

Union Calendar No. 31

118TH CONGRESS
1ST SESSION

H. R. 2640

[Report No. 118–47, Part I]

To provide for reform of the asylum system and protection of the border.

IN THE HOUSE OF REPRESENTATIVES

APRIL 17, 2023

Mr. McCLINTOCK (for himself and Mr. BIGGS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Ways and Means, Education and the Workforce, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

MAY 5, 2023

Additional sponsor: Mrs. LESKO

MAY 5, 2023

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

MAY 5, 2023

Committees on Ways and Means, Education and the Workforce, and Homeland Security discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on April 17, 2023]

A BILL

To provide for reform of the asylum system and protection
of the border.

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 *“Border Security and Enforcement Act of 2023”.*

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

Sec. 1. Short title; table of contents.

TITLE I—ASYLUM REFORM AND BORDER PROTECTION

Sec. 101. Short title.
Sec. 102. Safe third country.
Sec. 103. Credible fear interviews.
Sec. 104. Clarification of asylum eligibility.
Sec. 105. Exceptions.
Sec. 106. Employment authorization.
Sec. 107. Asylum fees.
Sec. 108. Rules for determining asylum eligibility.
Sec. 109. Firm resettlement.
Sec. 110. Notice concerning frivolous asylum applications.
Sec. 111. Technical amendments.
Sec. 112. Requirement for procedures relating to certain asylum applications.

TITLE II—BORDER SAFETY AND MIGRANT PROTECTION

Sec. 201. Short title.
Sec. 202. Inspection of applicants for admission.
Sec. 203. Operational detention facilities.

TITLE III—ENSURING UNITED FAMILIES AT THE BORDER

Sec. 301. Short title.
Sec. 302. Clarification of standards for family detention.

TITLE IV—PROTECTION OF CHILDREN

Sec. 401. Short title.
Sec. 402. Findings.
Sec. 403. Repatriation of unaccompanied alien children.
Sec. 404. Special immigrant juvenile status for immigrants unable to reunite
with either parent.
Sec. 405. Rule of construction.

TITLE V—VISA OVERSTAYS PENALTIES

Sec. 501. Short title.
Sec. 502. Expanded penalties for illegal entry or presence.

TITLE VI—IMMIGRATION PAROLE REFORM

- Sec. 601. Short title.*
Sec. 602. Immigration parole reform.
Sec. 603. Implementation.
Sec. 604. Cause of action.
Sec. 605. Severability.

TITLE VII—LEGAL WORKFORCE

- Sec. 701. Short title.*
Sec. 702. Employment eligibility verification process.
Sec. 703. Employment eligibility verification system.
Sec. 704. Recruitment, referral, and continuation of employment.
Sec. 705. Good faith defense.
Sec. 706. Preemption and States' rights.
Sec. 707. Repeal.
Sec. 708. Penalties.
Sec. 709. Fraud and misuse of documents.
Sec. 710. Protection of Social Security Administration programs.
Sec. 711. Fraud prevention.
Sec. 712. Use of employment eligibility verification photo tool.
Sec. 713. Identity authentication employment eligibility verification pilot programs.
Sec. 714. Inspector General audits.
Sec. 715. Agriculture Workforce Study.
Sec. 716. Repealing regulations.

1 ***TITLE I—ASYLUM REFORM AND***
2 ***BORDER PROTECTION***

3 ***SEC. 101. SHORT TITLE.***

4 *This title may be cited as the “Asylum Reform and*
5 *Border Protection Act of 2023”.*

6 ***SEC. 102. SAFE THIRD COUNTRY.***

7 *Section 208(a)(2)(A) of the Immigration and Nation-*
8 *ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—*

9 (1) *by striking “if the Attorney General deter-*
10 *mines” and inserting “if the Attorney General or the*
11 *Secretary of Homeland Security determines—”;*

12 (2) *by striking “that the alien may be removed”*
13 *and inserting the following:*

1 “(i) that the alien may be removed”;

2 (3) by striking “, pursuant to a bilateral or mul-
3 tilateral agreement, to” and inserting “to”;

4 (4) by inserting “or the Secretary, on a case by
5 case basis,” before “finds that”;

6 (5) by striking the period at the end and insert-
7 ing “; or”; and

8 (6) by adding at the end the following:

9 “(ii) that the alien entered, attempted to enter,
10 or arrived in the United States after transiting
11 through at least one country outside the alien’s coun-
12 try of citizenship, nationality, or last lawful habitual
13 residence en route to the United States, unless—

14 “(I) the alien demonstrates that he or she
15 applied for protection from persecution or tor-
16 ture in at least one country outside the alien’s
17 country of citizenship, nationality, or last lawful
18 habitual residence through which the alien
19 transited en route to the United States, and the
20 alien received a final judgment denying the alien
21 protection in each country;

22 “(II) the alien demonstrates that he or she
23 was a victim of a severe form of trafficking in
24 which a commercial sex act was induced by
25 force, fraud, or coercion, or in which the person

1 *induced to perform such act was under the age*
2 *of 18 years; or in which the trafficking included*
3 *the recruitment, harboring, transportation, pro-*
4 *vision, or obtaining of a person for labor or serv-*
5 *ices through the use of force, fraud, or coercion*
6 *for the purpose of subjection to involuntary ser-*
7 *vitute, peonage, debt bondage, or slavery, and*
8 *was unable to apply for protection from persecu-*
9 *tion in each country through which the alien*
10 *transited en route to the United States as a re-*
11 *sult of such severe form of trafficking; or*

12 *“(III) the only countries through which the*
13 *alien transited en route to the United States*
14 *were, at the time of the transit, not parties to the*
15 *1951 United Nations Convention relating to the*
16 *Status of Refugees, the 1967 Protocol Relating to*
17 *the Status of Refugees, or the United Nations*
18 *Convention against Torture and Other Cruel, In-*
19 *human or Degrading Treatment or Punish-*
20 *ment.”.*

21 **SEC. 103. CREDIBLE FEAR INTERVIEWS.**

22 *Section 235(b)(1)(B)(v) of the Immigration and Na-*
23 *tionalty Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by*
24 *striking “there is a significant possibility” and all that fol-*
25 *lows, and inserting “, taking into account the credibility*

1 *of the statements made by the alien in support of the alien’s*
2 *claim, as determined pursuant to section 208(b)(1)(B)(iii),*
3 *and such other facts as are known to the officer, the alien*
4 *more likely than not could establish eligibility for asylum*
5 *under section 208, and it is more likely than not that the*
6 *statements made by, and on behalf of, the alien in support*
7 *of the alien’s claim are true.”.*

8 **SEC. 104. CLARIFICATION OF ASYLUM ELIGIBILITY.**

9 (a) *IN GENERAL.*—Section 208(b)(1)(A) of the Immi-
10 *gration and Nationality Act (8 U.S.C. 1158(b)(1)(A)) is*
11 *amended by inserting after “section 101(a)(42)(A)” the fol-*
12 *lowing: “(in accordance with the rules set forth in this sec-*
13 *tion), and is eligible to apply for asylum under subsection*
14 *(a)”.*

15 (b) *PLACE OF ARRIVAL.*—Section 208(a)(1) of the Im-
16 *migration and Nationality Act (8 U.S.C. 1158(a)(1)) is*
17 *amended—*

18 (1) *by striking “or who arrives in the United*
19 *States (whether or not at a designated port of arrival*
20 *and including an alien who is brought to the United*
21 *States after having been interdicted in international*
22 *or United States waters),”;* and

23 (2) *by inserting after “United States” the fol-*
24 *lowing: “and has arrived in the United States at a*
25 *port of entry (including an alien who is brought to*

1 *the United States after having been interdicted in*
2 *international or United States waters),”.*

3 **SEC. 105. EXCEPTIONS.**

4 *Paragraph (2) of section 208(b) of the Immigration*
5 *and Nationality Act (8 U.S.C. 1158(b)(2)) is amended to*
6 *read as follows:*

7 “(2) *EXCEPTIONS.—*

8 “(A) *IN GENERAL.—Paragraph (1) shall*
9 *not apply to an alien if the Secretary of Home-*
10 *land Security or the Attorney General deter-*
11 *mines that—*

12 “(i) *the alien ordered, incited, assisted,*
13 *or otherwise participated in the persecution*
14 *of any person on account of race, religion,*
15 *nationality, membership in a particular so-*
16 *cial group, or political opinion;*

17 “(ii) *the alien has been convicted of*
18 *any felony under Federal, State, tribal, or*
19 *local law;*

20 “(iii) *the alien has been convicted of*
21 *any misdemeanor offense under Federal,*
22 *State, tribal, or local law involving—*

23 “(I) *the unlawful possession or*
24 *use of an identification document, au-*
25 *thentication feature, or false identifica-*

1 *tion document (as those terms and*
2 *phrases are defined in the jurisdiction*
3 *where the conviction occurred), unless*
4 *the alien can establish that the convic-*
5 *tion resulted from circumstances show-*
6 *ing that—*

7 *“(aa) the document or fea-*
8 *ture was presented before boarding*
9 *a common carrier;*

10 *“(bb) the document or feature*
11 *related to the alien’s eligibility to*
12 *enter the United States;*

13 *“(cc) the alien used the docu-*
14 *ment or feature to depart a coun-*
15 *try wherein the alien has claimed*
16 *a fear of persecution; and*

17 *“(dd) the alien claimed a*
18 *fear of persecution without delay*
19 *upon presenting himself or herself*
20 *to an immigration officer upon*
21 *arrival at a United States port of*
22 *entry;*

