12 months in the aggregate, shall be fined under title
35 18, United States Code, imprisoned not more than 10 years, or both;

36 “(D) an alien described in subsection (a) who was convicted, on a date that is before
37 the date on which the alien was subject to removal or departure, of a felony for which
38 the alien was sentenced to a term of imprisonment of not less than 30 months shall be
39 fined under such title, imprisoned not more than 15 years, or both;

40 “(E) an alien described in subsection (a) who was convicted, on a date that is before
41 the date on which the alien was subject to removal or departure, of a felony for which
42 the alien was sentenced to a term of imprisonment of not less than 5 years shall be

1 fined under such title, imprisoned not more than 20 years, or both;

2 “(F) an alien described in subsection (a) who was convicted of 3 or more felonies of
3 any kind shall be fined under such title, imprisoned not more than 25 years, or both;
4 and

5 “(G) 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 or after such removal
7 or departure, for murder, rape, kidnapping, or a felony offense described in chapter 77
8 (relating to peonage and slavery) or 113B (relating to terrorism) of such title shall be
9 fined under such title, imprisoned not more than 25 years, or both.

10 “(c) Mandatory Minimum Criminal Penalty for Reentry of Certain Removed Aliens.—
11 Notwithstanding the penalties under subsections (a) and (b), an alien described in subsection (a)
12 shall be imprisoned not less than 5 years and not more than 20 years, and may, in addition, be
13 fined under title 18, United States Code, if the alien—

14 “(1) was convicted, on a date that is before the date on which the alien was subject to
15 removal or departure, of an aggravated felony; or

16 “(2) was convicted at least twice of illegal reentry under this section on 1 or more dates
17 that are before the date on which such removal or departure.

18 “(d) Proof of Prior Convictions.—The prior convictions described in subsection (b)(2) are
19 elements of the crimes described in that subsection, and the penalties in that subsection shall
20 apply only in cases in which the 1 or more convictions that form the basis for the additional
21 penalty are—

22 “(1) alleged in the indictment or information; and

23 “(2)(A) proven beyond a reasonable doubt at trial; or

24 “(B) admitted by the defendant.

25 “(e) Affirmative Defenses.—It shall be an affirmative defense to a violation of this section
26 that—

27 “(1) on a date that is before the date of the alleged violation, the alien sought and received
28 the express consent of the Secretary to reapply for admission into the United States; or

29 “(2) with respect to an alien previously denied admission and removed, the alien—

30 “(A) was not required to obtain such advance consent under this Act or any other
31 Act; and

32 “(B) complied with all other laws and regulations governing the alien’s admission
33 into the United States.

34 “(f) Limitation on Collateral Attack on Underlying Removal Order.—In a criminal proceeding
35 under this section, an alien may not challenge the validity of a removal order described in
36 subsection (a), (b), or (c) concerning the alien unless the alien demonstrates that—

37 “(1) the alien exhausted any administrative remedies that may have been available to seek
38 relief against the order;

39 “(2) the removal or deportation proceedings at which the order was issued improperly

1 deprived the alien of the opportunity for judicial review; and

2 “(3) the entry of the order was fundamentally unfair.

3 “(g) Reentry of Alien Removed Before the Completion of the Term of Imprisonment.—Any
4 alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border
5 into, attempts to cross the border into, or is at any time found in, the United States—

6 “(1) shall be incarcerated for the remainder of the sentence of imprisonment that was
7 pending at the time of deportation or removal without any reduction for parole or supervised
8 release unless the alien affirmatively demonstrates that the Secretary has expressly
9 consented to the alien’s reentry (if a request for consent to reapply is authorized under this
10 section); and

11 “(2) shall be subject to such other penalties relating to the reentry of removed aliens as
12 may be available under this section or any other provision of law.

13 “(h) Definitions.—In this section:

14 “(1) CROSS THE BORDER.—The term ‘cross the border’ refers to the physical act of
15 crossing the border, regardless of whether the alien is free from official restraint.

16 “(2) FELONY.—The term ‘felony’ means any criminal offense punishable by a term of
17 imprisonment of more than 1 year under the laws of the United States, any State, or a
18 foreign government.

19 “(3) MISDEMEANOR.—The term ‘misdemeanor’ means any criminal offense punishable
20 by a term of imprisonment of not more than 1 year under the applicable laws of the United
21 States, any State, or a foreign government.

22 “(4) REMOVAL.—The term ‘removal’ includes any denial of admission, deportation, or
23 removal, or any agreement by which an alien stipulates or agrees to deportation, or removal.

24 “(5) SIGNIFICANT MISDEMEANOR.—The term ‘significant misdemeanor’ means a
25 misdemeanor crime that—

26 “(A) involves the use or attempted use of physical force, or threatened use of a
27 deadly weapon, committed by a current or former spouse, parent, or guardian of the
28 victim, by a person with whom the victim shares a child in common, by a person who
29 is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or
30 by a person similarly situated to a spouse, parent, or guardian of the victim;

31 “(B) is a sexual assault (as defined in section 40002(a) of the Violent Crime Control
32 and Law Enforcement Act of 1994 (34 U.S.C. 12291(a));

33 “(C) involved the unlawful possession of a firearm (as defined in section 921 of title
34 18, United States Code);

35 “(D) is a crime of violence (as defined in section 16 of title 18, United States Code);
36 or

37 “(E) is an offense under Federal, State, or Tribal law, that has, as an element, the use
38 or attempted use of physical force or the threatened use of physical force or a deadly
39 weapon.

40 “(6) STATE.—The term ‘State’ means a State of the United States, the District of

1 Columbia, and any commonwealth, territory, or possession of the United States.”.

2 (c) Effective Date; Applicability.—Section 276(a)(1) of the Immigration and Nationality Act
3 (8 U.S.C. 1326(a)(1)) shall take effect on the date of enactment of this Act and shall apply to any
4 alien who, on or after that date of enactment—

5 (1) has been denied admission, excluded, deported, or removed or has departed the
6 United States while an order of exclusion, deportation, or removal is outstanding; and

7 (2) after such denial, exclusion, deportation or removal, enters, attempts to enter, crosses
8 the border into, attempts to cross the border into, or is at any time found in, the United
9 States, unless—

10 (A) if the alien is seeking admission more than 10 years after the date of the alien’s
11 last departure from the United States, the Secretary of Homeland Security, before the
12 alien’s reembarkation at a place outside the United States or the alien’s application for
13 admission from a foreign contiguous territory, has expressly consented to such alien’s
14 reapplying for admission; or

15 (B) with respect to an alien previously denied admission and removed, such alien
16 establishes that the alien was not required to obtain such advance consent under the
17 Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other Act.

18 SEC. 1607. LAUNDERING OF MONETARY 19 INSTRUMENTS.

20 Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting “section 1590
21 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),”
22 after “section 1363 (relating to destruction of property within the special maritime and territorial
23 jurisdiction),”.

24 SEC. 1608. FREEZING BANK ACCOUNTS OF 25 INTERNATIONAL CRIMINAL ORGANIZATIONS AND 26 MONEY LAUNDERERS.

27 Section 981(b) of title 18, United States Code, is amended by adding at the end the following:

28 “(5)(A) If a person is arrested or charged in connection with an offense described in
29 subparagraph (C) involving the movement of funds into or out of the United States, the Attorney
30 General may apply to any Federal judge or magistrate judge in the district in which the arrest is
31 made or where the charges are filed for an ex parte order restraining any account held by the
32 person arrested or charged for not more than 30 days. Such 30-day period may be extended for
33 good cause shown at a hearing conducted in the manner provided in **rule 43** of the Federal Rules
34 of Civil Procedure. The court may receive and consider evidence and information submitted by
35 the Government that would be inadmissible under the Federal Rules of Evidence.

36 “(B) The application for a restraining order under subparagraph (A) shall—

37 “(i) identify the offense for which the person has been arrested or charged;

38 “(ii) identify the location and description of the accounts to be restrained; and

1 “(iii) state that the restraining order is needed to prevent the removal of the funds in the
2 account by the person arrested or charged, or by others associated with such person, during
3 the time needed by the Government to conduct such investigation as may be necessary to
4 establish whether there is probable cause to believe that the funds in the accounts are
5 subject to forfeiture in connection with the commission of any criminal offense.

6 “(C) An offense described in this subparagraph is any offense for which forfeiture is
7 authorized under this title, title 31, or the Controlled Substances Act (21 U.S.C. 801 et seq.).

8 “(D) For purposes of this section—

9 “(i) the term ‘account’ includes any safe deposit box and any account (as defined in
10 paragraphs (1) and (2) of section 5318A(e) of title 31, United States Code) at any financial
11 institution; and

12 “(ii) the term ‘account held by the person arrested or charged’ includes an account held in
13 the name of such person, and any account over which such person has effective control as a
14 signatory or otherwise.

15 “(E) A restraining order issued under this paragraph shall not be considered a ‘seizure’ for
16 purposes of section 983(a).

17 “(F) A restraining order issued under this paragraph may be executed in any district in which
18 the subject account is found, or transmitted to the central authority of any foreign State for
19 service in accordance with any treaty or other international agreement.”.

20 **SEC. 1609. CRIMINAL PROCEEDS LAUNDERED**
21 **THROUGH PREPAID ACCESS DEVICES, DIGITAL**
22 **CURRENCIES, OR OTHER SIMILAR INSTRUMENTS.**

23 (a) In General.—

24 (1) DEFINITIONS.—

25 (A) ADDITION OF ISSUERS, REDEEMERS, AND CASHIERS OF PREPAID ACCESS DEVICES
26 AND DIGITAL CURRENCIES TO THE DEFINITION OF FINANCIAL INSTITUTIONS.—Section
27 5312(a)(2)(K) of title 31, United States Code, is amended to read as follows:

28 “(K) an issuer, redeemer, or cashier of travelers’ checks, checks, money orders,
29 prepaid access devices, digital currencies, or any digital exchanger or tumbler of digital
30 currency;”.

31 (B) ADDITION OF PREPAID ACCESS DEVICES TO THE DEFINITION OF MONETARY
32 INSTRUMENTS.—Section 5312(a)(3)(B) of title 31, United States Code, is amended by
33 inserting “prepaid access devices,” after “delivery,”.

34 (C) PREPAID ACCESS DEVICE.—Section 5312 of such title is amended—

35 (i) by redesignating paragraph (6) as paragraph (7); and

36 (ii) by inserting after paragraph (5) the following:

37 “(6) ‘prepaid access device’ means an electronic device or vehicle, such as a card, plate,
38 code, number, electronic serial number, mobile identification number, personal

1 identification number, or other instrument that provides a portal to funds or the value of
2 funds that have been paid in advance and can be retrievable and transferable at some point
3 in the future.”.

4 (2) GAO REPORT.—Not later than 18 months after the date of enactment of this Act, the
5 Comptroller General of the United States shall submit a report to Congress that describes—

6 (A) the impact of amendments made by paragraph (1) on law enforcement, the
7 prepaid access device industry, and consumers; and

8 (B) the implementation and enforcement by the Department of the Treasury of the
9 final rule relating to “Bank Secrecy Act Regulations—Definitions and Other
10 Regulations Relating to Prepaid Access” (76 Fed. Reg. 45403 (July 29, 2011)).

11 (b) U.S. Customs and Border Protection Strategy for Prepaid Access Devices.—Not later than
12 18 months after the date of enactment of this Act, the Secretary of Homeland Security, in
13 consultation with the Commissioner of U.S. Customs and Border Protection, shall submit to
14 Congress a report that—

15 (1) details a strategy to interdict and detect prepaid access devices, digital currencies, or
16 other similar instruments, at border crossings and other ports of entry for the United States;
17 and

18 (2) includes an assessment of the infrastructure needed to carry out the strategy detailed
19 pursuant to paragraph (1).

20 (c) Money Smuggling Through Blank Checks in Bearer Form.—Section 5316 of title 31,
21 United States Code, is amended by adding at the end the following:

22 “(e) Monetary Instruments With Amount Left Blank.—For purposes of this section, a
23 monetary instrument in bearer form that has the amount left blank, such that the amount could be
24 filled in by the bearer, shall be considered to have a value of more than \$10,000 if the monetary
25 instrument was drawn on an account that contained or was intended to contain more than
26 \$10,000 at the time the monetary instrument was—

27 “(1) transported; or

28 “(2) negotiated.”.

29 SEC. 1610. CLOSING THE LOOPHOLE ON DRUG CARTEL 30 ASSOCIATES ENGAGED IN MONEY LAUNDERING.

31 (a) Intent to Conceal or Disguise.—Section 1956(a) of title 18, United States Code, is
32 amended—

33 (1) in paragraph (1)(B), by striking “(B) knowing that” and all that follows through
34 “Federal law,” in clause (ii) and inserting the following:

35 “(B) knowing that the transaction—

36 “(i) conceals or disguises, or is intended to conceal or disguise, the nature, source,
37 location, ownership, or control of the proceeds of some form of unlawful activity; or

38 “(ii) avoids, or is intended to avoid, a transaction reporting requirement under State
39 or Federal law;” and

1 (2) in paragraph (2)(B), by striking “(B) knowing that” and all that follows through
2 “Federal law,” in clause (ii) and inserting the following:

3 “(B) knowing that the monetary instrument or funds involved in the transportation,
4 transmission, or transfer represent the proceeds of some form of unlawful activity, and
5 knowing that such transportation, transmission, or transfer—

6 “(i) conceals or disguises, or is intended to conceal or disguise, the nature, source,
7 location, ownership, or control of the proceeds of some form of unlawful activity; or

8 “(ii) avoids, or is intended to avoid, a transaction reporting requirement under State
9 or Federal law.”.

10 (b) Proceeds of a Felony.—Section 1956(c)(1) of title 18, United States Code, is amended by
11 inserting “, and regardless of whether the person knew that the activity constituted a felony”
12 before the semicolon at the end.

13 Subtitle G—Protecting National Security and Public Safety

14 CHAPTER 1—GENERAL MATTERS

15 SEC. 1701. DEFINITIONS OF TERRORIST ACTIVITY, 16 ENGAGE IN TERRORIST ACTIVITY, AND TERRORIST 17 ORGANIZATION.

18 (a) Definition of Engage in Terrorist Activity.—Section 212(a)(3)(B)(iv)(I) of the Immigration
19 and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iv)(I)) is amended to read as follows:

20 “(I) to commit a terrorist activity or, under circumstances indicating an
21 intention to cause death, serious bodily harm, or substantial damage to
22 property, to incite another person to commit a terrorist activity;”.

23 (b) Definition of Terrorist Organization.—Section 212(a)(3)(B)(vi)(III) of such Act (8 U.S.C.
24 1182(a)(3)(B)(vi)(III)) is amended to read as follows:

25 “(III) that is a group of 2 or more individuals, whether organized or not,
26 which engages in, or has a subgroup that engages in, the activities described
27 in subclauses (I) through (VI) of clause (iv), if the group or subgroup
28 presents a threat to the national security of the United States.”.

29 SEC. 1702. TERRORIST AND SECURITY-RELATED 30 GROUNDS OF INADMISSIBILITY.

31 (a) Security and Related Grounds.—Section 212(a)(3)(A) of the Immigration and Nationality
32 Act (8 U.S.C. 1182(a)(3)(A)) is amended to read as follows:

33 “(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the
34 Secretary knows, or has reasonable ground to believe, seeks to enter the United States
35 to engage solely, principally, or incidentally, in, or who is engaged in—

36 “(i) any activity—

1 “(I) to violate any law of the United States relating to espionage or
2 sabotage; or

3 “(II) to violate or evade any law prohibiting the export from the United
4 States of goods, technology, or sensitive information;

5 “(ii) any other activity which would be unlawful if committed in the United
6 States; or

7 “(iii) any activity a purpose of which is the opposition to, or the control or
8 overthrow of, the Government of the United States by force, violence, or other
9 unlawful means,

10 is inadmissible.”.

11 (b) Terrorist Activities.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8
12 U.S.C. 1182(a)(3)(B)(i)) is amended—

13 (1) in subclause (III), by inserting “or substantial damage to property” before “, incited
14 terrorist activity”;

15 (2) in subclause (IV), by inserting “or has been” before “a representative”;

16 (3) in subclause (V), by inserting “or has been” before “a member”;

17 (4) in subclause (VI), by inserting “or has been” before “a member”;

18 (5) by amending subclause (VII) to read as follows:

19 “(VII) endorses or espouses, or has endorsed or espoused, terrorist activity
20 or persuades or has persuaded others to endorse or espouse terrorist activity
21 or support a terrorist organization;”;

22 (6) by amending subclause (IX) to read as follows:

23 “(IX) is the spouse or child of an alien who is inadmissible under this
24 subparagraph if—

25 “(aa) the activity causing the alien to be found inadmissible occurred
26 within the last 10 years; and

27 “(bb)(AA) the spouse or child knew, or should reasonably have
28 known, of the activity causing the alien to be found inadmissible under
29 this section; and

30 “(BB) the consular officer or Attorney General does not have
31 reasonable grounds to believe that the spouse or child has renounced the
32 activity causing the alien to be found inadmissible under this section.”;
33 and

34 (7) by striking the undesignated matter following subclause (IX).

35 (c) Palestine Liberation Organization.—Section 212(a)(3)(B) of the Immigration and
36 Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended by adding at the end the following:

37 “(vii) PALESTINE LIBERATION ORGANIZATION.—An alien who is an officer,
38 official, representative, or spokesman of the Palestine Liberation Organization is

1 considered, for purposes of this Act, to be engaged in terrorist activity.”.

2 (d) Bars to Immigration Relief.— Any alien described in sections 212(a)(3)(B) or
3 237(a)(4)(B) is not eligible and may not apply for any immigration benefits or relief available
4 under this Act. Such aliens only be eligible to seek deferral of removal pursuant to the
5 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
6 done at New York, December 10, 1984.

7 **SEC. 1703. EXPEDITED REMOVAL FOR ALIENS**
8 **INADMISSIBLE ON CRIMINAL OR SECURITY**
9 **GROUND.**

10 (a) In General.—Section 238 of the Immigration and Nationality Act (8 U.S.C. 1228) is
11 amended—

12 (1) in the section heading, by adding at the end the following: “or who are subject to
13 terrorism-related grounds for removal”;

14 (2) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) by striking “Attorney General” and inserting “Secretary, in the exercise of
17 the Secretary’s sole and unreviewable discretion,”; and

18 (ii) by striking “set forth in this subsection or” and inserting “set forth in this
19 subsection, in lieu of removal proceedings under”;

20 (B) in paragraphs (3) and (4), by striking “Attorney General” each place that term
21 appears and inserting “Secretary”;

22 (C) in paragraph (5)—

23 (i) by striking “described in this section” and inserting “described in paragraph
24 (1) or (2)”;

25 (ii) by striking “the Attorney General may grant in the Attorney General’s
26 discretion.” and inserting “the Secretary or the Attorney General may grant, in the
27 sole and unreviewable discretion of the Secretary or the Attorney General, in any
28 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
38 procedures set forth in 235(b)(1)(B); and

1 “(C) is not eligible for a waiver of inadmissibility or relief from removal.”;

2 (3) by redesignating the first subsection (c) as subsection (d);

3 (4) by redesignating the second subsection (c), as so designated by section 617(b)(13) of

4 the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of

5 Public Law 104–208; 110 Stat. 3009–720)), as subsection (e); and

6 (5) by inserting after subsection (b) the following:

7 “(c) Removal of Aliens Who Are Subject to Terrorism-related Grounds for Removal.—

8 “(1) IN GENERAL.—The Secretary—

9 “(A) notwithstanding section 240, shall—

10 “(i) determine the inadmissibility of every alien under subclause (I), (II), or

11 (III) of section 212(a)(3)(B)(i), or the deportability of the alien under section

12 237(a)(4)(B) as a consequence of being described in 1 of such subclauses; and

13 “(ii) issue an order of removal pursuant to the procedures set forth in this

14 subsection to every alien determined to be inadmissible or deportable on a ground

15 described in clause (i); and

16 “(B) may—

17 “(i) determine the inadmissibility of any alien under subparagraph (A) or (B) of

18 section 212(a)(3) (other than subclauses (I), (II), and (III) of section

19 212(a)(3)(B)(i), or the deportability of the alien under subparagraph (A) or (B) of

20 section 237(a)(4) (as a consequence of being described in subclause (I), (II), or

21 (III) of section 212(a)(3)(B)(i)); and

22 “(ii) issue an order of removal pursuant to the procedures set forth in this

23 subsection to every alien determined to be inadmissible or deportable on a ground

24 described in clause (i).

25 “(2) LIMITATION.—The Secretary may not execute any order described in paragraph (1)

26 until 30 days after the date on which such order was issued, unless waived by the alien, to

27 give the alien an opportunity to petition for judicial review under section 242.

28 “(3) PROCEEDINGS.—The Secretary shall prescribe regulations to govern proceedings

29 under this subsection, which shall require that—

30 “(A) the alien is given reasonable notice of the charges and of the opportunity

31 described in subparagraph (C);

32 “(B) the alien has the privilege of being represented (at no expense to the

33 Government) by such counsel, authorized to practice in such proceedings, as the alien

34 shall choose;

35 “(C) the alien has a reasonable opportunity to inspect the evidence and rebut the

36 charges;

37 “(D) a determination is made on the record that the individual upon whom the notice

38 for the proceeding under this section is served (either in person or by mail) is, in fact,

39 the alien named in such notice;

1 “(E) a record is maintained for judicial review; and
2 “(F) the final order of removal is not adjudicated by the same person who issues the
3 charges.

4 “(4) LIMITATION ON RELIEF FROM REMOVAL.—No alien described in this subsection shall
5 be eligible for any relief from removal that the Secretary may grant in the Secretary’s
6 discretion.”.

7 (b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act (8
8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 238 and inserting the
9 following:

10 “Sec.238.Expedited removal of aliens convicted of aggravated felonies or who are subject to
11 terrorism-related grounds for removal.”.

12 (c) Effective Date and Application.—The amendments made by this section shall take effect
13 on the date of the enactment of this Act, but shall not apply to aliens who are in removal
14 proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) on such
15 date of enactment.

16 SEC. 1704. DETENTION OF REMOVABLE ALIENS.

17 (a) Criminal Alien Enforcement Partnerships.—Section 287 of the Immigration and
18 Nationality Act (8 U.S.C. 1357), as amended by section 1123, is amended by adding at the end
19 the following:

20 “(j) Criminal Alien Enforcement Partnerships.—

21 “(1) IN GENERAL.—The Secretary may enter into a written agreement with a State, or
22 with any political subdivision of a State, to authorize the temporary placement of 1 or more
23 U.S. Customs and Border Protection agents or officers or U.S. Immigration and Customs
24 Enforcement agents or investigators at a local police department or precinct—

25 “(A) to determine the immigration status of any individual arrested by a State,
26 county, or local police, enforcement, or peace officer for any criminal offense;

27 “(B) to issue charging documents and notices related to the initiation of removal
28 proceedings or reinstatement of prior removal orders under section 241(a)(5);

29 “(C) to enter information directly into the National Crime Information Center
30 (NCIC) database, Immigration Violator File, including—

31 “(i) the alien’s address;

32 “(ii) the reason for the arrest;

33 “(iii) the legal cite of the State law violated or for which the alien is charged;

34 “(iv) the alien’s driver’s license number and State of issuance, if the alien has a
35 driver’s license;

36 “(v) any other identification document held by the alien and issuing entity for
37 such identification documents; and

38 “(vi) any identifying marks, such as tattoos, birthmarks, and scars;

1 “(D) to collect biometrics, including iris, fingerprint, photographs, and signature, of
2 the alien and to enter such information into the Automated Biometric Identification
3 System (IDENT) and any other Department of Homeland Security or law enforcement
4 database authorized for storage of biometric information for aliens; and

5 “(E) to make advance arrangements for the immediate transfer from State to Federal
6 custody of any criminal alien when the alien is released, without regard to whether the
7 alien is released on parole, supervised release, or probation, and without regard to
8 whether the alien may be arrested and imprisoned again for the same offense.

9 “(2) LENGTH OF TEMPORARY DUTY ASSIGNMENTS.—The initial period for a temporary
10 duty assignment authorized under this subsection shall be 1 year. The temporary duty
11 assignment may be extended for additional periods of time as agreed to by the Secretary and
12 the State or political subdivision of the State to ensure continuity of operations, cooperation,
13 and coverage.

14 “(3) TECHNOLOGY USAGE.—The Secretary shall provide U.S. Customs and Border
15 Protection and U.S. Immigration and Customs Enforcement agents, officers, and
16 investigators on a temporary duty assignment under this subsection mobile access to Federal
17 databases containing alien information, live scan technology for collection of biometrics,
18 and video-conferencing capability for use at local police departments or precincts in remote
19 locations.

20 “(4) REPORT.—Not later than 1 year after the date of the enactment of the SECURE and
21 SUCCEED Act, the Secretary shall submit a report to the Committee on the Judiciary of the
22 Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the
23 Committee on the Judiciary of the House of Representatives, and the Committee on
24 Homeland Security of the House of Representatives that identifies—

25 “(A) the number of States that have entered into an agreement under this subsection;

26 “(B) the number of criminal aliens processed by the U.S. Customs and Border
27 Protection agent or officer or U.S. Immigration and Customs Enforcement agent or
28 investigator during the temporary duty assignment; and

29 “(C) the number of criminal aliens transferred from State to Federal custody during
30 the agreement period.”.

31 (b) Detention, Release, and Removal of Aliens Ordered Removed.—

32 (1) REMOVAL PERIOD.—

33 (A) IN GENERAL.—Section 241(a)(1)(A) of the Immigration and Nationality Act (8
34 U.S.C. 1231(a)(1)(A)) is amended by striking “Attorney General” and inserting
35 “Secretary”.

36 (B) BEGINNING OF PERIOD.—Section 241(a)(1)(B) of such Act (8 U.S.C.
37 1231(a)(1)(B)) is amended to read as follows:

38 “(B) BEGINNING OF PERIOD.—

39 “(i) IN GENERAL.—Subject to clause (ii), the removal period begins on the date
40 that is the latest of the following:

1 “(I) If the alien is ordered removed, the date pursuant to an
2 administratively final removal order and the Secretary takes the alien into
3 custody for removal.

4 “(II) If the alien is detained or confined (except under an immigration
5 process), the date on which the alien is released from detention or
6 confinement.

7 “(ii) BEGINNING OF REMOVAL PERIOD FOLLOWING A TRANSFER OF CUSTODY.—If
8 the Secretary transfers custody of the alien pursuant to law to another Federal
9 agency or to an agency of a State or local government in connection with the
10 official duties of such agency, the removal period for the alien—

11 “(I) shall be tolled; and

12 “(II) shall resume on the date on which the alien is returned to the custody
13 of the Secretary.”.

14 (C) SUSPENSION OF PERIOD.—Section 241(a)(1)(C) of such Act (8 U.S.C.
15 1231(a)(1)(C)) is amended to read as follows:

16 “(C) SUSPENSION OF PERIOD.—The removal period shall be extended beyond a
17 period of 90 days and the alien may remain in detention during such extended period—

18 “(i) if the alien fails or refuses to make all reasonable efforts to comply with the
19 order of removal or to fully cooperate with the efforts of the Secretary to establish
20 the alien’s identity and carry out the order of removal, including making timely
21 application in good faith for travel or other documents necessary to the alien’s
22 departure;

23 “(ii) if the alien conspires or acts to prevent the alien’s removal subject to an
24 order of removal; or

25 “(iii) if the court, the Board of Immigration Appeals, or an immigration judge
26 orders a stay of the removal of the alien.”.

27 (2) DETENTION.—Section 241(a)(2) of the Immigration and Nationality Act (8 U.S.C.
28 1231(a)(2)) is amended—

29 (A) by inserting “(A) IN GENERAL.—” before “During”;

30 (B) by striking “Attorney General” and inserting “Secretary”; and

31 (C) by adding at the end the following:

32 “(B) DURING A PENDENCY OF A STAY.—If a court, the Board of Immigration
33 Appeals, or an immigration judge orders a stay of removal of an alien who is subject to
34 an order of removal, the Secretary, in the Secretary’s sole and unreviewable exercise of
35 discretion, and notwithstanding any provision of law, including section 2241 of title
36 28, United States Code, may detain the alien during the pendency of such stay of
37 removal.”.

38 (3) SUSPENSION AFTER 90-DAY PERIOD.—Section 241(a)(3) of the Immigration and
39 Nationality Act (8 U.S.C. 1231(a)(3)) is amended—

40 (A) in the matter preceding subparagraph (A), by striking “Attorney General” and

- 1 inserting “Secretary”;
- 2 (B) in subparagraph (C), by striking “Attorney General” and inserting “Secretary”;
- 3 and
- 4 (C) by amending subparagraph (D) to read as follows:
- 5 “(D) to obey reasonable restrictions on the alien’s conduct or activities, or to
- 6 perform affirmative acts, that the Secretary prescribes for the alien, in order to prevent
- 7 the alien from absconding, for the protection of the community, or for other purposes
- 8 related to the enforcement of the immigration laws.”.
- 9 (4) ALIENS IMPRISONED, ARRESTED, OR ON PAROLE, SUPERVISED RELEASE, OR
- 10 PROBATION.—Section 241(a)(4) of the Immigration and Nationality Act (8 U.S.C.
- 11 1231(a)(4)) is amended—
- 12 (A) in subparagraph (A), by striking “Attorney General” and inserting “Secretary”;
- 13 and
- 14 (B) in subparagraph (B)—
- 15 (i) in the matter preceding clause (i), by striking “Attorney General” and
- 16 inserting “Secretary”;
- 17 (ii) in clause (i), by striking “if the Attorney General” and inserting “if the
- 18 Secretary”; and
- 19 (iii) in clause (ii)(III), by striking “Attorney General” and inserting “Secretary”.
- 20 (5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—
- 21 (A) IN GENERAL.—Section 241(a)(5) of the Immigration and Nationality Act (8
- 22 U.S.C. 1231(a)(5)) is amended to read as follows:
- 23 “(5) REINSTATEMENT OF REMOVAL ORDERS AGAINST ALIENS ILLEGALLY REENTERING.—If
- 24 the Secretary determines that an alien has entered the United States illegally after having
- 25 been removed, deported, or excluded, or having departed voluntarily, under an order of
- 26 removal, deportation, or exclusion, regardless of the date of the original order or the date of
- 27 the illegal entry—
- 28 “(A) the order of removal, deportation, or exclusion is reinstated from its original
- 29 date and is not subject to being reopened or reviewed notwithstanding section
- 30 242(a)(2)(D);
- 31 “(B) the alien is not eligible and may not apply for any relief under this Act,
- 32 regardless of the date on which an application or request for such relief may have been
- 33 filed or made;
- 34 “(C) the alien shall be removed under the order of removal, deportation, or exclusion
- 35 at any time after the illegal entry; and
- 36 “(D) reinstatement under subparagraph (A) shall not require proceedings under
- 37 section 240 or other proceedings before an immigration judge.”.
- 38 (B) JUDICIAL REVIEW.—Section 242 of such Act (8 U.S.C. 1252) is amended by—
- 39 (i) in subsection (g), by inserting “grant, rescind, or deny any form of

1 discretionary relief under this title, or to” before “commence”; and

2 (ii) by adding at the end the following:

3 “(h) JUDICIAL REVIEW OF DECISION TO REINSTATE REMOVAL ORDER UNDER SECTION
4 241(A)(5).—

5 “(1) REVIEW OF DECISION TO REINSTATE REMOVAL ORDER.—Judicial review of
6 determinations under section 241(a)(5) is available in an action under subsection (a).

7 “(2) NO REVIEW OF ORIGINAL ORDER.—Notwithstanding any other provision of law
8 (statutory or nonstatutory), including section 2241 of title 28, United States Code, any
9 other habeas corpus provision, or sections 1361 and 1651 of such title, no court shall
10 have jurisdiction to review any cause or claim, arising from, or relating to, any
11 challenge to the original order.”.

12 (C) EFFECTIVE DATE AND APPLICATION.—The amendments made by subparagraphs
13 (A) and (B) shall take effect as if enacted on April 1, 1997, and shall apply to all orders
14 reinstated or after that date by the Secretary of Homeland Security (or by the Attorney
15 General before March 1, 2003), regardless of the date of the original order.

16 (6) INADMISSIBLE OR CRIMINAL ALIENS.—Section 241(a)(6) of the Immigration and
17 Nationality Act (8 U.S.C. 1231(a)(6)) is amended—

18 (A) by striking “Attorney General” and inserting “Secretary”; and

19 (B) by striking “removal period and, if released,” and inserting “removal period, in
20 the discretion of the Secretary, without any limitations other than those specified in this
21 section, until the alien is removed,”.

22 (7) PAROLE; ADDITIONAL RULES; JUDICIAL REVIEW.—Section 241(a) of the Immigration
23 and Nationality Act (8 U.S.C. 1231(a)) is amended—

24 (A) in paragraph (7), by striking “Attorney General” and inserting “Secretary”;

25 (B) by redesignating paragraph (7) as paragraph (15); and

26 (C) by inserting after paragraph (6) the following:

27 “(7) PAROLE.—Except for aliens subject to detention under paragraph (6) and aliens
28 subject to detention under section 236(c), 236A, or 238, if an alien who is detained is an
29 applicant for admission, the Secretary, in the Secretary’s **sole and unreviewable** discretion,
30 may parole the alien under section 212(d)(5) and may provide, notwithstanding section
31 212(d)(5), that the alien shall not be returned to custody unless the alien violates the
32 conditions of such parole or the alien’s removal becomes reasonably foreseeable, provided
33 that in no circumstance shall such alien be considered admitted.

34 “(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF CERTAIN ALIENS WHO WERE
35 PREVIOUSLY ADMITTED TO THE UNITED STATES.—

36 “(A) APPLICATION.—The procedures set out under this paragraph—

37 “(i) apply only to an alien who was previously admitted to the United States;
38 and

39 “(ii) do not apply to any other alien, including an alien detained pursuant to

1 paragraph (6).

2 “(B) ESTABLISHMENT OF DETENTION REVIEW PROCESS FOR ALIENS WHO FULLY
3 COOPERATE WITH REMOVAL.—

4 “(i) REQUIREMENT TO ESTABLISH.—If an alien has made all reasonable efforts
5 to comply with a removal order and to cooperate fully with the efforts of the
6 Secretary to establish the alien’s identity and carry out the removal order,
7 including making timely application in good faith for travel or other documents
8 necessary to the alien’s departure, and has not conspired or acted to prevent
9 removal, the Secretary shall establish an administrative review process to
10 determine whether the alien should be detained or released on conditions.

11 “(ii) DETERMINATIONS.—The Secretary shall—

12 “(I) make a determination whether to release an alien described in clause
13 (i) after the end of the alien’s removal period; and

14 “(II) in making a determination under subclause (I), consider any evidence
15 submitted by the alien, and may consider any other evidence, including any
16 information or assistance provided by the Department of State or other
17 Federal agency and any other information available to the Secretary
18 pertaining to the ability to remove the alien.

