

118TH CONGRESS
2D SESSION

H. R. 7724

To establish, under article I of the Constitution of the United States, a court of record to be known as the United States Immigration Courts.

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 2024

Ms. LOFGREN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish, under article I of the Constitution of the United States, a court of record to be known as the United States Immigration Courts.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Real Courts, Rule of Law Act of 2024”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Establishment and structure of the United States Immigration Courts.

- Sec. 3. Employees.
 Sec. 4. Budget and expenditures.
 Sec. 5. Annual report.
 Sec. 6. Application date; transitional provisions.
 Sec. 7. Institutional transfer; continuity of proceedings.
 Sec. 8. Review by the Judicial Conference; consultation requirements.
 Sec. 9. Technical and conforming provisions.

1 **SEC. 2. ESTABLISHMENT AND STRUCTURE OF THE UNITED**
 2 **STATES IMMIGRATION COURTS.**

3 (a) UNITED STATES IMMIGRATION COURTS.—The
 4 Immigration and Nationality Act (8 U.S.C. 1101 et seq.)
 5 is amended by adding at the end the following:

6 **“TITLE VI—UNITED STATES**
 7 **IMMIGRATION COURTS**
 8 **“Subtitle A—Organization and**
 9 **Jurisdiction**

10 **“SEC. 601. ESTABLISHMENT AND STRUCTURE.**

11 **“(a) ESTABLISHMENT.—**

12 **“(1) IN GENERAL.—**There is established, under
 13 article I of the Constitution of the United States, a
 14 system of courts of record to be known as the
 15 United States Immigration Courts (referred to in
 16 this Act as the ‘Immigration Courts’). Each such
 17 court of record may be referred to as an ‘immigra-
 18 tion court’. The Immigration Courts is not an agen-
 19 cy of, and shall be independent of, the executive
 20 branch of the Government.

1 “(2) DIVISIONS.—The Immigration Courts shall
2 consist of an appellate division, a trial division, and
3 an administrative division.

4 “(3) COURT OFFICES.—The principal office of
5 the Immigration Courts shall be in the Washington,
6 DC, metropolitan area, but any immigration court
7 may sit at any place within the United States.

8 “(4) COURT SEAL.—The Immigration Courts
9 shall have a seal which shall be judicially noticed.

10 “(b) APPELLATE DIVISION.—

11 “(1) IN GENERAL.—The appellate division of
12 the Immigration Courts shall be composed of 21 im-
13 migration appeals judges, one of whom shall serve as
14 chief judge, in accordance with paragraph (3).

15 “(2) APPOINTMENT OF IMMIGRATION APPEALS
16 JUDGES.—

17 “(A) IN GENERAL.—Each immigration ap-
18 peals judge shall be appointed by the President,
19 by and with the advice and consent of the Sen-
20 ate, consistent with the requirements described
21 in section 602.

22 “(B) TERM OF OFFICE.—Each immigra-
23 tion appeals judge shall be appointed for a term
24 of 15 years and may be reappointed for addi-
25 tional 15-year terms. An immigration appeals

1 judge who is not reappointed for an additional
2 term may continue to serve after the expiration
3 of the prior term until the earlier of—

4 “(i) the date that a successor is ap-
5 pointed; or

6 “(ii) the date that is 1 year after the
7 expiration of the prior term.

8 “(C) SPECIAL RULE.—If an immigration
9 appeals judge does not serve the entirety of an
10 appointed term, the resulting vacancy shall be
11 filled by a successor appointed for the remain-
12 der of the term in accordance with this para-
13 graph. At the conclusion of the term, such suc-
14 cesssor may be reappointed in accordance with
15 subparagraph (B).

16 “(3) CHIEF JUDGE.—

17 “(A) DESIGNATION.—

18 “(i) IN GENERAL.—The chief judge
19 shall be the immigration appeals judge who
20 is most senior in appointment among the
21 immigration appeals judges who, at that
22 time of appointment to the appellate divi-
23 sion—

24 “(I) have served for 1 or more
25 years;

1 “(II) have at least 5 years re-
2 maining in their term of office as an
3 immigration appeals judge; and

4 “(III) have not previously served
5 as chief judge.

6 “(ii) ACTING CHIEF JUDGE.—If no
7 immigration appeals judge in regular ac-
8 tive service satisfies all of the requirements
9 in clause (i), the immigration appeals
10 judge who is most senior in commission
11 and who has not previously served as chief
12 judge shall serve as acting chief judge until
13 an immigration appeals judge becomes eli-
14 gible under such clause.

15 “(iii) PRECEDENCE.—Immigration
16 appeals judges who have the same seniority
17 in commission shall be eligible for service
18 as chief judge according to seniority in
19 age.

20 “(B) TERM OF OFFICE.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clause (ii), the chief judge shall
23 serve a term that shall end on the earliest
24 of—

1 “(I) the date that is 5 years after
2 the date that term begins;

3 “(II) the date that the judge is
4 removed from service for cause in ac-
5 cordance with section 602(f);

6 “(III) the date that the judge
7 leaves regular active service as an im-
8 migration appeals judge; and

9 “(IV) the date that the judge
10 provides written notice to the other
11 immigration appeals judges that such
12 judge is resigning from service as
13 chief judge.

14 “(ii) CONTINUATION OF SERVICE.—If,
15 upon conclusion of the chief judge’s term
16 of office described in clause (i)(I), no other
17 immigration appeals judge is eligible to as-
18 sume the role of chief judge as provided in
19 subparagraph (A), the incumbent shall
20 continue to serve as chief judge until an-
21 other immigration appeals judge becomes
22 eligible.

23 “(4) EN BANC EXERCISE OF APPELLATE DIVI-
24 SION AUTHORITY IN NON-ADJUDICATIVE MAT-
25 TERS.—

1 “(A) IN GENERAL.—The appellate division
2 shall exercise only en banc its authority to—

3 “(i) appoint immigration trial judges
4 to the trial division;

5 “(ii) remove immigration trial judges
6 in accordance with section 602(f);

7 “(iii) appoint a chief administrative
8 officer to the administrative division;

9 “(iv) promulgate rules and set policies
10 and procedures of the Immigration Courts;
11 and

12 “(v) address other non-adjudicative
13 matters that require en banc consideration,
14 as determined by the chief judge.

15 “(B) MAJORITY VOTE.—The appellate divi-
16 sion shall exercise its en banc authority as pro-
17 vided in subparagraph (A) by a majority vote,
18 a quorum being present.

19 “(C) QUORUM.—For purposes of this
20 paragraph, not less than three immigration ap-
21 peals judges in regular active service or $\frac{2}{3}$ of
22 all immigration appeals judges in regular active
23 service, whichever is greater, shall constitute a
24 quorum.

25 “(c) TRIAL DIVISION.—

1 “(1) IN GENERAL.—The trial division of the
2 Immigration Courts shall be composed of immigra-
3 tion trial courts, the number and geographical loca-
4 tion of which shall be determined by the administra-
5 tive council, in accordance with the procedures de-
6 scribed in subsection (d)(3)(B). Each immigration
7 trial court shall be overseen by a chief trial judge.

8 “(2) APPOINTMENT OF IMMIGRATION TRIAL
9 JUDGES.—

10 “(A) IN GENERAL.—Except as provided in
11 section 603, each immigration trial judge shall
12 be appointed by the appellate division consistent
13 with the requirements described in section 602.

14 “(B) TERM OF OFFICE.—Each immigra-
15 tion trial judge shall be appointed for a term of
16 15 years and may be reappointed for additional
17 15-year terms. An immigration trial judge who
18 is not reappointed for an additional term may
19 continue to serve after the expiration of the
20 prior term for not more than 1 year or until a
21 successor is appointed, whichever occurs first.

22 “(3) CHIEF TRIAL JUDGES.—

23 “(A) DESIGNATION.—The chief judge shall
24 designate one immigration trial judge to serve
25 as the chief trial judge for each geographical

1 area. If only one immigration trial judge pre-
2 sides over a geographical area, that judge shall
3 be designated the chief trial judge.

4 “(B) TERM OF OFFICE.—Chief trial judges
5 shall serve for an initial term of 5 years and
6 may be reappointed for additional 5-year terms,
7 or other periods of time that are less than 5
8 years as determined by the appellate division.

9 “(C) RESPONSIBILITIES.—In addition to
10 fulfilling regular judicial duties, chief trial
11 judges shall be responsible for—

12 “(i) overseeing the administrative op-
13 erations of the trial division in the geo-
14 graphical area in which they are located;
15 and

16 “(ii) fulfilling all other duties and re-
17 sponsibilities articulated in this Act or del-
18 egated to the chief trial judges by the chief
19 judge.

20 “(d) ADMINISTRATIVE DIVISION.—

21 “(1) IN GENERAL.—The administrative division
22 of the Immigration Courts shall consist of an admin-
23 istrative office and an administrative council.

1 “(2) ADMINISTRATIVE OFFICE.—The adminis-
2 trative office shall be managed by a chief adminis-
3 trative officer, who shall be responsible for—

4 “(A) implementing and administering oper-
5 ational rules, policies, and procedures of the
6 Immigration Courts established by the appellate
7 division or the administrative council;

8 “(B) assisting the administrative council in
9 executing its responsibilities as described in
10 paragraph (3); and

11 “(C) fulfilling all other administrative du-
12 ties and responsibilities articulated in this Act
13 or delegated by the chief judge.