23 *“(II) the unlawful receipt of a*
24 *Federal public benefit (as defined in*
25 *section 401(c) of the Personal Respon-*

1 *sibility and Work Opportunity Rec-*
2 *onciliation Act of 1996 (8 U.S.C.*
3 *1611(c))), from a Federal entity, or the*
4 *unlawful receipt of similar public ben-*
5 *efits from a State, tribal, or local enti-*
6 *ty; or*

7 “*(III) possession or trafficking of*
8 *a controlled substance or controlled*
9 *substance paraphernalia, as those*
10 *phrases are defined under the law of*
11 *the jurisdiction where the conviction*
12 *occurred, other than a single offense in-*
13 *volving possession for one’s own use of*
14 *30 grams or less of marijuana (as*
15 *marijuana is defined under the law of*
16 *the jurisdiction where the conviction*
17 *occurred);*

18 “*(iv) the alien has been convicted of an*
19 *offense arising under paragraph (1)(A) or*
20 *(2) of section 274(a), or under section 276;*

21 “*(v) the alien has been convicted of a*
22 *Federal, State, tribal, or local crime that*
23 *the Attorney General or Secretary of Home-*
24 *land Security knows, or has reason to be-*
25 *lieve, was committed in support, promotion,*

1 *or furtherance of the activity of a criminal*
2 *street gang (as defined under the law of the*
3 *jurisdiction where the conviction occurred*
4 *or in section 521(a) of title 18, United*
5 *States Code);*

6 *“(vi) the alien has been convicted of an*
7 *offense for driving while intoxicated or im-*
8 *paired, as those terms are defined under the*
9 *law of the jurisdiction where the conviction*
10 *occurred (including a conviction for driving*
11 *while under the influence of or impaired by*
12 *alcohol or drugs), without regard to whether*
13 *the conviction is classified as a mis-*
14 *demeanor or felony under Federal, State,*
15 *tribal, or local law, in which such intoxi-*
16 *cated or impaired driving was a cause of*
17 *serious bodily injury or death of another*
18 *person;*

19 *“(vii) the alien has been convicted of*
20 *more than one offense for driving while in-*
21 *toxicated or impaired, as those terms are*
22 *defined under the law of the jurisdiction*
23 *where the conviction occurred (including a*
24 *conviction for driving while under the influ-*
25 *ence of or impaired by alcohol or drugs),*

1 *without regard to whether the conviction is*
2 *classified as a misdemeanor or felony under*
3 *Federal, State, tribal, or local law;*

4 “(viii) *the alien has been convicted of*
5 *a crime—*

6 “(I) *that involves conduct*
7 *amounting to a crime of stalking;*

8 “(II) *of child abuse, child neglect,*
9 *or child abandonment; or*

10 “(III) *that involves conduct*
11 *amounting to a domestic assault or*
12 *battery offense, including—*

13 “(aa) *a misdemeanor crime*
14 *of domestic violence, as described*
15 *in section 921(a)(33) of title 18,*
16 *United States Code;*

17 “(bb) *a crime of domestic vi-*
18 *olence, as described in section*
19 *40002(a)(12) of the Violence*
20 *Against Women Act of 1994 (34*
21 *U.S.C. 12291(a)(12)); or*

22 “(cc) *any crime based on*
23 *conduct in which the alien har-*
24 *assed, coerced, intimidated, volun-*
25 *tarily or recklessly used (or*

1 *threatened to use) force or violence*
2 *against, or inflicted physical in-*
3 *jury or physical pain, however*
4 *slight, upon a person—*

5 *“(AA) who is a current*
6 *or former spouse of the alien;*

7 *“(BB) with whom the*
8 *alien shares a child;*

9 *“(CC) who is cohabi-*
10 *tating with, or who has*
11 *cohabitated with, the alien as*
12 *a spouse;*

13 *“(DD) who is similarly*
14 *situated to a spouse of the*
15 *alien under the domestic or*
16 *family violence laws of the*
17 *jurisdiction where the offense*
18 *occurred; or*

19 *“(EE) who is protected*
20 *from that alien’s acts under*
21 *the domestic or family vio-*
22 *lence laws of the United*
23 *States or of any State, tribal*
24 *government, or unit of local*
25 *government;*

1 “(ix) the alien has engaged in acts of
2 battery or extreme cruelty upon a person
3 and the person—

4 “(I) is a current or former spouse
5 of the alien;

6 “(II) shares a child with the
7 alien;

8 “(III) cohabitates or has
9 cohabitated with the alien as a spouse;

10 “(IV) is similarly situated to a
11 spouse of the alien under the domestic
12 or family violence laws of the jurisdic-
13 tion where the offense occurred; or

14 “(V) is protected from that alien’s
15 acts under the domestic or family vio-
16 lence laws of the United States or of
17 any State, tribal government, or unit
18 of local government;

19 “(x) the alien, having been convicted
20 by a final judgment of a particularly seri-
21 ous crime, constitutes a danger to the com-
22 munity of the United States;

23 “(xi) there are serious reasons for be-
24 lieving that the alien has committed a seri-
25 ous nonpolitical crime outside the United

1 *States prior to the arrival of the alien in*
2 *the United States;*

3 “(xii) *there are reasonable grounds for*
4 *regarding the alien as a danger to the secu-*
5 *rity of the United States;*

6 “(xiii) *the alien is described in sub-*
7 *clause (I), (II), (III), (IV), or (VI) of section*
8 *212(a)(3)(B)(i) or section 237(a)(4)(B) (re-*
9 *lating to terrorist activity), unless, in the*
10 *case only of an alien inadmissible under*
11 *subclause (IV) of section 212(a)(3)(B)(i),*
12 *the Secretary of Homeland Security or the*
13 *Attorney General determines, in the Sec-*
14 *retary’s or the Attorney General’s discre-*
15 *tion, that there are not reasonable grounds*
16 *for regarding the alien as a danger to the*
17 *security of the United States;*

18 “(xiv) *the alien was firmly resettled in*
19 *another country prior to arriving in the*
20 *United States; or*

21 “(xv) *there are reasonable grounds for*
22 *concluding the alien could avoid persecution*
23 *by relocating to another part of the alien’s*
24 *country of nationality or, in the case of an*
25 *alien having no nationality, another part of*

1 *the alien's country of last habitual resi-*
2 *dence.*

3 “(B) *SPECIAL RULES.*—

4 “(i) *PARTICULARLY SERIOUS CRIME;*
5 *SERIOUS NONPOLITICAL CRIME OUTSIDE*
6 *THE UNITED STATES.*—

7 “(I) *IN GENERAL.*—*For purposes*
8 *of subparagraph (A)(x), the Attorney*
9 *General or Secretary of Homeland Se-*
10 *curity, in their discretion, may deter-*
11 *mine that a conviction constitutes a*
12 *particularly serious crime based on—*

13 “(aa) *the nature of the con-*
14 *viction;*

15 “(bb) *the type of sentence im-*
16 *posed; or*

17 “(cc) *the circumstances and*
18 *underlying facts of the conviction.*

19 “(II) *DETERMINATION.*—*In mak-*
20 *ing a determination under subclause*
21 *(I), the Attorney General or Secretary*
22 *of Homeland Security may consider all*
23 *reliable information and is not limited*
24 *to facts found by the criminal court or*

1 provided in the underlying record of
2 conviction.

3 “(III) *TREATMENT OF FELO-*
4 *NIES.*—*In making a determination*
5 *under subclause (I), an alien who has*
6 *been convicted of a felony (as defined*
7 *under this section) or an aggravated*
8 *felony (as defined under section*
9 *101(a)(43)), shall be considered to have*
10 *been convicted of a particularly serious*
11 *crime.*

12 “(IV) *INTERPOL RED NOTICE.*—*In*
13 *making a determination under sub-*
14 *paragraph (A)(xi), an Interpol Red*
15 *Notice may constitute reliable evidence*
16 *that the alien has committed a serious*
17 *nonpolitical crime outside the United*
18 *States.*

19 “(ii) *CRIMES AND EXCEPTIONS.*—

20 “(I) *DRIVING WHILE INTOXICATED*
21 *OR IMPAIRED.*—*A finding under sub-*
22 *paragraph (A)(vi) does not require the*
23 *Attorney General or Secretary of*
24 *Homeland Security to find the first*
25 *conviction for driving while intoxi-*

1 cated or impaired (including a conviction
2 tion for driving while under the influence
3 of or impaired by alcohol or
4 drugs) as a predicate offense. The Attorney
5 General or Secretary of Homeland Security
6 need only make a factual determination
7 that the alien previously was convicted
8 for driving while intoxicated or impaired
9 as those terms are defined under the
10 jurisdiction where the conviction occurred
11 (including a conviction for driving while
12 under the influence of or impaired by
13 alcohol or drugs).

15 “(II) STALKING AND OTHER
16 CRIMES.—In making a determination
17 under subparagraph (A)(viii), including
18 determining the existence of a domestic
19 relationship between the alien
20 and the victim, the underlying conduct
21 of the crime may be considered, and
22 the Attorney General or Secretary of
23 Homeland Security is not limited to
24 facts found by the criminal court or

1 provided in the underlying record of
2 conviction.