19 “(9) AUTHORITY TO DETAIN BEYOND THE REMOVAL PERIOD.—The Secretary, in the
20 exercise of discretion, without any limitations other than those specified in this section, may
21 continue to detain an alien for 90 days beyond the removal period (including any extension
22 of the removal period as provided in paragraph (1)(C))—

23 “(A) until the alien is removed, if the Secretary determines that—

24 “(i) there is a significant likelihood that the alien will be removed in the
25 reasonably foreseeable future;

26 “(ii) the alien would be removed in the reasonably foreseeable future, or would
27 have been removed, but for the alien’s failure or refusal to make all reasonable
28 efforts to comply with the removal order, or to cooperate fully with the
29 Secretary’s efforts to establish the alien’s identity and carry out the removal order,
30 including making timely application in good faith for travel or other documents
31 necessary to the alien’s departure, or conspiracies or acts to prevent removal;

32 “(iii) the government of the foreign country of which the alien is a citizen,
33 subject, national, or resident is denying or unreasonably delaying accepting the
34 return of the alien after the Secretary asks whether the government will accept an
35 alien under section 243(d); or

36 “(iv) the government of the foreign country of which the alien is a citizen,
37 subject, national, or resident is refusing to issue any required travel or identity
38 documents to allow the alien to return to that country;

39 “(B) until the alien is removed, if the Secretary certifies in writing—

40 “(i) in consultation with the Secretary of Health and Human Services, that the
41 alien has a highly contagious disease that poses a threat to public safety;

1 “(ii) after receipt of a written recommendation from the Secretary of State, that
2 release of the alien is likely to have serious adverse foreign policy consequences
3 for the United States;

4 “(iii) based on information available to the Secretary (including classified,
5 sensitive, or other information, and without regard to the grounds upon which the
6 alien was ordered removed), that there is reason to believe that the release of the
7 alien would threaten the national security of the United States;

8 “(iv) that the release of the alien will threaten the safety of the community or
9 any person, conditions of release cannot reasonably be expected to ensure the
10 safety of the community or any person, and either—

11 “(I) the alien has been convicted of 1 or more aggravated felonies (as
12 defined in section 101(a)(43)), 1 or more crimes identified by the Secretary
13 by regulation, or 1 or more attempts or conspiracies to commit any such
14 aggravated felonies or such identified crimes, provided that the aggregate
15 term of imprisonment for such attempts or conspiracies is at least 5 years; or

16 “(II) the alien has committed 1 or more violent offenses (but not including
17 a purely political offense) and, because of a mental condition or personality
18 disorder and behavior associated with that condition or disorder, the alien is
19 likely to engage in acts of violence in the future; or

20 “(v) that the release of the alien will threaten the safety of the community or
21 any person, conditions of release cannot reasonably be expected to ensure the
22 safety of the community or any person, and the alien has been convicted of at
23 least one aggravated felony (as defined in section 101(a)(43)); and

24 “(C) pending a determination under subparagraph (B), if the Secretary has initiated
25 the administrative review process not later than 30 days after the expiration of the
26 removal period (including any extension of the removal period as provided in
27 paragraph (1)(C)).

28 “(10) RENEWAL AND DELEGATION OF CERTIFICATION.—

29 “(A) RENEWAL.—The Secretary may renew a certification under paragraph
30 (9)(B)(ii) every 6 months without limitation, after providing an opportunity for the
31 alien to request reconsideration of the certification and to submit documents or other
32 evidence in support of that request. If the Secretary does not renew a certification, the
33 Secretary may not continue to detain the alien under paragraph (9)(B).

34 “(B) DELEGATION.—Notwithstanding section 103, the Secretary may not delegate
35 the authority to make or renew a certification described in clause (ii), (iii), or (iv) of
36 paragraph (9)(B) to an official below the level of the Director of U.S. Immigration and
37 Customs Enforcement.

38 “(11) RELEASE ON CONDITIONS.—If the Secretary determines that an alien should be
39 released from detention, the Secretary, in the exercise of discretion, may impose conditions
40 on release as provided in paragraph (3).

41 “(12) REDETENTION.—The Secretary, in the exercise of discretion, without any
42 limitations other than those specified in this section, may again detain any alien subject to a

1 final removal order who is released from custody if the alien fails to comply with the
2 conditions of release or to continue to satisfy the conditions described in paragraph (8), or
3 if, upon reconsideration, the Secretary determines that the alien can be detained under
4 paragraph (9). Paragraphs (6) through (14) shall apply to any alien returned to custody
5 pursuant to this paragraph, as if the removal period terminated on the day of the redetention.

6 “(13) CERTAIN ALIENS WHO EFFECTED ENTRY.—If an alien has entered the United States,
7 but has not been lawfully admitted nor physically present in the United States continuously
8 for the 2-year period immediately preceding the commencement of removal proceedings
9 under this Act against the alien, the Secretary, in the exercise of discretion, may decide not
10 to apply paragraph (8) and detain the alien without any limitations except those which the
11 Secretary shall adopt by regulation.

12 “(14) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of
13 any action or decision pursuant to paragraph (6) through (14) shall be available exclusively
14 in habeas corpus proceedings instituted in the United States District Court for the District of
15 Columbia, and only if the alien has exhausted all administrative remedies (statutory and
16 regulatory) available to the alien as of right.”

17 (c) Detention of Aliens During Removal Proceedings.—

18 (1) IN GENERAL.—Section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is
19 amended by adding at the end the following:

20 “(e) Length of Detention.—

21 “(1) IN GENERAL.—An alien may be detained under this section while proceedings are
22 pending, without limitation, until the alien is subject to an administratively final order of
23 removal.

24 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
25 section shall not affect the validity of any detention under section 241.

26 “(f) Judicial Review.—Without regard to the place of confinement, judicial review of any
27 action or decision made pursuant to subsection (e) shall be available exclusively in a habeas
28 corpus proceeding instituted in the United States District Court for the District of Columbia and
29 only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available
30 to the alien as of right.”

31 (2) CONFORMING AMENDMENTS.—Section 236 of the Immigration and Nationality Act (8
32 U.S.C. 1226) is amended—

33 (A) by redesignating subsection (e) as subsection (f);

34 (B) by inserting after subsection (d) the following new subsection (e):

35 “(e) Length of Detention.—

36 “(1) IN GENERAL.—An alien may be detained under this section, without limitation, until
37 the alien is subject to an administratively final order of removal.

38 “(2) EFFECT ON DETENTION UNDER SECTION 241.—The length of detention under this
39 section shall not affect the validity of any detention under section 241.”; and

40 (C) in subsection (f), as so redesignated, by adding at the end the following:

1 “Without regard to the place of confinement, judicial review of any action or decision
2 made pursuant to subsection (e) shall be available exclusively in a habeas corpus
3 proceeding instituted in the United States District Court for the District of Columbia,
4 and only if the alien has exhausted all administrative remedies (statutory and
5 nonstatutory) available to the alien as of right.”

6 (d) Attorney General’s Discretion in Determining Countries of Removal.—Section 241(b) of
7 the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

8 (1) in paragraph (1)(C)(iv), by striking the period at the end and inserting “, or the
9 Attorney General decides that removing the alien to such country is prejudicial to the
10 interests of the United States.”; and

11 (2) in paragraph (2)(E)(vii), by inserting “or the Attorney General decides that removing
12 the alien to 1 or more of such countries is prejudicial to the interests of the United States,”
13 after “this subparagraph.”

14 (e) Effective Dates and Application.—

15 (1) AMENDMENTS MADE BY SUBSECTION (B).—The amendments made by subsection (b)
16 shall take effect on the date of the enactment of this Act. Section 241 of the Immigration
17 and Nationality Act, as amended by subsection (b), shall apply to—

18 (A) all aliens subject to a final administrative removal, deportation, or exclusion
19 order that was issued before, on, or after the date of the enactment of this Act; and

20 (B) acts and conditions occurring or existing before, on, or after the date of the
21 enactment of this Act.

22 (2) AMENDMENTS MADE BY SUBSECTION (C).—The amendments made by subsection (c)
23 shall take effect upon the date of the enactment of this Act. Sections 235 and 236 of the
24 Immigration and Nationality Act, as amended by subsection (c), shall apply to any alien in
25 detention under provisions of such sections on or after the date of the enactment of this Act.

26 SEC. 1705. GAO STUDY ON DEATHS IN CUSTODY.

27 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the
28 United States shall submit a report to Congress on the deaths in custody of detainees held by the
29 Department of Homeland Security, which shall include, with respect to any such deaths—

30 (1) whether such death could have been prevented by the delivery of medical treatment
31 administered while the detainee was in the custody of the Department of Homeland
32 Security;

33 (2) whether Department practices and procedures were properly followed and obeyed;

34 (3) whether such practices and procedures are sufficient to protect the health and safety of
35 such detainees; and

36 (4) whether reports of such deaths were made to the Deaths in Custody Reporting
37 Program.

38 SEC. 1706. GAO STUDY ON MIGRANT DEATHS.

39 Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the

1 United States shall submit to the Committee on the Judiciary of the Senate, the Committee on
2 Homeland Security and Governmental Affairs of the Senate, the Committee on the Judiciary of
3 the House of Representatives, and the Committee on Homeland Security of the House of
4 Representatives a report that describes—

5 (1) the total number of migrant deaths along the southern border during the previous 7
6 years;

7 (2) the total number of unidentified deceased migrants found along the southern border in
8 the previous 7 years;

9 (3) the level of cooperation between U.S. Customs and Border Protection, State and local
10 law enforcement agencies, foreign diplomatic and consular posts, nongovernmental
11 organizations, and family members to accurately identify deceased individuals;

12 (4) the use of DNA testing and sharing of such data between U.S. Customs and Border
13 Protection, State and local law enforcement agencies, foreign diplomatic and consular posts,
14 and nongovernmental organizations to accurately identify deceased individuals;

15 (5) the comparison of DNA data with information on Federal, State, and local missing
16 person registries; and

17 (6) the procedures and processes U.S. Customs and Border Protection has in place for
18 notification of relevant authorities or family members after missing persons are identified
19 through DNA testing.

20 **SEC. 1707. STATUTE OF LIMITATIONS FOR VISA,**
21 **NATURALIZATION, AND OTHER FRAUD OFFENSES**
22 **INVOLVING WAR CRIMES, CRIMES AGAINST**
23 **HUMANITY, OR HUMAN RIGHTS VIOLATIONS.**

24 (a) Statute of Limitations for Visa Fraud and Other Offenses.—Chapter 213 of title 18, United
25 States Code, is amended by adding at the end the following:

26 **“3302. Fraud in connection with certain human rights violations,**
27 **crimes against humanity, or war crimes**

28 **“(a) In General.—No person shall be prosecuted, tried, or punished for violation of any**
29 **provision of section 1001, 1015, 1425, 1546, 1621, or 3291, or for attempt or conspiracy to**
30 **violate any provision of such sections, if the fraudulent conduct, misrepresentation, concealment,**
31 **or fraudulent, fictitious, or false statement concerns the alleged offender’s—**

32 **“(1) participation, at any time, at any place, and irrespective of the nationality of the**
33 **alleged offender or any victim, in a human rights violation, crime against humanity, or war**
34 **crime; or**

35 **“(2) membership in, service in, or authority over a military, paramilitary, or law**
36 **enforcement organization that participated in such conduct during any part of any period in**
37 **which the alleged offender was a member of, served in, or had authority over the**
38 **organization, unless the indictment is found or the information is instituted within 20 years**

1 after the commission of the offense.

2 “(b) Definitions.—In this section—

3 “(1) the term ‘extrajudicial killing under color of law’ means conduct described in section
4 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E)(iii));

5 “(2) the term ‘female genital mutilation’ means conduct described in section 116;

6 “(3) the term ‘genocide’ means conduct described in section 1091(a);

7 “(4) the term ‘human rights violation or war crime’ means genocide, incitement to
8 genocide, war crimes, torture, female genital mutilation, extrajudicial killing under color of
9 law, persecution, particularly severe violations of religious freedom, the use or recruitment
10 of child soldiers, or other serious violation of human rights;

11 “(5) the term ‘incitement to genocide’ means conduct described in section 1091(c);

12 “(6) the term ‘particularly severe violation of religious freedom’ means conduct
13 described in section 3(3) of the International Religious Freedom Act of 1998 (22 U.S.C.
14 6402(13));

15 “(7) the term ‘persecution’ means conduct that is a bar to relief under section
16 208(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)(i));

17 “(8) the term ‘torture’ means conduct described in paragraphs (1) and (2) of section 2340;

18 “(9) the term ‘use or recruitment of child soldiers’ means conduct described in
19 subsections (a) and (d) of section 2442;

20 “(10) the term ‘war crimes’ means conduct described in subsections (c) and (d) of section
21 2441; and

22 “(11) the term ‘crimes against humanity’ means conduct described in section
23 212(a)(3)(E)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(iii)).”.

24 (b) Clerical Amendment.—The table of sections for chapter 213 of title 18, United States
25 Code, is amended by adding at the end the following:

26 “3302. Fraud in connection with certain human rights violations, crimes against humanity, or war
27 crimes.”.

28 (c) Application.—The amendments made by this section shall apply to fraudulent conduct,
29 misrepresentations, concealments, and fraudulent, fictitious, or false statements made or
30 committed before, on, or after the date of enactment of this Act.

31 SEC. 1708. CRIMINAL DETENTION OF ALIENS TO 32 PROTECT PUBLIC SAFETY.

33 (a) In General.—Section 3142(e) of title 18, United States Code, is amended to read as
34 follows:

35 “(e) Detention.—

36 “(1) IN GENERAL.—If, after a hearing pursuant to the provisions of subsection (f), the
37 judicial officer finds that no condition or combination of conditions will reasonably assure

1 the appearance of the person as required and the safety of any other person and the
2 community, such judicial officer shall order the detention of the person before trial.

3 “(2) PRESUMPTION ARISING FROM OFFENSES DESCRIBED IN SUBSECTION (F)(1).—In a case
4 described in subsection (f)(1), a rebuttable presumption arises that no condition or
5 combination of conditions will reasonably assure the safety of any other person and the
6 community if the judicial officer finds that—

7 “(A) the person has been convicted of a Federal offense that is described in
8 subsection (f)(1), or of a State or local offense that would have been an offense
9 described in subsection (f)(1) if a circumstance giving rise to Federal jurisdiction had
10 existed;

11 “(B) the offense described in subparagraph (A) was committed while the person was
12 on release pending trial for a Federal, State, or local offense; and

13 “(C) not more than 5 years has elapsed since the later of the date of conviction or the
14 date of the release of the person from imprisonment for the offense described in
15 subparagraph (A).

16 “(3) PRESUMPTION ARISING FROM OTHER OFFENSES INVOLVING ILLEGAL SUBSTANCES,
17 FIREARMS, VIOLENCE, OR MINORS.—Subject to rebuttal by the person, it shall be presumed
18 that no condition or combination of conditions will reasonably assure the appearance of the
19 person as required and the safety of the community if the judicial officer finds that there is
20 probable cause to believe that the person committed—

21 “(A) an offense for which a maximum term of imprisonment of 10 years or more is
22 prescribed in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled
23 Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46;

24 “(B) an offense under section 924(c), 956(a), or 2332b;

25 “(C) an offense listed in section 2332b(g)(5)(B) for which a maximum term of
26 imprisonment of 10 years or more is prescribed; or

27 “(D) an offense involving a minor victim under section 1201, 1591, 2241, 2242,
28 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1),
29 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

30 “(4) PRESUMPTION ARISING FROM OFFENSES RELATING TO IMMIGRATION LAW.—Subject to
31 rebuttal by the person, it shall be presumed that no condition or combination of conditions
32 will reasonably assure the appearance of the person as required if the judicial officer finds
33 that there is probable cause to believe that the person is an alien and that the person—

34 “(A) has no lawful immigration status in the United States;

35 “(B) is the subject of a final order of removal; or

36 “(C) has committed a felony offense under section 842(i)(5), 911, 922(g)(5), 1015,
37 1028, 1028A, 1425, or 1426, or chapter 75 or 77, or section 243, 274, 275, 276, 277, or
38 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327,
39 1328).”.

40 (b) Immigration Status as Factor in Determining Conditions of Release.—Section 3142(g)(3)

1 of title 18, United States Code, is amended—

2 (1) in subparagraph (A), by striking “and” at the end; and

3 (2) by adding at the end the following:

4 “(C) whether the person is in a lawful immigration status, has previously entered the
5 United States illegally, has previously been removed from the United States, or has
6 otherwise violated the conditions of his or her lawful immigration status; and”.

7 SEC. 1709. RECRUITMENT OF PERSONS TO 8 PARTICIPATE IN TERRORISM.

9 (a) In General.—Chapter 113B of title 18, United States Code, is amended by inserting after
10 section 2332b the following:

11 “2332c. Recruitment of persons to participate in terrorism

12 “(a) Offenses.—

13 “(1) IN GENERAL.—It shall be unlawful for any person to employ, solicit, induce,
14 command, or cause another person to commit an act of domestic terrorism or international
15 terrorism or a Federal crime of terrorism, with the intent that the other person commit such
16 act or crime of terrorism.

17 “(2) ATTEMPT AND CONSPIRACY.—It shall be unlawful for any person to attempt or
18 conspire to commit an offense under paragraph (1).

19 “(b) Penalties.—Any person who violates subsection (a)—

20 “(1) in the case of an attempt or conspiracy, shall be fined under this title, imprisoned not
21 more than 10 years, or both;

22 “(2) if death of an individual results, shall be fined under this title, punished by death or
23 imprisoned for any term of years or for life, or both;

24 “(3) if serious bodily injury to any individual results, shall be fined under this title,
25 imprisoned not less than 10 years nor more than 25 years, or both; and

26 “(4) in any other case, shall be fined under this title, imprisoned not more than 10 years,
27 or both.

28 “(c) Rule of Construction.—Nothing in this section may be construed or applied to abridge the
29 exercise of rights guaranteed under the First Amendment to the Constitution of the United States.

30 “(d) Lack of Consummated Terrorist Act Not a Defense.—It is not a defense under this section
31 that the act of domestic terrorism or international terrorism or Federal crime of terrorism that is
32 the object of the employment, solicitation, inducement, commanding, or causing has not been
33 carried out.

34 “(e) Definitions.—In this section—

35 “(1) the term ‘Federal crime of terrorism’ has the meaning given that term in section
36 2332b; and

37 “(2) the term ‘serious bodily injury’ has the meaning given that term in section 1365(h).”.

1 (b) Clerical Amendment.—The table of sections for chapter 113B of title 18, United States
2 Code, is amended by inserting after the item relating to section 2332b the following:

3 “2332c. Recruitment of persons to participate in terrorism.”.

4 **SEC. 1710. BARRING AND REMOVING PERSECUTORS,**
5 **WAR CRIMINALS, AND PARTICIPANTS IN CRIMES**
6 **AGAINST HUMANITY FROM THE UNITED STATES.**

7 (a) Inadmissibility of Persecutors, War Criminals, and Participants in Crimes Against
8 Humanity.—Section 212(a)(3)(E) of the Immigration and Nationality Act (8 U.S.C.
9 1182(a)(3)(E)) is amended—

10 (1) by striking the subparagraph heading and inserting “PARTICIPANTS IN PERSECUTION
11 (INCLUDING NAZI PERSECUTIONS), GENOCIDE, WAR CRIMES, CRIMES AGAINST HUMANITY, OR
12 THE COMMISSION OF ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING.—”;

13 (2) in clause (iii)(II)—

14 (A) by striking “of any foreign nation” and inserting “(including acts taken as part of
15 an armed group exercising de facto authority)”; and

16 (3) by adding after clause (iii) the following:

17 “(iv) PERSECUTORS, WAR CRIMINALS, AND PARTICIPANTS IN CRIMES AGAINST
18 HUMANITY.—Any alien, including an alien who has or had superior responsibility,
19 who committed, ordered, incited, assisted, or otherwise participated in a war
20 crime (as defined in section 2441(c) of title 18, United States Code) or a crime
21 against humanity, or in the persecution of any person on account of race, religion,
22 nationality, membership in a particular social group, or political opinion, is
23 inadmissible.

24 “(v) CRIME AGAINST HUMANITY DEFINED.—In this subparagraph, the term
25 ‘crime against humanity’ means conduct that is part of a widespread or systematic
26 attack targeting any civilian population, with knowledge that the conduct was part
27 of the attack or with the intent that the conduct be part of the attack—

28 “(I) that, if such conduct occurred in the United States or in the special
29 maritime and territorial jurisdiction of the United States, would violate—

30 “(aa) section 1111 of title 18, United States Code (relating to
31 murder);

32 “(bb) section 1201(a) of such title (relating to kidnapping);

33 “(cc) section 1203(a) of such title (relating to hostage taking),
34 notwithstanding any exception under subsection (b) of such section
35 1203;

36 “(dd) section 1581(a) of such title (relating to peonage);

37 “(ee) section 1583(a)(1) of such title (relating to kidnapping or
38 carrying away individuals for involuntary servitude or slavery);

- 1 “(ff) section 1584(a) of such title (relating to sale into involuntary
2 servitude);
- 3 “(gg) section 1589(a) of such title (relating to forced labor);
- 4 “(hh) section 1590(a) of such title (relating to trafficking with respect
5 to peonage, slavery, involuntary servitude, or forced labor);
- 6 “(ii) section 1591(a) of such title (relating to sex trafficking of
7 children or by force, fraud, or coercion);
- 8 “(jj) section 2241(a) of such title (relating to aggravated sexual abuse
9 by force or threat); or
- 10 “(kk) section 2242 of such title (relating to sexual abuse);
- 11 “(II) that would constitute torture (as defined in section 2340(1) of such
12 title);
- 13 “(III) that would constitute cruel or inhuman treatment, as described in
14 section 2441(d)(1)(B) of such title;
- 15 “(IV) that would constitute performing biological experiments, as
16 described in section 2441(d)(1)(C) of such title;
- 17 “(V) that would constitute mutilation or maiming, as described in section
18 2441(d)(1)(E) of such title; or
- 19 “(VI) that would constitute intentionally causing serious bodily injury, as
20 described in section 2441(d)(1)(F) of such title.
- 21 “(vi) DEFINITIONS.—In this subparagraph—
- 22 “(I) the term ‘superior responsibility’ means—
- 23 “(aa) a leader, a member of a military, or a person with effective
24 control of military forces, or a person with de facto or de jure control of
25 an armed group;
- 26 “(bb) who knew or should have known that a subordinate or someone
27 under his or her de facto or de jure control is committing acts described
28 in subsection (a), is about to commit such acts, or had committed such
29 acts; and
- 30 “(cc) who fails to take the necessary and reasonable measures to
31 prevent such acts or, for acts that have been committed, to punish the
32 perpetrators of such acts;
- 33 “(II) the term ‘systematic’ means the commission of a series of acts
34 following a regular pattern and occurring in an organized, non-random
35 manner; and
- 36 “(III) the term ‘widespread’ means a single, large scale act or a series of
37 acts directed against a substantial number of victims.”.

38 (b) Removal of Persecutors.—Section 237(a)(4)(D) of the Immigration and Nationality Act (8
39 U.S.C. 1227(a)(4)(D)) is amended—

- 1 (1) in the subparagraph heading, by striking “NAZI”; and
2 (2) by striking “or (iii)” and inserting “(iii), or (iv)”.
- 3 (c) Severe Violations of Religious Freedom.—Section 212(a)(2)(G) of the Immigration and
4 Nationality Act (8 U.S.C. 1182(a)(2)(G) is amended—
5 (1) in the subparagraph heading, by striking “FOREIGN GOVERNMENT OFFICIALS” and
6 inserting “ANY PERSONS”; and
7 (2) by striking “, while serving as a foreign government official,”.
- 8 (d) Barring Persecutors From Establishing Good Moral Character.—Section 101(f) of the
9 Immigration and Nationality Act (8 U.S.C. 1101(f) is amended—
10 (1) in paragraph (8), by striking “or” at the end;
11 (2) in paragraph (9), by striking “killings) or 212(a)(2)(G) (relating to severe violations of
12 religious freedom).” and inserting “killings), 212(a)(2)(G) (relating to severe violations of
13 religious freedom), or 212(a)(3)(G) (relating to recruitment and use of child soldiers); or”;
14 and
15 (3) by inserting after paragraph (9) the following:
16 “(10) one who at any time committed, ordered, incited, assisted, or otherwise participated
17 in the persecution of any person on account of race, religion, nationality, membership in a
18 particular social group, or political opinion.”.
- 19 (e) Increasing Criminal Penalties for Anyone Who Aids and Abets the Entry of a
20 Persecutor.—Section 277 of the Immigration and Nationality Act (8 U.S.C. 1327) is amended by
21 striking “(other than subparagraph (E) thereof)”.
- 22 (f) Increasing Criminal Penalties for Female Genital Mutilation.—Section 116 of title 18,
23 United States Code, is amended—
24 (1) in subsection (a), by striking “shall be fined under this title or imprisoned not more
25 than 5 years, or both” and inserting “has engaged in a violent crime against children under
26 section 3559(f)(3), shall be imprisoned for life or for 10 years or longer”; and
27 (2) in subsection (d), by striking “shall be fined under this title or imprisoned not more
28 than 5 years, or both.” and inserting “shall be imprisoned for life or for 10 years or longer.”.
- 29 (g) Technical Amendments.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is
30 amended—
31 (1) in section 101(a)(42) (8 U.S.C. 1101(a)(42)), by inserting “committed,” before
32 “ordered”;
33 (2) in section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)), by inserting “committed,”
34 before “ordered”; and
35 (3) in section 241(b)(3)(B)(i) (8 U.S.C. 1231(b)(3)(B)(i)), by inserting “committed,”
36 before “ordered”.
- 37 (h) Application.—The amendments made by this section shall apply to any offense committed
38 before, on, or after the date of the enactment of this Act.

1 SEC. 1711. CHILD SOLDIER RECRUITMENT
2 INELIGIBILITY TECHNICAL CORRECTION.

3 Section 212(a)(3)(G) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(G)) is
4 amended by striking “section 2442” and inserting “section 2442(a)”.

5 SEC. 1712. GANG MEMBERSHIP, REMOVAL, AND
6 INCREASED CRIMINAL PENALTIES RELATED TO GANG
7 VIOLENCE.

8 (a) Definition of Criminal Gang.—Section 101(a) of the Immigration and Nationality Act (8
9 U.S.C. 1101(a)) is amended by inserting after paragraph (52) the following:

10 “(53)(A) The term ‘criminal gang’ means any ongoing group, club, organization, or
11 association, inside or outside the United States, of 2 or more persons that—

12 “(i) has, as 1 of its primary purposes, the commission of 1 or more of the criminal
13 offenses described in subparagraph (B) and the members of which engage, or have engaged
14 within the past 5 years, in a continuing series of such offenses; or

15 “(ii) has been designated as a criminal gang by the Secretary, in consultation with the
16 Secretary of State and the Attorney General, as meeting the criteria set forth in clause (i).

17 “(B) The offenses described in this subparagraph, whether in violation of Federal or State law
18 or the law of a foreign country and regardless of whether the offenses occurred before, on, or
19 after the date of the enactment of the SECURE and SUCCEED Act, are the following:

20 “(i) Any aggravated felony.

21 “(ii) A felony drug offense (as defined in section 102 of the Controlled Substances Act
22 (21 U.S.C. 802)).

23 “(iii) Any criminal offense described in section 212 or 237.

24 “(iv) An offense involving illicit trafficking in a controlled substance (as defined in
25 section 102 of the Controlled Substances Act (21 U.S.C. 802)), including a drug trafficking
26 crime (as defined in section 924(c) of title 18, United States Code).

27 “(v) An offense under section 274 (relating to bringing in and harboring certain aliens),
28 section 277 (relating to aiding or assisting certain aliens to enter the United States), or
29 section 278 (relating to importation of alien for immoral purpose).

30 “(vi) Any offense under Federal, State, or Tribal law, that has, as an element of the
31 offense, the use or attempted use of physical force or the threatened use of physical force or
32 a deadly weapon.

33 “(vii) Any offense that has, as an element of the offense, the use, attempted use, or
34 threatened use of any physical object to inflict or cause (either directly or indirectly) serious
35 bodily injury, including an injury that may ultimately result in the death of a person.

36 “(viii) An offense involving obstruction of justice or tampering with or retaliating against
37 a witness, victim, or informant.

1 “(ix) Any conduct punishable under section 1028 or 1029 of title 18, United States Code
2 (relating to fraud and related activity in connection with identification documents or access
3 devices), sections 1581 through 1594 of such title (relating to peonage, slavery and
4 trafficking in persons), section 1952 of such title (relating to interstate and foreign travel or
5 transportation in aid of racketeering enterprises), section 1956 of such title (relating to the
6 laundering of monetary instruments), section 1957 of such title (relating to engaging in
7 monetary transactions in property derived from specified unlawful activity), or sections
8 2312 through 2315 of such title (relating to interstate transportation of stolen motor vehicles
9 or stolen property).

10 “(x) A conspiracy to commit an offense described in clauses (i) through (v).

11 “(C) Notwithstanding any other provision of law (including any effective date), a group, club,
12 organization, or association shall be considered a criminal gang regardless of whether the
13 conduct occurred before, on, or after the date of the enactment of the SECURE and SUCCEED
14 Act.”.

15 (b) Inadmissibility.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C.
16 1182(a)(2)) is amended by adding at the end the following:

17 “(J) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

18 “(i) IN GENERAL.—Any alien who a consular officer, the Secretary, or the
19 Attorney General knows or has reasonable ground to believe—

20 “(I) to be or to have been a member of a criminal gang; or

21 “(II) to have participated in the activities of a criminal gang, knowing or
22 having reason to know that such activities promoted or will promote, further,
23 aid, or support the illegal activity of the criminal gang,

24 is inadmissible.

25 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien who did not know,
26 or should not reasonably have known, of the activity causing the alien to be
27 found inadmissible under this section.”.

28 (c) Designation of Criminal Gangs.—

29 (1) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C.
30 1181 et seq.) is amended by adding at the end the following:

31 **“SEC. 220. DESIGNATION OF CRIMINAL GANGS.**

32 “(a) In General.—The Secretary, in consultation with the Attorney General, and the Secretary
33 of State, may designate a group or association as a criminal gang if their conduct is described in
34 section 101(a)(53) or if the group’s or association’s conduct poses a significant risk that threatens
35 the security and the public safety of United States nationals or the national security, homeland
36 security, or economy of the United States.

37 “(b) Effective Date.—A designation under subsection (a) shall remain in effect until the
38 designation is revoked, after consultation between the Secretary, the Attorney General, and the
39 Secretary of State, or is terminated in accordance with Federal law.”.

1 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
2 and Nationality Act is amended by inserting after the item relating to section 219 the
3 following:

4 “220. Designation of criminal gangs.”

5 (d) Deportability.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C.
6 1227(a)(2)) is amended by adding at the end the following:

7 “(G) ALIENS ASSOCIATED WITH CRIMINAL GANGS.—

8 “(i) IN GENERAL.—Any alien who the Secretary or the Attorney General knows
9 or has reason to believe—

10 “(I) is or has been a member of a criminal gang; or

11 “(II) has participated in the activities of a criminal gang, knowing or
12 having reason to know that such activities will promote, further, aid, or
13 support the illegal activity of the criminal gang,

14 is deportable.

15 “(ii) EXCEPTION.—Clause (i) shall not apply to an alien—

16 “(I) who did not know, or should not reasonably have known, of the
17 activity causing the alien to be found deportable under this section; or

18 “(II) whom the Secretary or the Attorney General has reasonable grounds
19 to believe has renounced the activity causing the alien to be found deportable
20 under this section.”.

21 (e) Cancellation of Removal.—Section 240A(c) of the Immigration and Nationality Act (8
22 U.S.C. 1229b(c)) is amended by adding at the end the following:

23 “(7) An alien who is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
24 (relating to participation in criminal gangs).”.

25 (f) Voluntary Departure.—Section 240B(c) of the Immigration and Nationality Act (8 U.S.C.
26 1229c(c)) is amended to read as follows:

27 “(c) Limitation on Voluntary Departure.—The Attorney General shall not permit an alien to
28 depart voluntarily under this section if the alien—

29 “(1) was previously permitted to depart voluntarily after having been found inadmissible
30 under section 212(a)(6)(A); or

31 “(2) is described in section 212(a)(2)(J)(i) or 237(a)(2)(G)(i) (relating to participation in
32 criminal gangs).”.

33 (g) Asylum Claims Based on Gang Affiliation.—

34 (1) INAPPLICABILITY OF RESTRICTION ON REMOVAL TO CERTAIN COUNTRIES.—Section
35 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) is amended
36 in the matter preceding clause (i) by inserting “who is described in section 212(a)(2)(J)(i) or
37 section 237(a)(2)(G)(i) or who is” after “to an alien”.

38 (2) INELIGIBILITY FOR ASYLUM.—Section 208(b)(2)(A) of the Immigration and

1 Nationality Act (8 U.S.C. 1158(b)(2)(A)) is amended—

2 (A) in clause (v), by striking “or” at the end;

3 (B) by redesignating clause (vi) as clause (vii);

4 (C) by inserting after clause (v) the following:

5 “(vi) the alien is described in section 212(a)(2)(J)(i) or section 237(a)(2)(G)(i)
6 (relating to participation in criminal gangs); or”; and

7 (D) by amending clause (vii), as redesignated, to read as follows:

8 “(vii) the alien was firmly resettled in another country before arriving in the
9 United States, which shall be considered evidence that the alien can live in such
10 country (in any legal status) without fear of persecution.”.

11 (h) Good Moral Character Bar for Criminal Gang Members.—Section 101(f) of the
12 Immigration and Nationality Act (8 U.S.C. 1101(f)), as amended by section 1710(d), 1713(d),
13 and 1822(a) of this Act, is further amended by inserting after paragraph (10) the following:

14 “(11) is a member of one or more classes of persons described in section 212(a)(2)(J) or
15 237(a)(2)(G) and has been convicted of any offense described under section 101(a)(43),
16 section 212(a)(2), or section 237(a)(2); or”.

17 (i) Annual Report on Detention of Criminal Gang Members.—Not later than March 1 of the
18 first calendar year beginning at least 1 year after the date of the enactment of this Act, and
19 annually thereafter, the Secretary of Homeland Security, after consultation with the heads of
20 appropriate Federal agencies, shall submit a report to the Committee on Homeland Security and
21 Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
22 Committee on Homeland Security of the House of Representatives, and the Committee on the
23 Judiciary of the House of Representatives that identifies the number of aliens detained described
24 in sections 212(a)(2)(J) and section 237(a)(2)(G) of the Immigration and Nationality Act, as
25 added by subsections (b) and (d).

26 (j) Effective Date and Application.—The amendments made by this section shall take effect
27 on the date of the enactment of this Act and shall apply to acts that occur before, on, or after the
28 date of the enactment of this Act.

29 **SEC. 1714. BARRING AGGRAVATED FELONS, BORDER**
30 **CHECKPOINT RUNNERS, AND SEX OFFENDERS FROM**
31 **ADMISSION TO THE UNITED STATES.**

32 (a) Inadmissibility on Criminal and Related Grounds; Waivers.—Section 212 of the
33 Immigration and Nationality Act (8 U.S.C. 1182) is amended—

34 (1) in subsection (a)(2)—

35 (A) in subparagraph (A)(i)—

36 (i) in subclause (I), by striking “, or” at the end and inserting a semicolon;

37 (ii) in subclause (II), by striking the comma at the end and inserting “; or”; and

38 (iii) by inserting after subclause (II) the following:

1 “(III) a violation of (or a conspiracy or attempt to violate) any statute
2 relating to section 208 of the Social Security Act (42 U.S.C. 408) (relating to
3 social security account numbers or social security cards) or section 1028 of
4 title 18, United States Code (relating to fraud and related activity in
5 connection with identification documents, authentication features, and
6 information)”; and

7 (B) by inserting after subparagraph (K), as added by section 1713(b) of this Act, the
8 following:

9 “(L) CITIZENSHIP FRAUD.—Any alien convicted of, or who admits having
10 committed, or who admits committing acts which constitute the essential elements of, a
11 violation of, or an attempt or a conspiracy to violate, subsection (a) or (b) of section
12 1425 of title 18, United States Code (relating to the procurement of citizenship or
13 naturalization unlawfully), is inadmissible.