14 “(3) ADMINISTRATIVE COUNCIL.—

15 “(A) IN GENERAL.—The chief judge of the
16 appellate division shall summon annually the
17 chief trial judge of each court of the trial divi-
18 sion to a meeting at such time and place in the
19 United States as the chief judge may designate.
20 The chief judge shall preside at such meeting
21 which shall be known as the administrative
22 council of the Immigration Courts. Special ses-
23 sions of the council may be called by the chief
24 judge at such times and places as the chief
25 judge may designate. If the chief trial judge of

1 any court of the trial division is unable to at-
2 tend, the chief judge may summon any other
3 judge from such court. Every judge summoned
4 shall attend and, unless excused by the chief
5 judge, shall remain throughout the sessions of
6 the council and advise as to the needs of that
7 judge's court and as to any matters in respect
8 of which the administration of justice in the
9 Immigration Courts may be improved.

10 “(B) DETERMINATION OF NUMBER OF RE-
11 QUIRED JUDGES AND GEOGRAPHICAL AREAS OF
12 SERVICE.—

13 “(i) SURVEY.—Not later than 1 year
14 after the application date described in sec-
15 tion 6 of the Real Courts, Rule of Law Act
16 of 2024, and every 4 years thereafter, the
17 administrative council shall conduct a sur-
18 vey, which shall include the solicitation of
19 information and recommendations from the
20 public, to determine the number of immi-
21 gration trial courts required to provide for
22 the expeditious and effective administra-
23 tion of justice, as well as the geographical
24 areas to be served by such courts. In con-

1 ducting the survey, the administrative
2 council shall—

3 “(I) assess the continuing need
4 for existing immigration trial court
5 positions and the need for additional
6 positions in each geographical loca-
7 tion;

8 “(II) evaluate local conditions in
9 each geographical location, including
10 the proximity to populations to be
11 served, the quality and availability of
12 infrastructure to support transpor-
13 tation and communication, and the
14 availability of legal services for indi-
15 gent and non-English speaking indi-
16 viduals;

17 “(III) consider proximity and ac-
18 cess to judicial and Department of
19 Homeland Security facilities; and

20 “(IV) consider the allocation of
21 immigration trial courts and judges
22 among existing geographical areas
23 and whether the administration of
24 justice would be better served by the

1 presence of immigration trial courts
2 and judges in new or different areas.

3 “(ii) PUBLICATION OF SURVEY RE-
4 SULTS.—The administrative council shall
5 publish the results of the survey described
6 in subparagraph (A).

7 “(iii) NOTICE OF VACANCIES.—The
8 administrative council shall publish notice
9 of any immigration judge vacancies or new
10 staff positions.

11 “(C) MERIT SELECTION PANEL.—

12 “(i) APPOINTMENT OF IMMIGRATION
13 JUDGES.—The administrative council shall
14 establish a merit selection panel to assist
15 in identifying and recommending individ-
16 uals who are best qualified to serve as im-
17 migration judges, consistent with sub-
18 sections (a), (b), and (c) of section 602.

19 “(ii) COMPOSITION.—The panel de-
20 scribed in paragraph (1) shall consist of
21 qualified individuals with experience in a
22 diverse range of settings, including aca-
23 demia, nongovernmental organizations, pri-
24 vate immigration practice, and government
25 service.

1 **“SEC. 602. IMMIGRATION APPEALS JUDGES AND TRIAL**
2 **JUDGES.**

3 “(a) **QUALIFICATIONS OF IMMIGRATION JUDGES.—**

4 Each immigration judge shall—

5 “(1) be a member in good standing of the bar
6 of a Federal court or the highest court of a State,
7 or any combination thereof, for not less than 10
8 years;

9 “(2) possess, and have a reputation for, integ-
10 rity and good character;

11 “(3) possess and have demonstrated a commit-
12 ment to equal justice under the law;

13 “(4) possess and have demonstrated out-
14 standing legal ability and competence, as evidenced
15 by substantial legal experience, ability to deal with
16 complex legal problems, aptitude for legal scholar-
17 ship and writing, and familiarity with courts and
18 court processes;

19 “(5) exhibit demeanor, character, and person-
20 ality that indicate a judicial temperament; and

21 “(6) be qualified to conduct fair and impartial
22 hearings that are consistent with due process.

23 “(b) **ADDITIONAL FACTORS FOR THE APPOINTMENT**
24 **OF IMMIGRATION JUDGES.—**In appointing immigration
25 judges, the President and the appellate division shall en-
26 sure that—

1 “(1) qualified candidates are identified without
2 regard to race, color, sex, religion, national origin,
3 disability, age, or any other factor protected under
4 Federal law;

5 “(2) to the extent practicable, the corps of im-
6 migration judges—

7 “(A) is comprised primarily of individuals
8 with prior legal experience in immigration law;
9 and

10 “(B) reflects a balance of individuals with
11 prior legal experience in the public sector and
12 private sector; and

13 “(3) candidates are selected without regard to
14 political party affiliation or perceived political ide-
15 ology.

16 “(c) PROHIBITED RELATIONSHIPS.—No individual
17 may be appointed as an immigration trial judge if such
18 individual is related by blood in the first-, second-, or
19 third-degree, or by marriage to a immigration appeals
20 judge in regular active service.

21 “(d) CONTINUING EDUCATION.—In addition to the
22 training required under section 603(c) of the International
23 Religious Freedom Act of 1998 (22 U.S.C. 6473(c)), all
24 immigration judges shall be required to satisfy continuing

1 education requirements, as determined by the administra-
2 tive council.

3 “(e) SALARIES.—

4 “(1) IMMIGRATION APPEALS JUDGES.—Each
5 immigration appeals judge shall serve on a full-time
6 basis and shall receive as compensation for such
7 services, an annual salary that is equal to the salary
8 of a judge of the district court of the United States
9 as determined pursuant to section 135 of title 28,
10 United States Code.

11 “(2) IMMIGRATION TRIAL JUDGES.—Each im-
12 migration trial judge shall serve on a full-time basis
13 and shall receive as compensation for such services,
14 an annual salary that is equal to 92 percent of the
15 salary of a judge of the district court of the United
16 States as determined pursuant to section 135 of title
17 28, United States Code.

18 “(3) PROHIBITION ON THE PRACTICE OF
19 LAW.—No immigration judge may engage in the
20 practice of law or any other practice, business, occu-
21 pation, or employment that is inconsistent with the
22 expeditious, proper, and impartial performance of
23 such judge’s duties.

24 “(f) REMOVAL.—

1 “(1) IN GENERAL.—An immigration judge may
2 be removed from office only on grounds of inca-
3 pacity, misconduct, neglect of duty, or having en-
4 gaged in the practice of law, and in accordance with
5 the following:

6 “(A) An immigration appeals judge may be
7 removed from office by the President.

8 “(B) An immigration trial judge may be
9 removed from office by the appellate division.

10 “(C) No immigration judge may be re-
11 moved from office unless such judge is provided
12 with notice of the allegations forming the basis
13 for removal and an opportunity to appear in
14 person at a hearing to rebut such allegations.

15 “(2) COMPLAINTS.—

16 “(A) IN GENERAL.—The appellate division
17 shall promulgate rules, consistent with chapter
18 16 of title 28, United States Code, for receiv-
19 ing, investigating, and resolving complaints re-
20 garding the conduct of immigration judges. In
21 investigating and acting upon any such com-
22 plaint, the appellate division shall have the pow-
23 ers granted to a judicial council under such
24 chapter.

1 “(B) JUDICIAL CONFERENCE.—The provi-
 2 sions of sections 354(b) through 360 of title 28,
 3 United States Code, regarding referral or cer-
 4 tification to, and petition for review in the Judi-
 5 cial Conference of the United States, and action
 6 thereon, shall apply to the exercise of the pow-
 7 ers of a judicial council by the appellate divi-
 8 sion. The grounds for removal specified in para-
 9 graph (1) shall provide the basis for a deter-
 10 mination to refer a complaint to the Judicial
 11 Conference, for further action by the Con-
 12 ference, and for certification and transmittal by
 13 the Conference of any complaint to the Presi-
 14 dent.

15 “(g) RETIREMENT.—

16 “(1) Any immigration judge shall retire upon
 17 attaining the age of 80.

18 “(2) Any immigration judge who meets the age
 19 and service requirements set forth in the following
 20 table may retire:

“The immigration judge has at- tained age	And the years of service as an immigration judge are at least:
65	15
66	14
67	13
68	12
69	11
70	10.

1 “(3) Any immigration judge who is not re-
2 appointed following the expiration of the term of his
3 office may retire upon the completion of such term,
4 if—

5 “(A) he has served as an immigration
6 judge for 15 years or more; and

7 “(B) not earlier than 9 months preceding
8 the date of the expiration of the term of his of-
9 fice and not later than 6 months preceding such
10 date, he advised the President or the appellate
11 division, as appropriate, in writing that he was
12 willing to accept reappointment as an immigra-
13 tion judge.

14 “(4) Any immigration judge who becomes per-
15 manently disabled from performing his duties shall
16 retire.