3 “(III) *BATTERY OR EXTREME*
4 *CRUELTY.*—*In making a determination*
5 *under subparagraph (A)(ix), the*
6 *phrase ‘battery or extreme cruelty’ in-*
7 *cludes—*

8 “(aa) *any act or threatened*
9 *act of violence, including any*
10 *forceful detention, which results or*
11 *threatens to result in physical or*
12 *mental injury;*

13 “(bb) *psychological or sexual*
14 *abuse or exploitation, including*
15 *rape, molestation, incest, or forced*
16 *prostitution, shall be considered*
17 *acts of violence; and*

18 “(cc) *other abusive acts, in-*
19 *cluding acts that, in and of them-*
20 *selves, may not initially appear*
21 *violent, but that are a part of an*
22 *overall pattern of violence.*

23 “(IV) *EXCEPTION FOR VICTIMS OF*
24 *DOMESTIC VIOLENCE.*—*An alien who*
25 *was convicted of an offense described in*

1 *clause (viii) or (ix) of subparagraph*
2 *(A) is not ineligible for asylum on that*
3 *basis if the alien satisfies the criteria*
4 *under section 237(a)(7)(A).*

5 “(C) *SPECIFIC CIRCUMSTANCES.*—*Para-*
6 *graph (1) shall not apply to an alien whose*
7 *claim is based on—*

8 “*(i) personal animus or retribution,*
9 *including personal animus in which the al-*
10 *leged persecutor has not targeted, or mani-*
11 *fested an animus against, other members of*
12 *an alleged particular social group in addi-*
13 *tion to the member who has raised the claim*
14 *at issue;*

15 “*(ii) the applicant’s generalized dis-*
16 *approval of, disagreement with, or opposi-*
17 *tion to criminal, terrorist, gang, guerilla, or*
18 *other non-state organizations absent expres-*
19 *sive behavior in furtherance of a discrete*
20 *cause against such organizations related to*
21 *control of a State or expressive behavior*
22 *that is antithetical to the State or a legal*
23 *unit of the State;*

24 “*(iii) the applicant’s resistance to re-*
25 *ruitment or coercion by guerrilla, crimi-*

1 *nal, gang, terrorist, or other non-state orga-*
2 *nizations;*

3 “(iv) *the targeting of the applicant for*
4 *criminal activity for financial gain based*
5 *on wealth or affluence or perceptions of*
6 *wealth or affluence;*

7 “(v) *the applicant’s criminal activity;*
8 *or*

9 “(vi) *the applicant’s perceived, past or*
10 *present, gang affiliation.*

11 “(D) *DEFINITIONS AND CLARIFICATIONS.—*

12 “(i) *DEFINITIONS.—For purposes of*
13 *this paragraph:*

14 “(I) *FELONY.—The term ‘felony’*
15 *means—*

16 “(aa) *any crime defined as a*
17 *felony by the relevant jurisdiction*
18 *(Federal, State, tribal, or local) of*
19 *conviction; or*

20 “(bb) *any crime punishable*
21 *by more than one year of impris-*
22 *onment.*

23 “(II) *MISDEMEANOR.—The term*
24 *‘misdemeanor’ means—*

1 “(aa) any crime defined as a
2 misdemeanor by the relevant ju-
3 risdiction (Federal, State, tribal,
4 or local) of conviction; or

5 “(bb) any crime not punish-
6 able by more than one year of im-
7 prisonment.

8 “(ii) CLARIFICATIONS.—

9 “(I) CONSTRUCTION.—For pur-
10 poses of this paragraph, whether any
11 activity or conviction also may con-
12 stitute a basis for removal is immate-
13 rial to a determination of asylum eli-
14 gibility.

15 “(II) ATTEMPT, CONSPIRACY, OR
16 SOLICITATION.—For purposes of this
17 paragraph, all references to a criminal
18 offense or criminal conviction shall be
19 deemed to include any attempt, con-
20 spiracy, or solicitation to commit the
21 offense or any other inchoate form of
22 the offense.

23 “(III) EFFECT OF CERTAIN OR-
24 DERS.—

1 “(aa) *IN GENERAL.*—No
2 *order vacating a conviction, modi-*
3 *fying a sentence, clarifying a sen-*
4 *tence, or otherwise altering a con-*
5 *viction or sentence shall have any*
6 *effect under this paragraph unless*
7 *the Attorney General or Secretary*
8 *of Homeland Security determines*
9 *that—*

10 “(AA) *the court issuing*
11 *the order had jurisdiction*
12 *and authority to do so; and*

13 “(BB) *the order was not*
14 *entered for rehabilitative*
15 *purposes or for purposes of*
16 *ameliorating the immigra-*
17 *tion consequences of the con-*
18 *viction or sentence.*

19 “(bb) *AMELIORATING IMMI-*
20 *GRATION CONSEQUENCES.*—*For*
21 *purposes of item (aa)(BB), the*
22 *order shall be presumed to be for*
23 *the purpose of ameliorating immi-*
24 *gration consequences if—*

1 “(AA) the order was en-
2 tered after the initiation of
3 any proceeding to remove the
4 alien from the United States;
5 or

6 “(BB) the alien moved
7 for the order more than one
8 year after the date of the
9 original order of conviction
10 or sentencing, whichever is
11 later.

12 “(cc) *AUTHORITY OF IMMI-*
13 *GRATION JUDGE.*—An immigra-
14 tion judge is not limited to con-
15 sideration only of material in-
16 cluded in any order vacating a
17 conviction, modifying a sentence,
18 or clarifying a sentence to deter-
19 mine whether such order should be
20 given any effect under this para-
21 graph, but may consider such ad-
22 ditional information as the immi-
23 gration judge determines appro-
24 priate.

1 “(E) *ADDITIONAL LIMITATIONS.*—*The Sec-*
2 *retary of Homeland Security or the Attorney*
3 *General may by regulation establish additional*
4 *limitations and conditions, consistent with this*
5 *section, under which an alien shall be ineligible*
6 *for asylum under paragraph (1).*

7 “(F) *NO JUDICIAL REVIEW.*—*There shall be*
8 *no judicial review of a determination of the Sec-*
9 *retary of Homeland Security or the Attorney*
10 *General under subparagraph (A)(xiii).”.*

11 **SEC. 106. EMPLOYMENT AUTHORIZATION.**

12 *Paragraph (2) of section 208(d) of the Immigration*
13 *and Nationality Act (8 U.S.C. 1158(d)) is amended to read*
14 *as follows:*

15 “(2) *EMPLOYMENT AUTHORIZATION.*—

16 “(A) *AUTHORIZATION PERMITTED.*—*An ap-*
17 *plicant for asylum is not entitled to employment*
18 *authorization, but such authorization may be*
19 *provided under regulation by the Secretary of*
20 *Homeland Security. An applicant who is not*
21 *otherwise eligible for employment authorization*
22 *shall not be granted such authorization prior to*
23 *the date that is 180 days after the date of filing*
24 *of the application for asylum.*

1 “(B) *TERMINATION.*—*Each grant of em-*
2 *ployment authorization under subparagraph (A),*
3 *and any renewal or extension thereof, shall be*
4 *valid for a period of 6 months, except that such*
5 *authorization, renewal, or extension shall termi-*
6 *nate prior to the end of such 6 month period as*
7 *follows:*

8 “(i) *Immediately following the denial*
9 *of an asylum application by an asylum of-*
10 *ficer, unless the case is referred to an immi-*
11 *gration judge.*

12 “(ii) *30 days after the date on which*
13 *an immigration judge denies an asylum ap-*
14 *plication, unless the alien timely appeals to*
15 *the Board of Immigration Appeals.*

16 “(iii) *Immediately following the denial*
17 *by the Board of Immigration Appeals of an*
18 *appeal of a denial of an asylum applica-*
19 *tion.*

20 “(C) *RENEWAL.*—*The Secretary of Home-*
21 *land Security may not grant, renew, or extend*
22 *employment authorization to an alien if the*
23 *alien was previously granted employment au-*
24 *thorization under subparagraph (A), and the em-*
25 *ployment authorization was terminated pursu-*

1 *ant to a circumstance described in subparagraph*
2 *(B)(i), (ii), or (iii), unless a Federal court of ap-*
3 *peals remands the alien’s case to the Board of*
4 *Immigration Appeals.*

5 *“(D) INELIGIBILITY.—The Secretary of*
6 *Homeland Security may not grant employment*
7 *authorization to an alien under this paragraph*
8 *if the alien—*

9 *“(i) is ineligible for asylum under sub-*
10 *section (b)(2)(A); or*

11 *“(ii) entered or attempted to enter the*
12 *United States at a place and time other*
13 *than lawfully through a United States port*
14 *of entry.”.*

15 **SEC. 107. ASYLUM FEES.**

16 *Paragraph (3) of section 208(d) of the Immigration*
17 *and Nationality Act (8 U.S.C. 1158(d)) is amended to read*
18 *as follows:*

19 *“(3) FEES.—*

20 *“(A) APPLICATION FEE.—A fee of not less*
21 *than \$50 for each application for asylum shall*
22 *be imposed. Such fee shall not exceed the cost of*
23 *adjudicating the application. Such fee shall not*
24 *apply to an unaccompanied alien child who files*

1 *an asylum application in proceedings under sec-*
2 *tion 240.*

3 “(B) *EMPLOYMENT AUTHORIZATION.*—*A fee*
4 *may also be imposed for the consideration of an*
5 *application for employment authorization under*
6 *this section and for adjustment of status under*
7 *section 209(b). Such a fee shall not exceed the*
8 *cost of adjudicating the application.*

9 “(C) *PAYMENT.*—*Fees under this paragraph*
10 *may be assessed and paid over a period of time*
11 *or by installments.*

12 “(D) *RULE OF CONSTRUCTION.*—*Nothing in*
13 *this paragraph shall be construed to limit the*
14 *authority of the Attorney General or Secretary of*
15 *Homeland Security to set adjudication and nat-*
16 *uralization fees in accordance with section*
17 *286(m).”.*