14 “(M) CERTAIN FIREARM OFFENSES.—Any alien who at any time has been convicted
15 under any law of, admits having committed, or admits committing acts which
16 constitute the essential elements of, any law relating to, purchasing, selling, offering
17 for sale, exchanging, using, owning, possessing, or carrying, or of attempting or
18 conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any
19 weapon, part, or accessory which is a firearm or destructive device (as defined in
20 section 921(a) of title 18, United States Code) in violation of any law, is inadmissible.
21 For purposes of this subparagraph “any law” includes State laws that do not contain an
22 exception for antique firearms. If the State law does not contain an exception for
23 antique firearms, the Secretary or the Attorney General may consider documentary
24 evidence related to the conviction, including but not limited to charging documents,
25 plea agreements, plea colloquies, jury instructions, and police reports, to establish that
26 the offense involved at least one firearm that is not an antique firearm.

27 “(N) AGGRAVATED FELONS.—Any alien who has been convicted of an aggravated
28 felony at any time is inadmissible.

29 “(O) HIGH SPEED FLIGHT.—Any alien who has been convicted of a violation of
30 section 758 of title 18, United States Code (relating to high speed flight from an
31 immigration checkpoint) is inadmissible.

32 “(P) FAILURE TO REGISTER AS A SEX OFFENDER.—Any alien convicted under section
33 2250 of title 18, United States Code, is inadmissible.

34 “(Q) CRIMES OF DOMESTIC VIOLENCE, STALKING, OR VIOLATION OF PROTECTION
35 ORDERS; CRIMES AGAINST CHILDREN.—

36 “(i) DOMESTIC VIOLENCE, STALKING, AND CHILD ABUSE.—

37 “(I) IN GENERAL.—Except as provided in section 212 (v), any alien who at
38 any time is or has been convicted of a crime involving the use or attempted
39 use of physical force, or threatened use of a deadly weapon, a crime of
40 domestic violence, a crime of stalking, or a crime of child abuse, child
41 neglect, or child abandonment is inadmissible.

42 “(II) CRIME OF DOMESTIC VIOLENCE DEFINED.—For purposes of this

1 clause, the term ‘crime of domestic violence’ has the same meaning as it
2 does in section 237(a)(2)(E)(i), as implemented by section 237(a)(2)(E)(iii).

3 “(ii) VIOLATORS OF PROTECTION ORDERS.—

4 “(I) IN GENERAL.—Except as provided in subsection 212(v), any alien who
5 at any time is or has been enjoined under a protection order issued by a court
6 and whom the court determines has engaged in conduct that violates the
7 portion of a protection order that involves protection against credible threats
8 of violence, repeated harassment, or bodily injury to the person or persons
9 for whom the protection order was issued is inadmissible.

10 “(II) PROTECTIVE ORDER DEFINED.—In this clause, the term ‘protection
11 order’ has the same meaning as it does in section 237(a)(2)(E)(ii).”;

12 (2) in subsection (h)—

13 (A) in the matter preceding paragraph (1), as amended by section 1713(e) of this
14 Act, by striking “, and (K)”, and inserting “(K), and (M)”;

15 (B) by designating the undesignated matter following paragraph (2) as paragraph
16 (3); and

17 (C) by amending paragraph (3) as redesignated by striking the first two sentences
18 and inserting the following:

19 “No waiver shall be provided under this subsection in the case of an alien:

20 “(A) who has been convicted of (or who has admitted committing acts that
21 constitute):

22 “(i) murder or criminal acts of torture, or;

23 “(ii) an attempt or conspiracy to commit murder or a criminal act involving torture;

24 “(B) who has been convicted of an aggravated felony; or

25 “(C) who has been lawfully admitted for permanent residence and who since the
26 date of such admission has not lawfully resided continuously in the United States for at
27 least seven years immediately preceding the date of initiation of proceedings to remove
28 the alien from the United States.”

29 (i) by striking “torture.” and inserting “torture, or has been convicted of an
30 aggravated felony.”; and

31 (ii) by striking “if either since the date of such admission the alien has been
32 convicted of an aggravated felony or the alien” and inserting “if since the date of
33 such admission the alien”;

34 (3) by redesignating subsection (t), as added by section 1(b)(2)(B) of Public Law 108–
35 449, as subsection (u); and

36 (4) by adding at the end the following:

37 “(v) Waiver for Victims of Domestic Violence.—

38 “(1) IN GENERAL.—The Secretary or the Attorney General is not limited by the criminal

1 court record and may waive the application of subsection (a)(2)(Q)(i) (with respect to
2 crimes of domestic violence and crimes of stalking) and subsection (a)(2)(Q)(ii), in the case
3 of an alien who has been battered or subjected to extreme cruelty and who is not and was
4 not the primary perpetrator of violence in the relationship, upon a determination that—

5 “(A) the alien was acting in self-defense;

6 “(B) the alien was found to have violated a protection order intended to protect the
7 alien; or

8 “(C) the alien committed or was convicted of committing a crime—

9 “(i) that did not result in serious bodily injury; and

10 “(ii) where there was a connection between the crime and the alien’s having
11 been battered or subjected to extreme cruelty.

12 “(2) CREDIBLE EVIDENCE CONSIDERED.—In acting on applications for a waiver under this
13 subsection, the Secretary or the Attorney General shall consider any credible evidence
14 relevant to the application. The determination of what evidence is credible and the weight to
15 be given that evidence shall be within the sole discretion of the Secretary or the Attorney
16 General.”.

17 (b) Deportability; Criminal Offenses.—Section 237(a)(2) of the Immigration and Nationality
18 Act (8 U.S.C. 1227(a)(2)), as amended by sections 1712(c) and 1713(c) of this Act, is further
19 amended by adding at the end the following:

20 “(I) IDENTIFICATION FRAUD.—Any alien who is convicted of a violation of (or a
21 conspiracy or attempt to violate) an offense relating to section 208 of the Social
22 Security Act (42 U.S.C. 408) (relating to social security account numbers or social
23 security cards) or section 1028 of title 18, United States Code (relating to fraud and
24 related activity in connection with identification) is deportable.”.

25 (c) Deportability; Criminal Offenses.—Section 237(a)(3)(B) of the Immigration and
26 Nationality Act (8 U.S.C. 1227(a)(3)(B)) is amended—

27 (1) in clause (i), by striking the comma at the end and inserting a semicolon;

28 (2) in clause (ii), by striking “, or” at the end and inserting a semicolon;

29 (3) in clause (iii), by striking the comma at the end and inserting “; or”; and

30 (4) by inserting after clause (iii) the following:

31 “(iv) of a violation of, or an attempt or a conspiracy to violate, subsection (a) or
32 (b) of section 1425 of title 18, United States Code (relating to the unlawful
33 procurement of citizenship or naturalization),”.

34 (d) Applicability.—The amendments made by this section shall apply to—

35 (1) any act that occurred before, on, or after the date of the enactment of this Act;

36 (2) all aliens who are required to establish admissibility on or after such date of
37 enactment; and

38 (3) all removal, deportation, or exclusion proceedings that are filed, pending, or
39 reopened, on or after such date of enactment.

1 (e) Rule of Construction.—The amendments made by this section may not be construed to
2 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
3 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
4 such eligibility did not exist before such date of enactment.

5 SEC. 1715. PROTECTING IMMIGRANTS FROM 6 CONVICTED SEX OFFENDERS.

7 (a) Immigrants.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C.
8 1154(a)(1)) is amended—

9 (1) in subparagraph (A), by amending clause (viii) to read as follows:

10 “(viii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an
11 offense described in subparagraph (A), (I), or (K) of section 101(a)(43) or a specified offense
12 against a minor (as defined in section 111(7) of the Adam Walsh Child Protection and Safety Act
13 of 2006 (34 U.S.C. 20911(7))) unless the Secretary, in the Secretary’s sole and unreviewable
14 discretion, determines that the citizen poses no risk to the alien with respect to whom a petition
15 described in clause (i) is filed.”; and

16 (2) in subparagraph (B)(i)—

17 (A) by redesignating the second subclause (I) as subclause (II); and

18 (B) by amending such subclause (II) to read as follows:

19 “(II) Subclause (I) shall not apply to an alien lawfully admitted for permanent residence who
20 has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43)
21 or a specified offense against a minor as defined in section 111(7) of the Adam Walsh Child
22 Protection and Safety Act of 2006 (34 U.S.C. 20911(7)) unless the Secretary, in the Secretary’s
23 sole and unreviewable discretion, determines that the alien lawfully admitted for permanent
24 residence poses no risk to the alien with respect to whom a petition described in subclause (I) is
25 filed.”.

26 (b) Nonimmigrants.—Section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C.
27 1101(a)(15)(K)) is amended by striking “204(a)(1)(A)(viii)(I)” each place it appears and
28 inserting “204(a)(1)(A)(viii)”.

29 (c) Effective Date and Application.—The amendments made by this section shall take effect
30 on the date of the enactment of this Act and shall apply to petitions filed on or after such date.

31 SEC. 1716. ENHANCED CRIMINAL PENALTIES FOR 32 HIGH SPEED FLIGHT.

33 (a) In General.—Section 758 of title 18, United States Code, is amended to read as follows:

34 “758. Unlawful flight from immigration or customs controls

35 “(a) Evading a Checkpoint.—Any person who, while operating a motor vehicle or vessel,
36 knowingly flees or evades a checkpoint operated by the Department of Homeland Security or
37 any other Federal law enforcement agency, and then knowingly or recklessly disregards or
38 disobeys the lawful command of any law enforcement agent, shall be fined under this title,

1 imprisoned not more than 5 years, or both.

2 “(b) Failure to Stop.—Any person who, while operating a motor vehicle, aircraft, or vessel,
3 knowingly or recklessly disregards or disobeys the lawful command of an officer of the
4 Department of Homeland Security engaged in the enforcement of the immigration, customs, or
5 maritime laws, or the lawful command of any law enforcement agent assisting such officer, shall
6 be fined under this title, imprisoned not more than 2 years, or both.

7 “(c) Alternative Penalties.—Notwithstanding the penalties provided in subsection (a) or (b),
8 any person who violates such subsection—

9 “(1) shall be fined under this title, imprisoned not more than 10 years, or both, if the
10 violation involved the operation of a motor vehicle, aircraft, or vessel—

11 “(A) in excess of the applicable or posted speed limit;

12 “(B) in excess of the rated capacity of the motor vehicle, aircraft, or vessel; or

13 “(C) in an otherwise dangerous or reckless manner;

14 “(2) shall be fined under this title, imprisoned not more than 20 years, or both, if the
15 violation created a substantial and foreseeable risk of serious bodily injury or death to any
16 person;

17 “(3) shall be fined under this title, imprisoned not more than 30 years, or both, if the
18 violation caused serious bodily injury to any person; or

19 “(4) shall be fined under this title, imprisoned for any term of years or life, or both, if the
20 violation resulted in the death of any person.

21 “(d) Attempt and Conspiracy.—Any person who attempts or conspires to commit any offense
22 under this section shall be punished in the same manner as a person who completes the offense.

23 “(e) Forfeiture.—Any property, real or personal, constituting or traceable to the gross proceeds
24 of the offense and any property, real or personal, used or intended to be used to commit or
25 facilitate the commission of the offense shall be subject to forfeiture.

26 “(f) Forfeiture Procedures.—Seizures and forfeitures under this section shall be governed by
27 the provisions of chapter 46 (relating to civil forfeitures), including section 981(d), except that
28 such duties as are imposed upon the Secretary of the Treasury under the customs laws described
29 in that section shall be performed by such officers, agents, and other persons as may be
30 designated for that purpose by the Secretary of Homeland Security or the Attorney General.
31 Nothing in this section may be construed to limit the authority of the Secretary of Homeland
32 Security to seize and forfeit motor vehicles, aircraft, or vessels under the customs laws or any
33 other laws of the United States.

34 “(g) Definitions.—For purposes of this section—

35 “(1) the term ‘checkpoint’ includes any customs or immigration inspection at a port of
36 entry or immigration inspection at a U.S. Border Patrol checkpoint;

37 “(2) the term ‘law enforcement agent’ means—

38 “(A) any Federal, State, local or tribal official authorized to enforce criminal law;
39 and

1 “(B) when conveying a command described in subsection (b), an air traffic
2 controller;

3 “(3) the term ‘lawful command’ includes a command to stop, decrease speed, alter
4 course, or land, whether communicated orally, visually, by means of lights or sirens, or by
5 radio, telephone, or other communication;

6 “(4) the term ‘motor vehicle’ means any motorized or self-propelled means of terrestrial
7 transportation; and

8 “(5) the term ‘serious bodily injury’ has the meaning given in section 2119(2).”.

9 (b) Clerical Amendment.—The table of sections for chapter 35 of title 18, United States Code,
10 is amended by striking the item relating to section 758 and inserting the following:

11 “758. Unlawful flight from immigration or customs controls.”.

12 (c) Rule of Construction.—The amendments made by subsection (a) may not be construed to
13 create eligibility for relief from removal under section 212(c) of the Immigration and Nationality
14 Act (8 U.S.C. 1182(c)), as in effect on the day before the date of the enactment of this Act, if
15 such eligibility did not exist before such date of enactment.

16 SEC. 1717. PROHIBITION ON ASYLUM AND 17 CANCELLATION OF REMOVAL FOR TERRORISTS.

18 (a) Asylum.—Section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C.
19 1158(b)(2)(A)), as amended by 1712(f) of this Act, is further amended—

20 (1) by inserting “or the Secretary” after “if the Attorney General”; and

21 (2) by amending clause (v) to read as follows:

22 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),
23 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
24 Secretary or the Attorney General determines, in his or her sole and unreviewable
25 discretion, that there are not reasonable grounds for regarding the alien as a
26 danger to the security of the United States;”.

27 (b) Cancellation of Removal.—Section 240A(c)(4) of the Immigration and Nationality Act (8
28 U.S.C. 1229b(c)(4)) is amended—

29 (1) by striking “inadmissible under” and inserting “described in”; and

30 (2) by striking “deportable under” and inserting “described in”.

31 (c) Restriction on Removal.—

32 (1) IN GENERAL.—Section 241(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C.
33 1231(b)(3)(A)) is amended—

34 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

35 (B) by striking “Notwithstanding” and inserting the following:

36 “(i) IN GENERAL.—Notwithstanding”; and

37 (C) by adding at the end the following:

1 “(ii) BURDEN OF PROOF.—The alien has the burden of proof to establish that the
2 alien’s life or freedom would be threatened in such country, and that race,
3 religion, nationality, membership in a particular social group, or political opinion
4 would be at least 1 central reason for such threat.”.

5 (2) EXCEPTION.—Section 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
6 amended—

7 (A) by inserting “or the Secretary” after “Attorney General” both places it appears;

8 (B) in clause (iii), striking “or” at the end;

9 (C) in clause (iv), striking the period at the end and inserting a semicolon;

10 (D) inserting after clause (iv) the following:

11 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3)(B),
12 unless, in the case of an alien described in section 212(a)(3)(B)(i)(IX), the
13 Secretary or the Attorney General determines, in his or her sole and unreviewable
14 discretion, that there are not reasonable grounds for regarding the alien as a
15 danger to the security of the United States; or

16 “(vi) the alien is convicted of an aggravated felony.”; and

17 (E) by striking the undesignated matter at the end.

18 (3) SUSTAINING BURDEN OF PROOF; CREDIBILITY DETERMINATIONS.—Section 241(b)(3)(C)
19 of such Act (8 U.S.C. 1231(b)(3)(C)) is amended by striking “In determining whether an
20 alien has demonstrated that the alien’s life or freedom would be threatened for a reason
21 described in subparagraph (A),” and inserting “For purposes of this paragraph,”.

22 (4) EFFECTIVE DATE AND APPLICATION.—The amendments made by paragraphs (1) and
23 (2) shall take effect as if enacted on May 11, 2005, and shall apply to applications for
24 withholding of removal made on or after such date.

25 (d) Effective Dates; Applications.—Except as provided in subsection (c)(4), the amendments
26 made by this section shall take effect on the date of the enactment of this Act and sections
27 208(b)(2)(A), 240A(c), and 241(b)(3) of the Immigration and Nationality Act, as amended by
28 this section, shall apply to—

29 (1) all aliens in removal, deportation, or exclusion proceedings;

30 (2) all applications pending on, or filed after, the date of the enactment of this Act; and

31 (3) with respect to aliens and applications described in paragraph (1) or (2), acts and
32 conditions constituting a ground for exclusion, deportation, or removal occurring or existing
33 before, on, or after the date of the enactment of this Act.

34 SEC. 1718. AGGRAVATED FELONIES.

35 (a) Definition of Aggravated Felony.—Section 101(a)(43) of the Immigration and Nationality
36 Act (8 U.S.C. 1101(a)(43)), as amended by section 1713(a) of this Act, is further amended to
37 read—

38 “(43) The term “aggravated felony” means –

- 1 (A)
- 2 (i) any offense punishable by a maximum term of imprisonment of two (2) years or more
3 regardless of the term of imprisonment, if any, actually imposed; or
- 4 (ii) any offense - for which the term of imprisonment imposed was one (1) year or more
5 even if that term is suspended or probated; or
- 6 (iii) any two or more offenses, regardless of whether the convictions therefor resulted
7 from a single trial or plea and regardless of whether the offenses arose from a single scheme
8 of misconduct, for which the aggregate term of imprisonment imposed was three (3) years
9 or more; or
- 10 (B) An offense not otherwise determined to be an aggravated felony offense in
11 accordance with paragraph (A) shall also be considered to be an aggravated felony offense,
12 regardless of the length of sentence imposed (unless otherwise indicated) or of the elements
13 of the offense required for a conviction, provided that the nature of the offense is described
14 within one or more of the subparagraphs below:
- 15 (1) any crime of or related to the following: murder in any degree, voluntary or
16 involuntary manslaughter, homicide (regardless of the required level of intent and including
17 reckless or negligent homicide), sexual assault or battery, rape (including statutory rape),
18 any offense for which the individual was required to register as a sex offender under federal
19 or state law, or any other sex offense, including offenses related to the actual or attempted
20 abuse of or contact with minors (defined as individuals under the age of 18 but including
21 offenses in which the intended victim was actually a law enforcement officer), regardless of
22 the reason and extent of the act; or
- 23 (2) (a) Any drug trafficking crime as defined in 18 U.S.C. § 924(c); or
- 24 (b) Any other crime classified as a felony in the jurisdiction of conviction involving or
25 related to a controlled substance that is classified as controlled in the jurisdiction of
26 conviction, regardless of whether the substance is also classified as controlled by the federal
27 government and regardless of whether the crime would be classified as a felony under
28 federal law; or
- 29 (3) any offense relating to illicit trafficking in firearms or destructive devices (as defined
30 in section 921 of title 18) or in explosive materials (as defined in section 841(c) of that
31 title); or
- 32 (4) any offense relating to laundering of monetary instruments or engaging in monetary
33 transactions in property derived from unlawful activity if the amount of the funds exceeded
34 \$10,000; or
- 35 (5) a crime of violence (or an offense relating to a crime of violence), including but not
36 limited to, any crime labeled as assault or battery by the relevant jurisdiction of conviction,
37 state or federal, regardless of whether the crime also meets the definition in 18 U.S.C. § 16,
38 for which the term of imprisonment imposed is at least nine months; or
- 39 (6) a theft offense (or an offense relating to a theft offense), including but not limited to,
40 any crime labeled as theft, shoplifting, burglary, or embezzlement by the relevant
41 jurisdiction of conviction, state or federal, and regardless of the method of the theft, and
42 regardless of whether any taking was temporary or permanent, for which the term of

- 1 imprisonment imposed is at least nine months; or
- 2 (7) any offense relating to those described in—
- 3 (i) sections 842 or 844 of title 18;
- 4 (ii) section 922 or 924 of title 18 ; or
- 5 (iii) section 5861 of title 26;
- 6 (8) any offense relating to a failure to appear before a court pursuant to a court order to
- 7 answer to or dispose of a charge of a felony; or
- 8 (9) any offense relating to the demand for or receipt of ransom; or
- 9 (10) any offense relating to child pornography, as defined by the jurisdiction of
- 10 conviction; or
- 11 (11) any offense relating to racketeer influenced corrupt organizations, or relating to
- 12 transmission of wagering information (if it is a second or subsequent offense) or relating to
- 13 illegal gambling business offenses; or
- 14 (12) any offense relating to —
- 15 (i) the owning, controlling, managing, or supervising of a prostitution business;
- 16 (ii) transportation for the purpose of prostitution, if committed for commercial
- 17 advantage; or
- 18 (iii) peonage, slavery, involuntary servitude, and trafficking in persons; or
- 19 (13) any offense relating to—
- 20 (i) gathering or transmitting national defense information, disclosure of classified
- 21 information, sabotage or treason;
- 22 (ii) protecting the identity of undercover intelligence agents; or
- 23 (iii) protecting the identity of undercover agents; or
- 24 (14) any offense—
- 25 (i) involving fraud or deceit in which the loss to the victim or victims exceeds \$10,000;
- 26 or
- 27 (ii) relating to those described in section 7201 of title 26 (relating to tax evasion) in
- 28 which the revenue loss to the Government exceeds \$10,000; or
- 29 (15) any offense relating to an offense described in paragraph (1)(A) or (2) of section
- 30 1324(a) of this title (relating to alien smuggling), except in the case of a first offense for
- 31 which the alien has affirmatively shown that the alien committed the offense for the purpose
- 32 of assisting, abetting, or aiding only the alien’s spouse, child, or parent (and no other
- 33 individual) to violate a provision of this chapter; or
- 34 (16) any offense relating to those described in section 1325(a) or 1326 of this title
- 35 committed by an alien who was previously excluded, deported, or removed from the United
- 36 States; or
- 37 (17) an offense related to falsely making, forging, counterfeiting, mutilating, or altering a

1 passport or instrument relating to document fraud; or

2 (18) any offense relating to a failure to appear by a defendant for service of sentence if
3 the underlying offense is punishable by imprisonment for a term of three (3) years or more;
4 or

5 (19) any offense relating to commercial bribery, counterfeiting, forgery, or trafficking in
6 vehicles the identification numbers of which have been altered; or

7 (20) any offense relating to obstruction of justice, perjury or subornation of perjury, or
8 bribery of a witness; or

9 (21) (a) a single conviction for driving while intoxicated or impaired as those terms are
10 defined under the jurisdiction where the conviction occurred (including a conviction for
11 driving while under the influence of or impaired by alcohol or drugs) without regard to
12 whether the conviction is classified as a misdemeanor or felony under State law when such
13 impaired driving was a cause of serious bodily injury or death of another person or (b) a
14 second or subsequent conviction for driving while intoxicated or impaired as those terms
15 are defined under the jurisdiction where the conviction occurred (including a conviction for
16 driving while under the influence of or impaired by alcohol or drugs) without regard to
17 whether the conviction is classified as a misdemeanor or felony under State law. A finding
18 under this paragraph does not require the Secretary or Homeland Security or the Attorney
19 General to prove the first conviction for driving while intoxicated or impaired (including a
20 conviction for driving while under the influence of or impaired by alcohol or drugs) as a
21 predicate offense. The Secretary of Homeland Security or the Attorney General need only
22 make a factual determination that the alien was previously convicted for driving while
23 intoxicated or impaired as those terms are defined under the jurisdiction where the
24 conviction occurred (including a conviction for driving while under the influence of or
25 impaired by alcohol or drugs); or

26 (22) an offense relating to terrorism or national security, not otherwise included in
27 subsection (M), and including, but not limited to, a conviction for a violation of any statute
28 in Chapter 113B of Title 18 of the United States Code; or

29 (23) a conviction for violating section 295 of the Immigration and Nationality Act, as
30 amended by section 1125 of this Act; or

31 (24) any offense relating to those described in Chapter 50A (genocide), 113C (torture), or
32 118 (war crimes and recruitment or use of child soldiers) of Title 18, in section 116 of
33 Chapter 7 of Title 18 (female genital mutilation), or a felony conviction under Chapter 35 of
34 Title 50 (relating to violations of International Emergency Economic Powers Act licenses,
35 orders, regulations, or prohibitions), or under section 2778 of Title 22 (relating to violations
36 of the Arms Export Control Act); or

37 (25) an attempt, conspiracy, or solicitation to commit an offense described in this
38 paragraph or any other inchoate form of an offense described in this paragraph.

39 The term applies to an offense described in this paragraph whether in violation of Federal
40 or State law; the term also applies to such an offense in violation of the law of a foreign
41 country for which the term of imprisonment was completed within the previous fifteen (15)
42 years. Notwithstanding any other provision of law (including any effective date), the term
43 applies regardless of whether the conviction was entered before, on, or after [effective date].

1 “

2
3 (b) Definition of Conviction.—Section 101(a)(48) of the Immigration and Nationality Act
4 (8 U.S.C. 1101(a)(48)), as amended by section 1713(a) of this Act, is further amended to
5 read—

6 (A) The term “conviction” means, with respect to an alien, a formal judgment of guilt of
7 the alien entered by a court or, if adjudication of guilt has been withheld or deferred,
8 where—

9 (i) a judge, jury, or other adjudicator has found the alien guilty or the alien has entered a
10 plea of guilty, an Alford plea, or a plea of nolo contendere, or the alien has admitted
11 sufficient facts to warrant a finding of guilt, and

12 (ii) the judge or other adjudicator has ordered some form of punishment, penalty, or
13 restraint on the alien’s liberty to be imposed, including, but not limited to, the imposition of
14 probation or any fees or costs associated with the proceeding.

15 (B) (i) Any reference to a term of imprisonment or a sentence with respect
16 to an offense is deemed to include the period of incarceration or
17 confinement ordered by a court of law regardless of any suspension of the imposition or
18 execution of that imprisonment or sentence in whole or in part, including a sentence of
19 imprisonment that is probated.

20 (ii) Any reference to a term of imprisonment of at least “one year” includes any sentence
21 of 365 days or more, or as “one year” was defined under state or local law in the jurisdiction
22 where the conviction occurred at the time of the conviction.

23 (C) (i) Any reference to a term of imprisonment that is “punishable by” shall include the
24 maximum statutory term of imprisonment authorized by law for the most aggravated
25 instance of the offense without regard to the individual circumstances of the defendant or
26 the specific facts of the conviction, provided that for convictions under federal law, the
27 maximum statutory term of imprisonment shall not include a statutory sentence
28 enhancement under Title 18 or Title 21 of the United States Code, unless the defendant’s
29 record of conviction reflects that he was convicted or sentenced pursuant to such an
30 enhancement.

31 (D) Subject to further limitation in subparagraphs (E) and (F), no order purporting to
32 vacate a conviction, modify a sentence, or clarify a sentence shall have any effect under this
33 Act unless all four of the following conditions are met—

34 (i) the order was entered prior to the initiation of any proceeding to remove the alien from
35 the United States;

36 (ii) the order was entered within one year of the date of the original order of conviction or
37 sentencing;

38 (iii) the court issuing the order had jurisdiction and authority to do so; and

39 (iv) the order was not entered for purposes of ameliorating the immigration consequences
40 of the conviction or sentence.

1 (E) No nunc pro tunc order purporting to vacate a conviction, modify a sentence, or
2 clarify a sentence shall have any effect under the immigration laws.

3 (F) No reversal, vacatur, expungement, or modification of a conviction or sentence that
4 was granted, solely or in part, to ameliorate the immigration consequences of the conviction
5 or sentence or was granted, solely or in part, for rehabilitative purposes shall have any effect
6 under the immigration laws. For purposes of this subparagraph, any reversal, vacatur,
7 expungement, or modification of a conviction or sentence due to an alleged procedural or
8 constitutional defect shall be insufficient to meet the alien's burden of proof, even if the
9 conditions in subparagraphs (D) and (E) are otherwise satisfied, unless the record contains a
10 clear statement of position from the prosecutor on the issue and a clear explanation in the
11 relevant order of the alleged defect.

12 (G) In all cases under the immigration laws, the alien shall bear the burden of
13 establishing that all four conditions in subsection (D) have been met and that the limitations
14 in subsections (E) and (F) do not apply.

15 (H) Any order purporting to vacate a conviction, modify a sentence, or clarify a
16 sentence shall not be given any effect for immigration purposes unless the requirements of
17 this section have been met. The fact that these requirements have been met shall not
18 preclude a finding by the Attorney General or Secretary of Homeland Security, in the
19 exercise of discretion, that the conviction is still valid for immigration purposes.
20 Notwithstanding any other provision of law (statutory or nonstatutory) and regardless of
21 whether the determination is made in removal proceedings, no court shall have jurisdiction
22 to review a determination by the Attorney General or Secretary of Homeland Security
23 regarding whether such an order should be given any effect under the immigration laws.

24 (I) All references to a criminal offense or criminal conviction in Title 8 of the United
25 States Code and all other immigration laws shall be deemed to include any attempt,
26 conspiracy, or solicitation to commit the offense or any other inchoate form of the offense.

27 (J) In making a determination of whether a criminal conviction is for an aggravated
28 felony or a crime involving moral turpitude or for any other provision under the
29 immigration laws, the Attorney General shall not be required to apply any single or
30 particular methodology. In making such determinations, the Attorney General shall not be
31 limited to applying a categorical or modified categorical approach (including determining if
32 a statute of conviction is divisible), shall not limit his consideration to a single generic
33 definition of a crime, and shall not consider any hypothetical criminal offense beyond the
34 facts of the actual conviction at issue. In all cases, the Attorney General may look behind
35 the record of conviction and consider all reliable evidence (including, but not limited to,
36 charging documents, plea agreements, plea colloquies, jury instructions, police reports,
37 testimony during the removal hearing, and any prior statements by the respondent or any
38 other person about the crime) of relevant facts (including, but not limited to, the underlying
39 conduct at issue, the actual type of firearm involved (if any), the amount of a controlled
40 substance involved (if any), and the identity of the victim).

41 SEC. 1720. FAILURE TO OBEY REMOVAL ORDERS.

42 (a) In General.—Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) is
43 amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), in the matter preceding subparagraph (A), by inserting “212(a)
3 or” before “237(a),”; and

4 (B) by striking paragraph (3);

5 (2) by striking subsection (b); and

6 (3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

7 (b) Effective Date and Application.—The amendments made by subsection (a)(1) shall take
8 effect on the date of the enactment of this Act and shall apply to acts that are described in
9 subparagraphs (A) through (D) of section 243(a)(1) of the Immigration and Nationality Act (8
10 U.S.C. 1253(a)(1)) that occur on or after such date of enactment.

11 SEC. 1721. SANCTIONS FOR COUNTRIES THAT DELAY 12 OR PREVENT REPATRIATION OF THEIR NATIONALS.

13 Section 243 of the Immigration and Nationality Act (8 U.S.C. 1253) (as amended by section
14 1720(a)(3)) is amended by adding at the end a new paragraph (e) to read as follows:

15 “(e) Listing of Countries Who Delay Repatriation of Removed Aliens.—

16 “(1) LISTING OF COUNTRIES.—Beginning on the date that is 6 months after the date of the
17 enactment of the SECURE and SUCCEED Act, and every 6 months thereafter, the
18 Secretary shall publish a report in the Federal Register that includes a list of—

19 “(A) countries that have refused or unreasonably delayed repatriation of an alien
20 who is a national of that country since the date of enactment of this Act and the total
21 number of such aliens, disaggregated by nationality;

22 “(B) countries that have an excessive repatriation failure rate; and

23 “(C) each country that was reported as noncompliant in the most recent reporting
24 period.

25 “(2) EXEMPTION.—The Secretary, in the Secretary’s sole and unreviewable discretion,
26 and in consultation with the Secretary of State, may exempt a country from inclusion on the
27 list under paragraph (1) if there are significant foreign policy or security concerns that
28 warrant such an exemption.

29 “(d) Discontinuing Granting of Visas to Nationals of Countries Denying or Delaying
30 Accepting Alien.—

31 “(1) IN GENERAL.—Notwithstanding section 221(c), the Secretary shall take the action
32 described in paragraph (2)(A), and may take an action described in paragraph (2)(B), if the
33 Secretary determines that—

34 “(A) an alien who is a national of a foreign country is inadmissible under section
35 212 or deportable under section 237, or has been ordered removed from the United
36 States; and

37 “(B) the government of the foreign country referred to in subparagraph (A) is—

38 “(i) denying or unreasonably delaying accepting aliens who are citizens,

1 subjects, nationals, or residents of that country after the Secretary asks whether
2 the government will accept an alien under this section; or

3 “(ii) refusing to issue any required travel or identity documents to allow the
4 alien who is citizen, subject, national, or resident of that country to return to that
5 country.

6 “(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

7 “(A) Direct the Secretary of State to authorize consular officers in the foreign
8 country referred to in paragraph (1) to deny visas under section 101(a)(15)(A)(iii) to
9 attendants, servants, personal employees, and members of their immediate families, of
10 the officials and employees of that country who receive nonimmigrant status under
11 clause (i) or (ii) of section 101(a)(15)(A).

12 “(B) In consultation with the Secretary of State, deny admission to any citizens,
13 subjects, nationals, or residents from the foreign country referred to in paragraph (1),
14 consistent with other international obligations, and the imposition of any limitations,
15 conditions, or additional fees on the issuance of visas or travel from that country, or the
16 imposition of any other sanctions against that country that are authorized by law.

17 “(3) RESUMPTION OF VISA ISSUANCE.—Consular officers in the foreign country that
18 refused or unreasonably delayed repatriation or refused to issue required identity or travel
19 documents may resume visa issuance after the Secretary notifies the Secretary of State that
20 the country has accepted the aliens.”.

21 SEC. 1722. ENHANCED PENALTIES FOR 22 CONSTRUCTION AND USE OF BORDER TUNNELS.

23 Section 555 of title 18, United States Code, is amended—

24 (1) in subsection (a), by striking “not more than 20 years.” and inserting “not less than 7
25 years and not more than 20 years.”; and

26 (2) in subsection (b), by striking “not more than 10 years.” and inserting “not less than 3
27 years and not more than 10 years.”.

28 SEC. 1723. ENHANCED PENALTIES FOR FRAUD AND 29 MISUSE OF VISAS, PERMITS, AND OTHER 30 DOCUMENTS.

31 Section 1546(a) of title 18, United States Code, is amended—

32 (1) by striking “Commissioner of the Immigration and Naturalization Service” each place
33 it appears and inserting “Secretary of Homeland Security”; and

34 (2) by striking “Shall be fined” and all that follows and inserting “Shall be fined under
35 this title or imprisoned for not less than 12 years and not more than 25 years (if the offense
36 was committed to facilitate an act of international terrorism (as defined in section 2331)),
37 not less than 10 years and not more than 20 years (if the offense was committed to facilitate
38 a drug trafficking crime (as defined in section 929(a)), not less than 5 years and not more

1 than 10 years (for the first or second such offense, if the offense was not committed to
2 facilitate such an act of international terrorism or a drug trafficking crime), or not less than
3 7 years and not more than 15 years (for any other offense), or both.”.

4 SEC. 1724. EXPANSION OF CRIMINAL ALIEN 5 REPATRIATION PROGRAMS.

6 (a) Expansion of Criminal Alien Repatriation Flights.—Not later than 90 days after the date of
7 the enactment of this Act, the Secretary of Homeland Security shall increase the number of
8 criminal and illegal alien repatriation flights from the United States conducted by U.S. Customs
9 and Border Protection and U.S. Immigration and Customs Enforcement Air Operations by not
10 less than 15 percent compared to the number of such flights operated, and authorized to be
11 operated, under existing appropriations and funding on the date of the enactment of this Act.

12 (b) U.S. Immigration and Customs Enforcement Air Operations.—Not later than 90 days after
13 the date of the enactment of this Act, the Secretary of Homeland Security shall issue a directive
14 to expand U.S. Immigration and Customs Enforcement Air Operations (referred to in this
15 subsection as “ICE Air Ops”) so that ICE Air Ops provides additional services with respect to
16 aliens who are illegally present in the United States. Such expansion shall include—

17 (1) increasing the daily operations of ICE Air Ops with buses and air hubs in the top 5
18 geographic regions along the southern border;

19 (2) allocating a set number of seats for such aliens for each metropolitan area; and

20 (3) allowing a metropolitan area to trade or give some of seats allocated to such area
21 under paragraph (2) for such aliens to other areas in the region of such area based on the
22 transportation needs of each area.