17 “(h) RETIRED PAY.—Any individual who—

18 “(1) retires under paragraph (1), (2), or (3) of
19 subsection (g) and elects under subsection (i) to re-
20 ceive retired pay under this subsection shall receive
21 retired pay during any period at a rate which bears
22 the same ratio to the rate of the salary payable to
23 an immigration judge during such period as the
24 number of years he has served as immigration judge
25 bears to 10; except that the rate of such retired pay

1 shall not be more than the rate of such salary for
2 such period; or

3 “(2) retires under paragraph (4) of subsection
4 (b) and elects under subsection (i) to receive retired
5 pay under this subsection shall receive retired pay
6 during any period at a rate—

7 “(A) equal to the rate of the salary pay-
8 able to an immigration judge during such pe-
9 riod if before he retired he had served as an im-
10 migration judge not less than 10 years; or

11 “(B) one-half of the rate of the salary pay-
12 able to an immigration judge during such pe-
13 riod if before he retired he had served as an im-
14 migration judge less than 10 years.

15 Such retired pay shall begin to accrue on the day following
16 the day on which his salary as immigration judge ceases
17 to accrue, and shall continue to accrue during the remain-
18 der of his life. Retired pay under this subsection shall be
19 paid in the same manner as the salary of an immigration
20 judge. In computing the rate of the retired pay under
21 paragraph (1) of this subsection for any individual who
22 is entitled thereto, that portion of the aggregate number
23 of years he has served as an immigration judge which is
24 a fractional part of 1 year shall be eliminated if it is less
25 than 6 months, or shall be counted as a full year if it

1 is 6 months or more. In computing the rate of the retired
2 pay under paragraph (1) of this subsection for any indi-
3 vidual who is entitled thereto, any period during which
4 such individual performs services under subsection (c) on
5 a substantially full-time basis shall be treated as a period
6 during which he has served as an immigration judge.

7 “(i) ELECTION TO RECEIVE RETIRED PAY.—Any
8 immigration judge may elect to receive retired pay under
9 subsection (h). Such an election—

10 “(1) may be made only while an individual is an
11 immigration judge (except that in the case of an in-
12 dividual who fails to be reappointed as immigration
13 judge at the expiration of a term of office, it may
14 be made at any time before the day after the day
15 on which his successor takes office);

16 “(2) once made, shall be irrevocable;

17 “(3) in the case of any immigration judge other
18 than the chief judge, shall be made by filing notice
19 thereof in writing with the chief judge; and

20 “(4) in the case of the chief judge, shall be
21 made by filing notice thereof in writing with the Of-
22 fice of Personnel Management.

23 The chief judge shall transmit to the Office of Personnel
24 Management a copy of each notice filed with him under
25 this subsection.

1 “(j) RETIRED PAY AFFECTED IN CERTAIN CASES.—
2 In the case of an individual for whom an election to receive
3 retired pay under subsection (h) is in effect—

4 “(1) 1-YEAR FORFEITURE FOR FAILURE TO
5 PERFORM JUDICIAL DUTIES.—If such individual
6 during any calendar year fails to perform judicial
7 duties required of him by section 603, such indi-
8 vidual shall forfeit all rights to retired pay under
9 subsection (d) for the 1-year period which begins on
10 the first day on which he so fails to perform such
11 duties.

12 “(2) SUSPENSION OF RETIRED PAY DURING PE-
13 RIOD OF COMPENSATED GOVERNMENT SERVICE.—If
14 such individual accepts compensation for civil office
15 or employment under the Government of the United
16 States (other than the performance of judicial duties
17 pursuant to section 603), such individual shall for-
18 feit all rights to retired pay under subsection (h) for
19 the period for which such compensation is received.

20 “(3) FORFEITURES OF RETIRED PAY UNDER
21 PARAGRAPH (1) NOT TO APPLY WHERE INDIVIDUAL
22 ELECTS TO FREEZE AMOUNT OF RETIRED PAY.—

23 “(A) IN GENERAL.—If any individual
24 makes an election under this paragraph—

1 “(i) paragraph (1) and section 603
2 shall not apply to such individual begin-
3 ning on the date such election takes effect,
4 and

5 “(ii) the retired pay under subsection
6 (h) payable to such individual for periods
7 beginning on or after the date such elec-
8 tion takes effect shall be equal to the re-
9 tired pay to which such individual would be
10 entitled without regard to this clause at
11 the time of such election.

12 “(B) ELECTION.—An election under this
13 paragraph—

14 “(i) may be made by an individual
15 only if such individual meets the age and
16 service requirements for retirement under
17 paragraph (2) of subsection (g),

18 “(ii) may be made only during the pe-
19 riod during which the individual may make
20 an election to receive retired pay or while
21 the individual is receiving retired pay, and

22 “(iii) shall be made in the same man-
23 ner as the election to receive retired pay.

24 Such an election, once it takes effect, shall be
25 irrevocable.

1 “(C) WHEN ELECTION TAKES EFFECT.—

2 Any election under this paragraph shall take ef-
3 fect on the first day of the first month following
4 the month in which the election is made.

5 “(k) COORDINATION WITH CIVIL SERVICE RETIRE-
6 MENT.—

7 “(1) GENERAL RULE.—Except as otherwise
8 provided in this subsection, the provisions of the civil
9 service retirement laws (including the provisions re-
10 lating to the deduction and withholding of amounts
11 from basic pay, salary, and compensation) shall
12 apply in respect of service as an immigration judge
13 (together with other service as an officer or em-
14 ployee to whom such civil service retirement laws
15 apply) as if this section had not been enacted.

16 “(2) EFFECT OF ELECTING RETIRED PAY.—In
17 the case of any individual who has filed an election
18 to receive retired pay under subsection (h)—

19 “(A) no annuity or other payment shall be
20 payable to any person under the civil service re-
21 tirement laws with respect to any service per-
22 formed by such individual (whether performed
23 before or after such election is filed and wheth-
24 er performed as immigration judge or other-
25 wise);

1 “(B) no deduction for purposes of the Civil
2 Service Retirement and Disability Fund shall be
3 made from retired pay payable to him under
4 subsection (h) or from any other salary, pay, or
5 compensation payable to him, for any period be-
6 ginning after the day on which such election is
7 filed; and

8 “(C) such individual shall be paid the
9 lump-sum credit computed under section
10 8331(8) of title 5, United States Code, upon
11 making application therefor with the Office of
12 Personnel Management.

13 “(1) RETIREMENT FOR DISABILITY.—

14 “(1) Any immigration judge who becomes per-
15 manently disabled from performing his duties shall
16 certify to the President, or the appellate division, as
17 applicable, his disability in writing. If the chief judge
18 retires for disability, his retirement shall not take ef-
19 fect until concurred in by the President.

20 “(2) Whenever any immigration judge who be-
21 comes permanently disabled from performing his du-
22 ties does not retire or the appellate division, as ap-
23 plicable, and the President finds that such immigra-
24 tion judge is unable to discharge efficiently all the
25 duties of his office by reason of permanent mental

1 or physical disability and that the appointment of an
2 additional immigration judge is necessary for the ef-
3 ficient dispatch of business, the President or the ap-
4 pellate division, as applicable, shall declare such im-
5 migration judge to be retired.

6 “(m) REVOCATION OF ELECTION TO RECEIVE RE-
7 TIRED PAY.—

8 “(1) IN GENERAL.—Notwithstanding subsection
9 (e)(2), an individual who has filed an election to re-
10 ceive retired pay under subsection (h) may revoke
11 such election at any time before the first day on
12 which retired pay (or compensation under section
13 603 in lieu of retired pay) would (but for such rev-
14 ocation) begin to accrue with respect to such indi-
15 vidual.

16 “(2) MANNER OF REVOKING.—Any revocation
17 under this subsection shall be made by filing a no-
18 tice thereof in writing with the Director of the Office
19 of Personnel Management. The Office of Personnel
20 Management shall transmit to the chief judge a copy
21 of each notice filed under this subsection.

22 “(3) EFFECT OF REVOCATION.—In the case of
23 any revocation under this subsection—

24 “(A) for purposes of this section, the indi-
25 vidual shall be treated as not having filed an

1 election to receive retired pay under subsection
2 (h),

3 “(B) no credit shall be allowed for any
4 service as an immigration judge unless with re-
5 spect to such service either there has been de-
6 ducted and withheld the amount required by
7 the civil service retirement laws or there has
8 been deposited in the Civil Service Retirement
9 and Disability Fund an amount equal to the
10 amount so required, with interest,

11 “(C) the Immigration Courts shall deposit
12 in the Civil Service Retirement and Disability
13 Fund an amount equal to the additional
14 amount it would have contributed to such Fund
15 but for the election under subsection (i), and

16 “(D) if subparagraph (C) is complied with,
17 service on the Immigration Courts shall be
18 treated as service with respect to which deduc-
19 tions and contributions had been made during
20 the period of service.

21 “(n) THRIFT SAVINGS PLAN.—

22 “(1) ELECTION TO CONTRIBUTE.—

23 “(A) IN GENERAL.—An immigration judge
24 may elect to contribute to the Thrift Savings

1 Fund established by section 8437 of title 5,
2 United States Code.

3 “(B) PERIOD OF ELECTION.—An election
4 may be made under this paragraph only during
5 a period provided under section 8432(b) of title
6 5, United States Code, for individuals subject to
7 chapter 84 of such title.