18 **SEC. 108. RULES FOR DETERMINING ASYLUM ELIGIBILITY.**

19 *Section 208 of the Immigration and Nationality Act*
20 *(8 U.S.C. 1158) is amended by adding at the end the fol-*
21 *lowing:*

22 “(f) *RULES FOR DETERMINING ASYLUM ELIGI-*
23 *BILITY.*—*In making a determination under subsection*
24 *(b)(1)(A) with respect to whether an alien is a refugee with-*

1 *in the meaning of section 101(a)(42)(A), the following shall*
2 *apply:*

3 “(1) *PARTICULAR SOCIAL GROUP.*—*The Sec-*
4 *retary of Homeland Security or the Attorney General*
5 *shall not determine that an alien is a member of a*
6 *particular social group unless the alien articulates on*
7 *the record, or provides a basis on the record for deter-*
8 *mining, the definition and boundaries of the alleged*
9 *particular social group, establishes that the particular*
10 *social group exists independently from the alleged*
11 *persecution, and establishes that the alien’s claim of*
12 *membership in a particular social group does not in-*
13 *volve—*

14 “(A) *past or present criminal activity or*
15 *association (including gang membership);*

16 “(B) *presence in a country with generalized*
17 *violence or a high crime rate;*

18 “(C) *being the subject of a recruitment effort*
19 *by criminal, terrorist, or persecutory groups;*

20 “(D) *the targeting of the applicant for*
21 *criminal activity for financial gain based on*
22 *perceptions of wealth or affluence;*

23 “(E) *interpersonal disputes of which gov-*
24 *ernmental authorities in the relevant society or*
25 *region were unaware or uninvolved;*

1 “(F) *private criminal acts of which govern-*
2 *mental authorities in the relevant society or re-*
3 *gion were unaware or uninvolved;*

4 “(G) *past or present terrorist activity or as-*
5 *sociation;*

6 “(H) *past or present persecutory activity or*
7 *association; or*

8 “(I) *status as an alien returning from the*
9 *United States.*

10 “(2) *POLITICAL OPINION.—The Secretary of*
11 *Homeland Security or the Attorney General may not*
12 *determine that an alien holds a political opinion with*
13 *respect to which the alien is subject to persecution if*
14 *the political opinion is constituted solely by general-*
15 *ized disapproval of, disagreement with, or opposition*
16 *to criminal, terrorist, gang, guerilla, or other non-*
17 *state organizations and does not include expressive*
18 *behavior in furtherance of a cause against such orga-*
19 *nizations related to efforts by the State to control such*
20 *organizations or behavior that is antithetical to or*
21 *otherwise opposes the ruling legal entity of the State*
22 *or a unit thereof.*

23 “(3) *PERSECUTION.—The Secretary of Home-*
24 *land Security or the Attorney General may not deter-*
25 *mine that an alien has been subject to persecution or*

1 *has a well-founded fear of persecution based only*
2 *on—*

3 “(A) *the existence of laws or government*
4 *policies that are unenforced or infrequently en-*
5 *forced, unless there is credible evidence that such*
6 *a law or policy has been or would be applied to*
7 *the applicant personally; or*

8 “(B) *the conduct of rogue foreign govern-*
9 *ment officials acting outside the scope of their of-*
10 *ficial capacity.*

11 “(4) *DISCRETIONARY DETERMINATION.—*

12 “(A) *ADVERSE DISCRETIONARY FACTORS.—*
13 *The Secretary of Homeland Security or the At-*
14 *torney General may only grant asylum to an*
15 *alien if the alien establishes that he or she war-*
16 *rants a favorable exercise of discretion. In mak-*
17 *ing such a determination, the Attorney General*
18 *or Secretary of Homeland Security shall con-*
19 *sider, if applicable, an alien’s use of fraudulent*
20 *documents to enter the United States, unless the*
21 *alien arrived in the United States by air, sea, or*
22 *land directly from the applicant’s home country*
23 *without transiting through any other country.*

24 “(B) *FAVORABLE EXERCISE OF DISCRETION*
25 *NOT PERMITTED.—Except as provided in sub-*

1 paragraph (C), the Attorney General or Sec-
2 retary of Homeland Security shall not favorably
3 exercise discretion under this section for any
4 alien who—

5 “(i) has accrued more than one year of
6 unlawful presence in the United States, as
7 defined in sections 212(a)(9)(B)(ii) and
8 (iii), prior to filing an application for asy-
9 lum;

10 “(ii) at the time the asylum applica-
11 tion is filed with the immigration court or
12 is referred from the Department of Home-
13 land Security, has—

14 “(I) failed to timely file (or time-
15 ly file a request for an extension of
16 time to file) any required Federal,
17 State, or local income tax returns;

18 “(II) failed to satisfy any out-
19 standing Federal, State, or local tax
20 obligations; or

21 “(III) income that would result in
22 tax liability under section 1 of the In-
23 ternal Revenue Code of 1986 and that
24 was not reported to the Internal Rev-
25 enue Service;

1 “(iii) has had two or more prior asy-
2 lum applications denied for any reason;

3 “(iv) has withdrawn a prior asylum
4 application with prejudice or been found to
5 have abandoned a prior asylum applica-
6 tion;

7 “(v) failed to attend an interview re-
8 garding his or her asylum application with
9 the Department of Homeland Security, un-
10 less the alien shows by a preponderance of
11 the evidence that—

12 “(I) exceptional circumstances
13 prevented the alien from attending the
14 interview; or

15 “(II) the interview notice was not
16 mailed to the last address provided by
17 the alien or the alien’s representative
18 and neither the alien nor the alien’s
19 representative received notice of the
20 interview; or

21 “(vi) was subject to a final order of re-
22 moval, deportation, or exclusion and did
23 not file a motion to reopen to seek asylum
24 based on changed country conditions within

1 *one year of the change in country condi-*
2 *tions.*

3 “(C) *EXCEPTIONS.*—*If one or more of the*
4 *adverse discretionary factors set forth in sub-*
5 *paragraph (B) are present, the Attorney General*
6 *or the Secretary, may, notwithstanding such sub-*
7 *paragraph (B), favorably exercise discretion*
8 *under section 208—*

9 “(i) *in extraordinary circumstances,*
10 *such as those involving national security or*
11 *foreign policy considerations; or*

12 “(ii) *if the alien, by clear and con-*
13 *vincing evidence, demonstrates that the de-*
14 *denial of the application for asylum would re-*
15 *sult in exceptional and extremely unusual*
16 *hardship to the alien.*

17 “(5) *LIMITATION.*—*If the Secretary or the Attor-*
18 *ney General determines that an alien fails to satisfy*
19 *the requirement under paragraph (1), the alien may*
20 *not be granted asylum based on membership in a par-*
21 *ticular social group, and may not appeal the deter-*
22 *mination of the Secretary or Attorney General, as ap-*
23 *plicable. A determination under this paragraph shall*
24 *not serve as the basis for any motion to reopen or re-*
25 *consider an application for asylum or withholding of*

1 removal for any reason, including a claim of ineffec-
2 tive assistance of counsel, unless the alien complies
3 with the procedural requirements for such a motion
4 and demonstrates that counsel's failure to define, or
5 provide a basis for defining, a formulation of a par-
6 ticular social group was both not a strategic choice
7 and constituted egregious conduct.

8 “(6) *STEREOTYPES*.—Evidence offered in sup-
9 port of an application for asylum that promotes cul-
10 tural stereotypes about a country, its inhabitants, or
11 an alleged persecutor, including stereotypes based on
12 race, religion, nationality, or gender, shall not be ad-
13 missible in adjudicating that application, except that
14 evidence that an alleged persecutor holds stereotypical
15 views of the applicant shall be admissible.

16 “(7) *DEFINITIONS*.—In this section:

17 “(A) The term ‘membership in a particular
18 social group’ means membership in a group that
19 is—

20 “(i) composed of members who share a
21 common immutable characteristic;

22 “(ii) defined with particularity; and

23 “(iii) socially distinct within the soci-
24 ety in question.

1 “(B) The term ‘political opinion’ means an
2 ideal or conviction in support of the furtherance
3 of a discrete cause related to political control of
4 a state or a unit thereof.

5 “(C) The term ‘persecution’ means the in-
6 fliction of a severe level of harm constituting an
7 exigent threat by the government of a country or
8 by persons or an organization that the govern-
9 ment was unable or unwilling to control. Such
10 term does not include—

11 “(i) generalized harm or violence that
12 arises out of civil, criminal, or military
13 strife in a country;

14 “(ii) all treatment that the United
15 States regards as unfair, offensive, unjust,
16 unlawful, or unconstitutional;

17 “(iii) intermittent harassment, includ-
18 ing brief detentions;

19 “(iv) threats with no actual effort to
20 carry out the threats, except that particu-
21 larized threats of severe harm of an imme-
22 diate and menacing nature made by an
23 identified entity may constitute persecution;
24 or

1 “(v) non-severe economic harm or
2 property damage.”.