23 (c) Authorization of Appropriations.—In addition to the amounts otherwise authorized to be
24 appropriated, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2018
25 through 2022 to carry out this section.

26 SEC. 1725. PROHIBITION ON FLIGHT TRAINING AND 27 NUCLEAR STUDIES FOR NATIONALS OF HIGH-RISK 28 COUNTRIES.

29 (a) IN GENERAL.--The Secretary of State shall deny a visa to, and the Secretary of
30 Homeland Security shall not admit or parole into the United States, any alien who is a citizen of
31 Libya, Iran, Syria, or any country designated by the Secretary of State as a state sponsor of
32 terrorism--

33 (1) who is an applicant for a visa and who the Secretary of State determines seeks to enter the
34 United States—

35 (A) to participate in coursework at an institution of higher education (as defined in
36 section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) to prepare the
37 alien for a career in nuclear science, nuclear engineering, or a related field;

38 (B) to participate in coursework or training or otherwise engage in aviation maintenance
39 or flight operations;

1 (2) who is applying for admission to the United States and who the Secretary of Homeland
2 Security determines seeks to participate in coursework, training, or activities described in
3 paragraph (1);

4 (3) who is in the United States and who the Secretary of Homeland Security determines is
5 applying to change status to participate in such coursework, training, or activities; or

6 (4) who is lawfully present in the United States, either as a nonimmigrant student or otherwise
7 authorized to study at an institution of higher education, and who the Secretary of Homeland
8 Security determines is participating in such coursework, training, or activities or seeks to change
9 his or her field of study to participate in such coursework, training, or activities.

10 (b) TERMINATION OF STATUS. The Secretary of Homeland Security shall terminate the
11 nonimmigrant status or otherwise revoke the authorization to remain in the United States of any
12 alien currently in the United States and described in subsection (a).

13 (c) HIGH-RISK COUNTRIES. The Secretary of Homeland Security may in his discretion
14 designate additional countries whose nationals are subject to the restrictions described in
15 subsection (a) where he determines that it is in the national interest to do so.

16 CHAPTER 2—STRONG VISA INTEGRITY SECURES 17 AMERICA ACT

18 SEC. 1731. SHORT TITLE.

19 This chapter may be cited as the “Strong Visa Integrity Secures America Act”.

20 SEC. 1732. VISA SECURITY.

21 (a) Visa Security Units at High Risk Posts.—Section 428(e)(1) of the Homeland Security Act
22 of 2002 (6 U.S.C. 236(e)(1)) is amended—

23 (1) by striking “The Secretary” and inserting the following:

24 “(A) AUTHORIZATION.—Subject to the minimum number specified in subparagraph
25 (B), the Secretary”; and

26 (2) by adding at the end the following:

27 “(B) RISK-BASED ASSIGNMENTS.—

28 “(i) IN GENERAL.—In carrying out subparagraph (A), the Secretary shall assign,
29 in a risk-based manner, and considering the criteria described in clause (ii),
30 employees of the Department to not fewer than 75 diplomatic and consular posts
31 at which visas are issued. Such assignments shall be made –

32 “(I) in a risk-based manner;

33 “(II) considering the criteria described in clause (iii); and

34 “(III) in accordance with Nationality Security Decision Directive 38 of June 2,
35 1982, or any superseding presidential directive concerning staffing at diplomatic
36 and consular posts.

37 “(ii) Priority Consideration. – In carrying out National Security Decision

1 Directive 38 of June 2, 1982, the Secretary of State shall ensure priority
2 consideration of any staffing assignment pursuant to this subparagraph.

3 “(iii) CRITERIA DESCRIBED.—The criteria referred to in clause (i) are the
4 following:

5 “(I) The number of nationals of a country in which any of the diplomatic
6 and consular posts referred to in clause (i) are located who were identified in
7 United States Government databases related to the identities of known or
8 suspected terrorists during the previous year.

9 “(II) Information on cooperation of the country referred to in subclause (I)
10 with the counterterrorism efforts of the United States.

11 “(III) Information analyzing the presence, activity, or movement of
12 terrorist organizations (as such term is defined in section 212(a)(3)(B)(vi) of
13 the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)) within or
14 through such country.

15 “(IV) The number of formal objections based on derogatory information
16 issued by the Visa Security Advisory Opinion Unit pursuant to paragraph
17 (10) regarding nationals of a country in which any of the diplomatic and
18 consular posts referred to in clause (i) are located.

19 “(V) The adequacy of the border and immigration control of such country.

20 “(VI) Any other criteria the Secretary determines appropriate.”.

21 (b) State Department Accommodation of Visa Security Units.—Section 428 of the Homeland
22 Security Act of 2002 (6 U.S.C. 236) is amended by adding at the end the following:

23 “(j) Expedited clearance and placement of Department of Homeland Security personnel at
24 overseas embassies and consular posts.—Notwithstanding any other provision of law, and the
25 processes set forth in National Security Defense Directive 38 (dated June 2, 1982) or any
26 successor Directive, the Chief of Mission of a post to which the Secretary of Homeland Security
27 has assigned personnel under subsection (e) or (i) shall ensure, not later than one year after the
28 date on which the Secretary of Homeland Security communicates such assignment to the
29 Secretary of State, that such personnel have been stationed and accommodated at post and are
30 able to carry out their duties.”.

31 (c) Funding for the visa security program.

32 (1) In general.—The Department of State and Related Agency Appropriations Act, 2005 (title
33 IV of division B of Public Law 108–447) is amended, in the fourth paragraph under the heading
34 “Diplomatic and Consular Programs”, by striking “Beginning” and all that follows through the
35 period at the end and inserting the following: “Beginning in fiscal year 2005 and thereafter, the
36 Secretary of State is authorized to charge surcharges related to consular services in support of
37 enhanced border security that are in addition to the immigrant visa fees in effect on January 1,
38 2004: Provided, That funds collected pursuant to this authority shall be credited to the
39 appropriation for U.S. Immigration and Customs Enforcement for the fiscal year in which the
40 fees were collected, and shall be available until expended for the funding of the Visa Security
41 Program established by the Secretary of Homeland Security under section 428(e) of the
42 Homeland Security Act of 2002 (Public Law 107–296): Provided further, That such surcharges

1 shall be 10 percent of the fee assessed on immigrant visa applications.”.

2 (2) Repayment of appropriated funds.—Twenty percent of the funds collected each fiscal year
3 under the heading “Diplomatic and Consular Programs” in the Department of State and Related
4 Agency Appropriations Act, 2005 (title IV of division B of Public Law 108–447), as amended by
5 subsection (a), shall be deposited into the general fund of the Treasury as repayment of funds
6 appropriated pursuant to section 407(c) of this Act until the entire appropriated sum has been
7 repaid.

8 (d) Counterterrorism Vetting and Screening.—Section 428(e)(2) of the Homeland Security
9 Act of 2002 (6 U.S.C. 236(e)(2)) is amended—

10 (1) by redesignating subparagraph (C) as subparagraph (D); and

11 (2) by inserting after subparagraph (B) the following:

12 “(C) Screen any such applications against the appropriate criminal, national security,
13 and terrorism databases maintained by the Federal Government.”.

14 (e) Training and Hiring.—Section 428(e)(6)(A) of the Homeland Security Act of 2002 (6
15 U.S.C. 236(e)(6)(A)) is amended—

16 (1) by striking “The Secretary shall ensure, to the extent possible, that any employees”
17 and inserting “The Secretary, acting through the Commissioner of U.S. Customs and Border
18 Protection and the Director of U.S. Immigration and Customs Enforcement, shall provide
19 training to any employees”; and

20 (2) by striking “shall be provided the necessary training”.

21 (f) Pre-adjudicated Visa Security Assistance and Visa Security Advisory Opinion Unit.—
22 Section 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)) is amended by adding at
23 the end the following:

24 “(9) REMOTE PRE-ADJUDICATED VISA SECURITY ASSISTANCE.—At the visa-issuing posts at
25 which employees of the Department are not assigned pursuant to paragraph (1), the
26 Secretary shall, in a risk-based manner, assign employees of the Department to remotely
27 perform the functions required under paragraph (2) at not fewer than 50 of such posts.

28 “(10) VISA SECURITY ADVISORY OPINION UNIT.—The Secretary shall establish within U.S.
29 Immigration and Customs Enforcement a Visa Security Advisory Opinion Unit to respond
30 to requests from the Secretary of State to conduct a visa security review using information
31 maintained by the Department on visa applicants, including terrorism association, criminal
32 history, counter-proliferation, and other relevant factors, as determined by the Secretary.”.

33 (g) DEADLINES.—The requirements established under paragraphs (1) and (9) of section
34 428(e) of the Homeland Security Act of 2002 (6 U.S.C. 236(e)), as amended and added by this
35 section, shall be implemented not later than three years after the date of the enactment of this
36 Act.

37 SEC. 1733. ELECTRONIC PASSPORT SCREENING AND 38 BIOMETRIC MATCHING.

39 (a) In General.—Subtitle B of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et

1 seq.) is amended by adding at the end the following:

2 “SEC. 420. ELECTRONIC PASSPORT SCREENING AND
3 BIOMETRIC MATCHING.

4 “(a) In General.—Not later than 1 year after the date of the enactment of the Strong Visa
5 Integrity Secures America Act, the Commissioner of U.S. Customs and Border Protection
6 shall—

7 “(1) screen electronic passports at airports of entry by reading each such passport’s
8 embedded chip; and

9 “(2) to the greatest extent practicable, utilize facial recognition technology or other
10 biometric technology, as determined by the Commissioner, to inspect travelers at United
11 States airports of entry.

12 “(b) Applicability.—

13 “(1) ELECTRONIC PASSPORT SCREENING.—Paragraph (1) of subsection (a) shall apply to
14 passports belonging to individuals who are United States citizens, individuals who are
15 nationals of a program country pursuant to section 217 of the Immigration and Nationality
16 Act (8 U.S.C. 1187), and individuals who are nationals of any other foreign country that
17 issues electronic passports.

18 “(2) FACIAL RECOGNITION MATCHING.—Paragraph (2) of subsection (a) shall apply, at a
19 minimum, to individuals who are nationals of a program country pursuant to section 217 of
20 such Act.

21 “(c) Annual Report.—

22 “(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection, in
23 collaboration with the Chief Privacy Officer of the Department, shall submit an annual
24 report, through fiscal year 2022, to the Committee on Homeland Security and Governmental
25 Affairs of the Senate and the Committee on Homeland Security of the House of
26 Representatives that describes the utilization of facial recognition technology and other
27 biometric technology pursuant to subsection (a)(2).

28 “(2) REPORT CONTENTS.—Each report submitted pursuant to paragraph (1) shall
29 include—

30 “(A) information on the type of technology used at each airport of entry;

31 “(B) the number of individuals who were subject to inspection using either of such
32 technologies at each airport of entry;

33 “(C) within the group of individuals subject to such inspection, the number of those
34 individuals who were United States citizens and lawful permanent residents;

35 “(D) information on the disposition of data collected during the year covered by
36 such report; and

37 “(E) information on protocols for the management of collected biometric data,
38 including time frames and criteria for storing, erasing, destroying, or otherwise
39 removing such data from databases utilized by the Department.

1 “SEC. 420A. CONTINUOUS SCREENING BY U.S.
2 CUSTOMS AND BORDER PROTECTION.

3 “The Commissioner of U.S. Customs and Border Protection shall, in a risk-based manner,
4 continuously screen individuals issued any visa, and individuals who are nationals of a program
5 country pursuant to section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), who are
6 present, or expected to arrive within 30 days, in the United States, against the appropriate
7 criminal, national security, and terrorism databases maintained by the Federal Government.”.

8 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
9 of 2002 is amended by inserting after the item relating to section 419 the following:

10 “Sec.420.Electronic passport screening and biometric matching.

11 “Sec.420A.Continuous screening by U.S. Customs and Border Protection.”.

12 SEC. 1734. REPORTING VISA OVERSTAYS.

13 Section 2 of Public Law 105–173 (8 U.S.C. 1376) is amended—

14 (1) in subsection (a)—

15 (A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
16 and

17 (B) by inserting “, and any additional information that the Secretary determines
18 necessary for purposes of the report under subsection (b)” before the period at the end;
19 and

20 (2) by amending subsection (b) to read as follows:

21 “(b) Annual Report.—Not later than September 30, 2018, and annually thereafter, the
22 Secretary of Homeland Security shall submit a report to the Committee on Homeland Security
23 and Governmental Affairs of the Senate, the Committee on the Judiciary of the Senate, the
24 Committee on Homeland Security of the House of Representatives, and the Committee on the
25 Judiciary of the House of Representatives that provides, for the preceding fiscal year, numerical
26 estimates (including information on the methodology utilized to develop such numerical
27 estimates) of—

28 “(1) for each country, the number of aliens from the country who are described in
29 subsection (a), including—

30 “(A) the total number of such aliens within all classes of nonimmigrant aliens
31 described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
32 1101(a)(15)); and

33 “(B) the number of such aliens within each of the classes of nonimmigrant aliens, as
34 well as the number of such aliens within each of the subclasses of such classes of
35 nonimmigrant aliens, as applicable;

36 “(2) for each country, the percentage of the total number of aliens from the country who
37 were present in the United States and were admitted to the United States as nonimmigrants
38 who are described in subsection (a);

1 “(3) the number of aliens described in subsection (a) who arrived by land at a port of
2 entry into the United States;

3 “(4) the number of aliens described in subsection (a) who entered the United States using
4 a border crossing identification card (as defined in section 101(a)(6) of the Immigration and
5 Nationality Act (8 U.S.C. 1101(a)(6)); and

6 “(5) the number of Canadian nationals who entered the United States without a visa and
7 whose authorized period of stay in the United States terminated during the previous fiscal
8 year, but who remained in the United States.”.

9 **SEC. 1735. STUDENT AND EXCHANGE VISITOR**
10 **INFORMATION SYSTEM VERIFICATION.**

11 Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland
12 Security shall ensure that the information collected under the program established under section
13 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
14 1372) is available to officers of U.S. Customs and Border Protection conducting primary
15 inspections of aliens seeking admission to the United States at each port of entry of the United
16 States.

17 **SEC. 1736. SOCIAL MEDIA REVIEW OF VISA**
18 **APPLICANTS.**

19 (a) In General.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et.
20 seq.), as amended by sections 1115 and 1730 of this Act, is further amended by adding at the end
21 the following:

22 **“SEC. 438. SOCIAL MEDIA SCREENING.**

23 “(a) In General.—Not later than 180 days after the date of the enactment of the Strong Visa
24 Integrity Secures America Act, the Secretary shall, to the greatest extent practicable, and in a risk
25 based manner and on an individualized basis, review the social media accounts of visa applicants
26 who are citizens of, or who reside in, high risk countries, as determined by the Secretary based
27 on the criteria described in subsection (b).

28 “(b) High-risk Criteria Described.—In determining whether a country is high-risk pursuant to
29 subsection (a), the Secretary shall consider the following criteria:

30 “(1) The number of nationals of the country who were identified in United States
31 Government databases related to the identities of known or suspected terrorists during the
32 previous year.

33 “(2) The level of cooperation of the country with the counter-terrorism efforts of the
34 United States.

35 “(3) Any other criteria the Secretary determines appropriate.

36 “(c) Collaboration.—To develop the technology and procedures required to carry out the
37 requirements under subsection (a), the Secretary shall collaborate with—

38 “(1) the head of a national laboratory within the Department’s laboratory network with

1 relevant expertise;

2 “(2) the head of a relevant university-based center within the Department’s centers of
3 excellence network; and

4 “(3) the heads of other appropriate Federal agencies, including the Secretary of State, the
5 Director of National Intelligence, and the Attorney General.

6 “(d) Waiver. – The Secretary, in collaboration with the Secretary of State, is authorized to waive
7 the requirements of subsection (a) as necessary to comply with international obligations of the
8 United States.

9 “(e) Rule of Construction. The screening of social information under paragraph (a) shall not
10 limit the authority of the Secretaries of Homeland Security or State to screen social media
11 information from any individual filing with the Department of Homeland Security or the
12 Department of State an application, petition, or other request for an immigration benefit or
13 immigration status or seeking an immigration benefit or other authorization, employment
14 authorization, identity, or travel document, or requesting relief or protection under any
15 provision of the immigration laws.”

16 “SEC. 439. OPEN SOURCE SCREENING.

17 “The Secretary shall, to the greatest extent practicable, and in a risk-based manner, review
18 open source information of visa applicants.”

19 (b) Clerical Amendment.—The table of contents in section 1(b) of the Homeland Security Act
20 of 2002, as amended by this Act, is further amended by inserting after the item relating to section
21 435 the following:

22 “Sec.438.Social media screening.

23 “Sec.439.Open source screening.”.

24 CHAPTER 3—VISA CANCELLATION AND REVOCATION

25 SEC. 1741. CANCELLATION OF ADDITIONAL VISAS.

26 (a) In General.—Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is
27 amended—

28 (1) in paragraph (1)—

29 (A) by striking “Attorney General,” and inserting “Secretary,”; and

30 (B) by inserting “and any other nonimmigrant visa issued by the United States that is
31 in the possession of the alien” after “such visa”; and

32 (2) in paragraph (2)(A), by adding “or foreign residence” after “the alien’s nationality”.

33 (b) Effective Date and Application.—The amendments made by subsection (a) shall take
34 effect on the date of the enactment of this Act and shall apply to a visa issued before, on, or after
35 such date.

36 SEC. 1742. VISA INFORMATION SHARING.

1 (a) In General.—Section 222(f) of the Immigration and Nationality Act (8 U.S.C. 1202(f)) is
2 amended—

3 (1) in the matter preceding paragraph (1), by striking “issuance or refusal” and inserting
4 “issuance, refusal, or revocation”; and

5 (2) in paragraph (2)—

6 (A) in the matter preceding subparagraph (A), by striking “and on the basis of
7 reciprocity” and all that follows and inserting “may provide to a foreign government
8 information in a Department of State computerized visa database and, when necessary
9 and appropriate, other records covered by this section related to information in such
10 database”;

11 (B) by amending subparagraph (A) to read as follows:

12 “(A) on the basis of reciprocity, with regard to individual aliens, at any time on a
13 case-by-case basis for the purpose of—

14 “(i) preventing, investigating, or punishing acts that would constitute a crime in
15 the United States, including, but not limited to, terrorism or trafficking in
16 controlled substances, persons, or illicit weapons; or

17 “(ii) determining a person’s removability or eligibility for a visa, admission, or
18 other immigration benefit;”;

19 (C) in subparagraph (B)—

20 (i) by inserting “on basis of reciprocity,” before “with regard to”;

21 (ii) by striking “in the database” and inserting “such database”;

22 (iii) by striking “for the purposes” and inserting “for 1 of the purposes”; and

23 (iv) by striking “or to deny visas to persons who would be inadmissible to the
24 United States.” and inserting “; or”; and

25 (D) by adding at the end the following:

26 “(C) with regard to any or all aliens in such database, specified data elements from
27 each record, if the Secretary of State determines that it is required for national security
28 or public safety or in the national interest to provide such information to a foreign
29 government.”.

30 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date that
31 is 60 days after the date of the enactment of the Act.

32 SEC. 1743. VISA INTERVIEWS.

33 (a) In General.—Section 222(h) of the Immigration and Nationality Act (8 U.S.C. 1202(h)) is
34 amended—

35 (1) in paragraph (1)—

36 (A) in subparagraph (B), by striking “or” at the end;

37 (B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

- 1 (C) by adding at the end the following:
2 “(D) by the Secretary of State, if the Secretary, in his or her sole and unreviewable
3 discretion, determines upon review of the application, that an interview is unnecessary
4 because the alien is ineligible for a visa; and”.
- 5 (2) in paragraph (2)—
- 6 (A) in subparagraph (E), by striking “or” at the end;
7 (B) in subparagraph (F), by striking the period at the end and inserting “; or”; and
8 (C) by adding at the end the following:
9 “(G) is an individual within a class of aliens that the Secretary of State, in his or her
10 sole and unreviewable discretion, has determined may pose a threat to national security
11 or public safety.”.

12 SEC. 1744. VISA REVOCATION AND LIMITS ON 13 JUDICIAL REVIEW OF VISA REVOCATION.

14 (a) In General. – Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is
15 amended—

- 16 (1) by inserting “(1)” after “(i)”;
17 (2) In subparagraph (i)(1),
18 (A) by striking “Attorney General” and inserting “Secretary of Homeland Security”;
19 (B) by striking “shall invalidate the visa or other documentation from the date of
20 issuance” and inserting “of any visa or documentation shall take effect
21 immediately.”; and
22 (C) “There shall be no means of judicial review” and all that follows and inserting
23 the following:
24 “Notwithstanding any other provision of law, including section 2241 of title 28,
25 United States Code, any other habeas corpus provision, and sections 1361 and
26 1651 of such title, a revocation under this subsection may not be reviewed by any
27 court, and no court shall have jurisdiction to hear any claim arising from, or any
28 challenge to, such a revocation, provided that the revocation is executed by the
29 Secretary.”; and

30 (3) by adding at the end the following:

31 “(2) A revocation under this subsection of a visa or other documentation from an
32 alien shall automatically cancel any other valid visa that is in the alien’s possession.”.

33 (b) EFFECTIVE DATE- The amendment made by subsection (a) shall--

- 34 (1) take effect on the date of the enactment of this Act; and
35 (2) apply to all revocations made on or after such date.

36 CHAPTER 4—SECURE VISAS ACT

1 SEC. 1751. SHORT TITLE.

2 This chapter may be cited as the “Secure Visas Act”.

3 SEC. 1752. AUTHORITY OF THE SECRETARY OF
4 HOMELAND SECURITY AND THE SECRETARY OF
5 STATE.

6 (a) In General.—Section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236) is
7 amended by striking subsections (b) and (c) and inserting the following:

8 “(b) Authority of the Secretary of Homeland Security.—

9 “(1) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality
10 Act (8 U.S.C. 1104(a)) and any other provision of law, and except for the authority of the
11 Secretary of State under subparagraphs (A) and (G) of section 101(a)(15) of the
12 Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), the Secretary—

13 “(A) shall have exclusive authority to issue regulations, establish policy, and
14 administer and enforce the provisions of the Immigration and Nationality Act (8
15 U.S.C. 1101 et seq.) and all other immigration or nationality laws relating to the
16 functions of consular officers of the United States in connection with the granting and
17 refusal of a visa; and

18 “(B) may refuse or revoke any visa to any alien or class of aliens if the Secretary, or
19 his or her designee, determines that such refusal or revocation is necessary or advisable
20 in the security interests of the United States.

21 “(2) EFFECT OF REVOCATION.—The revocation of any visa under paragraph (1)(B)—

22 “(A) shall take effect immediately; and

23 “(B) shall automatically cancel any other valid visa that is in the alien’s possession.

24 “(3) JUDICIAL REVIEW.—Notwithstanding any other provision of law, including section
25 2241 of title 28, United States Code, any other habeas corpus provision, and sections 1361
26 and 1651 of such title, no United States court has jurisdiction to review a decision by the
27 Secretary or a consular officer to refuse or revoke a visa.

28 “(c) Visa Refusal Authority of the Secretary of State.—

29 “(1) IN GENERAL.—The Secretary of State may direct a consular officer to refuse or
30 revoke a visa to an alien if the Secretary determines that such refusal or revocation is
31 necessary or advisable in the foreign policy interests of the United States.

32 “(2) LIMITATION.—No decision by the Secretary of State to approve a visa may override
33 a decision by the Secretary under subsection (b).”.

34 (b) Visa Revocation.—Section 428 of the Homeland Security Act (6 U.S.C. 236) is amended
35 by adding at the end the following:

36 “(j) Visa Revocation Information.—If the Secretary or the Secretary of State revokes a visa—

37 “(1) the relevant consular, law enforcement, and terrorist screening databases shall be

1 immediately updated on the date of the revocation; and

2 “(2) look-out notices shall be posted to all Department port inspectors and Department of
3 State consular officers.”.

4 (c) Conforming Amendment.—Section 104(a)(1) of the Immigration and Nationality Act (8
5 U.S.C. 1104(a)(1)) is amended by inserting “and the power authorized under section 428(c) of
6 the Homeland Security Act of 2002 (6 U.S.C. 236(c))” after “United States,”.

7 CHAPTER 5—VISA FRAUD AND SECURITY 8 IMPROVEMENT ACT OF 2017

9 SEC. 1761. SHORT TITLE.

10 This chapter may be cited as the “Visa Fraud and Security Improvement Act of 2018”.

11 SEC. 1762. EXPANDED USAGE OF FRAUD PREVENTION 12 AND DETECTION FEES.

13 Section 286(v)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(A)) is
14 amended—

15 (1) in the matter preceding clause (i), by striking “at United States embassies and
16 consulates abroad”;

17 (2) by amending clause (i) to read as follows:

18 “(i) to increase the number of diplomatic security personnel assigned
19 exclusively or primarily to the function of preventing and detecting visa fraud;”;
20 and

21 (3) in clause (ii), by striking “, including primarily fraud by applicants for visas described
22 in subparagraph (H)(i), (H)(ii), or (L) of section 101(a)(15)”.

23 SEC. 1763. INADMISSIBILITY OF SPOUSES AND SONS 24 AND DAUGHTERS OF TRAFFICKERS.

25 Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

26 (1) in subparagraph (C)(ii), by inserting “, or has been,” after “is”; and

27 (2) in subparagraph (H)(ii), by inserting “, or has been,” after “is”.

28 SEC. 1764. DNA TESTING AND CRIMINAL HISTORY.

29 (a) **DNA Testing for Visa Applicants.**—Section 222(b) of the Immigration and Nationality Act
30 (8 U.S.C. 1202(b)) is amended by inserting after the second sentence the following: “If
31 considered necessary by the consular officer to establish the bona fides of a family
32 relationship, the immigrant shall provide DNA evidence of such relationship in accordance
33 with procedures established for submitting such evidence. The Secretary of State may
34 issue regulations to require the submission of DNA evidence to establish family
35 relationship from applicants for certain visa classifications.”

1 (b) Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), as amended by
2 sections 1806 and 1807, is further amended by adding at the end a new paragraph (o) to
3 read as follows:

4 “(o) Required Documentary Evidence and DNA Testing for Adjustment of Status.

5 “(1) Required Documentary Evidence. –Any alien applying for adjustment of status
6 under the immigration laws shall present a valid unexpired passport or other suitable
7 travel document, or document of identity and nationality, if such documentation is
8 required under the regulations issued by the Secretary of Homeland Security. The
9 alien shall furnish with his or her application a copy of a certification by the
10 appropriate police authorities stating what their records show concerning the alien; a
11 certified copy of any existing prison record, military record, and record of his or her
12 birth; and a certified copy of all other records or documents concerning him or her or
13 his or her case which may be required by the Secretary or Attorney General.

14 “(2) DNA Testing. – Where considered necessary by the Secretary or the Attorney
15 General to establish the bona fides of a family relationship, the immigrant shall
16 provide DNA evidence of such relationship in accordance with procedures
17 established for submitting such evidence. The Secretary may issue regulations to
18 require the submission of DNA evidence to establish family relationship from
19 applicants for certain visa classifications. In the event that the alien establishes to the
20 satisfaction of the Secretary or Attorney General that any document or record
21 required by this subsection is unobtainable, the Secretary or Attorney General may
22 permit the alien to submit in lieu of such document or record other satisfactory
23 evidence of the fact to which such document or record, if obtainable, pertain.”.

24 SEC. 1765. ACCESS TO NCIC CRIMINAL HISTORY 25 DATABASE FOR DIPLOMATIC VISAS.

26 Subsection (a) of article V of section 217 of the National Crime Prevention and Privacy
27 Compact Act of 1998 (34 U.S.C. 40316(V)(a)) is amended by inserting “, except for diplomatic
28 visa applications for which only full biographical information is required” before the period at
29 the end.

30 SEC. 1766. ELIMINATION OF SIGNED PHOTOGRAPH 31 REQUIREMENT FOR VISA APPLICATIONS.

32 Section 221(b) of the Immigration and Nationality Act (8 U.S.C. 1201(b)) is amended by
33 striking the first sentence and insert the following: “Each alien who applies for a visa shall be
34 registered in connection with his or her application and shall furnish copies of his or her
35 photograph for such use as may be required by regulation.”.

36 CHAPTER 6—OTHER MATTERS

37 SEC. 1771. REQUIREMENT FOR COMPLETION OF 38 BACKGROUND CHECKS.

39 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103) is amended

1 by adding at the end the following:

2 “(h) Completion of Background and Security Checks.—

3 “(1) REQUIREMENT TO COMPLETE.—Notwithstanding any other provision of law
4 (statutory or nonstatutory), including section 309 of the Enhanced Border Security and Visa
5 Entry Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
6 States Code, and section 706(1) of title 5, United States Code, the Secretary and the
7 Attorney General may not approve or grant to an alien any status, relief, protection from
8 removal, employment authorization, or any other benefit under the immigration laws,
9 including an adjustment of status to lawful permanent residence or a grant of United States
10 citizenship or issue to the alien any documentation evidencing a status or grant of any
11 status, relief, protection from removal, employment authorization, or other benefit under the
12 immigration laws until—

13 “(A) all background and security checks required by statute or regulation or deemed
14 necessary by the Secretary or the Attorney General, in his or her sole and unreviewable
15 discretion, for the alien have been completed; and

16 “(B) the Secretary or the Attorney General has determined that the results of such
17 checks do not preclude the approval or grant of any status, relief, protection from
18 removal, employment authorization, or any other benefit under the immigration laws
19 or approval, grant, or the issuance of any documentation evidencing such status, relief,
20 protection, authorization, or benefit.

21 “(2) PROHIBITION ON JUDICIAL ACTION.—No court shall have authority to order the
22 approval of, grant, mandate, or require any action in a certain time period, or award any
23 relief for the Secretary’s or Attorney General’s failure to complete or delay in completing
24 any action to provide any status, relief, protection from removal, employment authorization,
25 or any other benefit under the immigration laws, including an adjustment of status to lawful
26 permanent residence, naturalization, or a grant of United States citizenship for an alien
27 until—

28 “(A) all background and security checks for the alien have been completed; and

29 “(B) the Secretary or the Attorney General has determined that the results of such
30 checks do not preclude the approval or grant of such status, relief, protection,
31 authorization, or benefit, or issuance of any documentation evidencing such status,
32 relief, protection, authorization, or benefit.”.

33 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
34 on the date of the enactment of this Act and shall apply to any application, petition, or request for
35 any benefit or relief or any other case or matter under the immigration laws pending with on or
36 filed with the Secretary of Homeland Security, the Attorney General, the Secretary of State, the
37 Secretary of Labor, or a consular officer on or after such date of enactment.

38 SEC. 1772. WITHHOLDING OF ADJUDICATION.

39 (a) In General.—Section 103 of Immigration and Nationality Act (8 U.S.C. 1103), as amended
40 by section 1771 of this Act, is further amended by adding at the end the following:

41 “(i) Withholding of Adjudication.—

1 “(1) IN GENERAL.—Except as provided in paragraph (4), nothing in this Act or in any
2 other law, including sections 1361 and 1651 of title 28, United States Code, may be
3 construed to require, and no court can order, the Secretary, the Attorney General, the
4 Secretary of State, the Secretary of Labor, or a consular officer to grant any visa or other
5 application, approve any petition, or grant or continue any relief, protection from removal,
6 employment authorization, or any other status or benefit under the immigration laws by, to,
7 or on behalf of any alien with respect to whom a criminal proceeding or investigation is
8 open or pending (including the issuance of an arrest warrant or indictment), if such
9 proceeding or investigation is deemed by such official to be material to the alien’s eligibility
10 for the status, relief, protection, or benefit sought.

11 “(2) WITHHOLDING OF ADJUDICATION.—The Secretary, the Attorney General, the
12 Secretary of State, or the Secretary of Labor may, in his or her discretion, withhold
13 adjudication any application, petition, request for relief, request for protection from
14 removal, employment authorization, status or benefit under the immigration laws pending
15 final resolution of the criminal or other proceeding or investigation.

16 “(3) JURISDICTION.—Notwithstanding any other provision of law (statutory or
17 nonstatutory), including section 309 of the Enhanced Border Security and Visa Entry
18 Reform Act of 2002 (8 U.S.C. 1738), sections 1361 and 1651 of title 28, United States
19 Code, and section 706(1) of title 5, United States Code, no court shall have jurisdiction to
20 review a decision to withhold adjudication pursuant to this subsection.

21 “(4) WITHHOLDING OF REMOVAL AND TORTURE CONVENTION.—This subsection does not
22 limit or modify the applicability of section 241(b)(3) or the United Nations Convention
23 Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, subject
24 to any reservations, understandings, declarations and provisos contained in the United
25 States Senate resolution of ratification of the Convention, as implemented by section 2242
26 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277) with
27 respect to an alien otherwise eligible for protection under such provisions.”.

28 (b) Effective Date and Application.—The amendment made by subsection (a) shall take effect
29 on the date of the enactment of this Act and shall apply to any application, petition, or request for
30 any benefit or relief or any other case or matter under the immigration laws pending with or filed
31 with the Secretary of Homeland Security on or after such date of enactment.

32 **SEC. 1773. ACCESS TO THE NATIONAL CRIME**
33 **INFORMATION CENTER INTERSTATE IDENTIFICATION**
34 **INDEX.**

35 (a) Criminal Justice Activities.—Section 104 of the Immigration and Nationality Act (8 U.S.C.
36 1104) is amended by adding at the end the following:

37 “(f) Notwithstanding any other provision of law, any Department of State personnel with
38 authority to grant or refuse visas or passports may carry out activities that have a criminal justice
39 purpose.”.

40 (b) Liaison With Internal Security Officers; Data Exchange.—Section 105 of the Immigration
41 and Nationality Act (8 U.S.C. 1105) is amended by striking subsections (b) and (c) and inserting

1 the following:

2 “(b) Access to NCIC-III.—

3 “(1) IN GENERAL.—Notwithstanding any other provision of law, the Attorney General
4 and the Director of the Federal Bureau of Investigation shall provide to the Department of
5 Homeland Security and the Department of State access to the criminal history record
6 information contained in the National Crime Information Center’s Interstate Identification
7 Index (NCIC-III) and the Wanted Persons File and to any other files maintained by the
8 National Crime Information Center for the purpose of determining whether an applicant or
9 petitioner for a visa, admission, or any benefit, relief, or status under the immigration laws,
10 or any beneficiary of an application, petition, relief, or status under the immigration laws,
11 has a criminal history record indexed in the file.

12 “(2) AUTHORIZED ACTIVITIES.—

13 “(A) IN GENERAL.—The Secretary and the Secretary of State—

14 “(i) shall have direct access, without any fee or charge, to the information
15 described in paragraph (1) to conduct name-based searches, file number searches,
16 and any other searches that any criminal justice or other law enforcement officials
17 are entitled to conduct; and

18 “(ii) may contribute to the records maintained by the National Crime
19 Information Center.

20 “(B) SECRETARY OF HOMELAND SECURITY.—The Secretary shall receive, upon
21 request, access to the information described in paragraph (1) by means of extracts of
22 the records for placement in the appropriate database without any fee or charge.

23 “(c) Criminal Justice and Law Enforcement Purposes.—Notwithstanding any other provision
24 of law, adjudication of eligibility for benefits, relief, or status under the immigration laws, and
25 other purposes relating to citizenship and immigration services, shall be considered to be
26 criminal justice or law enforcement purposes with respect to access to or use of any information
27 maintained by the National Crime Information Center or other criminal history information or
28 records.”