8 “(2) APPLICABILITY OF TITLE 5 PROVISIONS.—
9 Except as otherwise provided in this subsection, the
10 provisions of subchapters III and VII of chapter 84
11 of title 5, United States Code, shall apply with re-
12 spect to an immigration judge who makes an elec-
13 tion under paragraph (1).

14 “(3) SPECIAL RULES.—

15 “(A) AMOUNT CONTRIBUTED.—The
16 amount contributed by an immigration judge to
17 the Thrift Savings Fund in any pay period shall
18 not exceed the maximum percentage of such im-
19 migration judge’s basic pay for such period as
20 allowable under section 8440f of title 5, United
21 States Code. Basic pay does not include any re-
22 tired pay paid pursuant to this section.

23 “(B) CONTRIBUTIONS FOR BENEFIT OF
24 IMMIGRATION JUDGE.—No contributions may
25 be made for the benefit of an immigration judge

1 under section 8432(c) of title 5, United States
2 Code.

3 “(C) APPLICABILITY OF SECTION 8433(b)
4 OF TITLE 5 WHETHER OR NOT IMMIGRATION
5 JUDGE RETIRES.—Section 8433(b) of title 5,
6 United States Code, applies with respect to an
7 immigration judge who makes an election under
8 paragraph (1) and who either—

9 “(i) retires under subsection (g), or

10 “(ii) ceases to serve as an immigra-
11 tion judge but does not retire under sub-
12 section (g).

13 Retirement under subsection (b) is a separation
14 from service for purposes of subchapters III
15 and VII of chapter 84 of that title.

16 “(D) APPLICABILITY OF SECTION
17 8351(b)(5) OF TITLE 5.—The provisions of sec-
18 tion 8351(b)(5) of title 5, United States Code,
19 shall apply with respect to an immigration
20 judge who makes an election under paragraph
21 (1).

22 “(E) EXCEPTION.—Notwithstanding sub-
23 paragraph (C), if any immigration judge retires
24 under this section, or resigns without having
25 met the age and service requirements set forth

1 under subsection (g)(2), and such immigration
2 judge’s nonforfeitable account balance is less
3 than an amount that the Executive Director of
4 the Federal Retirement Thrift Investment
5 Board prescribes by regulation, the Executive
6 Director shall pay the nonforfeitable account
7 balance to the participant in a single payment.

8 **“SEC. 603. TEMPORARY IMMIGRATION JUDGES AND COURT**
9 **FACILITIES.**

10 “(a) IN GENERAL.—Subject to subsection (c), if the
11 administrative council determines, based on specific and
12 credible facts, that the current resources of the Immigra-
13 tion Courts are insufficient for the expeditious and effec-
14 tive administration of justice, the appellate division may
15 exercise its authority en banc to—

16 “(1) appoint temporary immigration trial
17 judges, which appointment shall be undertaken in a
18 manner consistent with the requirements of section
19 602, to the extent practicable;

20 “(2) recall retired immigration trial or appeals
21 judges, as described in subsection (b); and

22 “(3) establish temporary court facilities in des-
23 ignated geographic areas.

24 “(b) RECALL OF RETIRED JUDGES.—

1 “(1) ELIGIBILITY.—A retired immigration
2 judge may be recalled for service if the judge pro-
3 vides to the clerk of the Immigration Courts written
4 notice that the judge is willing to be recalled for
5 service in accordance with the terms of this sub-
6 section.

7 “(2) AUTHORITY OF RECALLED JUDGES.—An
8 immigration judge who is recalled to serve as an im-
9 migration appeals judge or immigration trial judge
10 may exercise all of the judicial powers and duties of
11 such judges in regular active service, except as spe-
12 cifically provided in this subtitle. Such judge shall
13 not be counted for purposes of section 601(b)(1) or
14 (c)(2).

15 “(3) COMPENSATION.—An immigration judge
16 who is recalled for service shall be paid at the rate
17 of pay in effect under section 602(e) for the position
18 at the time of such recall, less the amount of the
19 judge’s retirement annuity, if any.

20 “(4) EFFECT ON CIVIL SERVICE RETIRE-
21 MENT.—Except as provided in subsection (d), an im-
22 migration judge who is recalled for service who re-
23 tired under chapter 83 or 84 of title 5, United
24 States Code, shall be considered to be a reemployed
25 annuitant under that chapter. Nothing in this sub-

1 section affects the right of an immigration judge
2 who retired under chapter 83 or 84 of title 5, United
3 States Code, to serve as a reemployed annuitant in
4 accordance with the provisions of title 5, United
5 States Code.

6 “(c) REPORTING REQUIREMENTS.—

7 “(1) INITIAL REPORT.—Prior to exercising the
8 authority described in subsection (a), the appellate
9 division shall transmit a report to the Committee on
10 the Judiciary of the House of Representatives and
11 the Committee on the Judiciary of the Senate detail-
12 ing—

13 “(A) the specific and credible facts that led
14 to the determination that additional court re-
15 sources are required;

16 “(B) an assessment as to the number of
17 temporary immigration judges or court facilities
18 that are required; and

19 “(C) an estimate as to how long the appel-
20 late division expects the immigration judges or
21 court facilities described in subsection (a) to re-
22 main in place.

23 “(2) ADDITIONAL REPORTING.—Not later than
24 30 days after exercising the authority under sub-
25 section (a) and every 30 days thereafter, the appel-

1 late division shall report to the Committees named
2 in paragraph (1) on the current status of the Immi-
3 gration Courts and the continuing need for the tem-
4 porary immigration judges or court facilities.

5 “(3) REDUCTION IN RESOURCES AND TERMI-
6 NATION.—

7 “(A) GRADUAL REDUCTION IN RE-
8 SOURCES.—The appellate division shall, exer-
9 cising its authority en banc in accordance with
10 section 601(b)(4), terminate the appointment of
11 individual temporary immigration judges and
12 close individual temporary court facilities as the
13 appellate division, in consultation with the ad-
14 ministrative council, determines they are no
15 longer required. For purposes of this subpara-
16 graph, section 602(g) does not apply.

17 “(B) TERMINATION.—All temporary immi-
18 gration judge appointments shall be rescinded
19 and all temporary court facilities closed upon
20 the earliest of—

21 “(i) the date that the appellate divi-
22 sion determines, in consultation with the
23 administrative council, that regular court
24 resources are sufficient to resume normal
25 court operations;

1 “(ii) the date that Congress directs
2 that such actions be taken by concurrent
3 resolution; or

4 “(iii) 210 days after the appellate di-
5 vision submits its initial report under para-
6 graph (1)(A), unless Congress extends
7 such 210-day period by law.

8 **“SEC. 604. JURISDICTION.**

9 “(a) APPELLATE DIVISION JURISDICTION.—

10 “(1) IN GENERAL.—The appellate division of
11 the Immigration Courts shall have jurisdiction
12 over—

13 “(A) appeals of immigration trial judge de-
14 cisions, as described in section 625(c);

15 “(B) appeals of decisions by the Secretary
16 of Homeland Security on petitions filed under
17 section 204 to classify an alien described in sec-
18 tion 201(b)(2)(A)(i) or 203(a); and

19 “(C) original proceedings and appeals in
20 disciplinary matters concerning attorneys and
21 practitioners before the Immigration Courts.

22 “(2) SAVINGS CLAUSE.—In addition to the mat-
23 ters described in paragraph (1), the appellate divi-
24 sion shall have jurisdiction to hear and decide all
25 other matters over which the Board of Immigration

1 Appeals had authority on the day before the applica-
2 tion date described in section 6(a) of the Real
3 Courts, Rule of Law Act of 2024.

4 “(b) TRIAL DIVISION JURISDICTION.—

5 “(1) IN GENERAL.—The trial division of the
6 Immigration Courts shall have original jurisdiction
7 over—

8 “(A) removal proceedings as described in
9 sections 238 and 240;

10 “(B) review of rescissions of lawful perma-
11 nent residence under section 246;

12 “(C) review of credible fear determinations
13 under section 235 and reasonable fear deter-
14 minations for aliens subject to reinstated orders
15 of removal under section 241;

16 “(D) review of applications for asylum re-
17 ferred by the Secretary of Homeland Security
18 where the applicant is barred from being placed
19 in removal proceedings under section 240, and
20 referrals for protection under section 241(b)(3)
21 or the United Nations Convention Against Tor-
22 ture where the individual is not in removal pro-
23 ceedings and is barred from asylum under this
24 Act;

1 “(E) determinations relating to bond, cus-
2 tody, or the detention of any alien in the cus-
3 tody of the Department of Homeland Security;

4 “(F) determinations as to whether admin-
5 istrative actions arising from applications or pe-
6 titions filed by or on behalf of the alien and
7 that are pending during the course of the
8 alien’s removal proceedings under section 240
9 have been unlawfully withheld or unreasonably
10 delayed; and

11 “(G) disciplinary matters concerning attor-
12 neys and practitioners before the Immigration
13 Courts.

14 “(2) SAVINGS CLAUSE.—In addition to the mat-
15 ters described in paragraph (1), the trial division
16 shall have jurisdiction to hear and decide all other
17 matters over which immigration judges had author-
18 ity on the day before the application date described
19 in section 6(a) of the Real Courts, Rule of Law Act
20 of 2024.