3 **SEC. 109. FIRM RESETTLEMENT.**

4 Section 208 of the Immigration and Nationality Act
5 (8 U.S.C. 1158), as amended by this Act, is further amend-
6 ed by adding at the end the following:

7 “(g) *FIRM RESETTLEMENT.*—In determining whether
8 an alien was firmly resettled in another country prior to
9 arriving in the United States under subsection
10 (b)(2)(A)(xiv), the following shall apply:

11 “(1) *IN GENERAL.*—An alien shall be considered
12 to have firmly resettled in another country if, after
13 the events giving rise to the alien’s asylum claim—

14 “(A) the alien resided in a country through
15 which the alien transited prior to arriving in or
16 entering the United States and—

17 “(i) received or was eligible for any
18 permanent legal immigration status in that
19 country;

20 “(ii) resided in such a country with
21 any non-permanent but indefinitely renew-
22 able legal immigration status (including
23 asylee, refugee, or similar status, but exclud-
24 ing status of a tourist); or

1 “(iii) resided in such a country and
2 could have applied for and obtained an im-
3 migration status described in clause (ii);

4 “(B) the alien physically resided volun-
5 tarily, and without continuing to suffer persecu-
6 tion or torture, in any one country for one year
7 or more after departing his country of nation-
8 ality or last habitual residence and prior to ar-
9 rival in or entry into the United States, except
10 for any time spent in Mexico by an alien who
11 is not a native or citizen of Mexico solely as a
12 direct result of being returned to Mexico pursu-
13 ant to section 235(b)(3) or of being subject to me-
14 tering; or

15 “(C) the alien is a citizen of a country other
16 than the country in which the alien alleges a fear
17 of persecution, or was a citizen of such a country
18 in the case of an alien who renounces such citi-
19 zenship, and the alien was present in that coun-
20 try after departing his country of nationality or
21 last habitual residence and prior to arrival in or
22 entry into the United States;

23 “(2) BURDEN OF PROOF.—If an immigration
24 judge determines that an alien has firmly resettled in

1 another country under paragraph (1), the alien shall
2 bear the burden of proving the bar does not apply.

3 “(3) *FIRM RESETTLEMENT OF PARENT.*—An
4 alien shall be presumed to have been firmly resettled
5 in another country if the alien’s parent was firmly
6 resettled in another country, the parent’s resettlement
7 occurred before the alien turned 18 years of age, and
8 the alien resided with such parent at the time of the
9 firm resettlement, unless the alien establishes that he
10 or she could not have derived any permanent legal
11 immigration status or any non-permanent but indefi-
12 nitely renewable legal immigration status (including
13 asylum, refugee, or similar status, but excluding sta-
14 tus of a tourist) from the alien’s parent.”.

15 **SEC. 110. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLI-**
16 **CATIONS.**

17 (a) *IN GENERAL.*—Section 208(d)(4) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1158(d)(4)) is amend-
19 ed—

20 (1) in the matter preceding subparagraph (A),
21 by inserting “the Secretary of Homeland Security or”
22 before “the Attorney General”;

23 (2) in subparagraph (A), by striking “and of the
24 consequences, under paragraph (6), of knowingly fil-

1 *ing a frivolous application for asylum; and” and in-*
2 *serting a semicolon;*

3 *(3) in subparagraph (B), by striking the period*
4 *and inserting “; and”; and*

5 *(4) by adding at the end the following:*

6 *“(C) ensure that a written warning appears*
7 *on the asylum application advising the alien of*
8 *the consequences of filing a frivolous application*
9 *and serving as notice to the alien of the con-*
10 *sequence of filing a frivolous application.”.*

11 *(b) CONFORMING AMENDMENT.—Section 208(d)(6) of*
12 *the Immigration and Nationality Act (8 U.S.C. 1158(d)(6))*
13 *is amended by striking “If the” and all that follows and*
14 *inserting:*

15 *“(A) IN GENERAL.—If the Secretary of*
16 *Homeland Security or the Attorney General de-*
17 *termines that an alien has knowingly made a*
18 *frivolous application for asylum and the alien*
19 *has received the notice under paragraph (4)(C),*
20 *the alien shall be permanently ineligible for any*
21 *benefits under this chapter, effective as the date*
22 *of the final determination of such an applica-*
23 *tion.*

24 *“(B) CRITERIA.—An application is frivo-*
25 *lous if the Secretary of Homeland Security or*

1 *the Attorney General determines, consistent with*
2 *subparagraph (C), that—*

3 “(i) *it is so insufficient in substance*
4 *that it is clear that the applicant knowingly*
5 *filed the application solely or in part to*
6 *delay removal from the United States, to*
7 *seek employment authorization as an appli-*
8 *cant for asylum pursuant to regulations*
9 *issued pursuant to paragraph (2), or to seek*
10 *issuance of a Notice to Appear in order to*
11 *pursue Cancellation of Removal under sec-*
12 *tion 240A(b); or*

13 “(ii) *any of the material elements are*
14 *knowingly fabricated.*

15 “(C) *SUFFICIENT OPPORTUNITY TO CLAR-*
16 *IFY.—In determining that an application is friv-*
17 *olous, the Secretary or the Attorney General,*
18 *must be satisfied that the applicant, during the*
19 *course of the proceedings, has had sufficient op-*
20 *portunity to clarify any discrepancies or im-*
21 *plausible aspects of the claim.*

22 “(D) *WITHHOLDING OF REMOVAL NOT PRE-*
23 *CLUDED.—For purposes of this section, a finding*
24 *that an alien filed a frivolous asylum applica-*
25 *tion shall not preclude the alien from seeking*

1 *withholding of removal under section 241(b)(3)*
2 *or protection pursuant to the Convention*
3 *Against Torture.”.*

4 **SEC. 111. TECHNICAL AMENDMENTS.**

5 *Section 208 of the Immigration and Nationality Act*
6 *(8 U.S.C. 1158) is amended—*

7 *(1) in subsection (a)—*

8 *(A) in paragraph (2)(D), by inserting “Sec-*
9 *retary of Homeland Security or the” before “At-*
10 *torney General”; and*

11 *(B) in paragraph (3), by inserting “Sec-*
12 *retary of Homeland Security or the” before “At-*
13 *torney General”;*

14 *(2) in subsection (c)—*

15 *(A) in paragraph (1), by striking “Attorney*
16 *General” each place such term appears and in-*
17 *serting “Secretary of Homeland Security”;*

18 *(B) in paragraph (2), in the matter pre-*
19 *ceding subparagraph (A), by inserting “Sec-*
20 *retary of Homeland Security or the” before “At-*
21 *torney General”; and*

22 *(C) in paragraph (3), by inserting “Sec-*
23 *retary of Homeland Security or the” before “At-*
24 *torney General”; and*

25 *(3) in subsection (d)—*

1 (A) in paragraph (1), by inserting “Sec-
2 retary of Homeland Security or the” before “At-
3 torney General” each place such term appears;
4 and

5 (B) in paragraph (5)—

6 (i) in subparagraph (A), by striking
7 “Attorney General” and inserting “Sec-
8 retary of Homeland Security”; and

9 (ii) in subparagraph (B), by inserting
10 “Secretary of Homeland Security or the”
11 before “Attorney General”.

12 **SEC. 112. REQUIREMENT FOR PROCEDURES RELATING TO**
13 **CERTAIN ASYLUM APPLICATIONS.**

14 (a) *IN GENERAL.*—Not later than 30 days after the
15 date of the enactment of this Act, the Attorney General shall
16 establish procedures to expedite the adjudication of asylum
17 applications for aliens—

18 (1) who are subject to removal proceedings under
19 section 240 of the Immigration and Nationality Act
20 (8 U.S.C. 1229a); and

21 (2) who are nationals of a Western Hemisphere
22 country sanctioned by the United States, as described
23 in subsection (b), as of January 1, 2023.

24 (b) *WESTERN HEMISPHERE COUNTRY SANCTIONED BY*
25 *THE UNITED STATES DESCRIBED.*—Subsection (a) shall

1 *apply only to an asylum application filed by an alien who*
2 *is a national of a Western Hemisphere country subject to*
3 *sanctions pursuant to—*

4 (1) *the Cuban Liberty and Democratic Soli-*
5 *darity (LIBERTAD) Act of 1996 (22 U.S.C. 6021*
6 *note);*

7 (2) *the Reinforcing Nicaragua’s Adherence to*
8 *Conditions for Electoral Reform Act of 2021 or the*
9 *RENACER Act (50 U.S.C. 1701 note); or*

10 (3) *Executive Order 13692 (80 Fed. Reg. 12747;*
11 *declaring a national emergency with respect to the*
12 *situation in Venezuela).*

13 (c) *APPLICABILITY.—This section shall only apply to*
14 *an alien who files an application for asylum after the date*
15 *of the enactment of this Act.*

16 **TITLE II—BORDER SAFETY AND**
17 **MIGRANT PROTECTION**

18 **SEC. 201. SHORT TITLE.**

19 *This title may be cited as the “Border Security and*
20 *Enforcement Act of 2023”.*

21 **SEC. 202. INSPECTION OF APPLICANTS FOR ADMISSION.**

22 *Section 235 of the Immigration and Nationality Act*
23 *(8 U.S.C. 1225) is amended—*

24 (1) *in subsection (b)—*

25 (A) *in paragraph (1)—*

1 (i) in subparagraph (A)—

2 (I) in clauses (i) and (ii), by
3 striking “section 212(a)(6)(C)” insert-
4 ing “subparagraph (A) or (C) of sec-
5 tion 212(a)(6)”; and

6 (II) by adding at the end the fol-
7 lowing:

8 “(iv) *INELIGIBILITY FOR PAROLE.*—An
9 alien described in clause (i) or (ii) shall not
10 be eligible for parole except as expressly au-
11 thorized pursuant to section 212(d)(5), or
12 for parole or release pursuant to section
13 236(a).”; and

14 (ii) in subparagraph (B)—

15 (I) in clause (ii), by striking
16 “asylum.” and inserting “asylum and
17 shall not be released (including pursu-
18 ant to parole or release pursuant to
19 section 236(a) but excluding as ex-
20 pressly authorized pursuant to section
21 212(d)(5)) other than to be removed or
22 returned to a country as described in
23 paragraph (3).”; and