29 SEC. 1774. APPROPRIATE REMEDIES FOR 30 IMMIGRATION LITIGATION.

31 (a) Limitation on Class Actions.—

32 (1) IN GENERAL.—Except as provided in paragraph (2), no court may certify **or continue**
33 **the certification of** a class under Rule 23 of the Federal Rules of Civil Procedure in any civil
34 action that—

35 (A) is **pending or** filed **on or** after the date of the enactment of this Act; and

36 (B) pertains to the administration or enforcement of the immigration laws.

37 (2) EXCEPTION.—A court may certify a class upon a motion by the Government if the
38 Government is requesting such a certification to ensure efficiency in case management or
39 uniformity in application of precedent decisions or interpretations of laws when there is a

1 nationwide class.

2 (b) Requirements for an Order Granting Prospective Relief Against the Government.—

3 (1) IN GENERAL.—If a court determines that prospective relief should be ordered against
4 the Government in any civil action pertaining to the administration or enforcement of the
5 immigration laws, the court shall—

6 (A) limit the relief to the minimum necessary to correct the violation of law;

7 (B) adopt the least intrusive means to correct the violation of law;

8 (C) minimize, to the greatest extent practicable, the adverse impact on national
9 security, border security, immigration administration and enforcement, and public
10 safety; and

11 (D) provide for the expiration of the relief on a specific date, which is not later than
12 the earliest date necessary for the Government to remedy the violation.

13 (2) WRITTEN EXPLANATION.—The requirements described in paragraph (1) shall be
14 discussed and explained in writing in the order granting prospective relief and shall be
15 sufficiently detailed to allow review by another court.

16 (3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief
17 granted under paragraph (1) shall automatically expire on the date that is 90 days after the
18 date on which such relief is entered, unless the court—

19 (A) finds that such relief meets the requirements described in subparagraphs (A)
20 through (D) of paragraph (1) for the entry of permanent prospective relief; and

21 (B) orders the preliminary relief to become a final order granting prospective relief
22 before the expiration of such 90-day period.

23 (c) Procedure for Motion Affecting Order Granting Prospective Relief Against the
24 Government.—

25 (1) IN GENERAL.—A court shall promptly rule on a motion made by the United States
26 Government to vacate, modify, dissolve, or otherwise terminate an order granting
27 prospective relief in any civil action pertaining to the administration or enforcement of the
28 immigration laws.

29 (2) AUTOMATIC STAYS.—

30 (A) IN GENERAL.—A motion to vacate, modify, dissolve, or otherwise terminate an
31 order granting prospective relief made by the United States Government in any civil
32 action pertaining to the administration or enforcement of the immigration laws shall
33 automatically, and without further order of the court, stay the order granting
34 prospective relief on the date that is 15 days after the date on which such motion is
35 filed unless the court previously has granted or denied the Government's motion.

36 (B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A)
37 shall continue until the court enters an order granting or denying the Government's
38 motion.

39 (C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay
40 under subparagraph (A) for not longer than 15 days.

1 (D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending,
2 delaying, or otherwise barring the effective date of the automatic stay described in
3 subparagraph (A), other than an order to postpone the effective date of the automatic
4 stay for not longer than 15 days under subparagraph (C)—

5 (i) shall be treated as an order refusing to vacate, modify, dissolve, or otherwise
6 terminate an injunction; and

7 (ii) shall be immediately appealable under section 1292(a)(1) of title 28, United
8 States Code.

9 (d) Settlements.—

10 (1) CONSENT DECREES.—In any civil action pertaining to the administration or
11 enforcement of the immigration laws of the United States, the court may not enter, approve,
12 or continue a consent decree that does not comply with the requirements under subsection
13 (b)(1).

14 (2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this subsection may be construed to
15 preclude parties from entering into a private settlement agreement that does not comply
16 with subsection (b)(1).

17 (e) Expedited Proceedings.—It shall be the duty of every court to advance on the docket and
18 to expedite the disposition of any civil action or motion considered under this section.

19 (f) Consent Decree Defined.—In this section, the term “consent decree”—

20 (1) means any relief entered by the court that is based in whole or in part on the consent
21 or acquiescence of the parties; and

22 (2) does not include private settlements.

23 (g) Costs and Fees. – Section 2412(d)(2)(B) of title 28, U.S. Code, is amended –

24 (1) by striking “an individual” and inserting “a United States citizen”; and

25 (2) by inserting “United States citizen” before “owner”.

26 SEC. 1775. USE OF 1986 IRCA LEGALIZATION 27 INFORMATION FOR NATIONAL SECURITY PURPOSES.

28 (a) Special Agricultural Workers.—Section 210(b)(6) of the Immigration and Nationality Act
29 (8 U.S.C. 1160(b)(6)) is amended—

30 (1) by striking “Attorney General” each place it appears and inserting “Secretary”;

31 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
32 inserting “Homeland Security”;

33 (3) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E),
34 respectively;

35 (4) inserting after subparagraph (B) the following:

36 “(C) AUTHORIZED DISCLOSURES.—

37 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s

1 discretion, for the furnishing of information furnished under this section in the
2 same manner and circumstances as census information may be disclosed under
3 section 8 of title 13, United States Code.”.

4 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
5 Secretary’s discretion, for the furnishing, use, publication, or release of
6 information furnished under this section in any investigation, case, or matter, or
7 for any purpose, relating to terrorism, national intelligence or the national
8 security.

9 “(iii) SUBSEQUENT APPLICATIONS FOR IMMIGRATION BENEFITS.—The Secretary
10 may use the information furnished under this section to adjudicate subsequent
11 applications, petitions, or requests for immigration benefits filed by the alien.

12 “(iv) ALIEN CONSENT.—The Secretary may use the information furnished under
13 this section for any purpose when the alien consents to its disclosure or use by the
14 Secretary.

15 “(v) OTHER CIRCUMSTANCES.—The Secretary may use the information
16 furnished under this section for other purposes and in other circumstances in
17 which disclosure of the information is not related to removal of the alien from the
18 United States.”; and

19 (5) in subparagraph (D), as redesignated, striking “Service” and inserting “Department of
20 Homeland Security”.

21 (b) Adjustment of Status.—Section 245A(c)(5) of the Immigration and Nationality Act (8
22 U.S.C. 1255a(c)(5)) is amended—

23 (1) by striking “Attorney General” each place it appears and inserting “Secretary”;

24 (2) in subparagraph (A), in the matter preceding clause (i), by striking “Justice” and
25 inserting “Homeland Security”; and

26 (3) by amending subparagraph (C) to read as follows:

27 “(C) AUTHORIZED DISCLOSURES.—

28 “(i) CENSUS PURPOSE.—The Secretary may provide, in the Secretary’s
29 discretion, for the furnishing of information furnished under this section in the
30 same manner and circumstances as census information may be disclosed under
31 section 8 of title 13, United States Code.

32 “(ii) NATIONAL SECURITY PURPOSE.—The Secretary may provide, in the
33 Secretary’s discretion, for the furnishing, use, publication, or release of
34 information furnished under this section in any investigation, case, or matter, or
35 for any purpose, relating to terrorism, national intelligence or the national
36 security.”.

37 **SEC. 1776. UNIFORM STATUTE OF LIMITATIONS FOR**
38 **CERTAIN IMMIGRATION, NATURALIZATION, AND**
39 **PEONAGE OFFENSES.**

1 Section 3291 of title 18, United States Code, is amended to read as follows:

2 **“3291. Nationality, citizenship and passports**

3 “No person shall be prosecuted, tried, or punished for a violation of any section of chapter 69
4 (relating to nationality and citizenship offenses) or 75 (relating to passport, visa, and immigration
5 offenses), for a violation of any criminal provision of section 243, 274, 275, 276, 277, or 278 of
6 the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 1327, 1328), or for an
7 attempt or conspiracy to violate any such section, unless the indictment is returned or the
8 information is filed within 10 years after the commission of the offense.”.

9 **SEC. 1777. CONFORMING AMENDMENT TO THE**
10 **DEFINITION OF RACKETEERING ACTIVITY.**

11 Section 1961(1) of title 18, United States Code, is amended by striking “section 1542” and all
12 that follows through “section 1546 (relating to fraud and misuse of visas, permits, and other
13 documents)” and inserting “sections 1541 through 1547 (relating to passports and visas)”.

14 **SEC. 1778. VALIDITY OF ELECTRONIC SIGNATURES.**

15 (a) Civil Cases.—

16 (1) IN GENERAL.—Chapter 9 of title II of the Immigration and Nationality Act (8 U.S.C.
17 1351 et seq.), as amended by section 1126(a) of this Act, is further amended by adding at
18 the end the following:

19 **“SEC. 296. VALIDITY OF SIGNATURES.**

20 “(a) In General.—In any proceeding, adjudication, or any other matter arising under the
21 immigration laws, an individual’s hand written or electronic signature on any petition,
22 application, or any other document executed or provided for any purpose under the immigration
23 laws establishes a rebuttable presumption that the signature executed is that of the individual
24 signing, that the individual is aware of the contents of the document, and intends to sign it.”.

25 “(b) Record Integrity.—The Secretary shall establish procedures to ensure that when any
26 electronic signature is captured for any petition, application, or other document submitted for
27 purposes of obtaining an immigration benefit, the identity of the person is verified and
28 authenticated, and the record of such identification and verification is preserved for litigation
29 purposes.”.

30 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration
31 and Nationality Act is amended by inserting after the item relating to section 295, as added
32 by section 1126(a)(2) of this Act, the following:

33 “Sec.296.Validity of signatures.”.

34 (b) Criminal Cases.—

35 (1) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at
36 the end the following:

37 **“3513. Signatures relating to immigration matters**

1 “In a criminal proceeding in a court of the United States, if an individual’s handwritten or
2 electronic signature appears on a petition, application, or other document executed or provided
3 for any purpose under the immigration laws (as defined in section 101(a)(17) of the Immigration
4 and Nationality Act (8 U.S.C. 1101(a)(17)), the trier of fact may infer that the document was
5 signed by that individual, and that the individual knew the contents of the document and intended
6 to sign the document.”

7 (2) CLERICAL AMENDMENT.—The table of sections for chapter 223 of title 18, United
8 States Code, is amended by inserting after the item relating to section 3512 the following:
9 “3513. Signatures relating to immigration matters.”

10 Subtitle H—Prohibition on Terrorists Obtaining Lawful Status 11 in the United States

12 CHAPTER 1—PROHIBITION ON ADJUSTMENT TO 13 LAWFUL PERMANENT RESIDENT STATUS

14 SEC. 1801. LAWFUL PERMANENT RESIDENTS AS 15 APPLICANTS FOR ADMISSION.

16 Section 101(a)(13)(C) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)) is
17 amended—

18 (1) in clauses (i), (ii), (iii), and (iv), by striking the comma at the end of each clause and
19 inserting a semicolon;

20 (2) in clause (v), by striking the “, or” and inserting a semicolon;

21 (3) in clause (vi), by striking the period at the end and inserting “; or” and

22 (4) by adding at the end the following:

23 “(vii) is described in section 212(a)(3) or 237(a)(4).”

24 SEC. 1802. DATE OF ADMISSION FOR PURPOSES OF 25 ADJUSTMENT OF STATUS.

26 (a) Applicants for Admission.—Section 101(a)(13) of the Immigration and Nationality Act (8
27 U.S.C. 1101(a)(13)), as amended by section 1801, is further amended by adding at the end the
28 following:

29 “(D) Notwithstanding subparagraph (A), adjustment of status of an alien to that of an alien
30 lawfully admitted for permanent residence under section 245 or under any other provision of law
31 is an admission of the alien.”

32 (b) Eligibility to Be Removed for a Crime Involving Moral Turpitude.—Section
33 237(a)(2)(A)(i)(I) of such Act (8 U.S.C. 1227(a)(2)(A)(i)(I)) is amended by striking “date of
34 admission,” inserting “alien’s most recent date of admission;”

35 SEC. 1803. PRECLUDING ASYLEE AND REFUGEE

1 ADJUSTMENT OF STATUS FOR CERTAIN GROUNDS OF
2 INADMISSIBILITY AND DEPORTABILITY.

3 (a) Grounds of Inadmissibility.—Section 209(c) of the Immigration and Nationality Act (8
4 U.S.C. 1159(c)) is amended by striking “(other than paragraph (2)(C) or subparagraph (A), (B),
5 (C), or (E) of paragraph (3))”, and inserting “(other than subparagraph (C) or (G) of paragraph
6 (2) or subparagraph (A), (B), (C), (E), (F), or (G) of paragraph (3))”.

7 (b) Grounds of Deportability.—Section 209 of such Act, as amended by subsection (a), is
8 further amended by adding at the end the following:

9 “(d) An alien’s status may not be adjusted under this section if the alien is in removal
10 proceedings under section 238 or 240 and is charged with deportability under any
11 subparagraph(s) of section 237(a)(2), (a)(30), (a)(4), or (a)(6).”.

12 (c) Effective Date.—The amendments made by this section shall apply to—

13 (1) any act that occurred before, on, or after the date of the enactment of this Act; and

14 (2) all aliens who are required to establish admissibility on or after such date in all
15 removal, deportation, or exclusion proceedings that are filed, pending, or reopened, on or
16 after such date.

17 SEC. 1804. REVOCATION OF LAWFUL PERMANENT
18 RESIDENT STATUS FOR HUMAN RIGHTS VIOLATORS.

19 Section 240(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)(5)) is amended
20 by adding at the end the following:

21 “(F) ADDITIONAL APPLICATION TO CERTAIN ALIENS OUTSIDE OF THE UNITED STATES
22 WHO ARE ASSOCIATED WITH HUMAN RIGHTS VIOLATIONS.—Subparagraphs (A) through
23 (E) shall apply to any alien placed in proceedings under this section who—

24 “(i) is outside of the United States;

25 “(ii) has been provided written notice in accordance with section 239(a)
26 (whether the alien is within or outside the United States); and

27 “(iii) is described in section 212(a)(2)(G) (persons who have committed
28 particularly severe violations of religious freedom), 212(a)(3)(E) (Nazi and other
29 persecution, genocide, war crimes, crimes against humanity, extrajudicial killing,
30 torture, or specified human rights violations), or 212(a)(3)(G) (recruitment or use
31 of child soldiers).”.

32 SEC. 1805. REMOVAL OF CONDITION ON LAWFUL
33 PERMANENT RESIDENT STATUS PRIOR TO
34 NATURALIZATION.

35 Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is
36 amended—

1 (1) in section 216(e) (8 U.S.C. 1186a(e)), by inserting “, if the alien has had the
2 conditional basis removed pursuant to this section” before the period at the end; and

3 (2) in section 216A(e) (8 U.S.C. 1186b(e)), by inserting “, if the alien has had the
4 conditional basis removed pursuant to this section” before the period at the end.

5 **SEC. 1806. PROHIBITION ON TERRORISTS AND ALIENS**
6 **WHO POSE A THREAT TO NATIONAL SECURITY OR**
7 **PUBLIC SAFETY FROM RECEIVING AN ADJUSTMENT**
8 **OF STATUS.**

9 (a) Application for Adjustment of Status in the United States.—

10 (1) IN GENERAL.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is
11 amended by striking the section heading and subsection (a) and inserting the following:

12 **“SEC. 245. ADJUSTMENT OF STATUS TO THAT OF A**
13 **PERSON ADMITTED FOR PERMANENT RESIDENCE.**

14 “(a) In General.—

15 “(1) ELIGIBILITY FOR ADJUSTMENT.—The status of an alien who was inspected and
16 admitted or paroled into the United States or the status of any other alien having an
17 approved petition for classification under the Violence Against Women Act of 1994 (42
18 U.S.C. 13701 et seq.) as a spouse or child who has been battered or subjected to extreme
19 cruelty may be adjusted by the Secretary or by the Attorney General, in the discretion of the
20 Secretary or the Attorney General, and under such regulations as the Secretary or the
21 Attorney General may prescribe, to that of an alien lawfully admitted for permanent
22 residence if—

23 “(A) the alien files an application for such adjustment;

24 “(B) the alien is eligible to receive an immigrant visa and is admissible to the United
25 States for permanent residence, and is not subject to exclusion, deportation, or removal
26 from the United States; and

27 “(C) an immigrant visa is immediately available to the alien at the time the alien’s
28 application is filed.

29 “(2) REQUIREMENT TO OBTAIN AN IMMIGRANT VISA OUTSIDE OF THE UNITED STATES.—
30 Notwithstanding any other provision of this section, if the Secretary determines that an alien
31 may be a threat to national security or public safety or if the Secretary determines that a
32 favorable exercise of discretion to allow an alien to seek to adjust his or her status in the
33 United States is not warranted, the Secretary, in the Secretary’s sole and unreviewable
34 discretion, may deny the application for adjustment of status. If the Secretary denies
35 adjustment of status on the authority of this paragraph, the Secretary shall communicate that
36 determination to the Attorney General, in which case the Attorney General must deny any
37 application for adjustment of status filed by the alien in immigration proceedings.”.

38 (2) CLERICAL AMENDMENT.—The table of contents in the first section of the Immigration

1 and Nationality Act is amended by striking the item relating to section 245 and inserting the
2 following:

3 “Sec.245.Adjustment of status to that of a person admitted for permanent residence.”.

4 (b) Prohibition on Terrorists and Aliens Who Pose a Threat to National Security or Public
5 Safety on Adjustment to Lawful Permanent Resident Status.—Section 245(c) of the Immigration
6 and Nationality Act (8 U.S.C. 1255(c)) is amended to read as follows:

7 “(c) Except for an alien who has an approved petition for classification as a VAWA self-
8 petitioner, subsection (a) shall not apply to—

9 “(1) an alien crewman;

10 “(2) subject to subsection (k), any alien (other than an immediate relative (as defined in
11 section 201(b)) or a special immigrant (as described in subparagraph (H), (I), (J), or (K) of
12 section 101(a)(27))) who—

13 “(A) continues in or accepts unauthorized employment before filing an application
14 for adjustment of status;

15 “(B) is in unlawful immigration status on the date he or she files an application for
16 adjustment of status; or

17 “(C) has failed (other than through no fault of his or her own or for technical
18 reasons) to maintain continuously a lawful status since entry into the United States;

19 “(3) any alien admitted in transit without a visa under section 212(d)(4)(C);

20 “(4) an alien (other than an immediate relative (as defined in section 201(b))) who was
21 admitted as a nonimmigrant visitor without a visa under section 212(l) or 217;

22 “(5) an alien who was admitted as a nonimmigrant under section 101(a)(15)(S);

23 “(6) an alien described in subparagraph (B) of section 212, or subparagraph (B), (F), or
24 (G) of section 237(a)(4);

25 “(7) any alien who seeks adjustment of status to that of an immigrant under section
26 203(b) and is not in a lawful nonimmigrant status;

27 “(8) any alien who has committed, ordered, incited, assisted, or otherwise participated in
28 the persecution of any person on account of race, religion, nationality, membership in a
29 particular social group, or political opinion; or

30 “(9) any alien who—

31 “(A) was employed while the alien was an unauthorized alien (as defined in section
32 274A(h)(3)); or

33 “(B) has otherwise violated the terms of a nonimmigrant visa.”.

34 **SEC. 1807. TREATMENT OF APPLICATIONS FOR**
35 **ADJUSTMENT OF STATUS DURING PENDING**
36 **DENATURALIZATION PROCEEDINGS.**

37 (a) Visa Issuance.—Section 221(g) of the Immigration and Nationality Act (8 U.S.C. 1201(g))

1 is amended—

2 (1) by inserting “(1)” before “No visa”;

3 (2) by striking “if (1) it appears” and inserting the following: “if—

4 “(A) it appears”;

5 (3) by striking “law, (2) the application” and inserting the following: “law;

6 “(B) the application”;

7 (4) by striking “thereunder, or (3) the consular officer” and inserting the following:
8 “thereunder;

9 “(C) the consular officer”;

10 (5) by striking “provision of law: Provided, That a visa” and inserting the following:
11 “provision of law; or

12 “(D) the approved petition for classification under section 203 or 204 that is the
13 underlying basis for the application for a visa was filed by an individual who has a judicial
14 proceeding pending against him or her that would result in the individual’s denaturalization
15 under section 340.

16 “(2) A visa”; and

17 (6) by striking “section 213: Provided further, That a visa” and inserting the following:
18 “section 213.

19 “(3) A visa”.

20 (b) Adjustment of Status.—Section 245 of the Immigration and Nationality Act (8 U.S.C.
21 1451), as amended by section 1806, is further amended by adding at the end the following:

22 “(n) An application for adjustment of status may not be considered or approved by the
23 Secretary or the Attorney General, and no court may order the approval of an application for
24 adjustment of status if the approved petition for classification under section 204 that is the
25 underlying basis for the application for adjustment of status was filed by an individual who has a
26 judicial proceeding pending against him or her that would result in the revocation of the
27 individual’s naturalization under section 340.”.

28 SEC. 1808. EXTENSION OF TIME LIMIT TO PERMIT 29 RESCISSION OF PERMANENT RESIDENT STATUS.

30 Section 246 of the Immigration and Nationality Act (8 U.S.C. 1256) is amended—

31 (1) in subsection (a)—

32 (A) by inserting “(1)” after “(a)”;

33 (B) by striking “within five years” and inserting “within 10 years”;

34 (C) by striking “Attorney General” each place that term appears and inserting
35 “Secretary”; and

36 (D) by adding at the end the following:

1 “(2) In any removal proceeding involving an alien whose status has been rescinded under this
2 subsection, the determination by the Secretary that the alien was not eligible for adjustment of
3 status is not subject to review or reconsideration during such proceedings.”.

4 (2) by redesignating subsection (b) as subsection (c); and

5 (3) by inserting after subsection (a) the following:

6 “(b) Nothing in subsection (a) may be construed to require the Secretary to rescind the alien’s
7 status before the commencement of removal proceedings under section 240. The Secretary may
8 commence removal proceedings at any time against any alien who is removable, including aliens
9 whose status was adjusted to that of an alien lawfully admitted for permanent residence under
10 section 245 or 249 or under any other provision of law. There is no statute of limitations with
11 respect to the commencement of removal proceedings under section 240. An order of removal
12 issued by an immigration judge shall be sufficient to rescind the alien’s status.”.

13 SEC. 1809. BARRING PERSECUTORS AND TERRORISTS 14 FROM REGISTRY.

15 Section 249 of the Immigration and Nationality Act (8 U.S.C. 1259) is amended to read as
16 follows:

17 “SEC. 249. RECORD OF ADMISSION FOR PERMANENT 18 RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO 19 ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 20 1972.

21 “(a) In General.—The Secretary, in the discretion of the Secretary and under such regulations
22 as the Secretary may prescribe, may enter a record of lawful admission for permanent residence
23 in the case of any alien, if no such record is otherwise available and the alien—

24 “(1) entered the United States before January 1, 1972;

25 “(2) has continuously resided in the United States since such entry;

26 “(3) has been a person of good moral character since such entry;

27 “(4) is not ineligible for citizenship;

28 “(5) is not described in paragraph (1)(A)(iv), (2), (3), (6)(C), (6)(E), (8), or (9)(C) of
29 section 212(a);

30 “(6) is not described in paragraph (1)(E), (1)(G), (2), (4) of section 237(a); and

31 “(7) did not, at any time, without reasonable cause, fail or refuse to attend or remain in
32 attendance at a proceeding to determine the alien’s inadmissibility or deportability.

33 “(b) Recordation Date of Permanent Residence.—The record of an alien’s lawful admission
34 for permanence residence shall be the date on which the Secretary approves the application for
35 such status under this section.”.

36 CHAPTER 2—PROHIBITION ON NATURALIZATION AND

1 UNITED STATES CITIZENSHIP

2 SEC. 1821. BARRING TERRORISTS FROM BECOMING
3 NATURALIZED UNITED STATES CITIZENS.

4 (a) In General.—Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427) is
5 amended by adding at the end the following:

6 “(g)(1)(A) Except as provided in subparagraph (B), a person may not be naturalized if the
7 Secretary determines, in the discretion of the Secretary, that the alien is described in section
8 212(a)(3) or 237(a)(4) at any time, including any period before or after the filing of an
9 application for naturalization.

10 “(B) Subparagraph (A) shall not apply to an alien described in section 212(a)(3) if—

11 “(i) the alien received an exemption under section 212(d)(3)(B)(i); and

12 “(ii) the only conduct or actions by the alien that are described in section 212(a)(3) (and
13 would bar the alien from naturalization under this paragraph) are specifically covered by the
14 exemption referred to in clause (i).

15 “(2) A determination under paragraph (1) may be based upon any relevant information or
16 evidence, including classified, sensitive, or national security information.”.

17 (b) Applicability to Citizenship Through Naturalization of Parent or Spouse.—Section 340(d)
18 of such Act (8 U.S.C. 1451(d)) is amended—

19 (1) by striking the first sentence and inserting the following:

20 “(1) A person who claims United States citizenship through the naturalization of a parent or
21 spouse shall be deemed to have lost his or her citizenship, and any right or privilege of
22 citizenship which he or she may have acquired, or may hereafter acquire by virtue of the
23 naturalization of such parent or spouse, if the order granting citizenship to such parent or spouse
24 is revoked and set aside under the provisions of—

25 “(A) subsection (a) on the ground that the order and certificate of naturalization were
26 procured by concealment of a material fact or by willful misrepresentation; or

27 “(B) subsection (e) pursuant to a conviction under section 1425 of title 18, United States
28 Code.”.

29 (2) in the second sentence, by striking “Any person” and inserting the following:

30 “(2) Any person”.

31 SEC. 1822. TERRORIST BAR TO GOOD MORAL
32 CHARACTER.

33 (a) Definition of Good Moral Character.—Section 101(f) of the Immigration and Nationality
34 Act (8 U.S.C. 1101(f)), as amended by sections 1710(d), 1712(h), and 1713(d), is further
35 amended—

36 (1) in paragraph (8), by inserting “, regardless of whether the crime was classified as an
37 aggravated felony at the time of conviction” before the semicolon at the end;

1 (2) by inserting after paragraph (11), the following:

2 “(12) one who the Secretary or the Attorney General determines, in the unreviewable
3 discretion of the Secretary or the Attorney General, to have been an alien described in
4 section 212(a)(3) or 237(a)(4), which determination—

5 “(A) may be based upon any relevant information or evidence, including classified,
6 sensitive, or national security information; and

7 “(B) shall be binding upon any court regardless of the applicable standard of
8 review.”; and

9 (3) in the undesignated matter at the end, by striking the first sentence and inserting
10 following:

11 “The fact that a person is not within any of the foregoing classes shall not preclude a
12 discretionary finding for other reasons that such a person is or was not of good moral character.
13 The Secretary or the Attorney General shall not be limited to the applicant’s conduct during the
14 period for which good moral character is required, but may take into consideration as a basis for
15 determination the applicant’s conduct and acts at any time. The Secretary or the Attorney
16 General, in the unreviewable discretion of the Secretary or the Attorney General, may determine
17 that paragraph (8) shall not apply to a single aggravated felony conviction (other than murder,
18 manslaughter, homicide, rape, or any sex offense when the victim of such sex offense was a
19 minor) for which completion of the term of imprisonment or the sentence (whichever is later)
20 occurred 15 years or longer before the date on which the person filed an application under this
21 Act.”.

22 (b) Aggravated Felons.—Section 509(b) of the Immigration Act of 1990 (8 U.S.C. 1101 note;
23 Public Law 101–649) is amended by striking “convictions” and all that follows and inserting
24 “convictions occurring before, on, or after such date.”.

25 (c) Effective Dates; Application.—

26 (1) SUBSECTION (A).—The amendments made by subsection (a) shall take effect on the
27 date of the enactment of this Act, shall apply to any act that occurred before, on, or after
28 such date of enactment, and shall apply to any application for naturalization or any other
29 benefit or relief, or any other case or matter under the immigration laws pending on or filed
30 after such date of enactment.

31 (2) SUBSECTION (B).—The amendment made by subsection (b) shall take effect as if
32 included in the enactment of the Intelligence Reform and Terrorism Prevention Act of 2004
33 (Public Law 108–458).

34 **SEC. 1823. PROHIBITION ON JUDICIAL REVIEW OF**
35 **NATURALIZATION APPLICATIONS FOR ALIENS IN**
36 **REMOVAL PROCEEDINGS.**

37 Section 318 of the Immigration and Nationality Act (8 U.S.C. 1429) is amended to read as
38 follows:

39 **“SEC. 318. PREREQUISITE TO NATURALIZATION;**

BURDEN OF PROOF.

“(a) In General.—Except as otherwise provided in this chapter, no person may be naturalized unless he or she has been lawfully admitted to the United States for permanent residence in accordance with all applicable provisions of this chapter.

“(b) Burden of Proof.—A person described in subsection (a) shall have the burden of proof to show that he or she entered the United States lawfully, and the time, place, and manner of such entry into the United States. In presenting such proof, the person is entitled to the production of his or her immigrant visa, if any, or of other entry document, if any, and of any other documents and records, not considered by the Secretary to be confidential, pertaining to such entry, in the custody of the Department.

“(c) Limitations on Review.—Notwithstanding section 405(b), and except as provided in sections 328 and 329—

“(1) a person may not be naturalized against whom there is outstanding a final finding of removal, exclusion, or deportation;

“(2) an application for naturalization may not be considered by the Secretary or by any court if there is pending against the applicant any removal proceeding or other proceeding to determine whether the applicant’s lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced; and

“(3) the findings of the Attorney General in terminating removal proceedings or in cancelling the removal of an alien pursuant to this Act may not be deemed binding in any way upon the Secretary with respect to the question of whether such person has established his or her eligibility for naturalization under this Act.”.

SEC. 1824. LIMITATION ON JUDICIAL REVIEW WHEN AGENCY HAS NOT MADE DECISION ON NATURALIZATION APPLICATION AND ON DENIALS.

(a) Limitation on Review of Pending Naturalization Applications.—Section 336 of the Immigration and Nationality Act (8 U.S.C. 1447) is amended—

(1) in subsection (a), by striking “If,” and inserting the following:

“(b) In General.—If,”; and

(2) by amending subsection (b) to read as follows:

“(b) Request for Hearing Before District Court.—If a final administrative determination is not made on an application for naturalization under section 335 before the end of the 180-day period beginning on the date on which the Secretary completes all examinations and interviews under such section (as such terms are defined by the Secretary, by regulation), the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. Such court shall only have jurisdiction to review the basis for delay and remand the matter to the Secretary for the Secretary’s determination on the application.”.

(b) Limitations on Review of Denial.—Section 310 of the Immigration and Nationality Act (8 U.S.C. 1421) is amended—

1 (1) by amending subsection (c) to read as follows:

2 “(c) Judicial Review.—

3 “(1) JUDICIAL REVIEW OF DENIAL.—A person whose application for naturalization under
4 this title is denied may, not later than 120 days after the date of the Secretary’s
5 administratively final determination on the application and after a hearing before an
6 immigration officer under section 336(a), seek review of such denial before the United
7 States district court for the district in which such person resides in accordance with chapter
8 7 of title 5, United States Code.

9 “(2) BURDEN OF PROOF.—The petitioner shall have burden of proof to show that the
10 Secretary’s denial of the application for naturalization was not supported by facially
11 legitimate and bona fide reasons.

12 “(3) LIMITATIONS ON REVIEW.—Except in a proceeding under section 340, and
13 notwithstanding any other provision of law, including section 2241 of title 28, United States
14 Code, any other habeas corpus provision, and sections 1361 and 1651 of such title, no court
15 shall have jurisdiction to determine, or to review a determination of the Secretary made at
16 any time regarding, whether, for purposes of an application for naturalization, an alien—

17 “(A) is a person of good moral character;

18 “(B) understands and is attached to the principles of the Constitution of the United
19 States; or

20 “(C) is well disposed to the good order and happiness of the United States.”;

21 (2) in subsection (d)—

22 (A) by inserting “subpoenas.—” before “The immigration officer”;

23 (B) by striking “subpena” and inserting “subpoena”; and

24 (C) by striking “subpenas” each place such term appears and inserting “subpoenas”;
25 and

26 (3) in subsection (e), by inserting “Name Change.—” before “It shall”.

27 (c) Effective Date; Application.—The amendments made by this section—

28 (1) shall take effect on the date of the enactment of this Act;

29 (2) shall apply to any act that occurred before, on, or after such date of enactment; and

30 (3) shall apply to any application for naturalization or any other case or matter under the
31 immigration laws that is pending on, or filed after, such date of enactment.

32 SEC. 1825. CLARIFICATION OF DENATURALIZATION 33 AUTHORITY.

34 Section 340 of the Immigration and Nationality Act (8 U.S.C. 1451) is amended—

35 (1) in subsection (a), by striking “United States attorneys for the respective districts” and
36 inserting “Attorney General”; and

37 (2) by amending subsection (c) to read as follows:

1 “(c) The Government shall have the burden of proof to establish, by clear, unequivocal, and
2 convincing evidence, that an order granting citizenship to an alien should be revoked and a
3 certificate of naturalization cancelled because such order and certificate were illegally procured
4 or were procured by concealment of a material fact or by willful misrepresentation.”.

5 SEC. 1826. DENATURALIZATION OF TERRORISTS.

6 (a) Denaturalization for Terrorists Activities.—Section 340 of the Immigration and Nationality
7 Act, as amended by section 1825, is further amended—

8 (1) by redesignating subsections (d) through (h) as subsections (f) through (j),
9 respectively; and

10 (2) by inserting after subsection (c) the following:

11 “(d)(1) If a person who has been naturalized, during the 15-year period after such
12 naturalization, participates in any act described in paragraph (2)—

13 “(A) such act shall be considered prima facie evidence that such person was not attached
14 to the principles of the Constitution of the United States and was not well disposed to the
15 good order and happiness of the United States at the time of naturalization; and

16 “(B) in the absence of countervailing evidence, such act shall be sufficient in the proper
17 proceeding to authorize the revocation and setting aside of the order admitting such person
18 to citizenship and the cancellation of the certificate of naturalization as having been
19 obtained by concealment of a material fact or by willful misrepresentation; and

20 “(C) such revocation and setting aside of the order admitting such person to citizenship
21 and such canceling of certificate of naturalization shall be effective as of the original date of
22 the order and certificate, respectively.

23 “(2) The acts described in this paragraph that shall subject a person to a revocation and setting
24 aside of his or her naturalization under paragraph (1)(B) are—

25 “(A) any activity a purpose of which is the opposition to, or the control or overthrow of,
26 the Government of the United States by force, violence, or other unlawful means;

27 “(B) engaging in a terrorist activity (as defined in clauses (iii) and (iv) of section
28 212(a)(3)(B));

29 “(C) endorsing or espousing terrorist activity, or persuading others to endorse or espouse
30 terrorist activity or a terrorist organization; and

31 “(D) receiving military-type training (as defined in section 2339D(c)(1) of title 18,
32 United States Code) from or on behalf of any organization that, at the time the training was
33 received, was a terrorist organization (as defined in section 212(a)(3)(B)(vi)).”.

34 (b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of
35 the enactment of this Act and shall apply to acts that occur on or after such date.

36 SEC. 1827. TREATMENT OF PENDING APPLICATIONS 37 DURING DENATURALIZATION PROCEEDINGS.

38 (a) In General.—Section 204(b) of the Immigration and Nationality Act (8 U.S.C. 1154(b)) is

1 amended—

2 (1) by striking “After” and inserting “(1) Except as provided in paragraph (2), after”; and

3 (2) by adding at the end the following:

4 “(2) The Secretary may not adjudicate or approve any petition filed under this section by an
5 individual who has a judicial proceeding pending against him or her that would result in the
6 individual’s denaturalization under section 340 until—

7 “(A) such proceedings have concluded; and

8 “(B) the period for appeal has expired or any appeals have been finally decided, if
9 applicable.”.