21 **“Subtitle B—Procedure and**
22 **Appellate Review**

23 **“SEC. 621. PROCEEDINGS.**

24 “(a) TRIAL DIVISION PROCEEDINGS.—

1 “(1) IN GENERAL.—Except as provided in sec-
2 tion 604(a), all proceedings before the Immigration
3 Courts shall originate in the trial division. Pro-
4 ceedings before the trial division shall be heard and
5 decided by a single immigration trial judge, with
6 matters assigned to such judges in a manner deter-
7 mined by the appellate division.

8 “(2) AUTHORITY OF TRIAL DIVISION.—In pre-
9 siding over matters before the trial division, immi-
10 gration trial judges may—

11 “(A) record and receive evidence, admin-
12 ister oaths, examine and cross-examine wit-
13 nesses, set deadlines, and render findings of
14 fact and conclusions of law;

15 “(B) render decisions on respondents’
16 prima facie and discretionary eligibility for re-
17 lief from removal; and

18 “(C) order and take depositions, issue sub-
19 poenas requiring the attendance and testimony
20 of witnesses and the production of documents
21 or other evidence, and order responses to writ-
22 ten interrogatories.

23 “(b) APPELLATE DIVISION PROCEEDINGS.—

24 “(1) IN GENERAL.—Except as provided by rules
25 established by the appellate division, proceedings be-

1 fore the appellate division shall be heard and decided
2 by immigration appeals judges sitting in panels of
3 three such judges or en banc, and decisions shall be
4 made by majority vote. Any decision of a panel may
5 be reconsidered by the court sitting en banc.

6 “(2) PRECEDENCE IN APPELLATE DIVISION.—
7 The chief judge of the Immigration Courts shall
8 have precedence and preside at any session of the
9 appellate division that such judge attends. Other im-
10 migration appeals judges shall have precedence and
11 preside in the appellate division according to the se-
12 niority of their original commissions and, for judges
13 whose commissions bear the same date, according to
14 seniority in age.

15 “(c) CONTEMPT AUTHORITY.—

16 “(1) IN GENERAL.—Immigration judges shall
17 have the authority, to sanction by civil money pen-
18 alty, any individual whose action or inaction ob-
19 structs the administration of justice or is otherwise
20 in contempt of the lawful authority of such judge or
21 the Immigration Courts.

22 “(2) NOTICE.—No individual may be sanc-
23 tioned for contempt under paragraph (1) without
24 first receiving notice of the charges and an oppor-
25 tunity to rebut such charges.

1 “(d) ASSISTANCE TO THE COURT.—The Immigration
2 Courts shall have such assistance in carrying out its lawful
3 writ, process, order, rule, decree, or command, including
4 nationwide service of a subpoena, as is available to a court
5 of the United States, as that term is defined in section
6 451 of title 28, United States Code. The United States
7 marshal for a district in which the immigration trial judge
8 is sitting shall, if requested by the presiding judge, attend
9 any court proceeding in that district, and may otherwise
10 provide, when requested by the chief trial judge of that
11 immigration trial court, for the security of the immigra-
12 tion trial court, including the personal protection of
13 judges, court officers, witnesses, and other threatened per-
14 sons in the interests of justice, where criminal intimidation
15 impedes on the functioning of the judicial process or any
16 other official proceeding. The United States Marshals
17 Service retains final authority regarding security require-
18 ments for the Immigration Courts.

19 “(e) OPINIONS AND ORDERS.—

20 “(1) IN GENERAL.—Opinions and orders shall
21 be issued in accordance with rules promulgated by
22 the appellate division, except that decisions on the
23 merits of an application or request for relief from re-
24 moval rendered by the trial division or the appellate
25 division shall, to the greatest extent practicable, be

1 issued in the form of a written opinion and shall in-
2 clude an analysis of the facts of the case and the
3 legal reasoning for the decision.

4 “(2) PRECEDENTS.—Unless subsequently modi-
5 fied or reversed by the appellate division, the court
6 of appeals for the respective judicial circuit, or the
7 Supreme Court, precedent decisions of the appellate
8 division shall be binding on all immigration judges
9 and all officers and employees of executive agencies
10 (as defined in section 105 of title 5, United States
11 Code) with powers, functions, and duties under this
12 Act and other laws relating to the immigration and
13 naturalization of aliens.

14 “(f) RECUSAL OF JUDGES.—Section 455 of title 28,
15 United States Code, shall apply to all immigration judges
16 and proceedings of the Immigration Courts.

17 **“SEC. 622. IMMIGRATION COURTS RULES OF PRACTICE AND**
18 **PROCEDURE.**

19 “(a) IN GENERAL.—Exercising its en banc authority,
20 the appellate division shall promulgate rules of practice
21 and procedure before the trial division and the appellate
22 division, including—

23 “(1) rules governing the representation of par-
24 ties, which shall—

1 “(A) provide for the admission of qualified
2 attorneys to practice before the Immigration
3 Courts and, as appropriate, for the admission of
4 qualified non-attorney representatives;

5 “(B) prescribe standards of practice and
6 professional conduct, which shall apply to all at-
7 torneys and practitioners that appear before the
8 Immigration Courts; and

9 “(C) provide for disciplinary proceedings
10 before the Immigration Courts for attorneys
11 and practitioners who do not comply with the
12 standards described in subparagraph (B);

13 “(2) rules governing the exercise of the appel-
14 late division’s en banc authority over adjudicative
15 matters, including decisions of an appellate division
16 panel;

17 “(3) rules setting forth the types of matters
18 that are appropriate for review by a single appellate
19 judge;

20 “(4) subject to section 621(e), rules governing
21 the issuance of opinions and written orders, and
22 precedent decisions;

23 “(5) rules governing the use of video teleconfer-
24 encing technology or other similar technologies, with
25 a presumption against the use of video teleconfer-

1 encing in proceedings where the alien’s eligibility for
2 relief from removal is being evaluated, unless re-
3 quested by the alien;

4 “(6) procedures, consistent with section
5 602(f)(2) for receiving, investigating, and resolving
6 complaints regarding the conduct of immigration
7 judges; and

8 “(7) all other policies, and procedures assigned
9 to the appellate division as described in this title.

10 “(b) LOCAL RULES.—Each chief trial judge may es-
11 tablish local rules of practice and procedure, provided
12 that—

13 “(1) such rules are consistent with the provi-
14 sions of this title;

15 “(2) a majority of immigration trial judges on
16 the immigration trial court of that chief judge con-
17 cur to the local rules; and

18 “(3) the chief judge approves the local rules.

19 “(c) IMMIGRATION COURT FEES.—

20 “(1) IN GENERAL.—The appellate division shall
21 prescribe rules which provide for the collection of
22 reasonable filing fees and other fees, as appropriate.
23 Each such fee may not exceed the fee charged and
24 collected for the same or a substantially similar pur-

1 pose by the Federal district courts or the Depart-
2 ment of Homeland Security.

3 “(2) WAIVER.—Rules promulgated by the ap-
4 pellate division shall include procedures under which
5 any such fee may be waived in the case of financial
6 hardship.

7 “(d) PUBLICATION OF RULES AND FEES.—The ad-
8 ministrative division shall maintain a public website that
9 contains or consolidates current information on all rules
10 and fees of the Immigration Courts, including all local
11 rules established under this subsection.

12 **“SEC. 623. REPRESENTATION OF PARTIES AND OTHER AS-**
13 **SISTANCE.**

14 “(a) RIGHT TO COUNSEL.—In any proceeding before
15 the Immigration Courts, the person or party concerned
16 shall have the privilege of being represented (at no expense
17 to the Government) by such counsel, authorized to practice
18 before the Immigration Courts, of their own choosing.

19 “(b) INTERPRETERS.—The Immigration Courts shall
20 establish a program to ensure the use of qualified inter-
21 preters in proceedings before the Immigration Courts.

22 “(c) LEGAL ORIENTATION PROGRAM.—The Immi-
23 gration Courts shall maintain, through agreements with
24 legal services and other nonprofit organizations, a legal
25 orientation program that explains the Court’s procedures

1 and provides basic legal information to individuals who are
2 or may become parties to proceedings before the Immigra-
3 tion Courts.

4 **“SEC. 624. AVAILABILITY OF INFORMATION.**

5 “(a) PUBLICATION OF PRECEDENT DECISIONS.—
6 Precedent decisions of the appellate division shall be pub-
7 lished in such form and manner as may be best adapted
8 for public information and use.

9 “(b) PUBLICATION OF NON-PRECEDENT DECISIONS
10 AND RECORDS.—

11 “(1) IN GENERAL.—Subject to paragraph (2),
12 all non-precedent decisions of the Immigration
13 Courts and all briefs, motions, documents, and ex-
14 hibits received by such court (including hearing
15 transcripts) shall be made available to the public.

16 “(2) CONFIDENTIAL INFORMATION.—The Im-
17 migration Courts shall preserve the confidentiality of
18 information relating to matters involving national se-
19 curity, asylum and other forms of protection, and
20 claims under the Violence Against Women Act (Pub-
21 lic Law 103–322, title IV, 108 Stat. 1902), as
22 amended, or any other applicable law. The Immigra-
23 tion Courts may make any provision necessary to
24 prevent the disclosure of confidential information in
25 its proceedings and records, including requiring that

1 such information be placed under seal to be opened
2 only as directed by the Immigration Courts.