24 (II) in clause (iii)(IV)—

1 (aa) in the header by strik-
2 ing “DETENTION” and inserting
3 “DETENTION, RETURN, OR RE-
4 MOVAL”; and

5 (bb) by adding at the end the
6 following: “The alien shall not be
7 released (including pursuant to
8 parole or release pursuant to sec-
9 tion 236(a) but excluding as ex-
10 pressly authorized pursuant to
11 section 212(d)(5)) other than to be
12 removed or returned to a country
13 as described in paragraph (3).”;

14 (B) in paragraph (2)—

15 (i) in subparagraph (A)—

16 (I) by striking “Subject to sub-
17 paragraphs (B) and (C),” and insert-
18 ing “Subject to subparagraph (B) and
19 paragraph (3),”; and

20 (II) by adding at the end the fol-
21 lowing: “The alien shall not be released
22 (including pursuant to parole or re-
23 lease pursuant to section 236(a) but ex-
24 cluding as expressly authorized pursu-
25 ant to section 212(d)(5)) other than to

1 *be removed or returned to a country as*
2 *described in paragraph (3).”;* and

3 *(ii) by striking subparagraph (C);*

4 *(C) by redesignating paragraph (3) as*
5 *paragraph (5); and*

6 *(D) by inserting after paragraph (2) the fol-*
7 *lowing:*

8 *“(3) RETURN TO FOREIGN TERRITORY CONTIG-*
9 *UOUS TO THE UNITED STATES.—*

10 *“(A) IN GENERAL.—The Secretary of Home-*
11 *land Security may return to a foreign territory*
12 *contiguous to the United States any alien arriv-*
13 *ing on land from that territory (whether or not*
14 *at a designated port of entry) pending a pro-*
15 *ceeding under section 240 or review of a deter-*
16 *mination under subsection (b)(1)(B)(iii)(III).*

17 *“(B) MANDATORY RETURN.—If at any time*
18 *the Secretary of Homeland Security cannot—*

19 *“(i) comply with its obligations to de-*
20 *tain an alien as required under clause (ii)*
21 *and (iii)(IV) of subsection (b)(1)(B) and*
22 *subsection (b)(2)(A); or*

23 *“(ii) remove an alien to a country de-*
24 *scribed in section 208(a)(2)(A),*

1 *the Secretary of Homeland Security shall, with-*
2 *out exception, including pursuant to parole or*
3 *release pursuant to section 236(a) but excluding*
4 *as expressly authorized pursuant to section*
5 *212(d)(5), return to a foreign territory contig-*
6 *uous to the United States any alien arriving on*
7 *land from that territory (whether or not at a*
8 *designated port of entry) pending a proceeding*
9 *under section 240 or review of a determination*
10 *under subsection (b)(1)(B)(iii)(III).*

11 “(4) *ENFORCEMENT BY STATE ATTORNEYS GEN-*
12 *ERAL.—The attorney general of a State, or other au-*
13 *thorized State officer, alleging a violation of the de-*
14 *tention, return, or removal requirements under para-*
15 *graph (1), (2), or (3) that affects such State or its*
16 *residents, may bring an action against the Secretary*
17 *of Homeland Security on behalf of the residents of the*
18 *State in an appropriate United States district court*
19 *to obtain appropriate injunctive relief.”; and*

20 (2) *by adding at the end the following:*

21 “(e) *AUTHORITY TO PROHIBIT INTRODUCTION OF CER-*
22 *TAIN ALIENS.—If the Secretary of Homeland Security de-*
23 *termines, in his discretion, that the prohibition of the intro-*
24 *duction of aliens who are inadmissible under subparagraph*
25 *(A) or (C) of section 212(a)(6) or under section 212(a)(7)*

1 *at an international land or maritime border of the United*
2 *States is necessary to achieve operational control (as de-*
3 *fin ed in section 2 of the Secure Fence Act of 2006 (8 U.S.C.*
4 *1701 note)) of such border, the Secretary may prohibit, in*
5 *whole or in part, the introduction of such aliens at such*
6 *border for such period of time as the Secretary determines*
7 *is necessary for such purpose.”.*

8 **SEC. 203. OPERATIONAL DETENTION FACILITIES.**

9 *(a) IN GENERAL.—Not later than September 30, 2023,*
10 *the Secretary of Homeland Security shall take all necessary*
11 *actions to reopen or restore all U.S. Immigration and Cus-*
12 *toms Enforcement detention facilities that were in oper-*
13 *ation on January 20, 2021, that subsequently closed or with*
14 *respect to which the use was altered, reduced, or discon-*
15 *tinued after January 20, 2021. In carrying out the require-*
16 *ment under this subsection, the Secretary may use the au-*
17 *thority under section 103(a)(11) of the Immigration and*
18 *Nationality Act (8 U.S.C. 1103(a)(11)).*

19 *(b) SPECIFIC FACILITIES.—The requirement under*
20 *subsection (a) shall include at a minimum, reopening, or*
21 *restoring, the following facilities:*

22 *(1) Irwin County Detention Center in Georgia.*

23 *(2) C. Carlos Carreiro Immigration Detention*
24 *Center in Bristol County, Massachusetts.*

1 (3) *Etowah County Detention Center in Gads-*
2 *den, Alabama.*

3 (4) *Glades County Detention Center in Moore*
4 *Haven, Florida.*

5 (5) *South Texas Family Residential Center.*

6 (c) *EXCEPTION.—*

7 (1) *IN GENERAL.—Except as provided in para-*
8 *graphs (2) and (3), the Secretary of Homeland Secu-*
9 *urity is authorized to obtain equivalent capacity for*
10 *detention facilities at locations other than those listed*
11 *in subsection (b).*

12 (2) *LIMITATION.—The Secretary may not take*
13 *action under paragraph (1) unless the capacity ob-*
14 *tained would result in a reduction of time and cost*
15 *relative to the cost and time otherwise required to ob-*
16 *tain such capacity.*

17 (3) *SOUTH TEXAS FAMILY RESIDENTIAL CEN-*
18 *TER.—The exception under paragraph (1) shall not*
19 *apply to the South Texas Family Residential Center.*
20 *The Secretary shall take all necessary steps to modify*
21 *and operate the South Texas Family Residential Cen-*
22 *ter in the same manner and capability it was oper-*
23 *ating on January 20, 2021.*

24 (d) *PERIODIC REPORT.—Not later than 90 days after*
25 *the date of enactment of this Act, and every 90 days there-*

1 *after until September 30, 2027, the Secretary of Homeland*
2 *Security shall submit to the appropriate congressional com-*
3 *mittees a detailed plan for and a status report on—*

4 *(1) compliance with the deadline under sub-*
5 *section (a);*

6 *(2) the increase in detention capabilities re-*
7 *quired by this section—*

8 *(A) for the 90 day period immediately pre-*
9 *ceding the date such report is submitted; and*

10 *(B) for the period beginning on the first*
11 *day of the fiscal year during which the report is*
12 *submitted, and ending on the date such report is*
13 *submitted;*

14 *(3) the number of detention beds that were used*
15 *and the number of available detention beds that were*
16 *not used during—*

17 *(A) the 90 day period immediately pre-*
18 *ceding the date such report is submitted; and*

19 *(B) the period beginning on the first day of*
20 *the fiscal year during which the report is sub-*
21 *mitted, and ending on the date such report is*
22 *submitted;*

23 *(4) the number of aliens released due to a lack*
24 *of available detention beds; and*

1 (5) *the resources the Department of Homeland*
2 *Security needs in order to comply with the require-*
3 *ments under this section.*

4 (e) *NOTIFICATION.*—*The Secretary of Homeland Secu-*
5 *rity shall notify Congress, and include with such notifica-*
6 *tion a detailed description of the resources the Department*
7 *of Homeland Security needs in order to detain all aliens*
8 *whose detention is mandatory or nondiscretionary under*
9 *the Immigration and Nationality Act (8 U.S.C. 1101 et*
10 *seq.)—*

11 (1) *not later than 5 days after all U.S. Immi-*
12 *gration and Customs Enforcement detention facilities*
13 *reach 90 percent of capacity;*

14 (2) *not later than 5 days after all U.S. Immi-*
15 *gration and Customs Enforcement detention facilities*
16 *reach 95 percent of capacity; and*

17 (3) *not later than 5 days after all U.S. Immi-*
18 *gration and Customs Enforcement detention facilities*
19 *reach full capacity.*

20 (f) *APPROPRIATE CONGRESSIONAL COMMITTEES.*—
21 *The term “appropriate congressional committees” means—*

22 (1) *the Committee on the Judiciary of the House*
23 *of Representatives;*

24 (2) *the Committee on Appropriations of the*
25 *House of Representatives;*

1 (3) *the Committee on the Judiciary of the Sen-*
2 *ate; and*

3 (4) *the Committee on Appropriations of the Sen-*
4 *ate.*

5 **TITLE III—ENSURING UNITED**
6 **FAMILIES AT THE BORDER**

7 **SEC. 301. SHORT TITLE.**

8 *This title may be cited as the “Ensuring United Fami-*
9 *lies at the Border Act”.*

10 **SEC. 302. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
11 **TENTION.**

12 (a) *IN GENERAL.*—*Section 235 of the William Wilber-*
13 *force Trafficking Victims Protection Reauthorization Act of*
14 *2008 (8 U.S.C. 1232) is amended by adding at the end the*
15 *following:*