10 (b) Withholding of Immigration Benefits.—Section 340 of such Act (8 U.S.C. 1451), as
11 amended by sections 1825 and 1826, is further amended by inserting after subsection (d), as
12 added by section 1826(a)(2), the following:

13 “(e) The Secretary may not approve any application, petition, or request for any immigration
14 benefit from an individual against whom there is a judicial proceeding pending that would result
15 in the individual’s denaturalization under this section until—

16 “(1) such proceedings have concluded; and

17 “(2) the period for appeal has expired or any appeals have been finally decided, if
18 applicable.”.

19 SEC. 1828. NATURALIZATION DOCUMENT RETENTION.

20 (a) In General.—Chapter 2 of title III of the Immigration and Nationality Act (8 U.S.C. 1421
21 et seq.) is amended by inserting after section 344 the following:

22 “SEC. 345. NATURALIZATION DOCUMENT RETENTION.

23 “(a) In General.—The Secretary shall retain all documents described in subsection (b) for a
24 minimum of 7 years for law enforcement and national security investigations and for litigation
25 purposes, regardless of whether such documents are scanned into U.S. Citizenship and
26 Immigration Services’ electronic immigration system or stored in any electronic format.

27 “(b) Documents to Be Retained.—The documents described in this subsection are—

28 “(1) the original paper naturalization application and all supporting paper documents
29 submitted with the application at the time of filing, subsequent to filing, and during the
30 course of the naturalization interview; and

31 “(2) any paper documents submitted in connection with an application for naturalization
32 that is filed electronically.”.

33 (b) Clerical Amendment.—The table of contents in the first section of the Immigration and
34 Nationality Act is amended by inserting after the item relating to section 344 the following:

35 “Sec.345.Naturalization document retention.”.

36 CHAPTER 3—FORFEITURE OF PROCEEDS FROM

1 PASSPORT AND VISA OFFENSES, AND PASSPORT
2 REVOCATION.

3 SEC. 1831. FORFEITURE OF PROCEEDS FROM
4 PASSPORT AND VISA OFFENSES.

5 Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the
6 following:

7 “(J) Any real or personal property that has been used to commit, or to facilitate the
8 commission of, a violation of chapter 75, the gross proceeds of such violation, and any
9 property traceable to any such property or proceeds.”.

10 SEC. 1832. PASSPORT REVOCATION ACT.

11 (a) Short Title.—This section may be cited as the “Passport Revocation Act”.

12 (b) Revocation or Denial of Passports and Passport Cards to Individuals Who Are Affiliated
13 With Foreign Terrorist Organizations.—The Act entitled “An Act to regulate the issue and
14 validity of passports, and for other purposes”, approved July 3, 1926 (22 U.S.C. 211a et seq.),
15 which is commonly known as the “Passport Act of 1926”, is amended by adding at the end the
16 following:

17 “SEC. 5. AUTHORITY TO DENY OR REVOKE PASSPORT
18 AND PASSPORT CARD.

19 “(a) Ineligibility.—

20 “(1) ISSUANCE.—Except as provided under subsection (b), the Secretary of State shall
21 refuse to issue a passport or a passport card to any individual—

22 “(A) who has been convicted of a violation of chapter 113B of title 18, United States
23 Code; or

24 “(B)(i) whom the Secretary has determined is a member of or is otherwise affiliated
25 with an organization the Secretary has designated as a foreign terrorist organization
26 pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

27 “(ii) has aided, abetted, or provided material support to an organization described in
28 clause (i).

29 “(2) REVOCATION.—The Secretary of State shall revoke a passport previously issued to
30 any individual described in paragraph (1).

31 “(b) Exceptions.—

32 “(1) EMERGENCY CIRCUMSTANCES, HUMANITARIAN REASONS, AND LAW ENFORCEMENT
33 PURPOSES.—Notwithstanding subsection (a), the Secretary of State may issue, or decline to
34 revoke, a passport of an individual described in such subsection in emergency
35 circumstances, for humanitarian reasons, or for law enforcement purposes.

36 “(2) LIMITATION FOR RETURN TO UNITED STATES.—Notwithstanding subsection (a)(2), the

1 Secretary of State, before revocation, may—

2 “(A) limit a previously issued passport for use only for return travel to the United
3 States; or

4 “(B) issue a limited passport that only permits return travel to the United States.

5 “(c) Right of Review.—Any individual who, in accordance with this section, is denied
6 issuance of a passport by the Secretary of State, or whose passport is revoked or otherwise
7 limited by the Secretary of State, may request a hearing before the Secretary of State not later
8 than 60 days after receiving notice of such denial, revocation, or limitation.

9 “(d) Report.—If the Secretary of State denies, issues, limits, or declines to revoke a passport
10 or passport card under subsection (b), the Secretary, not later than 30 days after such denial,
11 issuance, limitation, or revocation, shall submit a report to Congress that describes such denial,
12 issuance, limitation, or revocation, as appropriate.”.

13 TITLE II—PERMANENT REAUTHORIZATION OF 14 VOLUNTARY E-VERIFY

15 SEC. 2001. PERMANENT REAUTHORIZATION.

16 Section 401(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996
17 (division C of Public Law 104–208; 8 U.S.C. 1324a note) is amended by striking “Unless the
18 Congress otherwise provides, the Secretary of Homeland Security shall terminate a pilot program
19 on September 30, 2015.”.

20 SEC. 2002. PREEMPTION; LIABILITY.

21 Section 402 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
22 U.S.C. 1324a note) is amended by adding at the end the following:

23 “(g) Limitation on State Authority.—

24 “(1) PREEMPTION.—A State or local government may not prohibit a person or other entity
25 from verifying the employment authorization of new hires or current employees through E-
26 Verify.

27 “(2) LIABILITY.—A person or other entity that participates in E-Verify may not be held
28 liable under any Federal, State, or local law for any employment-related action taken with
29 respect to the wrongful termination of an individual in good faith reliance on information
30 provided through E-Verify.”.

31 SEC. 2003. INFORMATION SHARING.

32 The Commissioner of Social Security, the Secretary of Homeland Security, and the Secretary
33 of the Treasury shall jointly establish a program to share information among their respective
34 agencies that could lead to the identification of unauthorized aliens (as defined in section
35 274A(h)(3) of the Immigration and Nationality Act (8 U.S.C. 1324a(h)(3)), including no-match
36 letters and any information in the earnings suspense file.

37 SEC. 2004. SMALL BUSINESS DEMONSTRATION

1 **PROGRAM.**

2 Section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8
3 U.S.C. 1324a note) is amended—

4 (1) by redesignating subsection (d) as subsection (e); and

5 (2) by inserting after subsection (c) the following:

6 “(d) Small Business Demonstration Program.—Not later than 9 months after the date of
7 enactment of the SECURE and SUCCEED Act, the Director of U.S. Citizenship and
8 Immigration Services shall establish a demonstration program that assists small businesses in
9 rural areas or areas without internet capabilities to verify the employment eligibility of newly
10 hired employees solely through the use of publicly accessible internet terminals.”.

11 **SEC. 2005. FRAUD PREVENTION.**

12 (a) Blocking Misused Social Security Account Numbers.—The Secretary of Homeland
13 Security, in consultation with the Commissioner of Social Security, shall establish a program in
14 which Social Security account numbers that have been identified to be subject to unusual
15 multiple use in the employment eligibility verification system established under section 274A(d)
16 of the Immigration and Nationality Act (8 U.S.C. 1324a(d)), or that are otherwise suspected or
17 determined to have been compromised by identity fraud or other misuse, shall be blocked from
18 use for such system purposes unless the individual using such number is able to establish,
19 through secure and fair additional security procedures, that the individual is the legitimate holder
20 of the number.

21 (b) Allowing Suspension of Use of Certain Social Security Account Numbers.—The Secretary
22 of Homeland Security, in consultation with the Commissioner of Social Security, shall establish
23 a program that provides a reliable, secure method by which victims of identity fraud and other
24 individuals may suspend or limit the use of their Social Security account number or other
25 identifying information for purposes of the employment eligibility verification system
26 established under section 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)).
27 The Secretary may implement the program on a limited pilot program basis before making it
28 fully available to all individuals.

29 (c) Allowing Parents to Prevent Theft of Their Child’s Identity.—The Secretary of Homeland
30 Security, in consultation with the Commissioner of Social Security, shall establish a program that
31 provides a reliable, secure method by which parents or legal guardians may suspend or limit the
32 use of the Social Security account number or other identifying information of a minor under their
33 care for the purposes of the employment eligibility verification system established under
34 274A(d) of the Immigration and Nationality Act (8 U.S.C. 1324a(d)). The Secretary may
35 implement the program on a limited pilot program basis before making it fully available to all
36 individuals.

37 **SEC. 2006. IDENTITY AUTHENTICATION EMPLOYMENT**
38 **ELIGIBILITY VERIFICATION PILOT PROGRAMS.**

39 (a) In General.—Not later than 2 years after the date of the enactment of this Act, the
40 Secretary of Homeland Security, after consultation with the Commissioner of Social Security

1 and the Director of the National Institute of Standards and Technology, shall establish, by
2 regulation, not fewer than 2 Identity Authentication Employment Eligibility Verification pilot
3 programs (referred to in this section as the “Authentication Pilots”), each of which shall use a
4 separate and distinct technology.

5 (b) Purpose.—The purpose of the Authentication Pilots shall be to provide for identity
6 authentication and employment eligibility verification with respect to enrolled new employees to
7 any employer that elects to participate in an Authentication Pilot.

8 (c) Cancellation.—Any participating employer may cancel the employer’s participation in an
9 Authentication Pilot after 1 year after electing to participate without prejudice to future
10 participation.

11 (d) Report.—Not later than 12 months after commencement of the Authentication Pilots, the
12 Secretary 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 includes the Secretary’s
14 findings on the Authentication Pilots and the authentication technologies chosen.

15 TITLE III—SUCCEED ACT

16 SEC. 3001. SHORT TITLES.

17 This title may be cited as the “Solution for Undocumented Children through Careers,
18 Employment, Education, and Defending our Nation Act” or the “SUCCEED Act”.

19 SEC. 3002. DEFINITIONS.

20 In this title:

21 (1) IN GENERAL.—Except as otherwise specifically provided, any term used in this title
22 that is also used in the immigration laws shall have the meaning given such term in the
23 immigration laws.

24 (2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional temporary resident
25 that seeks to maintain or extend such status by complying with the requirements under this
26 title relating to enlistment and service in the Armed Forces of the United States.

27 (3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a
28 conditional temporary resident that seeks to maintain or extend such status by complying
29 with the requirements under this title relating to enrollment in, and graduation from, an
30 institution of higher education in the United States.

31 (4) CONDITIONAL temporary RESIDENT.—

32 (A) DEFINITION.—The term “conditional temporary resident” means an alien
33 described in subparagraph (B) who is granted conditional permanent resident status
34 under this title.

35 (B) DESCRIPTION.—An alien granted conditional temporary resident status under
36 this title—

37 (i) shall not be considered to be an alien who is unlawfully present in the
38 United States for purposes of the immigration laws, including section 505 of the

1 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C.
2 1623);

3 (ii) shall not be permitted to apply for adjustment of status under section 245(a)
4 of the Immigration and Nationality (8 U.S.C. 1255(a)) until permitted to do so
5 under section 3005;

6 (iii) has the intention to permanently reside in the United States;

7 (iv) is not required to have a foreign residence which the alien has no intention
8 of abandoning; and

9 (v) shall be considered to have been inspected and admitted for the purposes of
10 section 245(a) of the Immigration and Nationality Act (8 U.S.C. 1255(a)) once the
11 alien is eligible to apply for adjustment of status to that of an alien lawfully
12 admitted for permanent residence pursuant to section 3005.

13 (5) FEDERAL PUBLIC BENEFIT.—For purposes of this Act, the term “Federal public
14 benefit” means—

15 (A) the American Opportunity Tax Credit authorized under section 25A(i) of the
16 Internal Revenue Code of 1986;

17 (B) the Earned Income Tax Credit authorized under section 32 of the Internal
18 Revenue Code of 1986;

19 (C) the Health Coverage Tax Credit authorized under section 35 of the Internal
20 Revenue Code of 1986;

21 (D) Social Security benefits authorized under title II of the Social Security Act (42
22 U.S.C. 401 et seq.);

23 (E) Medicare benefits authorized under title XVIII of the Social Security Act (42
24 U.S.C. 1395 et seq.); and

25 (F) benefits received under the Federal-State Unemployment Compensation Act of
26 1970 (26 U.S.C. 3304 note).

27 (6) IMMIGRATION LAWS.—The term “immigration laws” has the meaning given the term
28 in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

29 (7) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has
30 the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C.
31 1002), except that the term does not include an institution of higher education outside of the
32 United States.

33 (8) MILITARY-RELATED TERMS.—The terms “active duty”, “active service”, “active
34 status”, and “armed forces” have the meanings given those terms in section 101 of title 10,
35 United States Code.

36 (9) APPLICABLE FEDERAL TAX LIABILITY.—The term “applicable Federal tax liability”
37 means liability for Federal taxes imposed under the Internal Revenue Code of 1986,
38 including any penalties and interest on such taxes.

39 (10) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

1 (11) SIGNIFICANT MISDEMEANOR.—The term “significant misdemeanor” means—

2 (A) a criminal offense involving—

3 (i) domestic violence;

4 (ii) sexual abuse or exploitation, including sexually explicit conduct involving
5 minors (as such terms are defined in section 2256 of title 18, United States Code);

6 (iii) burglary;

7 (iv) unlawful possession or use of a firearm;

8 (v) drug distribution or trafficking; or

9 (vi) driving under the influence or driving while intoxicated; or

10 (B) any other misdemeanor for which the individual was sentenced to a term of
11 imprisonment of not less than 90 days (excluding a suspended sentence).

12 **SEC. 3003. CANCELLATION OF REMOVAL OF CERTAIN**
13 **LONG-TERM RESIDENTS WHO ENTERED THE UNITED**
14 **STATES AS CHILDREN.**

15 (a) Special Rule for Certain Long-term Residents Who Entered the United States as
16 Children.—

17 (1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise
18 provided in this title, the Secretary may cancel the removal of an alien who is inadmissible
19 or deportable from the United States and grant the alien conditional temporary resident
20 status under this title, if—

21 (A) the alien has been physically present in the United States for a continuous period
22 since June 15, 2012;

23 (B) the alien was younger than 16 years of age on the date on which the alien
24 initially entered the United States;

25 (C) on June 15, 2012, the alien—

26 (i) was younger than 26 years of age; and

27 (ii) had no lawful status in the United States;

28 (D) in the case of an alien who is 18 years of age or older on the date of enactment
29 of this Act, the alien—

30 (i) meets the other requirements of this section; and

31 (ii)(I) has, while in the United States, earned a high school diploma, obtained a
32 general education development certificate recognized under State law, or received
33 a high school equivalency diploma;

34 (II) has been admitted to an institution of higher education in the United States;
35 or

36 (III) has served, is serving, or has enlisted in the Armed Forces of the United

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States;

(E) in the case of an alien who is younger than 18 years of age on the date of enactment of this Act, the alien—

(i) meets the other requirements of this section; and

(ii)(I) is attending, or has enrolled in, a primary or secondary school; or

(II) is attending, or has enrolled in, a postsecondary school;

(F) the alien has been a person of good moral character (as defined in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date on which the alien initially entered the United States;

(G) the alien has paid any applicable Federal tax liability or has agreed to cure such liability through a payment installment plan that has been approved by the Internal Revenue Service; and

(H) the alien, subject to paragraph (2)—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(C), (6)(E), (8), (9)(C), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and is not inadmissible under subparagraph (A) of section 212(a)(9) of such Act (unless the Secretary determines that the sole basis for the alien's removal under such subparagraph was unlawful presence under subparagraph (B) or (C) of such section 212(a)(9));

(ii) is not deportable under paragraph (1)(D), (1)(E), (1)(G), (2), (3), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

(iv) does not, in the Secretary's sole and unreviewable discretion, pose a threat to national security or public safety.

(v) is not a person who the Secretary knows or has reason to believe —

(I) is a member of a criminal gang; or

(II) has participated in the activities of a criminal gang, knowing or having reason to believe that such activities promoted or will promote, further, aid, or support the illegal activity of the criminal gang; and

(vi) has not been convicted of—

(I) a felony under Federal or State law, regardless of the sentence imposed;

(II) any combination of offenses under Federal or State law for which the alien was sentenced to imprisonment for at least 1 year;

(III) a significant misdemeanor;

(IV) three or more misdemeanors; 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 **in the Secretary's discretion** may waive, on a case-
8 by-case basis, a ground of inadmissibility under paragraph (1), (4), (6)(B), or (6)(E) of
9 section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and a
10 ground of deportability under paragraph (A), (B), (C), or (E) of section 237(a)(1) of
11 such Act (8 U.S.C. 1227(a)(1)) for humanitarian purposes or if such waiver is
12 otherwise in the public 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 (C) **Judicial review.** – Notwithstanding any other provision of law (statutory or
21 nonstatutory), including sections 2241 of title 28, United States Code, any other
22 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
23 jurisdiction to review a determination by the Secretary under subparagraph (A).

24 (3) PROCEDURES.—

25 (A) APPLICATION FOR AFFIRMATIVE RELIEF.—

26 (i) IN GENERAL.—The Secretary shall issue regulations that provide a procedure
27 for eligible individuals to affirmatively apply for the relief available under this
28 subsection without being placed in removal proceedings. **Such regulations must**
29 **establish an end-date during which relief under this Act may be sought and may**
30 **not permit affidavits or sworn statements to be considered sufficient evidence to**
31 **establish any claim for relief under this Act.**

32 (ii) ELECTRONIC SUBMISSION.—An alien shall submit electronically an
33 application for relief under this title that includes all supporting documentation, in
34 accordance with the regulations issued under clause (i).

35 (iii) **Judicial review.** – Notwithstanding any other provision of law (statutory or
36 nonstatutory), including sections 2241 of title 28, United States Code, any other
37 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
38 jurisdiction to review a determination by the Secretary under subparagraph (A).

39 (iv) **Deadline for Application.** – Applications shall be accepted by the Secretary
40 only during a one-year period beginning on the date that is one year from the date of

1 enactment of this Act.

2 (v) Fee. – the Secretary shall collect a fee from applicants set at a level that will
3 ensure recovery of the full costs of administering the process.

4 (B) ACKNOWLEDGMENT TO BARS TO RELIEF.—

5 (i) ACKNOWLEDGMENT OF NOTIFICATION.—The regulations issued pursuant to
6 subparagraph (A) shall include a requirement that each alien applying for
7 conditional permanent resident status under this title who is at least 18 years of
8 age sign, under penalty of perjury, an acknowledgment confirming that the alien
9 was notified and understands that he or she will be ineligible for any form of
10 relief or immigration benefit under this title or other immigration laws other than
11 withholding of removal under section 241(b)(3), or relief from removal based on
12 a claim under the Convention Against Torture and Other Cruel, Inhuman or
13 Degrading Treatment or Punishment, done at New York, December 10, 1984, if
14 the alien violates a term for conditional permanent resident status under this title.

15 (ii) EXCEPTION.—Notwithstanding an acknowledgment under clause (i), the
16 Secretary, in the Secretary's discretion, may allow an alien who violated the terms
17 of conditional permanent resident status (other than a criminal alien or an alien
18 deemed to be a national security or public safety risk) to seek relief from removal
19 if the Secretary determines that such relief is warranted for humanitarian purposes
20 or if otherwise in the public interest.

21 (iii) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory
22 or nonstatutory), including section 2241 of title 28, United States Code, any other
23 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall
24 have jurisdiction to review a determination by the Secretary under clause (i).

25 (4) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—

26 (A) IN GENERAL.—The Secretary may not cancel the removal of, or grant
27 conditional temporary resident status to, an alien under this title before the date on
28 which—

29 (i) the alien submits biometric and biographic data, in accordance with
30 procedures established by the Secretary; and

31 (ii) the Secretary receives and reviews the results of the background and
32 security checks of the alien under paragraph (5).

33 (B) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative
34 procedure for any applicant who is unable to provide the biometric or biographic data
35 referred to in subparagraph (A) due to a physical disability or impairment.

36 (5) BACKGROUND CHECKS.—

37 (A) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize
38 biometric, biographic, and other data that the Secretary determines to be appropriate,
39 including information obtained pursuant to subparagraph (C)—

40 (i) to conduct security and law enforcement background checks of an alien
41 seeking relief under this subsection; and

1 (ii) to determine whether there is any criminal, national security, or other factor
2 that would render the alien ineligible for such relief.

3 (B) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
4 background checks required under subparagraph (A) shall be completed, to the
5 satisfaction of the Secretary, before the date on which the Secretary cancels the
6 removal of an alien under this title.

7 (C) CRIMINAL RECORD REQUESTS.—The Secretary, in cooperation with the Secretary
8 of State, shall seek to obtain information about any criminal activity the alien engaged
9 in, or for which the alien was convicted in his or her country of nationality, country of
10 citizenship, or country of last habitual residence, from INTERPOL, EUROPOL, or any
11 other international or national law enforcement agency of the alien's country of
12 nationality, country of citizenship, or country of last habitual residence.

13 (6) MEDICAL EXAMINATION.—An alien applying for relief available under this subsection
14 shall undergo a medical examination conducted by a designated civil surgeon pursuant to
15 procedures established by the Secretary.

16 (7) Interview. — The Secretary may conduct an in-person interview of each applicant for
17 conditional temporary resident status as part of the determination as to whether the alien
18 meets the eligibility requirements set forth in this section.

19 (8) MILITARY SELECTIVE SERVICE.—An alien applying for relief available under this
20 subsection shall establish that the alien has registered for the Selective Service under the
21 Military Selective Service Act (50 U.S.C. App. 451 et seq.) if the alien is subject to such
22 registration requirement under such Act.

23 (9) TREATMENT OF EXPUNGED CONVICTIONS.—

24 (A) IN GENERAL.—The Secretary shall evaluate expunged convictions on a case-by-
25 case basis according to the nature and severity of the offense to determine whether,
26 under the particular circumstances, an alien may be eligible for—

27 (i) conditional temporary resident status under this title;

28 (ii) adjustment to that of an alien lawfully admitted for permanent residence
29 under section 3005; or

30 (iii) adjustment to permanent resident status under this title.

31 (B) JUDICIAL REVIEW.—Notwithstanding any other provision of law (statutory or
32 nonstatutory), including section 2241 of title 28, United States Code, any other habeas
33 corpus provision, and sections 1361 and 1651 of such title, no court shall have
34 jurisdiction to review a determination by the Secretary under subparagraph (A).

35 (b) Termination of Continuous Period.—For purposes of this section, any period of continuous
36 residence or continuous physical presence in the United States of an alien who applies for
37 cancellation of removal under subsection (a) shall not terminate when the alien is served a notice
38 to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

39 (c) Treatment of Certain Breaks in Presence.—

40 (1) IN GENERAL.—Except as provided in paragraph (2), an alien shall be considered to

1 have failed to maintain continuous physical presence in the United States under subsection
2 (a)(1)(A) if the alien has departed from the United States for—

3 (A) any period exceeding 90 days; or

4 (B) any periods exceeding 180 days, in the aggregate, during a 5-year period.

5 (2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the
6 periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to
7 timely return to the United States was due to exceptional circumstances. The exceptional
8 circumstances determined sufficient to justify an extension should be not less compelling
9 than the serious illness of the alien, or the death or serious illness of the alien’s parent,
10 grandparent, sibling, or child.

11 (3) EXCEPTION FOR MILITARY SERVICE.—Any time spent outside of the United States that
12 is due to the alien’s active service in the Armed Forces of the United States shall not be
13 counted towards the time limits set forth in paragraph (1).

14 (d) Rulemaking.—

15 (1) INITIAL PUBLICATION.—Not later than 180 days after the date of enactment of this
16 Act, the Secretary shall publish regulations implementing this section.

17 (2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code,
18 the regulations required under paragraph (1) shall be effective, on an interim basis,
19 immediately upon publication but may be subject to change and revision after public notice
20 and opportunity for a period of public comment.

21 (3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim
22 regulations under paragraph (1), the Secretary shall publish final regulations implementing
23 this section.

24 (e) Removal of Alien.—The Secretary may not seek to remove an alien who establishes prima
25 facie eligibility for cancellation of removal and conditional temporary resident status under this
26 title until the alien has been provided with a reasonable opportunity to file an application for
27 conditional temporary resident status under this title.

28 SEC. 3004. CONDITIONAL TEMPORARY RESIDENT 29 STATUS.

30 (a) Initial Length of Status.—Conditional temporary resident status granted to an alien under
31 this title shall be valid—

32 (1) for an initial period of 7 years, subject to termination under subsection (c), if
33 applicable; and

34 (2) if the alien will not reach 18 years of age before the end of the period described in
35 paragraph (1), until the alien reaches 18 years of age.

36 (b) Terms of Conditional Temporary Resident Status.—

37 (1) EMPLOYMENT.—A conditional temporary resident may—

38 (A) be employed in the United States incident to conditional temporary resident
39 status under this title; and

1 (B) enlist in the Armed Forces of the United States in accordance with section
2 504(b)(1)(D) of title 10, United States Code.

3 (2) TRAVEL.—A conditional temporary resident may travel outside the United States and
4 may be admitted (if otherwise admissible) upon returning to the United States without
5 having to obtain a visa if—

6 (A) the alien is the bearer of valid, unexpired documentary evidence of conditional
7 temporary resident status under this title; and

8 (B) the alien's absence from the United States—

9 (i) was not for a period of 180 days or longer, or for multiple periods exceeding
10 180 days in the aggregate; or

11 (ii) was due to active service in the Armed Forces of the United States.

12 (c) Termination of Status.—The Secretary shall immediately terminate the conditional
13 temporary resident status of an alien under this title—

14 (1) in the case of an alien who is 18 years of age or older, if the Secretary determines that
15 the alien is a postsecondary student who was admitted to an accredited institution of higher
16 education in the United States, but failed to enroll in such institution within 1 year after the
17 date on which the alien was granted conditional temporary resident status under this title or
18 to remain so enrolled;

19 (2) in the case of an alien who is younger than 18 years of age, if the Secretary
20 determines that the alien enrolled in a primary or secondary school as a full-time student,
21 but has failed to attend such school for a period exceeding 1 year during the 7-year period
22 beginning on the date on which the alien was granted conditional temporary resident status
23 under this title;

24 (3) in the case of an alien who was granted conditional temporary resident status under
25 this title as an enlistee, if the alien—

26 (A) failed to complete basic training and begin active duty service or service in
27 Selected Ready Reserve of the Ready Reserve of the Armed Forces of the United
28 States within 1 year after the date on which the alien was granted conditional
29 permanent resident status under this title; or

30 (B) has received a dishonorable or other than honorable discharge from the Armed
31 Forces of the United States;

32 (4) if the alien was granted conditional temporary resident status under this title as a
33 result of fraud or misrepresentation;

34 (5) if the alien ceases to meet a requirement under subparagraph (F), (G), (H), or (I) of
35 section 3003(a)(1);

36 (6) if the alien violated a term or condition of his or her conditional resident status;

37 (7) if the alien has become a public charge;

38 (8) if the alien has not maintained employment in the United States for a period of at least
39 1 year since the alien was granted conditional temporary resident status under this title and
40 while the alien was not enrolled as a student in a postsecondary school or institution of

1 higher education or serving in the Armed Forces of the United States; or

2 (9) if the alien has not completed a combination of employment, military service, or
3 postsecondary school totaling 62 months during the 7-year period beginning on the date on
4 which the alien was granted conditional temporary resident status under this title.

5 (d) Return to Previous Immigration Status.—The immigration status of an alien the
6 conditional temporary resident status of whom is terminated under subsection (c) shall return to
7 the immigration status of the alien on the day before the date on which the alien received
8 conditional temporary resident status under this title.

9 (e) Extension of Conditional Temporary Resident Status.—The Secretary shall extend the
10 conditional temporary resident status of an alien granted such status under this title for an
11 additional 5 years beyond the period specified in subsection (a) if the alien—

12 (1) has demonstrated good moral character during the entire period the alien has been a
13 conditional temporary resident under this title;

14 (2) is in compliance with section 3003(a)(1);

15 (3) has not abandoned the alien's residence in the United States by being absent from the
16 United States for a period of 180 days, or multiple periods of at least 180 days, in the
17 aggregate, during the period of conditional temporary resident status under this title, unless
18 the absence was due to active service in the Armed Forces of the United States;

19 (4) does not have any delinquent tax liabilities;

20 (5) has not received any Federal public benefit; and

21 (6) while the alien has been a conditional temporary resident under this title—

22 (A) has graduated from an accredited institution of higher education in the United
23 States;

24 (B) has attended an accredited institution of higher education in the United States on
25 a full-time basis for not less than 8 semesters;

26 (C)(i) has served as a member of a regular or reserve component of the Armed
27 Forces of the United States in an active duty status for at least 3 years; and

28 (ii) if discharged from such service, received an honorable discharge; or

29 (D) has for a cumulative total of not less than 48 months –

30 (i) attended an accredited institution of higher education in the United States on a
31 full-time basis,

32 (ii) honorably served in the Armed Forces of the United States, or maintained
33 employment in the United States,

34 (iii) attended an accredited institution of higher education in the United States,
35 honorably served in the Armed Forces of the United States, and otherwise maintained
36 lawful employment in the United States.

37 **SEC. 3005. REMOVAL OF CONDITIONAL BASIS FOR**
38 **TEMPORARY RESIDENCE.**

1 (a) In General.—An alien who has been a conditional **temporary** resident under this title for at
2 least 7 years may file an application with the Secretary, in accordance with subsection (c), to
3 **adjust status to that of** an alien lawfully admitted for permanent residence. The application shall
4 include the required fee and shall be filed in accordance with the procedures established by the
5 Secretary.

6 (b) Adjudication of Application for Adjustment of Status.—

7 (1) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—If the Secretary determines
8 that an alien who filed an application under subsection (a) meets the requirements described
9 in subsection (d), the Secretary shall—

10 (A) notify the alien of such determination; and

11 (B) adjust the alien’s status to that of an alien lawfully admitted for permanent
12 residence.

13 (2) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that an alien
14 who files an application under subsection (a) does not meet the requirements described in
15 subsection (d), the Secretary shall—

16 (A) notify the alien of such determination; and

17 (B) terminate the conditional **temporary** resident status of the alien.

18 (c) Time to File Application.—

19 (1) IN GENERAL.—Applications for adjustment of status described in subsection (a) shall
20 be filed during the period—

21 (A) beginning 180 days before the expiration of the 7-year period of conditional
22 **temporary** resident status under this title; and

23 (B) ending—

24 (i) 7 years after the date on which conditional **temporary** resident status was
25 initially granted to the alien under this title; or

26 (ii) after the conditional **temporary resident** status has been **terminated**.

27 (2) STATUS DURING PENDENCY.—An alien shall be deemed to be in conditional
28 permanent resident status in the United States during the period in which an application
29 filed by the alien under subsection (a) is pending.

30 (d) Contents of Application.—

31 (1) IN GENERAL.—Each application filed by an alien under subsection (a) shall contain
32 information to permit the Secretary to determine whether the alien—

33 (A) has been a conditional **temporary** resident under this title for at least 7 years;

34 (B) has demonstrated good moral character during the entire period the alien has
35 been a conditional **temporary** resident under this title;

36 (C) is in compliance with section 3003(a)(1); and

37 (D) has not abandoned the alien’s residence in the United States.

1 (2) PRESUMPTIONS.—For purposes of paragraph (1)—

2 (A) the Secretary shall presume that an alien has abandoned the alien’s residence in
3 the United States if the alien is absent from the United States for more than 365 days,
4 in the aggregate, during the period of conditional permanent resident status under this
5 title, unless the alien demonstrates that the alien has not abandoned the alien’s
6 residence; and

7 (B) an alien who is absent from the United States due to active service in the Armed
8 Forces of the United States has not abandoned the alien’s residence in the United
9 States during the period of such service.

10 (e) Citizenship Requirement.—

11 (1) IN GENERAL.—Except as provided in paragraph (2), an alien granted conditional
12 temporary resident status under this title may not be adjusted to permanent resident status
13 unless the alien demonstrates to the satisfaction of the Secretary that the alien satisfies the
14 requirements under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C.
15 1423(a)(1)).

16 (2) EXCEPTION.—Paragraph (1) shall not apply to an alien whom the Secretary
17 determines is unable because of a physical or developmental disability or mental
18 impairment to meet the requirements of such paragraph. The Secretary, in coordination with
19 the Secretary of Health and Human Services and the Surgeon General, shall establish
20 procedures for making determinations under this subsection.

21 (f) Payment of Federal Taxes.—Not later than the date on which an application for adjustment
22 of status is filed under subsection (a), the alien shall satisfy any applicable Federal tax liability
23 due and owing on such date as determined and verified by the Internal Revenue Service,
24 notwithstanding section 6103 of title 26, United States Code, or any other law.

25 (g) Submission of Biometric and Biographic Data.—

26 (1) IN GENERAL.—The Secretary may not adjust the status of an alien under this section
27 unless the alien submits biometric and biographic data, in accordance with procedures
28 established by the Secretary.

29 (2) ALTERNATIVE PROCEDURE.—The Secretary shall provide an alternative procedure for
30 an applicant who is unable to provide the biometric or biographic data referred to in
31 paragraph (1) due to a physical disability or impairment.

32 (h) Background Checks.—

33 (1) REQUIREMENT FOR BACKGROUND CHECKS.—The Secretary shall utilize biometric,
34 biographic, and other data that the Secretary determines to be appropriate—

35 (A) to conduct security and law enforcement background checks of an alien
36 applying for adjustment of status under this section; and

37 (B) to determine whether there is any criminal, national security, or other factor that
38 would render the alien ineligible for such adjustment of status.

39 (2) COMPLETION OF BACKGROUND CHECKS.—The security and law enforcement
40 background checks required under paragraph (1) shall be completed with respect to an alien,

1 to the satisfaction of the Secretary, before the date on which the Secretary makes a decision
2 on the application for adjustment of status of the alien.

3 (i) Exemption From Numerical Limitations.—Nothing in this section or in any other law may
4 be construed to apply a numerical limitation on the number of aliens who may be eligible for
5 adjustment of status under this section.

6 (j) Treatment of Aliens Meeting Requirements for Extension of Conditional **Temporary**
7 Resident Status.—If an alien has satisfied all of the requirements under section 3003(a)(1) as of
8 the date of enactment of this Act, the Secretary may cancel the removal of the alien and permit
9 the alien to apply for conditional **temporary** resident status under this title. After the initial period
10 of conditional **temporary** resident status described in section 3004(a), the Secretary shall extend
11 such alien’s conditional **temporary** resident status and permit the alien to apply for adjustment of
12 status in accordance with subsection (a) if the alien has met the requirements under section
13 3004(e) during the entire period of conditional **temporary** resident status under this title.

14 **SEC. 3006. BENEFITS FOR RELATIVES OF ALIENS**
15 **GRANTED CONDITIONAL PERMANENT RESIDENT**
16 **STATUS.**

17 **Notwithstanding any other provision of law, no natural parent, prior adoptive parent, spouse,**
18 **parent, child, or other family member of an alien provided temporary or lawful permanent**
19 **resident status shall thereafter, by virtue of parentage or familial relationship, be accorded any**
20 **right, privilege, or status under the immigration laws.**

21 **SEC. 3007. EXCLUSIVE JURISDICTION.**

22 (a) Secretary of Homeland Security.—Except as provided in subsection (b), the Secretary shall
23 have exclusive jurisdiction to determine eligibility for relief under this title. If a final order of
24 deportation, exclusion, or removal is entered, the Secretary shall resume all powers and duties
25 delegated to the Secretary under this title. If a final order is entered before relief is granted under
26 this title, the Attorney General shall terminate such order only after the alien has been granted
27 conditional **temporary** resident status under this title.