3 **“SEC. 625. SCOPE OF REVIEW AND APPEALS.**

4 “(a) IN GENERAL.—In any proceeding before the Im-
5 migration Courts, the immigration judge shall—

6 “(1) consider de novo all constitutional claims
7 and questions of law; and

8 “(2) compel administrative action on an appli-
9 cation or petition filed by or on behalf of the alien
10 that is unlawfully withheld or unreasonably delayed.

11 “(b) TRIAL DIVISION PROCEEDINGS.—The decision
12 of an immigration trial judge shall be based only on the
13 evidence produced at the hearing and shall set forth the
14 judge’s findings of fact, reasoning to support discretionary
15 determinations, and conclusions of law. Immigration trial
16 judges may take judicial notice of commonly known facts.

17 “(c) REVIEW BY APPELLATE DIVISION.—

18 “(1) IN GENERAL.—In considering an appeal
19 from an immigration trial judge decision, the appel-
20 late division shall limit its review to the scope of
21 issues raised on appeal and shall conduct its review
22 of the decision based on the record of proceedings of
23 the trial division.

24 “(2) FACT FINDING.—Aside from taking judi-
25 cial notice of commonly known facts, the appellate

1 division shall not engage in fact finding in consid-
2 ering an appeal of an immigration trial judge deci-
3 sion, and shall defer to the factual findings of the
4 immigration trial judge unless such findings are
5 challenged and determined to be clearly erroneous.

6 “(d) REVIEW BY THE UNITED STATES COURTS OF
7 APPEALS.—A decision of the appellate division may be ap-
8 pealed by a party to such proceeding and reviewed by the
9 United States court of appeals for the judicial circuit
10 wherein venue lies, in accordance with section 242, as ap-
11 plicable. If the Government appeals a decision pursuant
12 to this subsection, and the court finds that the alien party
13 to such appeal is financially unable to obtain adequate rep-
14 resentation, representation for such alien shall be provided
15 through the plan for representation on appeal that is in
16 effect under section 3006A of title 18, United States
17 Code.”.

18 (b) CLERICAL AMENDMENT.—The table of contents
19 at the beginning of the Immigration and Nationality Act
20 (8 U.S.C. 1101 et seq.) is amended by adding at the end
21 the following new items:

“TITLE VI—UNITED STATES IMMIGRATION COURTS

“Subtitle A—Organization and Jurisdiction

“Sec. 601. Establishment and structure.

“Sec. 602. Immigration appeals judges and trial judges.

“Sec. 603. Temporary immigration judges and court facilities.

“Sec. 604. Jurisdiction.

“Subtitle B—Procedure and Appellate Review

“Sec. 621. Proceedings.

“Sec. 622. Immigration courts rules of practice and procedure.

“Sec. 623. Representation of parties and other assistance.

“Sec. 624. Availability of information.

“Sec. 625. Scope of review and appeals.”.

1 **SEC. 3. EMPLOYEES.**

2 (a) CLERK OF THE COURT.—The chief judge may ap-
3 point, and prescribe the duties for, a clerk of the court
4 without regard to the provisions of title 5, United States
5 Code, governing appointments in the competitive service.

6 (b) CHAMBERS STAFF.—Immigration judges may ap-
7 point law clerks and secretaries, in such numbers as the
8 appellate division approves, without regard to the provi-
9 sions of title 5, United States Code, governing appoint-
10 ments in the competitive service.

11 (c) OTHER COURT STAFF.—The clerk of the court
12 and the chief administrative officer may appoint deputies
13 and employees, in such numbers as the appellate division
14 approves, without regard to the provisions of title 5,
15 United States Code, governing appointments in the com-
16 petitive service.

17 (d) STAFF SALARIES.—The appellate division may fix
18 and adjust the rates of basic pay for the clerk, the chief
19 administrative officer, and other employees of the Immi-
20 gration Courts without regard to the provisions of chapter
21 51, subchapter III of chapter 53, or section 5373 of title
22 5, United States Code. To the maximum extent feasible,
23 such employees shall be compensated at rates consistent

1 with those for employees holding comparable positions in
2 the judicial branch.

3 (e) PREFERENCE ELIGIBLES.—In making appoint-
4 ments under subsections (a) through (c), preference shall
5 be given, among equally qualified persons, to persons who
6 are preference eligible (as defined in section 2108(3) of
7 title 5, United States Code).

8 (f) EXPERTS AND CONSULTANTS.—The Immigration
9 Courts may procure the services of experts and consult-
10 ants as provided under section 3109 of title 5, United
11 States Code.

12 **SEC. 4. BUDGET AND EXPENDITURES.**

13 (a) COURT BUDGET.—For each fiscal year, the budg-
14 et of the Immigration Courts shall be established by the
15 Immigration Courts, without review or modification by the
16 executive branch, and shall be included in the budget of
17 the President as submitted.

18 (b) PERMISSIBLE COURT EXPENDITURES.—

19 (1) The Immigration Courts may make such ex-
20 penditures (including expenditures for personal serv-
21 ices and rent at the seat of Government and else-
22 where, and for law books, books of reference, and
23 periodicals) as may be necessary to execute effi-
24 ciently the judicial and administrative functions vest-
25 ed in the Courts.

1 (2) The Immigration Courts may receive and
2 expend funds appropriated to the Courts for pur-
3 poses of paragraph (1) either—

4 (A) directly, or

5 (B) by transfer to—

6 (i) the Director of the Administrative
7 Office of the United States Courts,

8 (ii) another court established under
9 article I of the Constitution, or

10 (iii) an executive agency as defined in
11 section 105 of title 5, United States Code,
12 to cover the expense of such administrative support
13 and guidance (including budgetary and financial,
14 payroll and personnel, protective and security, rec-
15 ordkeeping and statistical, and information tech-
16 nology services) as the Court may request and the
17 Director, court, or agency may agree to provide from
18 time to time.

19 (c) METHOD AND SOURCE OF EXPENDITURES.—All
20 expenditures of the Immigration Courts shall be allowed
21 and paid upon presentation of itemized vouchers signed
22 by the certifying officer designated by the chief judge.

23 **SEC. 5. ANNUAL REPORT.**

24 (a) IN GENERAL.—Not later than April 1 of each
25 year, the chief judge shall submit to the Committee on

1 the Judiciary of the House of Representatives and the
2 Committee on the Judiciary of the Senate, a report sum-
3 marizing the workload of the Immigration Courts for the
4 preceding fiscal year.

5 (b) CONTENTS.—The report described in subsection
6 (a) shall contain—

7 (1) demographic information, including the age,
8 gender, and nationality of respondents appearing be-
9 fore the Immigration Courts, and rates at which
10 such respondents are represented by counsel;

11 (2) outcomes of removal proceedings, including
12 grant rates for immigration relief, disaggregated by
13 geographical area and immigration trial judge;

14 (3) outcomes of bond hearings, disaggregated
15 by geographical area and immigration trial court;

16 (4) the number of cases currently pending be-
17 fore the trial and appellate divisions of the Immigra-
18 tion Courts, and the change in such number from
19 the prior fiscal year;

20 (5) the average number of days for which a re-
21 spondent waits to have their case heard,
22 disaggregated by geographical area; and

23 (6) any information requested by the Commit-
24 tees named in subsection (a), provided such request
25 is timely and reasonable.

1 **SEC. 6. APPLICATION DATE; TRANSITIONAL PROVISIONS.**

2 (a) APPLICATION DATE.—The Immigration Courts
3 may not begin to exercise the functions of the courts under
4 this Act and the amendments made by this Act until the
5 date (for purposes of this Act, referred to as the “applica-
6 tion date”) that is—

7 (1)(A) the first day of the first full fiscal year
8 after the date of the enactment of this Act, if such
9 date is 180 days or more after the date of enact-
10 ment of this Act; or

11 (B) the first day of the second full fiscal year
12 after the date of the enactment of this Act, if the
13 first day of the first full fiscal year after the date
14 of enactment of this Act is less than 180 days after
15 the date of enactment of this Act; and

16 (2) the date on which 3 or more immigration
17 appeals judges have been duly appointed by the
18 President, in accordance with procedures set forth in
19 section 6(c) of this Act and 601(b)(2) of the Immi-
20 gration and Nationality Act, as added by this Act.

21 (b) TRANSITION PERIOD AND APPOINTMENT OF IN-
22 TERIM IMMIGRATION TRIAL JUDGES.—

23 (1) TRANSITION PERIOD.—The transition pe-
24 riod described in this section shall be the 4-year pe-
25 riod beginning on the application date of this Act.

26 (2) INTERIM IMMIGRATION TRIAL JUDGES.—

1 (A) IN GENERAL.—Each individual serving
2 as an immigration judge in the Executive Office
3 for Immigration Review on the date that is the
4 day before the application date of this Act shall
5 become an interim immigration trial judge.

6 (B) AUTHORITY OF INTERIM IMMIGRATION
7 TRIAL JUDGES.—Interim immigration judges
8 shall have the authority to exercise all powers
9 of an immigration trial judge as provided in
10 title VI of the Immigration and Nationality Act
11 (8 U.S.C. 601 et seq.).