16 “(j) *CONSTRUCTION.*—

17 “(1) *IN GENERAL.*—*Notwithstanding any other*
18 *provision of law, judicial determination, consent de-*
19 *gree, or settlement agreement, the detention of any*
20 *alien child who is not an unaccompanied alien child*
21 *shall be governed by sections 217, 235, 236, and 241*
22 *of the Immigration and Nationality Act (8 U.S.C.*
23 *1187, 1225, 1226, and 1231). There is no presump-*
24 *tion that an alien child who is not an unaccompanied*
25 *alien child should not be detained.*

1 “(2) *FAMILY DETENTION.*—*The Secretary of*
2 *Homeland Security shall—*

3 “(A) *maintain the care and custody of an*
4 *alien, during the period during which the*
5 *charges described in clause (i) are pending,*
6 *who—*

7 “(i) *is charged only with a mis-*
8 *demeanor offense under section 275(a) of the*
9 *Immigration and Nationality Act (8 U.S.C.*
10 *1325(a)); and*

11 “(ii) *entered the United States with the*
12 *alien’s child who has not attained 18 years*
13 *of age; and*

14 “(B) *detain the alien with the alien’s*
15 *child.”.*

16 (b) *SENSE OF CONGRESS.*—*It is the sense of Congress*
17 *that the amendments in this section to section 235 of the*
18 *William Wilberforce Trafficking Victims Protection Reau-*
19 *thorization Act of 2008 (8 U.S.C. 1232) are intended to*
20 *satisfy the requirements of the Settlement Agreement in Flo-*
21 *res v. Meese, No. 85–4544 (C.D. Cal), as approved by the*
22 *court on January 28, 1997, with respect to its interpreta-*
23 *tion in Flores v. Johnson, 212 F. Supp. 3d 864 (C.D. Cal.*
24 *2015), that the agreement applies to accompanied minors.*

1 (c) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall take effect on the date of the enactment*
3 *of this Act and shall apply to all actions that occur before,*
4 *on, or after the date of the enactment of this Act.*

5 (d) *PREEMPTION OF STATE LICENSING REQUIRE-*
6 *MENTS.*—*Notwithstanding any other provision of law, judi-*
7 *cial determination, consent decree, or settlement agreement,*
8 *no State may require that an immigration detention facil-*
9 *ity used to detain children who have not attained 18 years*
10 *of age, or families consisting of one or more of such children*
11 *and the parents or legal guardians of such children, that*
12 *is located in that State, be licensed by the State or any*
13 *political subdivision thereof.*

14 **TITLE IV—PROTECTION OF**
15 **CHILDREN**

16 **SEC. 401. SHORT TITLE.**

17 *This title may be cited as the “Protection of Children*
18 *Act of 2023”.*

19 **SEC. 402. FINDINGS.**

20 *Congress makes the following findings:*

21 (1) *Implementation of the provisions of the Traf-*
22 *ficking Victims Protection Reauthorization Act of*
23 *2008 that govern unaccompanied alien children has*
24 *incentivized multiple surges of unaccompanied alien*

1 *children arriving at the southwest border in the years*
2 *since the bill's enactment.*

3 *(2) The provisions of the Trafficking Victims*
4 *Protection Reauthorization Act of 2008 that govern*
5 *unaccompanied alien children treat unaccompanied*
6 *alien children from countries that are contiguous to*
7 *the United States disparately by swiftly returning*
8 *them to their home country absent indications of traf-*
9 *ficking or a credible fear of return, but allowing for*
10 *the release of unaccompanied alien children from non-*
11 *contiguous countries into the interior of the United*
12 *States, often to those individuals who paid to smuggle*
13 *them into the country in the first place.*

14 *(3) The provisions of the Trafficking Victims*
15 *Protection Reauthorization Act of 2008 governing un-*
16 *accompanied alien children have enriched the cartels,*
17 *who profit hundreds of millions of dollars each year*
18 *by smuggling unaccompanied alien children to the*
19 *southwest border, exploiting and sexually abusing*
20 *many such unaccompanied alien children on the per-*
21 *ilous journey.*

22 *(4) Prior to 2008, the number of unaccompanied*
23 *alien children encountered at the southwest border*
24 *never exceeded 1,000 in a single year.*

1 (5) *The United States is currently in the midst*
2 *of the worst crisis of unaccompanied alien children in*
3 *our nation’s history, with over 350,000 such unac-*
4 *companied alien children encountered at the south-*
5 *west border since Joe Biden became President.*

6 (6) *In 2022, during the Biden Administration,*
7 *152,057 unaccompanied alien children were encoun-*
8 *tered, the most ever in a single year and an over 400*
9 *percent increase compared to the last full fiscal year*
10 *of the Trump Administration in which 33,239 unac-*
11 *companied alien children were encountered.*

12 (7) *The Biden Administration has lost contact*
13 *with at least 85,000 unaccompanied alien children*
14 *who entered the United States since Joe Biden took*
15 *office.*

16 (8) *The Biden Administration dismantled effec-*
17 *tive safeguards put in place by the Trump Adminis-*
18 *tration that protected unaccompanied alien children*
19 *from being abused by criminals or exploited for illegal*
20 *and dangerous child labor.*

21 (9) *A recent New York Times investigation found*
22 *that unaccompanied alien children are being ex-*
23 *ploited in the labor market and “are ending up in*
24 *some of the most punishing jobs in the country.”*

1 (10) *The Times* investigation found unaccom-
2 panied alien children, “under intense pressure to earn
3 money” in order to “send cash back to their families
4 while often being in debt to their sponsors for smug-
5 gling fees, rent, and living expenses,” feared “that
6 they had become trapped in circumstances they never
7 could have imagined.”

8 (11) *The Biden Administration’s Department of*
9 *Health and Human Services Secretary Xavier*
10 *Becerra compared placing unaccompanied alien chil-*
11 *dren with sponsors, to widgets in an assembly line,*
12 *stating that, “If Henry Ford had seen this in his*
13 *plant, he would have never become famous and rich.*
14 *This is not the way you do an assembly line.”*

15 (12) *Department of Health and Human Services*
16 *employees working under Secretary Xavier Becerra’s*
17 *leadership penned a July 2021 memorandum express-*
18 *ing serious concern that “labor trafficking was in-*
19 *creasing” and that the agency had become “one that*
20 *rewards individuals for making quick releases, and*
21 *not one that rewards individuals for preventing un-*
22 *safe releases.”*

23 (13) *Despite this, Secretary Xavier Becerra pres-*
24 *sured then-Director of the Office of Refugee Resettle-*
25 *ment Cindy Huang to prioritize releases of unaccom-*

1 *panied alien children over ensuring their safety, tell-*
2 *ing her “if she could not increase the number of dis-*
3 *charges he would find someone who could” and then-*
4 *Director Huang resigned one month later.*

5 *(14) In June 2014, the Obama-Biden Adminis-*
6 *tration requested legal authority to exercise discretion*
7 *in returning and removing unaccompanied alien chil-*
8 *dren from non-contiguous countries back to their*
9 *home countries.*

10 *(15) In August 2014, the House of Representa-*
11 *tives passed H.R. 5320, which included the Protection*
12 *of Children Act.*

13 *(16) The Protection of Children Act of 2023 ends*
14 *the disparate policies of the Trafficking Victims Pro-*
15 *tection Reauthorization Act of 2008 by ensuring the*
16 *swift return of all unaccompanied alien children to*
17 *their country of origin if they are not victims of traf-*
18 *ficking and do not have a fear of return.*

19 **SEC. 403. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
20 **DREN.**

21 *(a) IN GENERAL.—Section 235 of the William Wilber-*
22 *force Trafficking Victims Protection Reauthorization Act of*
23 *2008 (8 U.S.C. 1232) is amended—*

24 *(1) in subsection (a)—*

25 *(A) in paragraph (2)—*

1 (i) by amending the heading to read as
2 follows: “*RULES FOR UNACCOMPANIED*
3 *ALIEN CHILDREN.—*”;

4 (ii) in subparagraph (A)—

5 (I) in the matter preceding clause
6 (i), by striking “*who is a national or*
7 *habitual resident of a country that is*
8 *contiguous with the United States*”;

9 (II) in clause (i), by inserting
10 “*and*” at the end;

11 (III) in clause (ii), by striking “*;*
12 *and*” and inserting a period; and

13 (IV) by striking clause (iii); and
14 (iii) in subparagraph (B)—

15 (I) in the matter preceding clause
16 (i), by striking “*(8 U.S.C. 1101 et seq.)*
17 *may—*” and inserting “*(8 U.S.C. 1101*
18 *et seq.)—*”;

19 (II) in clause (i), by inserting be-
20 fore “*permit such child to withdraw*”
21 the following: “*may*”; and

22 (III) in clause (ii), by inserting
23 before “*return such child*” the fol-
24 lowing: “*shall*”; and

25 (B) in paragraph (5)(D)—

1 (i) *in the matter preceding clause (i),*
2 *by striking “, except for an unaccompanied*
3 *alien child from a contiguous country sub-*
4 *ject to exceptions under subsection (a)(2),”*
5 *and inserting “who does not meet the cri-*
6 *teria listed in paragraph (2)(A)”;* and

7 (ii) *in clause (i), by inserting before*
8 *the semicolon at the end the following: “,*
9 *which shall include a hearing before an im-*
10 *migration judge not later than 14 days*
11 *after being screened under paragraph (4)”;*

12 (2) *in subsection (b)—*

13 (A) *in paragraph (2)—*

14 (i) *in subparagraph (A), by inserting*
15 *before the semicolon the following: “believed*
16 *not to meet the criteria listed in subsection*
17 *(a)(2)(A)”;* and