28 (b) Attorney General.—The Attorney General shall have exclusive jurisdiction to determine
29 eligibility for relief under this title for any alien who has been placed into deportation, exclusion,
30 or removal proceedings, whether such placement occurred before or after the alien filed an
31 application for cancellation of removal and conditional permanent resident status or adjustment
32 of status under this title. Such exclusive jurisdiction shall continue until such proceedings are
33 terminated.

34 **SEC. 3008. CONFIDENTIALITY OF INFORMATION.**

35 (a) Prohibition.—Except as provided in subsection (b), an officer or employee of the United
36 States may not—

37 (1) use the information provided by an individual pursuant to an application filed under
38 this title to initiate removal proceedings against any person identified in the application;

39 (2) make any publication whereby the information provided by any particular individual

1 pursuant to an application under this title can be identified; or

2 (3) permit anyone other than an officer or employee of the United States Government to
3 examine such application filed under this title.

4 (b) Required Disclosure.—The Attorney General or the Secretary shall disclose the
5 information provided by an individual under this title and any other information derived from
6 such information to—

7 (1) a Federal, State, Tribal, or local law enforcement agency, intelligence agency,
8 national security agency, component of the Department of Homeland Security, court, or
9 grand jury in connection with an administrative, civil, or criminal investigation or
10 prosecution, a background check conducted pursuant to the Brady Handgun Violence
11 Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act,
12 or for homeland security or national security purposes, if such information is requested by
13 such entity or consistent with an information sharing agreement or mechanism;

14 (2) an official coroner for purposes of affirmatively identifying a deceased individual
15 (whether or not such individual is deceased as a result of a crime); or

16 (3) the Bureau of the Census in the same manner and circumstances as the information
17 may be disclosed under section 8 of title 13, United States Code.

18 (c) Fraud in Application Process or Criminal Conduct.—Nothing in this section may be
19 construed to prevent the disclosure and use of information provided by an alien under this title to
20 determine whether an alien seeking relief under this title has engaged in fraud in an application
21 for such relief or at any time committed a crime from being used or released for immigration
22 enforcement, law enforcement, or national security purposes.

23 (d) Subsequent Applications for Immigration Benefits.—The Secretary may use the
24 information provided by an individual pursuant to an application filed under this title to
25 adjudicate an application, petition, or other request for an immigration benefit made by the
26 individual on a date after the date on which the individual filed the application under this title.

27 (e) Penalty.—Any person who knowingly uses, publishes, or permits information to be
28 examined in violation of this section shall be fined not more than \$10,000.

29 SEC. 3009. RESTRICTION ON WELFARE BENEFITS FOR 30 CONDITIONAL **TEMPORARY** RESIDENTS.

31 An individual who has met the requirements under section 3005 for adjustment from
32 conditional **temporary** resident status to lawful permanent resident status shall be considered, as
33 of the date of such adjustment, to have completed the 5-year eligibility waiting period under
34 section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8
35 U.S.C. 1613).

36 SEC. 3010. GAO REPORT.

37 Not later than 7 years after the date of the enactment of this Act, the Comptroller General of
38 the United States shall submit a report to the Committee on the Judiciary of the Senate and the
39 Committee on the Judiciary of the House of Representatives that sets forth—

1 (1) the number of aliens who were eligible for cancellation of removal and grant of
2 conditional **temporary** resident status under section 3003(a);

3 (2) the number of aliens who applied for cancellation of removal and grant of conditional
4 **temporary** resident status under section 3003(a);

5 (3) the number of aliens who were granted conditional **temporary** resident status under
6 section 3003(a); and

7 (4) the number of aliens whose status was adjusted to that of an alien lawfully admitted
8 for permanent residence pursuant to section 3005.

9 SEC. 3011. MILITARY ENLISTMENT.

10 Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the
11 following:

12 “(D) An alien who is a conditional **temporary** resident (as defined in section 3002 of
13 the SUCCEED Act).”.

14 SEC. 3012. ELIGIBILITY FOR NATURALIZATION.

15 Notwithstanding sections 319(b), 328, and 329 of the Immigration and Nationality Act (8
16 U.S.C. 1430(b), 1439, and 1440), an alien whose status is adjusted under section 3005 to that of
17 an alien lawfully admitted for permanent residence may apply for naturalization under chapter 2
18 of title III of the Immigration and Nationality Act (8 U.S.C. 310 et seq.) not earlier than 7 years
19 after such adjustment of status.

20 SEC. 3013. FUNDING.

21 (a) Department of Homeland Security Immigration Reform Implementation Account.—

22 (1) IN GENERAL.—There is established in the Treasury a separate account, which shall be
23 known as the “Department of Homeland Security Immigration Reform Implementation
24 Account” (referred to in this section as the “Implementation Account”).

25 (2) AUTHORIZATION AND APPROPRIATIONS.—There are appropriated to the
26 Implementation Account, out of any funds in the Treasury not otherwise appropriated,
27 \$400,000,000, which shall remain available until September 30, 2022.

28 (3) USE OF APPROPRIATIONS.—The Secretary is authorized to use funds appropriated to
29 the Implementation Account to pay for one-time and startup costs necessary to implement
30 this title, including, but not limited to—

31 (A) personnel required to process applications and petitions;

32 (B) equipment, information technology systems, infrastructure, and human
33 resources;

34 (C) outreach to the public, including development and promulgation of any
35 regulations, rules, or other public notice; and

36 (D) anti-fraud programs and actions related to implementation of this title.

37 (4) REPORTING.—Not later than 180 days after the date of the enactment of this Act, the

1 Secretary shall submit a plan to the Committee on Appropriations of the Senate, the
2 Committee on the Judiciary of the Senate, the Committee on Appropriations of the House of
3 Representatives, and the Committee on the Judiciary of the House of Representatives for
4 spending the funds appropriated under paragraph (2) that describes how such funds will be
5 obligated in each fiscal year, by program.

6 (b) Deposit and Use of Processing Fees.—

7 (1) REPAYMENT OF STARTUP COSTS.—Notwithstanding section 286(m) of the Immigration
8 and Nationality Act (8 U.S.C. 1356(m)), 75 percent of fees collected under this title shall be
9 deposited monthly in the general fund of the Treasury until the funding provided by
10 subsection (a)(2) has been repaid.

11 (2) DEPOSIT IN THE IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Fees collected under
12 this title in excess of the amount referenced in paragraph (1) shall be deposited in the
13 Immigration Examinations Fee Account, pursuant to section 286(m) of the Immigration and
14 Nationality Act (8 U.S.C. 1356(m)), and shall remain available until expended pursuant to
15 section 286(n) of such Act (8 U.S.C. 1356(n)).

16 TITLE IV—ENSURING FAMILY REUNIFICATION

17 SEC. 4001. SHORT TITLE.

18 This title may be cited as the “Ensuring Family Reunification Act of 2018”.

19 SEC. 4002. FAMILY-SPONSORED IMMIGRATION
20 PRIORITIES.

21 (a) Redefinition of Immediate Relative.—The Immigration and Nationality Act (8 U.S.C.
22 1101 et seq.) is amended—

23 (1) in section 101(b)(1), in the matter preceding subparagraph (A), by striking “under
24 twenty-one years of age who” and inserting “who is younger than 18 years of age and”; and

25 (2) in section 201 (8 U.S.C. 1151)—

26 (A) in subsection (b)(2)(A)—

27 (i) in clause (i), by striking “children, spouses, and parents of a citizen of the
28 United States, except that, in the case of parents, such citizens shall be at least 21
29 years of age.” and inserting “children and spouse of a citizen of the United
30 States.”; and

31 (ii) in clause (ii), by striking “such an immediate relative” and inserting “the
32 immediate relative spouse of a United States citizen”;

33 (B) by amending subsection (c) to read as follows:

34 “(c) Worldwide Level of Family-Sponsored Immigrants.—(1) The worldwide level of family-
35 sponsored immigrants under this subsection for a fiscal year is equal to 39 percent of 226,000
36 minus the number computed under paragraph (2).

37 “(2) The number computed under this paragraph for a fiscal year is the number of aliens who
38 were paroled into the United States under section 212(d)(5) in the second preceding fiscal year

1 who—

2 “(A) did not depart from the United States (without advance parole) within 1 year; and

3 “(B)(i) did not acquire the status of an alien lawfully admitted to the United States for
4 permanent residence during the 2 preceding fiscal years; or

5 “(ii) acquired such status during such period under a provision of law (other than
6 subsection (b)) that exempts adjustment to such status from the numerical limitation on the
7 worldwide level of immigration under this section.”; and

8 (C) in subsection (f)—

9 (i) in paragraph (2), by striking “section 203(a)(2)(A)” and inserting “section
10 203(a)”;

11 (ii) by striking paragraph (3);

12 (iii) by redesignating paragraph (4) as paragraph (3); and

13 (iv) in paragraph (3), as redesignated, by striking “(1) through (3)” and
14 inserting “(1) and (2)”.

15 (b) Family-Based Visa Preferences.—Section 203(a) of the Immigration and Nationality Act
16 (8 U.S.C. 1153(a)) is amended to read as follows:

17 “(a) Spouses and Minor Children of Permanent Resident Aliens.—Family-sponsored
18 immigrants described in this subsection are qualified immigrants who are the spouse or a child of
19 an alien lawfully admitted for permanent residence.”.

20 (c) Conforming Amendments.—

21 (1) DEFINITION OF V NONIMMIGRANT.—Section 101(a)(15)(V) of the Immigration and
22 Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended by striking “section 203(a)(2)(A)”
23 each place such term appears and inserting “section 203(a)”.

24 (2) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 of such Act (8
25 U.S.C. 1152) is amended—

26 (A) in subsection (a)(4)—

27 (i) by striking subparagraphs (A) and (B) and inserting the following:

28 “(A) 75 PERCENT OF FAMILY-SPONSORED IMMIGRANTS NOT SUBJECT TO PER COUNTRY
29 LIMITATION.—Of the visa numbers made available under section 203(a) in any fiscal
30 year, 75 percent shall be issued without regard to the numerical limitation under
31 paragraph (2).

32 “(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO
33 SUBSECTION (E).—

34 “(i) IN GENERAL.—Of the visa numbers made available under section 203(a) in
35 any fiscal year, 25 percent shall be available, in the case of a foreign state or
36 dependent area that is subject to subsection (e) only to the extent that the total
37 number of visas issued in accordance with subparagraph (A) to natives of the
38 foreign state or dependent area is less than the subsection (e) ceiling.

1 “(i) SUBSECTION (E) CEILING DEFINED.—In clause (i), the term ‘subsection (e)
2 ceiling’ means, for a foreign state or dependent area, 77 percent of the maximum
3 number of visas that may be made available under section 203(a) to immigrants
4 who are natives of the state or area, consistent with subsection (e).”; and

5 (ii) by striking subparagraphs (C) and (D); and

6 (B) in subsection (e)—

7 (i) in paragraph (1), by adding “and” at the end;

8 (ii) by striking paragraph (2);

9 (iii) by redesignating paragraph (3) as paragraph (2); and

10 (iv) in the undesignated matter after paragraph (2), as redesignated, by striking
11 “, respectively,” and all that follows and inserting a period.

12 (3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—Section 203(h)
13 of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended by striking
14 “(a)(2)(A)” each place such term appears and inserting “(a)(2)”.

15 (4) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 of such Act (8 U.S.C.
16 1154) is amended—

17 (A) in subsection (a)(1)—

18 (i) in subparagraph (A)(i), by striking “to classification by reason of a
19 relationship described in paragraph (1), (3), or (4) of section 203(a) or”;

20 (ii) in subparagraph (B), by striking “203(a)(2)(A)” each place such term
21 appears and inserting “203(a)”; and

22 (iii) in subparagraph (D)(i)(I), by striking “a petitioner” and all that follows
23 through “(a)(1)(B)(iii).” and inserting “an individual younger than 21 years of age
24 for purposes of adjudicating such petition and for purposes of admission as an
25 immediate relative under section 201(b)(2)(A)(i) or a family-sponsored immigrant
26 under section 203(a), as appropriate, notwithstanding the actual age of the
27 individual.”;

28 (B) in subsection (f)(1), by striking “, 203(a)(1), or 203(a)(3), as appropriate”; and

29 (C) by striking subsection (k).

30 (5) WAIVERS OF INADMISSIBILITY.—Section 212 of the Immigration and Nationality Act
31 (8 U.S.C. 1182) is amended—

32 (A) in subsection (a)(6)(E)(ii), by striking “section 203(a)(2)” and inserting “section
33 203(a)”; and

34 (B) in subsection (d)(11), by striking “(other than paragraph (4) thereof)”.

35 (6) EMPLOYMENT OF V NONIMMIGRANTS.—Section 214(q)(1)(B)(i) of such Act (8 U.S.C.
36 1184(q)(1)(B)(i)) is amended by striking “section 203(a)(2)(A)” each place such term
37 appears and inserting “section 203(a)”.

38 (7) DEFINITION OF ALIEN SPOUSE.—Section 216(h)(1)(C) of such Act (8 U.S.C.

- 1 1186a(h)(1)(C)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.
- 2 (8) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(E)(ii) of such Act (8 U.S.C.
3 1227(a)(1)(E)(ii)) is amended by striking “section 203(a)(2)” and inserting “section 203(a)”.
- 4 (d) Creation of Nonimmigrant Classification for Alien Parents of Adult United States
5 Citizens.—
- 6 (1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C.
7 1101(a)(15)) is amended—
- 8 (A) in subparagraph (T)(ii)(III), by striking the period at the end and inserting a
9 semicolon;
- 10 (B) in subparagraph (U)(iii), by striking “or” at the end;
- 11 (C) in subparagraph (V)(ii)(II), by striking the period at the end and inserting “; or”;
12 and
- 13 (D) by adding at the end the following:
- 14 “(W) Subject to section 214(s), an alien who is a parent of a citizen of the United States,
15 if the citizen is at least 21 years of age.”.
- 16 (2) CONDITIONS ON ADMISSION.—Section 214 of the Immigration and Nationality Act (8
17 U.S.C. 1184) is amended by adding at the end the following:
- 18 “(s)(1) The initial period of authorized admission for a nonimmigrant described in section
19 101(a)(15)(W) shall be 5 years, but may be extended by the Secretary of Homeland Security for
20 additional 5-year periods if the United States citizen son or daughter of the nonimmigrant is still
21 residing in the United States.
- 22 “(2) A nonimmigrant described in section 101(a)(15)(W)—
- 23 “(A) is not authorized to be employed in the United States; and
24 “(B) is not eligible for any Federal, State, or local public benefit.
- 25 “(3) Regardless of the resources of a nonimmigrant described in section 101(a)(15)(W), the
26 United States citizen son or daughter who sponsored the nonimmigrant parent shall be
27 responsible for the nonimmigrant’s support while the nonimmigrant resides in the United States.
- 28 “(4) An alien is ineligible to receive a visa or to be admitted into the United States as a
29 nonimmigrant described in section 101(a)(15)(W) unless the alien provides satisfactory proof
30 that the United States citizen son or daughter has arranged for health insurance coverage for the
31 alien, at no cost to the alien, during the anticipated period of the alien’s residence in the United
32 States.”.
- 33 (e) Effective Date; Applicability.—
- 34 (1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date
35 of enactment of this Act.
- 36 (2) NEW PETITIONS.—
- 37 (A) IN GENERAL.—The Director of U. S. Citizenship and Immigration Services shall
38 only accept new family-based petitions for spouses and minor children of United States

1 citizens and lawful permanent residents under—

2 (i) section 201(b)(1)(A) of the Immigration and Nationality Act (8 U.S.C.
3 1151(b)(1)(A)); or

4 (ii) subsection (a) or (b) of section 203 of such Act (8 U.S.C. 1153).

5 (B) LIMITATION.—The Director of U. S. Citizenship and Immigration Services may
6 not accept any new family-based petition other than a petition described in
7 subparagraph (A).

8 (3) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the termination by this
9 title of the family-sponsored immigrant visa categories under section 203(a) of the
10 Immigration and Nationality Act (8 U.S.C. 1153(a)) (as of the date before the date of
11 enactment of this Act), the amendments made by this section shall not apply, and visas shall
12 remain available to, any alien who has—

13 (A) an approved family-based petition that has not been terminated or revoked, or

14 (B) a properly-filed family-based petition that is—

15 (i) pending with U.S. Citizenship and Immigration Services; and

16 (ii) based on subsection (a) of section 203 of the Immigration and Nationality
17 Act (8 U.S.C. 1153(a)) (as in effect on the day before the date of enactment of this
18 Act).

19 (4) AVAILABILITY OF VISAS FOR GRANDFATHERED PETITIONS.—The Secretary shall
20 continue to allocate a sufficient number of visas in family-sponsored immigrant visa
21 categories until the date on which a visa has been made available, in conformance with the
22 numeric and per country limitations in effect on the day before the date of enactment of this
23 Act, to each beneficiary of an approved or pending petition described in subparagraph (A)
24 or (B) of paragraph (3), if the beneficiary—

25 (A) indicates an intent to pursue the immigrant visa not later than 1 year after the
26 date on which the Secretary of State notifies the beneficiary of the availability of the
27 visa; and

28 (B) is otherwise qualified to receive a visa under this Act.

29 (f) Termination of Registration.—Section 203(g) of the Immigration and Nationality Act (8
30 U.S.C. 1153(g)) is amended—

31 (1) by striking the second sentence;

32 (2) by striking the subsection designation and heading and all that follows through “For
33 purposes” in the first sentence and inserting the following:

34 “(g) Lists.—

35 “(1) IN GENERAL.—For purposes”; and

36 (3) by adding at the end the following:

37 “(2) TERMINATION OF REGISTRATION.—

38 “(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of State

1 shall terminate the registration of any alien who fails to apply for an immigrant visa
2 within the 1-year period beginning on the date on which the Secretary of State notifies
3 the alien of the availability of the immigrant visa.

4 “(B) EXCEPTION.—The Secretary of State shall not terminate the registration of an
5 alien under subparagraph (A) if the alien demonstrates that the failure of the alien to
6 apply for an immigrant visa during the period described in that subparagraph was due
7 to an extenuating circumstance beyond the control of the alien.”.

8 SEC. 4003. ELIMINATION OF DIVERSITY VISA 9 PROGRAM.

10 (a) In General.—Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is
11 amended—

12 (1) by striking subsection (c);

13 (2) by redesignating subsections (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f),
14 and (g), respectively;

15 (3) in subsection (c), as redesignated, by striking “subsection (a), (b), or (c)” and inserting
16 “subsection (a) or (b)”;

17 (4) in subsection (d), as redesignated—

18 (A) by striking paragraph (2); and

19 (B) by redesignating paragraph (3) as paragraph (2);

20 (5) in subsection (e), as redesignated, by striking “subsection (a), (b), or (c) of this
21 section” and inserting “subsection (a) or (b)”;

22 (6) in subsection (f), as redesignated, by striking “subsections (a), (b), and (c)” and
23 inserting “subsections (a) and (b)”;

24 (7) in subsection (g), as redesignated—

25 (A) by striking “(d)” each place it appears and inserting “(c)”;

26 (B) in paragraph (2)(B), by striking “subsection (a), (b), or (c)” and inserting
27 “subsection (a) or (b)”.

28 (b) Technical and Conforming Amendments.—

29 (1) IMMIGRATION AND NATIONALITY ACT.—The Immigration and Nationality Act (8
30 U.S.C. 1101 et seq.) is amended—

31 (A) in section 101(a)(15)(V), by striking “section 203(d)” and inserting “section
32 203(c)”;

33 (B) in section 201—

34 (i) in subsection (a)—

35 (I) in paragraph (1), by adding “and” at the end;

36 (II) in paragraph (2), by striking “; and” and inserting a period; and

- 1 (III) by striking paragraph (3);
2 (ii) by striking subsection (e); and
3 (iii) by redesignating subsection (f) as subsection (e);
4 (C) in section 203(b)(2)(B)(ii)(IV), by striking “section 203(b)(2)(B)” each place
5 such term appears and inserting “clause (i)”;
6 (D) in section 204—
7 (i) in subsection (a)(1)—
8 (I) by striking subparagraph (I); and
9 (II) by redesignating subparagraphs (J) through (L) as subparagraphs (I)
10 through (K), respectively;
11 (ii) in subsection (e), by striking “subsection (a), (b), or (c) of section 203” and
12 inserting “subsection (a) or (b) of section 203”; and
13 (iii) in subsection (l)(2)—
14 (I) in subparagraph (B), by striking “section 203 (a) or (d)” and inserting
15 “subsection (a) or (c) of section 203”; and
16 (II) in subparagraph (C), by striking “section 203(d)” and inserting
17 “section 203(c)”;
18 (E) in section 214(q)(1)(B)(i), by striking “section 203(d)” and inserting “section
19 203(c)”;
20 (F) in section 216(h)(1), in the undesignated matter following subparagraph (C), by
21 striking “section 203(d)” and inserting “section 203(c)”;
22 (G) in section 245(i)(1)(B), by striking “section 203(d)” and inserting “section
23 203(c)”.
- 24 (c) Effective Date.—The amendments made by this section shall take effect on the first day of
25 the first fiscal year beginning on or after the date of the enactment of this Act.
- 26 (d) Reallocation of Visas; Grandfathered Petitions.—
- 27 (1) GRANDFATHERED PETITIONS AND VISAS.—Notwithstanding the elimination under this
28 section of the diversity visa program described in sections 201(e) and 203(c) of the
29 Immigration and Nationality Act (8 U.S.C. 1151(e); 1153(c)) (as in effect on the day before
30 the date of enactment of this Act), the amendments made by this section shall not apply, and
31 visas shall remain available, to any alien whom the Secretary of State has selected to
32 participate in the diversity visa lottery for fiscal year 2018.
- 33 (2) REALLOCATION OF VISAS.—
- 34 (A) REALLOCATION.—
- 35 (i) IN GENERAL.—Beginning in fiscal year 2019 and ending on the date on
36 which the number of visas allocated for aliens who qualify for visas under the
37 Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8
38 U.S.C. 1153 note) is exhausted, the Secretary of Homeland Security shall make

1 available the annual allocation of diversity visas as follows:

2 (I) 25,000 visas shall be made available to aliens who have an approved
3 family-based petition based on section 203(a) of the Immigration and
4 Nationality Act (8 U.S.C. 1153(a)) that has not been terminated or revoked
5 as of the date of enactment of this Act.

6 (II) 25,000 visas shall be made available to qualified aliens who have an
7 approved employment-based petition based on paragraphs (1), (2), or (3) of
8 section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153) that
9 has not been terminated or revoked as of the date of enactment of this Act.

10 (ii) NACARA VISAS.—On the exhaustion of 5,000 visas made available under
11 the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–
12 100; 8 U.S.C. 1153 note), the remainder of the visas made available under that
13 Act shall be equally divided and added to the visas provided under subclauses (I)
14 and (II) of clause (i).

15 (B) NOTIFICATION.—

16 (i) FEDERAL REGISTER.—The Secretary of Homeland Security, in consultation
17 with the Secretary of State, shall publish a notice in the Federal Register to notify
18 affected aliens with respect to—

19 (I) the availability of visas under subparagraph (A);

20 (II) the manner in which the visas shall be allocated.

21 (ii) VISA BULLETIN.—The Secretary of State shall publish a notice in the
22 monthly visa bulletin of the Department of State with respect to—

23 (I) the availability of visas under subparagraph (A);

24 (II) the manner in which the visas shall be allocated.

25 TITLE V—OTHER MATTERS

26 SEC. 5001. OTHER IMMIGRATION AND NATIONALITY 27 ACT AMENDMENTS.

28 (a) Notice of Address Change.—Section 265(a) of the Immigration and Nationality Act (8
29 U.S.C. 1305(a)) is amended to read as follows:

30 “(a) Each alien required to be registered under this Act who is physically present in the United
31 States shall notify the Secretary of Homeland Security of each change of address and new
32 address not later than 10 days after the date of such change and shall furnish such notice in the
33 manner prescribed by the Secretary.”.

34 (b) Photographs for Naturalization Certificates.—Section 333 of the Immigration and
35 Nationality Act (8 U.S.C. 1444) is amended—

36 (1) in subsection (b)—

37 (A) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G);

1 (B) by inserting “(1)” after “(b)”; and

2 (C) by striking the undesignated matter at the end and inserting the following:

3 “(2) Of the photographs furnished pursuant to paragraph (1)—

4 “(A) 1 shall be affixed to each certificate issued by the Attorney General; and

5 “(B) 1 shall be affixed to the copy of such certificate retained by the Department.”; and

6 (2) by adding at the end the following:

7 “(c) The Secretary may modify the technical requirements under this section in the Secretary’s
8 discretion and as the Secretary may consider necessary to provide for photographs to be
9 furnished and used in a manner that is efficient, secure, and consistent with the latest
10 developments in technology.”.

11 SEC. 5002. EXEMPTION FROM THE ADMINISTRATIVE 12 PROCEDURE ACT.

13 Except for regulations promulgated pursuant to this Act, section 552 of title 5, United States
14 Code (commonly known as the “Freedom of Information Act” (5 U.S.C. 522)), and section 552a
15 of such title (commonly known as the “Privacy Act” (5 U.S.C. 552a)), chapter 5 of title 5, United
16 States Code (commonly known as the “Administrative Procedures Act”), and any other law
17 relating to rulemaking, information collection, or publication in the Federal Register, shall not
18 apply to any action to implement this Act or the amendments made by this Act, to the extent the
19 Secretary of Homeland Security, the Secretary of State, or the Attorney General determines that
20 compliance with any such law would impede the expeditious implementation of this Act or the
21 amendments made by this Act.

22 SEC. 5003. EXEMPTION FROM THE PAPERWORK 23 REDUCTION ACT.

24 (1) Chapter 35 of title 44, United States Code, shall not apply to any action to implement this
25 Act or the amendments made by this Act to the extent the Secretary of Homeland Security,
26 the Secretary of State, or the Attorney General determines that compliance with such law
27 would impede the expeditious implementation of this Act or the amendments made by this
28 Act.

29 (2) The exemption provided under this section shall sunset no later than three years after the
30 date of enactment of this title, provided that, such sunset shall not be construed to impose
31 any requirements on, or affect the validity of, any rule issued or other action taken by the
32 Secretary under such exemptions.

33 SEC. 5004. EXEMPTION FROM GOVERNMENT 34 CONTRACTING AND HIRING RULES.—

35 (1) Competition Requirements. – For purposes of implementing this title, the competition
36 requirements of 41 U.S.C. § 253(a) shall not apply. The agency’s determination under 41 USC
37 § 253(c) is not subject to challenge by protest to either the Government Accountability Office,
38 under 31 U.S.C. §§ 3551-3556, or to the Court of Federal Claims, under 28 U.S.C. § 1491.

1 An agency shall immediately advise the Congress of the exercise of the authority granted in
2 this subsection.

3 (2) Contracting. – Notwithstanding any other provision of law, the Department of Homeland
4 Security may enter into contracts for the purpose of implementing the programs described in
5 this title in advance of the receipt of any fees imposed on any beneficiary or petitioner for
6 benefits under this title. The Department shall not exceed the amount necessary to defray the
7 cost of the programs.

8 (3) Notice to Congress. – The Secretary of Homeland Security shall immediately advise the
9 Congress of the exercise of the authority granted in subsection (b) of this section, and shall
10 report quarterly on the estimated obligations incurred pursuant to the authority granted in
11 subsection (b) of this section.

12 (4) Appointments. – Notwithstanding any other provision of law, the Secretary of Homeland
13 Security shall have authority to make term, temporary limited, and part-time appointments
14 without regard to the number of such employees, their ratio to permanent full-time employees,
15 and the duration of their employment. Nothing in 5 U.S.C., Chapter 71, shall affect the
16 authority of any Department of Homeland Security management official to hire term,
17 temporary limited or part-time employees under this subsection.

18 **SEC. 5005. ABILITY TO FILL AND RETAIN**
19 **DEPARTMENT OF HOMELAND SECURITY POSITIONS**
20 **IN UNITED STATES TERRITORIES.**

21 (a) In General.—Section 530C of title 28, United States Code, is amended—

22 (1) in subsection (a), in the matter preceding paragraph (1)—

23 (A) by inserting “or the Department of Homeland Security” after “Department of
24 Justice”; and

25 (B) by inserting “or the Secretary of Homeland Security” after “Attorney General”;

26 (2) in subsection (b)—

27 (A) in paragraph (1)—

28 (i) in the matter preceding subparagraph (A), by inserting “or to the Secretary
29 of Homeland Security” after “Attorney General”; and

30 (ii) in subparagraph (K)—

31 (I) in clause (i)—

32 (aa) by inserting “or within United States territories or
33 commonwealths” after “outside United States”; and

34 (bb) by inserting “or the Secretary of Homeland Security” after
35 “Attorney General”;

36 (II) in clause (ii), by inserting “or the Secretary of Homeland Security”
37 after “Attorney General”;

38 (B) in paragraph (2)—

1 (i) in subparagraph (A), by striking “for the Drug Enforcement Administration,
2 and for the Immigration and Naturalization Service” and inserting “and for the
3 Drug Enforcement Administration”; and

4 (ii) in subparagraph (B), in the matter preceding clause (i), by striking “the
5 Immigration and Naturalization Service” and inserting “the Department of
6 Homeland Security”;

7 (C) in paragraph (5), by striking “IMMIGRATION AND NATURALIZATION SERVICE.—
8 Funds available to the Attorney General” and replacing with “DEPARTMENT OF
9 HOMELAND SECURITY.—Funds available to the Secretary of Homeland Security”; and

10 (D) in paragraph (7)—

11 (i) by inserting “or the Secretary of Homeland Security” after “Attorney
12 General”; and

13 (ii) by striking “the Immigration and Naturalization Service” and inserting
14 “U.S. Immigration and Customs Enforcement”; and

15 (3) in subsection (d), by inserting “or the Department of Homeland Security” after
16 “Department of Justice”.

17 SEC. 5006. SEVERABILITY.

18 If any provision of this Act or any amendment made by this Act, or any application of such
19 provision or amendment to any person or circumstance, is held to be unconstitutional, the
20 remainder of the provisions of this Act and the amendments made by this Act and the application
21 of the provision or amendment to any other person or circumstance shall not be affected.

22 SEC. 5007. FUNDING.

23 (a) Implementation.—The Director of the Office of Management and Budget shall determine
24 and identify—

25 (1) the appropriation accounts which have unobligated funds that could be rescinded and
26 used to fund the provisions of this Act; and

27 (2) the amount of the rescission that shall be applied to each such account.

28 (b) Report.—Not later than 60 days after the date of enactment of this Act, the Director of the
29 Office of Management and Budget shall submit to Congress and to the Secretary of the Treasury
30 a report that describes the accounts and amounts determined and identified for rescission
31 pursuant to subsection (a).

32 (c) Exceptions.—This section shall not apply to unobligated funds of—

33 (1) the Department of Homeland Security;

34 (2) the Department of Defense; or

35 (3) the Department of Veterans Affairs.

36 TITLE VI—TECHNICAL AMENDMENTS

1 SEC. 6001. REFERENCES TO THE IMMIGRATION AND
2 NATIONALITY ACT.

3 Except as otherwise expressly provided, whenever in this title an amendment or repeal is
4 expressed in terms of an amendment to, or repeal of, a section or other provision, the reference
5 shall be considered to be made to a section or other provision of the Immigration and Nationality
6 Act (8 U.S.C. 1101 et seq.).

7 SEC. 6002. TECHNICAL AMENDMENTS TO TITLE I OF
8 THE IMMIGRATION AND NATIONALITY ACT.

9 (a) Section 101.—

10 (1) DEPARTMENT.—Section 101(a)(8) (8 U.S.C. 1101(a)(8)) is amended to read as
11 follows:

12 “(8) The term ‘Department’ means the Department of Homeland Security.”.

13 (2) IMMIGRANT.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

14 (A) in subparagraph (F)(i)—

15 (i) by striking the term “Attorney General” each place that term appears and
16 inserting “Secretary”; and

17 (ii) by striking “214(l)” and inserting “214(m)”;

18 (B) in subparagraph (H)(i)—

19 (i) in subclause (b), by striking “certifies to the Attorney General that the
20 intending employer has filed with the Secretary” and inserting “certifies to the
21 Secretary of Homeland Security that the intending employer has filed with the
22 Secretary of Labor”; and

23 (ii) in subclause (c), by striking “certifies to the Attorney General” and
24 inserting “certifies to the Secretary of Homeland Security”; and

25 (C) in subparagraph (M)(i), by striking the term “Attorney General” each place that
26 term appears and inserting “Secretary”.

27 (3) IMMIGRATION OFFICER.—Section 101(a)(18) (8 U.S.C. 1101(a)(18)) is amended by
28 striking “Service or of the United States designated by the Attorney General,” and inserting
29 “Department or of the United States designated by the Secretary,”.

30 (4) SECRETARY.—Section 101(a)(34) (8 U.S.C. 1101(a)(34)) is amended to read as
31 follows:

32 “(34) The term ‘Secretary’ means the Secretary of Homeland Security, except as provided in
33 section 219(d)(4).”.

34 (5) SPECIAL IMMIGRANT.—Section 101(a)(27)(L)(iii) (8 U.S.C. 1101(a)(27)(L)(iii)) is
35 amended by adding “; or” at the end.

36 (6) MANAGERIAL CAPACITY; EXECUTIVE CAPACITY.—Section 101(a)(44)(C) (8 U.S.C.
37 1101(a)(44)(C)) is amended by striking “Attorney General” and inserting “Secretary”.

1 (7) ORDER OF REMOVAL.—Section 101(a)(47)(A) (8 U.S.C. 1101(a)(47)(A)) is amended
2 to read as follows:

3 “(A) The term ‘order of removal’ means the order of the immigration judge, or other such
4 administrative officer to whom the Attorney General or the Secretary has delegated the
5 responsibility for determining whether an alien is removable, concluding that the alien is
6 removable or ordering removal.”.

7 (8) TITLE I AND II DEFINITIONS.—Section 101(b) (8 U.S.C. 1101(b)) is amended—

8 (A) in paragraph (1)(F)(i), by striking “Attorney General” and inserting “Secretary”;
9 and

10 (B) in paragraph (4), by striking “Immigration and Naturalization Service.” and
11 inserting “Department.”.

12 (b) Section 103.—

13 (1) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended by striking the section
14 heading and subsection (a)(1) and inserting the following:

15 **“SEC. 103. POWERS AND DUTIES.**

16 “(a)(1) The Secretary shall be charged with the administration and enforcement of this Act and
17 all other laws relating to the immigration and naturalization of aliens, except insofar as this Act
18 or such laws relate to the powers, functions, and duties conferred upon the President, the
19 Attorney General, the Secretary of Labor, the Secretary of Agriculture, the Secretary of Health
20 and Human Services, the Commissioner of Social Security, the Secretary of State, the officers of
21 the Department of State, or diplomatic or consular officers. A determination and ruling by the
22 Attorney General with respect to all questions of law shall be controlling.”.