12 (C) TERM OF SERVICE.—An interim immi-
13 gration trial judge may serve until the transi-
14 tion period has ended and a successor is ap-
15 pointed, or for a period not to exceed 5 years,
16 whichever is shorter. An otherwise qualified in-
17 terim judge may be appointed as an immigra-
18 tion trial judge.

19 (D) CREDIT AND ELIGIBILITY FOR BENE-
20 FITS.—Service as an interim immigration trial
21 judge shall be included in the same manner as
22 service as an immigration trial judge for pur-
23 poses of calculating service credit, retirement
24 eligibility, and disability.

1 (E) SEPARATION.—Nothing in this Act or
2 the amendments made by this Act may be con-
3 strued to—

4 (i) preclude an interim immigration
5 trial judge who is not appointed for a term
6 appointment by the appellate division
7 under section 601(c)(2) of the Immigration
8 and Nationality Act, as added by this Act,
9 from eligibility for appointment as an ad-
10 ministrative judge, administrative law
11 judge, and for attorney positions in agen-
12 cies throughout the Federal Government;
13 or

14 (ii) make an interim immigration
15 judge described in clause (i) ineligible for
16 early retirement pursuant to section
17 8336(d)(2)(D) or 8414(b)(1)(B) of title 5,
18 United States Code.

19 (c) FIRST APPOINTMENTS TO THE UNITED STATES
20 IMMIGRATION COURTS.—

21 (1) APPELLATE DIVISION.—

22 (A) IN GENERAL.—Notwithstanding sec-
23 tion 601(b)(2)(B) of the Immigration and Na-
24 tionality Act as added by this Act, the first 21

1 immigration appeals judges appointed shall
2 serve for the following terms:

3 (i) The terms of the first 7 immigra-
4 tion appeals judges appointed shall termi-
5 nate on the date that is 5 years after the
6 date described in subsection (a).

7 (ii) The terms of the next 7 immigra-
8 tion appeals judges appointed after the
9 judges referred to in clause (i) shall termi-
10 nate on the date that is 10 years after the
11 date described in subsection (a).

12 (iii) The terms of the next 7 immigra-
13 tion appeals judges appointed after the
14 judges referred to in clause (ii) shall termi-
15 nate on the date that is 15 years after the
16 date described in subsection (a).

17 (B) SUCCESSION.—Each immigration ap-
18 peals judge described in subparagraph (A) may
19 continue to serve after the expiration of the
20 designated term if such judge is reappointed in
21 accordance with section 601(b)(2)(B) of the Im-
22 migration and Nationality Act as added by this
23 Act.

24 (2) TRIAL DIVISION.—Not later than 180 days
25 before the transition period has ended, the appellate

1 division shall establish procedures and requirements
2 related to the appointment of immigration trial
3 judges.

4 (3) CLARIFICATION.—Notwithstanding para-
5 graphs (1) and (2) and section 601 of the Immigra-
6 tion and Nationality Act, as added by this Act, any
7 individual appointed to fill an immigration trial
8 judge vacancy during the transition period described
9 in subsection (b)(1) shall serve only until the transi-
10 tion period has ended and until a successor is ap-
11 pointed in accordance with section 602 of the Immi-
12 gration and Nationality Act, but not more than 1
13 year after the end of the transition period.

14 (d) PRIOR SERVICE CREDIT.—

15 (1) IN GENERAL.—The period that a covered
16 immigration judge who elects to receive retired pay
17 under section 602 of the Immigration and Nation-
18 ality Act, as added by this Act, serves as a member
19 of the Board of Immigration Appeals, an immigra-
20 tion judge, or an administrative law judge in the Ex-
21 ecutive Office for Immigration Review of the Depart-
22 ment of Justice, shall be included, up to a maximum
23 of 5 years, in the service of such individual on the
24 Immigration Courts for purposes of computing the
25 years of service as an immigration judge.

1 (2) COVERED IMMIGRATION JUDGE DEFINED.—

2 In this subsection, the term “covered immigration
3 judge” means—

4 (A) an immigration appeals judge ap-
5 pointed under section 601(b) of the Immigra-
6 tion and Nationality Act, as added by this Act;

7 (B) an immigration trial judge appointed
8 under section 601(c) of the Immigration and
9 Nationality Act, as added by this Act; or

10 (C) an interim immigration trial judge
11 under subsection (b)(2) of this section.

12 **SEC. 7. INSTITUTIONAL TRANSFER; CONTINUITY OF PRO-**
13 **CEEDINGS.**

14 (a) EXISTING PRECEDENT.—

15 (1) IN GENERAL.—Precedential decisions by the
16 Attorney General or the Board of Immigration Ap-
17 peals under title II of the Immigration and Nation-
18 ality Act (8 U.S.C. 1151 et seq.) that were issued
19 before the application date of this Act shall continue
20 to serve as precedent in proceedings before the Im-
21 migration Courts unless explicitly overruled by such
22 court.

23 (2) RULES.—To the extent that such rules are
24 consistent with this Act, the rules of the Attorney
25 General that were in effect before the application

1 date of this Act, shall remain in effect until amend-
2 ed or revoked by the appellate division.

3 (b) INSTITUTIONAL TRANSFER.—

4 (1) EXECUTIVE OFFICE FOR IMMIGRATION RE-
5 VIEW.—

6 (A) IN GENERAL.—Except as provided in
7 subparagraph (B), all functions under the Ex-
8 ecutive Office for Immigration Review on the
9 date that is the day before the application date
10 of this Act are transferred to the Immigration
11 Courts on the application date of this Act.

12 (B) EXCEPTIONS.—

13 (i) OCAHO.—The Office of the Chief
14 Administrative Hearing Officer and the
15 functions of the Executive Office for Immi-
16 gration Review that support such office
17 shall remain under the Department of Jus-
18 tice.

19 (ii) OTHER FUNCTIONS.—The func-
20 tions of the Executive Office for Immigra-
21 tion Review that are not necessary or ap-
22 propriate for transfer to the Immigration
23 Courts shall be reassigned to other agen-
24 cies within the Department of Justice or

1 dissolved at the discretion of the Attorney
2 General.

3 (2) TRANSFER AND ALLOCATION OF APPRO-
4 PRIATIONS AND PERSONNEL.—Except as provided in
5 this section, the personnel of the Executive Office
6 for Immigration Review employed in connection with
7 the functions transferred by this section, and the as-
8 sets, liabilities, contracts, property, records, and un-
9 expended balance of appropriations, authorizations,
10 allocations, and other funds employed, held, used,
11 arising from, available to, or to be made available to,
12 the Executive Office for Immigration Review, in con-
13 nection with the functions transferred by this sec-
14 tion, subject to section 202 of the Budget and Ac-
15 counting Procedures Act of 1950, shall be trans-
16 ferred to the Immigration Courts on the application
17 date of this Act. Unexpended funds transferred pur-
18 suant to this paragraph shall be used only for the
19 purposes for which the funds were originally author-
20 ized and appropriated.

21 (3) PENDING CASES.—

22 (A) IN GENERAL.—The enactment of this
23 Act shall not result in any loss of rights or pow-
24 ers, interruption of jurisdiction, or prejudice to
25 matters under title II of the Immigration and

1 Nationality Act (8 U.S.C. 1151 et seq.) which
2 are pending before the Board of Immigration
3 Appeals or an immigration judge on the appli-
4 cation date of this Act.

5 (B) TRANSFER.—All proceedings under
6 title II of the Immigration and Nationality Act
7 (8 U.S.C. 1151 et seq.) which are pending be-
8 fore the Board of Immigration Appeals or an
9 immigration judge on the application date of
10 this Act shall be transferred to the Immigration
11 Courts to proceed before the trial division or
12 the appellate division as appropriate.

13 **SEC. 8. REVIEW BY THE JUDICIAL CONFERENCE; CON-**
14 **SULTATION REQUIREMENTS.**

15 The Judicial Conference of the United States shall
16 conduct a review of adjudications in the United States Im-
17 migration Courts at least once every 4 years, as part of
18 its comprehensive survey of business in the courts of the
19 United States conducted pursuant to title 28, section 331.
20 At the conclusion of its review, the Judicial Conference
21 shall submit a report of its findings to the appellate divi-
22 sion and the Committee on the Judiciary of the House
23 of Representatives and the Committee on the Judiciary
24 of the Senate. The Committees shall cause to have such
25 report printed in the Congressional Record.