23 (2) TECHNICAL AND CONFORMING CORRECTIONS.—Section 103 (8 U.S.C. 1103), as
24 amended by paragraph (1), is further amended—

25 (A) in subsection (a)—

26 (i) in paragraph (2), by striking “He” and inserting “The Secretary”;

27 (ii) in paragraph (3)—

28 (I) by striking “He” and inserting “The Secretary”;

29 (II) by striking “he” and inserting “the Secretary”; and

30 (III) by striking “his authority” and inserting “the authority of the
31 Secretary”;

32 (iii) in paragraph (4)—

33 (I) by striking “He” and inserting “The Secretary”; and

34 (II) by striking “Service or the Department of Justice” and insert the
35 “Department”;

36 (iv) in paragraph (5)—

37 (I) by striking “He” and inserting “The Secretary”;

1 (II) by striking “his discretion,” and inserting “the discretion of the
2 Secretary,” and

3 (III) by striking “him” and inserting “the Secretary”;

4 (v) in paragraph (6)—

5 (I) by striking “He” and inserting “The Secretary”;

6 (II) by striking “Department” and inserting “agency, department,”; and

7 (III) by striking “Service.” and inserting “Department or upon consular
8 officers with respect to the granting or refusal of visas”;

9 (vi) in paragraph (7)—

10 (I) by striking “He” and inserting “The Secretary”;

11 (II) by striking “countries;” and inserting “countries”;

12 (III) by striking “he” and inserting “the Secretary”; and

13 (IV) by striking “his judgment” and inserting “the judgment of the
14 Secretary”;

15 (vii) in paragraph (8), by striking “Attorney General” and inserting “Secretary”;

16 (viii) in paragraph (10), by striking “Attorney General” each place that term
17 appears and inserting “Secretary”; and

18 (ix) in paragraph (11), by striking “Attorney General,” and inserting
19 “Secretary,”;

20 (B) by amending subsection (c) to read as follows:

21 “(c) Secretary; Appointment.—The Secretary shall be a citizen of the United States and shall
22 be appointed by the President, by and with the advice and consent of the Senate. The Secretary
23 shall be charged with any and all responsibilities and authority in the administration of the
24 Department and of this Act. The Secretary may enter into cooperative agreements with State and
25 local law enforcement agencies for the purpose of assisting in the enforcement of the
26 immigration laws.”;

27 (C) in subsection (e)—

28 (i) in paragraph (1), by striking “Commissioner” and inserting “Secretary”; and

29 (ii) in paragraph (2), by striking “Service” and inserting “U.S. Citizenship and
30 Immigration Services”;

31 (D) in subsection (f)—

32 (i) by striking “Attorney General” and inserting “Secretary”;

33 (ii) by striking “Immigration and Naturalization Service” and inserting
34 “Department”; and

35 (iii) by striking “Service,” and inserting “Department,”; and

36 (E) in subsection (g)(1), by striking “Immigration Reform, Accountability and

1 Security Enhancement Act of 2002” and inserting “Homeland Security Act of 2002
2 (Public Law 107–296; 116 Stat. 2135)”.

3 (3) CLERICAL AMENDMENT.—The table of contents in the first section is amended by
4 striking the item relating to section 103 and inserting the following:

5 “Sec.103.Powers and duties.”.

6 (c) Section 105.—Section 105(a) is amended (8 U.S.C. 1105(a)) by striking “Commissioner”
7 each place that term appears and inserting “Secretary”.

8 **SEC. 6003. TECHNICAL AMENDMENTS TO TITLE II OF**
9 **THE IMMIGRATION AND NATIONALITY ACT.**

10 (a) Section 202.—Section 202(a)(1)(B) (8 U.S.C. 1152(a)(1)(B)) is amended by inserting “the
11 Secretary or” after “the authority of”.

12 (b) Section 203.—Section 203 (8 U.S.C. 1153) is amended—

13 (1) in subsection (b)(2)(B)(ii)—

14 (A) in subclause (II)—

15 (i) by inserting “the Secretary or” before “the Attorney General”; and

16 (ii) by moving such subclause 4 ems to the left; and

17 (B) by moving subclauses (III) and (IV) 4 ems to the left; and

18 (2) in subsection (f) (as redesignated by section 4003(a)(2))—

19 (A) by striking “Secretary’s” and inserting “Secretary of State’s”; and

20 (B) by inserting “of State” after “but the Secretary”.

21 (c) Section 204.—Section 204 (8 U.S.C. 1154) is amended—

22 (1) in subsection (a)(1)(G)(ii), by inserting “of State” after “by the Secretary”;

23 (2) in subsection (c), by inserting “the Secretary or” before “the Attorney General” each
24 place that term appears; and

25 (3) in subsection (e), by inserting “to” after “admitted”.

26 (d) Section 208.—Section 208 (8 U.S.C. 1158) is amended—

27 (1) in subsection (a)(2)—

28 (A) by inserting “the Secretary or” before “Attorney General” in subparagraph (A);

29 (B) by inserting “the Secretary or” before “Attorney General” in subparagraph (D);

30 (2) in subsection (b)(2)—

31 (A) in subparagraph (B)(ii), by inserting “the Secretary or” before “Attorney
32 General”;

33 (B) in subparagraph (C), by inserting “the Secretary or” before “Attorney General”;
34 and

- 1 (C) in subparagraph (D), by inserting “the Secretary or” before “Attorney General”.
- 2 (3) in subsection (c)—
- 3 (A) in paragraph (1), by striking “the Attorney General” and inserting “the
4 Secretary”;
- 5 (B) in paragraphs (2) and (3), by inserting “the Secretary or” before “Attorney
6 General” each place that term appears; and
- 7 (4) in subsection (d)—
- 8 (A) in paragraph (1), by inserting “the Secretary or” before “the Attorney General”,
- 9 (B) in paragraph (2), by striking “Attorney General” and inserting “Secretary”;
- 10 (C) in paragraph (3)—
- 11 (i) by striking “Attorney General” each place that term appears and inserting
12 “Secretary”; and
- 13 (ii) by striking “Attorney General’s” and inserting “Secretary’s”; and
- 14 (D) in paragraphs (4) through (6), by inserting “the Secretary or” before “the
15 Attorney General”; and
- 16 (e) Section 209.—Section 209(a)(1)(A) (8 U.S.C. 1159(a)(1)(A)) is amended by striking
17 “Secretary of Homeland Security or the Attorney General” each place that term appears and
18 inserting “Secretary”.
- 19 (f) Section 212.—Section 212 (8 U.S.C. 1182) is amended—
- 20 (1) in subsection (a)—
- 21 (A) in paragraph (2), in subparagraphs (C), (H)(ii), and (I), by inserting “, the
22 Secretary,” before “or the Attorney General” each place that term appears;
- 23 (B) in paragraph (3)—
- 24 (i) in subparagraph (B)(ii)(II), by inserting “, the Secretary,” before “or the
25 Attorney General” each place that term appears; and
- 26 (ii) in subparagraph (D), by inserting “the Secretary or” before “the Attorney
27 General” each place that term appears;
- 28 (C) in paragraph (4)—
- 29 (i) in subparagraph (A), by inserting “the Secretary or” before “the Attorney
30 General”; and
- 31 (ii) in subparagraph (B), by inserting “, the Secretary,” before “or the Attorney
32 General” each place that term appears;
- 33 (D) in paragraph (5)(C), by striking “or, in the case of an adjustment of status, the
34 Attorney General, a certificate from the Commission on Graduates of Foreign Nursing
35 Schools, or a certificate from an equivalent independent credentialing organization
36 approved by the Attorney General” and inserting “or, in the case of an adjustment of
37 status, the Secretary or the Attorney General, a certificate from the Commission on

1 Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent
2 credentialing organization approved by the Secretary”;

3 (E) in paragraph (9)—

4 (i) in subparagraph (B)(v)—

5 (I) by inserting “or the Secretary” after “Attorney General” each place that
6 term appears; and

7 (II) by striking “has sole discretion” and inserting “have discretion”; and

8 (ii) in subparagraph (C)(iii), by inserting “or the Attorney General” after
9 “Secretary of Homeland Security”; and

10 (F) in paragraph (10)(C), in clauses (ii)(III) and (iii)(II), by striking “Secretary’s”
11 and inserting “Secretary of State’s”;

12 (2) in subsection (d), in paragraphs (11) and (12), by inserting “or the Secretary” after
13 “Attorney General” each place that term appears;

14 (3) in subsection (e), by striking the first proviso and inserting the following: “Provided,
15 That upon the favorable recommendation of the Director, pursuant to the request of an
16 interested United States Government agency (or, in the case of an alien described in clause
17 (iii), pursuant to the request of a State Department of Public Health, or its equivalent), or of
18 the Secretary after the Secretary has determined that departure from the United States would
19 impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a
20 citizen of the United States or a lawfully resident alien), or that the alien cannot return to the
21 country of his or her nationality or last residence because the alien would be subject to
22 persecution on account of race, religion, or political opinion, the Secretary may waive the
23 requirement of such two-year foreign residence abroad in the case of any alien whose
24 admission to the United States is found by the Secretary to be in the public interest except
25 that in the case of a waiver requested by a State Department of Public Health, or its
26 equivalent, or in the case of a waiver requested by an interested United States Government
27 agency on behalf of an alien described in clause (iii), the waiver shall be subject to the
28 requirements under section 214(l);”;

29 (4) in subsections (g), (h), (i), and (k), by inserting “or the Secretary” after “Attorney
30 General” each place that term appears;

31 (5) in subsection (m)(2)(E)(iv), by inserting “of Labor” after “Secretary” the second and
32 third place that term appears;

33 (6) in subsection (n), by inserting “of Labor” after “Secretary” each place that term
34 appears, except that this amendment shall not apply to references to the “Secretary of
35 Labor”; and

36 (7) in subsection (s), by inserting “, the Secretary,” before “or the Attorney General”.

37 (g) Section 213A.—Section 213A (8 U.S.C. 1183a) is amended—

38 (1) in subsection (a)(1), in the matter preceding paragraph (1), by inserting “, the
39 Secretary,” after “the Attorney General”; and

40 (2) in subsection (f)(6)(B), by inserting “the Secretary,” after “The Secretary of State.”

1 (h) Section 214.—Section 214(c)(9)(A) (8 U.S.C. 1184(c)(9)(A) is amended, in the matter
2 preceding clause (i), by striking “before”.

3 (i) Section 217.—Section 217 (8 U.S.C. 1187) is amended—

4 (1) in subsection (e)(3)(A), by inserting a comma after “Regulations”;

5 (2) in subsection (f)(2)(A), by striking “section (c)(2)(C),” and inserting “subsection
6 (c)(2)(C),”; and

7 (3) in subsection (h)(3)(A), by striking “the alien” and inserting “an alien”.

8 (j) Section 218.—Section 218 (8 U.S.C. 1188) is amended—

9 (1) by inserting “of Labor” after “Secretary” each place that term appears, except that this
10 amendment shall not apply to references to the “Secretary of Labor” or to the “Secretary of
11 Agriculture”;

12 (2) in subsection (c)(3)(B)(iii), by striking “Secretary’s” and inserting “Secretary of
13 Labor’s”; and

14 (3) in subsection (g)(4), by striking “Secretary’s” and inserting “Secretary of
15 Agriculture’s”.

16 (k) Section 219.—Section 219 (8 U.S.C. 1189) is amended—

17 (1) in subsection (a)(1)(B)—

18 (A) by inserting a close parenthesis after “section 212(a)(3)(B)”;

19 (B) by striking the close parenthesis before the semicolon;

20 (2) in subsection (c)(3)(D), by striking “(2),” and inserting “(2),”; and

21 (3) in subsection (d)(4), by striking “the Secretary of the Treasury” and inserting “the
22 Secretary of Homeland Security, the Secretary of the Treasury,”.

23 (l) Section 222.—Section 222 (8 U.S.C. 1202)—

24 (1) by inserting “or the Secretary” after “Secretary of State” each place that term appears;
25 and

26 (2) in subsection (f)—

27 (A) in the matter preceding paragraph (1), by inserting “, the Department,” after
28 “Department of State”; and

29 (B) in paragraph (2), by striking “Secretary’s” and inserting “their”.

30 (m) Section 231.—Section 231 (8 U.S.C. 1221) is amended—

31 (1) in subsection (c)(10), by striking “Attorney General,” and inserting “Secretary,”;

32 (2) in subsection (f), by striking “Attorney General” each place that term appears and
33 inserting “Secretary”;

34 (3) in subsection (g)—

35 (A) by striking “Attorney General” each places that term appears and inserting
36 “Secretary”;

- 1 (B) by striking “Commissioner” each place that term appears and inserting
2 “Secretary”; and
- 3 (4) in subsection (h), by striking “Attorney General” each place that term appears and
4 inserting “Secretary”.
- 5 (n) Section 236.—Section 236(e) (8 U.S.C. 1226(e)) is amended—
- 6 (1) by striking “review.” and inserting “review, other than administrative review by the
7 Attorney General pursuant to the authority granted under section 103(g).”; and
- 8 (2) by inserting “the Secretary or” before “the Attorney General under”.
- 9 (o) Section 236A.—Section 236A(a)(4) (8 U.S.C. 1226a(a)(4)) is amended by striking
10 “Deputy Attorney General” both places that term appears and inserting “Deputy Secretary of
11 Homeland Security”.
- 12 (p) Section 237.—Section 237(a) (8 U.S.C. 1227(a)) is amended—
- 13 (1) in the matter preceding paragraph (1), by inserting “following the initiation by the
14 Secretary of removal proceedings” after “upon the order of the Attorney General”; and
- 15 (2) in paragraph (2)(E), in the subparagraph heading, by striking “, CRIMES AGAINST
16 CHILDREN AND” and inserting “; CRIMES AGAINST CHILDREN”.
- 17 (q) Section 238.—Section 238 (8 U.S.C. 1228) is amended—
- 18 (1) in subsection (a)—
- 19 (A) in paragraph (2), by striking “Attorney General” each place that term appears
20 and inserting “Secretary”; and
- 21 (B) in paragraphs (3) and (4)(A), by inserting “and the Secretary” after “Attorney
22 General” each place that term appears; and
- 23 (2) in subsection (e) (as redesignated by section 1703(a)(4))—
- 24 (A) by striking “Commissioner” each place that term appears and inserting
25 “Secretary”;
- 26 (B) by striking “Attorney General” each place that term appears and inserting
27 “Secretary”; and
- 28 (C) in subparagraph (D)(iv), by striking “Attorney General” and inserting “United
29 States Attorney”.
- 30 (r) Section 239.—Section 239(a)(1) (8 U.S.C. 1229(a)(1)) is amended by inserting “and the
31 Secretary” after “Attorney General” each place that term appears.
- 32 (s) Section 240.—Section 240 (8 U.S.C. 1229a) is amended—
- 33 (1) in subsection (b)—
- 34 (A) in paragraph (1), by inserting “, with the concurrence of the Secretary with
35 respect to employees of the Department” after “Attorney General”; and
- 36 (B) in paragraph (5)(A), by inserting “the Secretary or” before “the Attorney
37 General”; and

- 1 (2) in subsection (c)—
- 2 (A) in paragraph (2), by inserting “, the Secretary of State, or the Secretary” before
3 “to be confidential”; and
- 4 (B) in paragraph (7)(C)(iv)(I), by striking “240A(b)(2)” and inserting “section
5 240A(b)(2)”.
- 6 (t) Section 240A.—Section 240A(b) (8 U.S.C. 1229b(b)) is amended—
- 7 (1) in paragraph (3), by striking “Attorney General shall” and inserting “Secretary shall”;
8 and
- 9 (2) in paragraph (4)(A), by striking “Attorney General” and inserting “Secretary”.
- 10 (u) Section 240B.—Section 240B(a) (8 U.S.C. 1229c(a)) is amended in paragraphs (1) and (3),
11 by inserting “or the Secretary” after “Attorney General” each place that term appears.
- 12 (v) Section 241.—Section 241 (8 U.S.C. 1231) is amended—
- 13 (1) in subsection (a)(4)(B)(i), by inserting a close parenthesis after “(L)”;
- 14 (2) in subsection (g)(2)—
- 15 (A) by striking the paragraph heading and inserting “DETENTION FACILITIES OF THE
16 DEPARTMENT OF HOMELAND SECURITY.—”; and
- 17 (B) by striking “Service, the Commissioner” and inserting “Department, the
18 Secretary”.
- 19 (w) Section 242.—Section 242(g) (8 U.S.C. 1252(g)) is amended by inserting “the Secretary
20 or” before “the Attorney General”.
- 21 (x) Section 243.—Section 243 (8 U.S.C. 1253) (as amended by section 1720) is amended in
22 subsection (b)(1)—
- 23 (1) by striking “Attorney General” each place that term appears and inserting
24 “Secretary”; and
- 25 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 26 (y) Section 244.—Section 244 (8 U.S.C. 1254a) is amended—
- 27 (1) in subsection (c)(2), by inserting “or the Secretary” after “Attorney General” each
28 place the term appears; and
- 29 (2) in subsection (g), by inserting “or the Secretary” after “Attorney General”.
- 30 (z) Section 245.—Section 245 (8 U.S.C. 1255) is amended—
- 31 (1) by inserting “or the Secretary” after “Attorney General” each place that term appears
32 except in subsections (j) (other than the first reference), (l), and (m);
- 33 (2) in subsection (k)(1), adding an “and” at the end; and
- 34 (3) in subsection (l)—
- 35 (A) in paragraph (1), by inserting a comma after “appropriate”; and
- 36 (B) in paragraph (2)—

- 1 (i) in the matter preceding paragraph (1), by striking “Attorney General’s” and
2 inserting “Secretary’s”; and
- 3 (ii) in subparagraph (B), by striking “(10(E))” and inserting “(10)(E))”.
- 4 (aa) Section 245A.—Section 245A (8 U.S.C. 1255a) is amended—
- 5 (1) in subsection (c)(7), by striking subparagraph (C); and
- 6 (2) in subsection (h)—
- 7 (A) in paragraph (4)(C), by striking “The The” and inserting “The”; and
- 8 (B) in paragraph (5), by striking “(Public Law 96–122),” and inserting “(8 U.S.C.
9 1522 note),”.
- 10 (bb) Section 251.—Section 251(d) (8 U.S.C. 1281(d)) is amended—
- 11 (1) by striking “Attorney General” each place that term appears and inserting
12 “Secretary”; and
- 13 (2) by striking “Commissioner” each place that term appears and inserting “Secretary”.
- 14 (cc) Section 254.—Section 254(a) (8 U.S.C. 1284(a)) is amended by striking “Commissioner”
15 each place that term appears and inserting “Secretary”.
- 16 (dd) Section 255.—Section 255 (8 U.S.C. 1285) is amended by striking “Commissioner” each
17 place that term appears and inserting “Secretary”.
- 18 (ee) Section 256.—Section 256 (8 U.S.C. 1286) is amended—
- 19 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
- 20 (2) in the first and second sentences, by striking “Attorney General” each place that term
21 appears and inserting “Secretary”.
- 22 (ff) Section 258.—Section 258 (8 U.S.C. 1288) is amended—
- 23 (1) by inserting “of Labor” after “Secretary” each place that term appears (except for in
24 subsection (e)(2)), except that this amendment shall not apply to references to the
25 “Secretary of Labor”, “the Secretary of State”;
- 26 (2) in subsection (d)(2)(A), by striking “at” after “while”; and
- 27 (3) in subsection (e)(2), by striking “the Secretary shall” and inserting “the Secretary of
28 State shall”.
- 29 (gg) Section 264.—Section 264(f) (8 U.S.C. 1304(f)) is amended by striking “Attorney
30 General is” and inserting “Attorney General and the Secretary are”.
- 31 (hh) Section 272.—Section 272 (8 U.S.C. 1322) is amended by striking “Commissioner” each
32 place that term appears and inserting “Secretary”.
- 33 (ii) Section 273.—Section 273 (8 U.S.C. 1323) is amended—
- 34 (1) by striking “Commissioner” each place that term appears and inserting “Secretary”;
35 and
- 36 (2) by striking “Attorney General” each place that term appears (except in subsection (e),

1 in the matter preceding paragraph (1)) and inserting “Secretary”.

2 (jj) Section 274.—Section 274(b)(2) (8 U.S.C. 1324(b)(2)) is amended by striking “Secretary
3 of the Treasury” and inserting “Secretary”.

4 (kk) Section 274B.—Section 274B(f)(2) (8 U.S.C. 1324b(f)(2)) is amended by striking
5 “subsection” and inserting “section”.

6 (ll) Section 274C.—Section 274C(d)(2)(A) (8 U.S.C. 1324c(d)(2)(A)) is amended by inserting
7 “or the Secretary” after “subsection (a), the Attorney General”.

8 (mm) Section 274D.—Section 274D(a)(2) (8 U.S.C. 1324d(a)(2)) is amended by striking
9 “Commissioner” and inserting “Secretary”.

10 (nn) Section 286.—Section 286 (8 U.S.C. 1356) is amended—

11 (1) in subsection (q)(1)(B), by striking “, in consultation with the Secretary of the
12 Treasury,”;

13 (2) in subsection (r)(2), by striking “section 245(i)(3)(b)” and inserting “section
14 245(i)(3)(B)”;

15 (3) in subsection (s)(5)—

16 (A) by striking “5 percent” and inserting “USE OF FEES FOR DUTIES RELATING TO
17 PETITIONS.—Five percent”;

18 (B) by striking “paragraph (1) (C) or (D) of section 204” and inserting
19 “subparagraph (C) or (D) of section 204(a)(1)”.

20 (oo) Section 294.—Section 294 (8 U.S.C. 1363a) is amended—

21 (1) in subsection (a), in the undesignated matter following paragraph (4), by striking
22 “Commissioner, in consultation with the Deputy Attorney General,” and inserting
23 “Secretary”; and

24 (2) in subsection (d), by striking “Deputy Attorney General” and inserting “Secretary”.

25 **SEC. 6004. TECHNICAL AMENDMENTS TO TITLE III OF**
26 **THE IMMIGRATION AND NATIONALITY ACT.**

27 (a) Section 316.—Section 316 (8 U.S.C. 1427) is amended—

28 (1) in subsection (d), by inserting “or by the Secretary” after “Attorney General”; and

29 (2) in subsection (f)(1), by striking “Intelligence, the Attorney General and the
30 Commissioner of Immigration” and inserting “Intelligence and the Secretary”.

31 (b) Section 322.—Section 322(a)(1) (8 U.S.C. 1433(a)(1)) is amended—

32 (1) by inserting “is” before “(or,”; and

33 (2) by striking “is” before “a citizen”.

34 (c) Section 342.—

35 (1) SECTION HEADING.—

1 (A) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended by striking the section
2 heading and inserting “cancellation of certificates; action not to affect citizenship
3 status”.

4 (B) CLERICAL AMENDMENT.—The table of contents in the first section is amended
5 by striking the item relating to section 342 and inserting the following:

6 “Sec.342.Cancellation of certificates; action not to affect citizenship status.”.

7 (2) IN GENERAL.—Section 342 (8 U.S.C. 1453) is amended—

8 (A) by striking “heretofore issued or made by the Commissioner or a Deputy
9 Commissioner or hereafter made by the Attorney General”; and

10 (B) by striking “practiced upon, him or the Commissioner or a Deputy
11 Commissioner;”.

12 SEC. 6005. TECHNICAL AMENDMENT TO TITLE IV OF 13 THE IMMIGRATION AND NATIONALITY ACT.

14 Section 412(a)(2)(C)(i) (8 U.S.C. 1522(a)(2)(C)(i)) is amended by striking “insure” and
15 inserting “ensure”.

16 SEC. 6006. TECHNICAL AMENDMENTS TO TITLE V OF 17 THE IMMIGRATION AND NATIONALITY ACT.

18 (a) Section 504.—Section 504 (8 U.S.C. 1534) is amended—

19 (1) in subsection (a)(1)(A), by striking “a” before “removal proceedings”;

20 (2) in subsection (i), by striking “Attorney General” inserting “Government”; and

21 (3) in subsection (k)(2), by striking “by”.

22 (b) Section 505.—Section 505(e)(2) (8 U.S.C. 1535(e)(2)) is amended by inserting “and the
23 Secretary” after “Attorney General”.

24 SEC. 6007. OTHER AMENDMENTS.

25 (a) Correction of Commissioner of Immigration and Naturalization.—

26 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) as
27 amended by this Act, is further amended by striking “Commissioner” and “Commissioner
28 of Immigration and Naturalization” each place those terms appear and inserting “Secretary”.

29 (2) EXCEPTION FOR COMMISSIONER OF SOCIAL SECURITY.—The amendment made by
30 paragraph (1) shall not apply to any reference to the “Commissioner of Social Security”.

31 (b) Correction of Bureau of Citizenship and Immigration Services. – Section 451(a)(1) of the
32 Homeland Security Act of 2002 (6 U.S.C. 271(a)(1)) is amended by striking “a bureau to be
33 known as the ‘Bureau of Citizenship and Immigration Services’” and inserting “an agency to be
34 known as the United States Citizenship and Immigration Services, whose headquarters shall be
35 in the same State as the office of the Secretary.”

36 (c) Correction of Immigration and Naturalization Service.—The Immigration and Nationality

1 Act (8 U.S.C. 1101 et seq.), as amended by this Act, is further amended by striking “Service”
2 and “Immigration and Naturalization Service” each place those terms appear and inserting
3 “Department”.

4 (d) Correction of Department of Justice.—

5 (1) IN GENERAL.—The Immigration and Nationality Act (8 U.S.C. 1101 et seq.), as
6 amended by this Act, is further amended by striking “Department of Justice” each place that
7 term appears and inserting “Department”.

8 (2) EXCEPTIONS.—The amendment made by paragraph (1) shall not apply in—

9 (A) subsections (d)(3)(A) and (r)(5)(A) of section 214 (8 U.S.C. 1184);

10 (B) section 274B(c)(1) (8 U.S.C. 1324b(c)(1)); or

11 (C) title V (8 U.S.C. 1531 et seq.).

12 (e) Correction of Attorney General.—The Immigration and Nationality Act (8 U.S.C. 1101 et
13 seq.) as amended by this Act, is further amended by striking “Attorney General” each place that
14 term appears and inserting “Secretary”, except for in the following:

15 (1) Any joint references to the “Attorney General and the Secretary of Homeland
16 Security” or “the Secretary of Homeland Security and the Attorney General”.

17 (2) Section 101(a)(5).

18 (3) Subparagraphs (S), (T), and (V) of section 101(a)(15).

19 (4) Section 101(a)(47)(A).

20 (5) Section 101(b)(4).

21 (6) Subsections (a)(1) and (g) of section 103.

22 (7) Subsections (b)(1) and (c) of section 105.

23 (8) Section 204(c).

24 (9) Section 208.

25 (10) Subparagraphs (C), (H), and (I) of section 212(a)(2).

26 (11) Subparagraphs (A), (B)(ii)(II), and (D) of section 212(a)(3).

27 (12) Section 212(a)(9)(C)(iii).

28 (13) Paragraphs (11) and (12) of section 212(d).

29 (14) Subsections (g), (h), (i), (k), and (s) of section 212.

30 (15) Subsections (a)(1) and (f)(6)(B) of section 213A.

31 (16) Section 216(d)(2)(c).

32 (17) Section 219(d)(4).

33 (18) Section 235(b)(1)(B)(iii)(III).

34 (19) The second sentence of section 236(e).

35 (20) Section 237.

- 1 (21) Paragraphs (1), (3), and (4)(A) of section 238(a).
- 2 (22) Paragraphs (1) and (5) of section 238(b).
- 3 (23) Section 238(c)(2)(D)(iv).
- 4 (24) Subsections (a) and (b) of section 239.
- 5 (25) Section 240.
- 6 (26) Section 240A.
- 7 (27) Subsections (a)(1), (a)(3), (b), and (c) of section 240B.
- 8 (28) The first reference in section 241(a)(4)(B)(i).
- 9 (29) Section 241(b)(3) (except for the first reference in subparagraph (A), to which the
10 amendment shall apply).
- 11 (30) Section 241(i) (except for paragraph (3)(B)(i), to which the amendment shall apply).
- 12 (31) Section 242(a)(2)(B).
- 13 (32) Section 242(b) (except for paragraph (8), to which the amendment shall apply).
- 14 (33) Section 242(g).
- 15 (34) Subsections (a)(3)(C), (c)(2), (e), and (g) of section 244.
- 16 (35) Section 245 (except for subsection (i)(1)(B)(i), subsection (i)(3)) and the first
17 reference to the Attorney General in subsection 245(j)).
- 18 (36) Section 245A(a)(1)(A).
- 19 (37) Section 246(a).
- 20 (38) Section 249.
- 21 (39) Section 264(f).
- 22 (40) Section 274(e).
- 23 (41) Section 274A.
- 24 (42) Section 274B.
- 25 (43) Section 274C.
- 26 (44) Section 292.
- 27 (45) Subsections (d) and (f)(1) of section 316.
- 28 (46) Section 342.
- 29 (47) Section 412(f)(1)(A).
- 30 (48) Title V (except for subsections 506(a)(1) and 507(b), (c), and (d) (first reference), to
31 which the amendment shall apply).

32 SEC. 6008. REPEALS; RULE OF CONSTRUCTION.

- 33 (a) Repeals.—

1 (1) IMMIGRATION AND NATURALIZATION SERVICE.—

2 (A) IN GENERAL.—Section 4 of the Act of February 14, 1903 (32 Stat. 826, chapter
3 552; 8 U.S.C. 1551) is repealed.

4 (B) 8 U.S.C. 1551.—The language of the compilers set out in section 1551 of title 8
5 of the United States Code shall be removed from the compilation of such title 8.

6 (2) COMMISSIONER OF IMMIGRATION AND NATURALIZATION; OFFICE.—

7 (A) IN GENERAL.—Section 7 of the Act of March 3, 1891 (26 Stat. 1085, chapter
8 551; 8 U.S.C. 1552) is repealed.

9 (B) 8 U.S.C. 1552.—The language of the compilers set out in section 1552 of title 8
10 of the United States Code shall be removed from the compilation of such title 8.

11 (3) ASSISTANT COMMISSIONERS AND DISTRICT DIRECTOR; COMPENSATION AND SALARY
12 GRADE.—Title II of the Department of Justice Appropriation Act, 1957 (70 Stat. 307,
13 chapter 414; 8 U.S.C. 1553) is amended, in the matter under the heading “Immigration and
14 Naturalization Service” and under the subheading “SALARIES AND EXPENSES”, by
15 striking “That the compensation of the five assistant commissioners and one district director
16 shall be at the rate of grade GS–16: Provided further”.

17 (4) SPECIAL IMMIGRANT INSPECTORS AT WASHINGTON.—The Act of March 2, 1895 (28
18 Stat. 780, chapter 177; 8 U.S.C. 1554) is amended in the matter following the heading
19 “Bureau of Immigration:” by striking “That hereafter special immigrant inspectors, not to
20 exceed three, may be detailed for duty in the Bureau at Washington: And provided further.”.

21 (b) Rule of Construction.—Nothing in this title may be construed to repeal or limit the
22 applicability of sections 462 and 1512 of the Homeland Security Act of 2002 (6 U.S.C. 279 and
23 552) with respect to any provision of law or matter not specifically addressed by the amendments
24 made by this title.

25 **SEC. 6009. MISCELLANEOUS TECHNICAL CORRECTION.**

26 Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 3508) is amended by
27 striking “Commissioner of Immigration” and inserting “Secretary of Homeland Security”.

Hamilton, Gene (OAG)

From: Hamilton, Gene (OAG)
Sent: Wednesday, February 14, 2018 9:03 AM
To: Jonathan Hoffman
Subject: Fwd: Vox: Study: DACA increased immigrants' education, labor force participation, and productivity

Why is your team forwarding things like this out?

Gene P. Hamilton
Counselor to the Attorney General
U.S. Department of Justice

Begin forwarded message:

From: "Waldman, Katie" (b) (6)
Date: February 14, 2018 at 8:44:09 AM EST
To: "Waldman, Katie" (b) (6)
Subject: Vox: Study: DACA increased immigrants' education, labor force participation, and productivity

Study: DACA increased immigrants' education, labor force participation, and productivity

Vox

By Matthew Yglesias

Feb 14, 2018, 8:00am EST

<https://www.vox.com/2018/2/14/17003484/daca-kuka-shenhav-shih>

The Deferred Action for Childhood Arrivals program changed the lives of young people who came to the United States illegally as children in incredible ways — boosting high school graduation rates and college enrollment, while slashing teen births by a staggering 45 percent.

That's according to timely new research from Elira Kuka, Na'ama Shenhav, and Kevin Shih that uses the program to study a larger question that's of interest to economists — when education becomes more available, do people go get more of it? The DACA results suggest that the answer is yes, at least when there's a clear upside. The program itself, in other words, was a smashing success in terms of bringing people out of the shadows and letting them contribute more to American society.

Oscar Hernandez, a DACA recipient, explained to Vox's Dara Lind how things changed.

"The discussion in my house was, 'You don't get noticed. Because if you do something awesome and great, you might get noticed, and if you do get noticed, they might find out that we're here undocumented, and if they find we out we could get separated.' It was never a discussion we had, but that was the unwritten rule for our house. You don't do bad things, but you also don't do good things. You stay under the radar, you work, and that's it."

DACA changed that. Suddenly, recipients got to experience what US citizens take for granted — that to excel is good.

Canceling DACA almost certainly won't reduce the overall size of the unauthorized population living in the United States, but it will meaningfully reduce the educational attainment and economic productivity of the undocumented population. That's bad for the DREAMers, but also America as a whole.

DACA eligibility led to a lot more schooling

One of DACA's provisions was that to qualify, you had to get a high school degree if you were old enough. That's an unusual incentive to stay in school, and using a difference-in-differences design to compare the eligible to non-eligible population over time (you can do this because you had to have arrived within a specific time and age window to qualify) they show that DACA-eligibility increased high school graduation rates by 15 percent and brought teen births down by 45 percent.

That's interesting, but also a bit unsurprising — if you give people a huge carrot to finish high school, they become more likely to finish high school.

The more striking results: DACA-eligible women increased their college attendance rate by 25 percent, and even as DACA-recipients obtained more schooling, they worked more.

These are important results, because formal protection from deportation isn't just about avoiding deportation. It's about no longer needing to make the need to avoid deportation structure your entire life.

An undocumented person without work authorization can find work to do, but it's typically low-paid under-the-table work. Having a college degree doesn't help you with those kind of jobs, and the kind of professional work that rewards higher education typically can't be obtained by someone without legal permission to work.

The results on college attendance are showing us that DACA worked powerfully through this channel, making recipients feel that education would pay off and thus inspiring them to go get it. And even though enrolling in school means you have less time to work, DACA recipients enrolled in school actually started working more "indicating," as the authors say "that the program generated a large boost in productivity."

The point: Cancelling DACA is broadly harmful

Ending the program, as Trump is in the process of doing, will send this trajectory into reverse.

Some former DACA recipients will end up being deported. Most, however, won't be. Not as an act of kindness from the administration but because the pace of removals is limited by the court system, which can only process so many cases per year. Making 700,000 more people eligible for deportation won't increase the number of people who actually get deported. It will, however, deal a devastating blow to those 700,000 people's ability to do professional work and proclivity to obtain an education.

They themselves and their families will obviously be the primary victims of this policy. But the economy will also suffer from a reduction in the productivity of its labor force — in lower tax revenue, business investment, and wages.

This is the essential paradox of Trump's positioning on the issue. When he initially canceled DACA, it appeared he was seeking leverage in ongoing negotiations over potential funding for border security. But when Democrats proved willing to make substantial concessions on security, Trump upped the ante

enormously and started demanding sweeping changes to US immigration policy, including huge cuts in legal immigration.

If Trump doesn't get what he wants (which seems likely), then he's going to be stuck implementing deportations of extremely politically sympathetic people, while somewhat diminishing an economic growth story that's been the sunny part of his presidency — all without changing the number of unauthorized immigrants living in the United States at all.

DACA and similar initiatives tend to draw political support from the sense that its recipients, having come to the United States as children, "did nothing wrong" in crossing the border illegally. They have unusually strong ties to what is, at the end of the day, the only country they've ever known.

But the economic logic here makes the case for a broader path to citizenship. There are millions of unauthorized immigrants residing in the United States, and there will continue to be millions of them under any conceivable enforcement framework. Letting them obtain legal status will allow them to borrow and save, launch businesses, obtain educational credentials, and apply their job skills to maximum effect.