1 **SEC. 9. TECHNICAL AND CONFORMING PROVISIONS.**

2 (a) IN GENERAL.—The Immigration and Nationality
3 Act (8 U.S.C. 1101 et seq.) is amended—

4 (1) in section 101(b), by amending paragraph
5 (4) to read as follows:

6 “(4) The term ‘immigration judge’ means an immi-
7 gration appeals judge or immigration trial judge appointed
8 to serve in the United States Immigration Courts estab-
9 lished under title VI.”;

10 (2) in section 238(a)(1)—

11 (A) by striking “Attorney General” and in-
12 serting “Immigration Courts”; and

13 (B) by striking “Service” and inserting
14 “Department of Homeland Security”;

15 (3) in section 238(a)(2), by striking “Attorney
16 General” each place such term appears and inserting
17 “Secretary of Homeland Security”;

18 (4) in section 238(a)(3)—

19 (A) by amending subparagraph (A) to read
20 as follows:

21 “(A) Notwithstanding any other provision of law, in
22 the case of any alien convicted of an aggravated felony,
23 removal proceedings, and any administrative appeals
24 thereof, shall be completed, to the extent possible, before
25 the alien’s release from incarceration for the underlying
26 aggravated felony.”; and

1 (B) in subparagraph (B), by striking “At-
2 torney General” and inserting “Secretary of
3 Homeland Security”;

4 (5) in section 238(a)(4)(A) by striking “Attor-
5 ney General” each place it appears and inserting
6 “administrative council of the Immigration Courts”;

7 (6) in section 238(b)(1) by striking “Attorney
8 General” and inserting “immigration judge”;

9 (7) in section 238(b)(3)—

10 (A) by striking “Attorney General” and in-
11 serting “Secretary of Homeland Security”; and

12 (B) by striking “apply for” and inserting
13 “seek”;

14 (8) in section 238(b) by amending paragraph
15 (4) to read as follows—

16 “(4) In any proceeding under this subsection—

17 “(A) the alien shall—

18 “(i) be given reasonable notice of the
19 charges and of the opportunity described
20 in subparagraph (C);

21 “(ii) have the privilege of being rep-
22 resented (at no expense to the government)
23 by such counsel, authorized to practice in
24 such proceedings, as the alien shall choose;
25 and

1 “(iii) have a reasonable opportunity to
2 inspect the evidence and rebut the charges;
3 and

4 “(B) the immigration judge shall ensure
5 that—

6 “(i) a determination is made for the
7 record that the individual upon whom the
8 notice for the proceeding under this section
9 is served (either in person or by mail) is,
10 in fact, the alien named in such notice; and

11 “(ii) a record is maintained for judi-
12 cial review.”;

13 (9) in section 238(b)(5)—

14 (A) by striking “Attorney General” and in-
15 serting “immigration judge”; and

16 (B) by striking “Attorney General’s” and
17 inserting “immigration judge’s”;

18 (10) by redesignating the second subsection (c)
19 of section 238 as subsection (d) and in the newly
20 designated subsection (d)—

21 (A) by striking “Commissioner” in each
22 place such term appears and inserting “Sec-
23 retary of Homeland Security”;

1 (B) by striking “Attorney General” in each
2 place such term appears and inserting “Sec-
3 retary of Homeland Security”; and

4 (C) by striking “Service” in paragraph
5 (2)(A) and inserting “Secretary of Homeland
6 Security”;

7 (11) in section 239(a) by striking “Attorney
8 General” in each place such term appears and in-
9 serting “Immigration Courts”;

10 (12) in section 239(b)(2) by striking “Attorney
11 General” and inserting “Immigration Courts”;

12 (13) in section 239(b)(3) by striking “Attorney
13 General” and inserting “immigration judge”;

14 (14) in section 239(d)(1) by striking “Attorney
15 General” and inserting “immigration judge”;

16 (15) in section 240(b)—

17 (A) by striking paragraphs (1) and (6);

18 (B) by redesignating paragraphs (2)
19 through (5) as paragraphs (1) through (4), re-
20 spectively;

21 (C) by redesignating paragraph (7) as
22 paragraph (5);

23 (D) by amending paragraph (1) as redesign-
24 dated by this paragraph to read as follows:

1 “(1) FORM OF PROCEEDING.—The proceeding
2 may take place—

3 “(A) in person; or

4 “(B) through video conference, subject to
5 rules promulgated under section 622(a)(5).”;

6 (E) in paragraph (2) as redesignated by
7 this paragraph, by striking “Attorney General”
8 and inserting “immigration judge”;

9 (F) in paragraph (3) as redesignated by
10 this paragraph—

11 (i) in the matter preceding subpara-
12 graph (A), by striking “, under regulations
13 of the Attorney General”; and

14 (ii) in subparagraph (A) by striking “,
15 at no expense to the Government, by coun-
16 sel of the alien’s choosing who is author-
17 ized to practice in such proceedings” and
18 inserting “in accordance with section
19 623(a)”; and

20 (G) in paragraph (4)(A) as redesignated
21 by this paragraph—

22 (i) by striking “Service” and inserting
23 “Government”; and

24 (ii) by amending the last sentence to
25 read as follows: “Written notice shall be

1 considered sufficient for purposes of this
2 subparagraph if provided at the most re-
3 cent address provided under section
4 239(a)(1)(F).”;

5 (16) in section 240(c)(2), in the matter fol-
6 lowing subparagraph (B), by striking “Attorney
7 General” and inserting “Secretary of Homeland Se-
8 curity”;

9 (17) in section 240(c)(3)—

10 (A) by striking “SERVICE” in the heading
11 and inserting “GOVERNMENT”; and

12 (B) by striking “Service” in each place
13 such term appears and inserting “Govern-
14 ment”;

15 (18) in section 240(c)(7)(C)(iv)(II)—

16 (A) by striking “Attorney General” and in-
17 serting “immigration judge”; and

18 (B) by striking “Immigration and Natu-
19 ralization Service” and inserting “Secretary of
20 Homeland Security”;

21 (19) in section 240(c)(7)(C)(iv)(III)—

22 (A) by striking “Attorney General” and in-
23 serting “immigration judge”; and

24 (B) by striking “Attorney General’s” and
25 inserting “immigration judge’s”;

1 (20) in section 240(d) by amending the first
2 sentence to read as follows: “An immigration judge
3 may enter an order of removal stipulated to by the
4 alien (or the alien’s representative) and the Govern-
5 ment.”;

6 (21) in section 242(a)(2)(A) by striking “Attor-
7 ney General” in each place such term appears and
8 inserting “Secretary of Homeland Security”;

9 (22) in section 242(a)(2)(B)(ii), by striking
10 “Attorney General” each place it appears and insert-
11 ing “the appellate division of the Immigration
12 Courts”;

13 (23) in section 242(a), by adding at the end the
14 following:

15 “(6) VENUE.—For purposes of judicial review
16 under this section and section 625(d), the venue of
17 a proceeding before the court of appeals is in the ju-
18 dicial circuit in which—

19 “(A) an immigration trial judge of the Im-
20 migration Court issued the original underlying
21 decision in the matter; or

22 “(B) the underlying administrative action
23 reviewed by the appellate division of the Court
24 occurred.”;

1 (24) in section 242(b)(2) by inserting “trial”
2 after “immigration”;

3 (25) in section 242(b)(3)(A)—

4 (A) by striking “Attorney General” in the
5 first sentence and inserting “United States”;
6 and

7 (B) by amending the second sentence to
8 read as follows: “The petition shall be served on
9 the Attorney General and on the officer or em-
10 ployee of the Department of Homeland Security
11 in charge of the district in which the final order
12 of removal under section 240 was entered.”;

13 (26) in section 242(b)(4)(D) by striking “Attor-
14 ney General’s” and inserting “immigration judge’s”;

15 (27) in section 242(b)(8) by striking “Attorney
16 General” in each place such term appears and in-
17 serting “Secretary of Homeland Security”;

18 (28) in section 242(e)(2)(C) by striking “as
19 prescribed by the Attorney General”;

20 (29) in section 242(e)(3)(A)(ii) by striking “At-
21 torney General” and inserting “Secretary of Home-
22 land Security”;

23 (30) in section 242(g) by striking “Attorney
24 General” and inserting “Secretary of Homeland Se-
25 curity”; and

1 (31) in section 246(a)—

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

5 (B) by striking the second sentence and in-
6 serting the following: “Upon request of the indi-
7 vidual whose status has been rescinded, the
8 Secretary of Homeland Security shall refer such
9 rescission to the United States Immigration
10 Courts for review in accordance with section
11 604(b)(1)(B).”.

12 (b) CONSTRUCTION OF EXISTING REFERENCES.—To
13 the extent consistent with this Act, each reference in the
14 Immigration and Nationality Act (8 U.S.C. et seq.), or
15 in any rule prescribed thereunder—

16 (1) to the Board of Immigration Appeals or an
17 immigration judge, or any administrative appeal,
18 hearing, review, or other proceeding before such
19 Board or judge, shall be deemed to refer, as appro-
20 priate, to the United States Immigration Courts es-
21 tablished under title VI of the Immigration and Na-
22 tionality Act, as added by this Act, to the appro-
23 priate division of the Court, or to the corresponding
24 proceedings under this Act before such Court; and

1 (2) to the authority of the Attorney General to
2 prescribe rules with respect to the Executive Office
3 for Immigration Review, the Board of Immigration
4 Appeals, immigration judges, or administrative ap-
5 peals, hearings, reviews, or other proceedings con-
6 ducted under the Immigration and Nationality Act,
7 by such Office, Board, or judges, shall be deemed to
8 confer rulemaking authority on the appellate division
9 of the United States Immigration Courts established
10 in title VI of the Immigration and Nationality Act,
11 as added by this Act.

12 (c) FINANCIAL DISCLOSURE REPORTING.—Section
13 109 of the Ethics in Government Act of 1978 (5 U.S.C.
14 App.) is amended—

15 (1) in paragraph (8), by inserting “of the
16 United States Immigration Courts,” after “Court of
17 Appeals for Veterans Claims,”; and

18 (2) in paragraph (10), by inserting “United
19 States Immigration Courts,” after “Court of Ap-
20 peals for Veterans Claims,”.

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