18 (ii) *in subparagraph (B), by inserting*
19 *before the period the following: “and does*
20 *not meet the criteria listed in subsection*
21 *(a)(2)(A)”;* and

22 (B) *in paragraph (3), by striking “an un-*
23 *accompanied alien child in custody shall” and*
24 *all that follows, and inserting the following: “an*
25 *unaccompanied alien child in custody—*

1 “(A) in the case of a child who does not
2 meet the criteria listed in subsection (a)(2)(A),
3 shall transfer the custody of such child to the
4 Secretary of Health and Human Services not
5 later than 30 days after determining that such
6 child is an unaccompanied alien child who does
7 not meet such criteria; or

8 “(B) in the case of a child who meets the
9 criteria listed in subsection (a)(2)(A), may
10 transfer the custody of such child to the Sec-
11 retary of Health and Human Services after de-
12 termining that such child is an unaccompanied
13 alien child who meets such criteria.”; and

14 (3) in subsection (c)—

15 (A) in paragraph (3), by inserting at the
16 end the following:

17 “(D) INFORMATION ABOUT INDIVIDUALS
18 WITH WHOM CHILDREN ARE PLACED.—

19 “(i) INFORMATION TO BE PROVIDED TO
20 HOMELAND SECURITY.—Before placing a
21 child with an individual, the Secretary of
22 Health and Human Services shall provide
23 to the Secretary of Homeland Security, re-
24 garding the individual with whom the child
25 will be placed, information on—

1 “(I) the name of the individual;

2 “(II) the social security number of
3 the individual;

4 “(III) the date of birth of the in-
5 dividual;

6 “(IV) the location of the individ-
7 ual’s residence where the child will be
8 placed;

9 “(V) the immigration status of the
10 individual, if known; and

11 “(VI) contact information for the
12 individual.

13 “(ii) *ACTIVITIES OF THE SECRETARY*
14 *OF HOMELAND SECURITY.—Not later than*
15 *30 days after receiving the information list-*
16 *ed in clause (i), the Secretary of Homeland*
17 *Security, upon determining that an indi-*
18 *vidual with whom a child is placed is un-*
19 *lawfully present in the United States and*
20 *not in removal proceedings pursuant to*
21 *chapter 4 of title II of the Immigration and*
22 *Nationality Act (8 U.S.C. 1221 et seq.),*
23 *shall initiate such removal proceedings.”;*
24 *and*

25 (B) in paragraph (5)—

1 (i) by inserting after “to the greatest
2 extent practicable” the following: “(at no ex-
3 pense to the Government)”; and

4 (ii) by striking “have counsel to rep-
5 resent them” and inserting “have access to
6 counsel to represent them”.

7 (b) *EFFECTIVE DATE.*—The amendments made by this
8 section shall apply to any unaccompanied alien child ap-
9 prehended on or after the date that is 30 days after the
10 date of enactment of this Act.

11 **SEC. 404. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
12 **MIGRANTS UNABLE TO REUNITE WITH EI-**
13 **THER PARENT.**

14 Section 101(a)(27)(J) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

16 (1) in clause (i), by striking “, and whose reuni-
17 fication with 1 or both of the immigrant’s parents is
18 not viable due to abuse, neglect, abandonment, or a
19 similar basis found under State law”; and

20 (2) in clause (iii)—

21 (A) in subclause (I), by striking “and” at
22 the end;

23 (B) in subclause (II), by inserting “and”
24 after the semicolon; and

25 (C) by adding at the end the following:

1 “(III) an alien may not be grant-
2 ed special immigrant status under this
3 subparagraph if the alien’s reunifica-
4 tion with any one parent or legal
5 guardian is not precluded by abuse,
6 neglect, abandonment, or any similar
7 cause under State law;”.

8 **SEC. 405. RULE OF CONSTRUCTION.**

9 *Nothing in this title shall be construed to limit the fol-*
10 *lowing procedures or practices relating to an unaccom-*
11 *panied alien child (as defined in section 462(g)(2) of the*
12 *Homeland Security Act of 2002 (6 U.S.C. 279(g)(2))):*

13 (1) *Screening of such a child for a credible fear*
14 *of return to his or her country of origin.*

15 (2) *Screening of such a child to determine wheth-*
16 *er he or she was a victim of trafficking.*

17 (3) *Department of Health and Human Services*
18 *policy in effect on the date of the enactment of this*
19 *Act requiring a home study for such a child if he or*
20 *she is under 12 years of age.*

21 **TITLE V—VISA OVERSTAYS**
22 **PENALTIES**

23 **SEC. 501. SHORT TITLE.**

24 *This title may be cited as the “Visa Overstays Pen-*
25 *alties Act”.*

1 **SEC. 502. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR**
2 **PRESENCE.**

3 *Section 275 of the Immigration and Nationality Act*
4 *(8 U.S.C. 1325) is amended—*

5 *(1) in subsection (a) by inserting after “for a*
6 *subsequent commission of any such offense” the fol-*
7 *lowing: “or if the alien was previously convicted of an*
8 *offense under subsection (e)(2)(A)”;*

9 *(2) in subsection (b)—*

10 *(A) in paragraph (1), by striking “at least*
11 *\$50 and not more than \$250” and inserting “not*
12 *less than \$500 and not more than \$1,000”; and*

13 *(B) in paragraph (2), by inserting after “in*
14 *the case of an alien who has been previously sub-*
15 *ject to a civil penalty under this subsection” the*
16 *following: “or subsection (e)(2)(B)”;* and

17 *(3) by adding at the end the following:*

18 *“(e) VISA OVERSTAYS.—*

19 *“(1) IN GENERAL.—An alien who was admitted*
20 *as a nonimmigrant has violated this paragraph if the*
21 *alien, for an aggregate of 10 days or more, has*
22 *failed—*

23 *“(A) to maintain the nonimmigrant status*
24 *in which the alien was admitted, or to which it*
25 *was changed under section 248, including com-*
26 *plying with the period of stay authorized by the*

1 *Secretary of Homeland Security in connection*
2 *with such status; or*

3 *“(B) to comply otherwise with the condi-*
4 *tions of such nonimmigrant status.*

5 *“(2) PENALTIES.—An alien who has violated*
6 *paragraph (1)—*

7 *“(A) shall—*

8 *“(i) for the first commission of such a*
9 *violation, be fined under title 18, United*
10 *States Code, or imprisoned not more than 6*
11 *months, or both; and*

12 *“(ii) for a subsequent commission of*
13 *such a violation, or if the alien was pre-*
14 *viously convicted of an offense under sub-*
15 *section (a), be fined under such title 18, or*
16 *imprisoned not more than 2 years, or both;*
17 *and*

18 *“(B) in addition to, and not in lieu of, any*
19 *penalty under subparagraph (A) and any other*
20 *criminal or civil penalties that may be imposed,*
21 *shall be subject to a civil penalty of—*

22 *“(i) not less than \$500 and not more*
23 *than \$1,000 for each violation; or*

24 *“(ii) twice the amount specified in*
25 *clause (i), in the case of an alien who has*

1 *been previously subject to a civil penalty*
2 *under this subparagraph or subsection (b).”.*

3 **TITLE VI—IMMIGRATION**
4 **PAROLE REFORM**

5 **SEC. 601. SHORT TITLE.**

6 *This title may be cited as the “Immigration Parole*
7 *Reform Act of 2023”.*

8 **SEC. 602. IMMIGRATION PAROLE REFORM.**

9 *Section 212(d)(5) of the Immigration and Nationality*
10 *Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:*

11 *“(5)(A) Except as provided in subparagraphs (B) and*
12 *(C) and section 214(f), the Secretary of Homeland Security,*
13 *in the discretion of the Secretary, may temporarily parole*
14 *into the United States any alien applying for admission*
15 *to the United States who is not present in the United States,*
16 *under such conditions as the Secretary may prescribe, on*
17 *a case-by-case basis, and not according to eligibility criteria*
18 *describing an entire class of potential parole recipients, for*
19 *urgent humanitarian reasons or significant public benefit.*
20 *Parole granted under this subparagraph may not be re-*
21 *garded as an admission of the alien. When the purposes*
22 *of such parole have been served in the opinion of the Sec-*
23 *retary, the alien shall immediately return or be returned*
24 *to the custody from which the alien was paroled. After such*
25 *return, the case of the alien shall be dealt with in the same*

1 *manner as the case of any other applicant for admission*
2 *to the United States.*

3 “(B) *The Secretary of Homeland Security may grant*
4 *parole to any alien who—*

5 “(i) *is present in the United States without law-*
6 *ful immigration status;*

7 “(ii) *is the beneficiary of an approved petition*
8 *under section 203(a);*

9 “(iii) *is not otherwise inadmissible or removable;*
10 *and*

11 “(iv) *is the spouse or child of a member of the*
12 *Armed Forces serving on active duty.*

13 “(C) *The Secretary of Homeland Security may grant*
14 *parole to any alien—*

15 “(i) *who is a national of the Republic of Cuba*
16 *and is living in the Republic of Cuba;*

17 “(ii) *who is the beneficiary of an approved peti-*
18 *tion under section 203(a);*

19 “(iii) *for whom an immigrant visa is not imme-*
20 *diately available;*

21 “(iv) *who meets all eligibility requirements for*
22 *an immigrant visa;*

23 “(v) *who is not otherwise inadmissible; and*

24 “(vi) *who is receiving a grant of parole in fur-*
25 *therance of the commitment of the United States to*

1 *the minimum level of annual legal migration of*
2 *Cuban nationals to the United States specified in the*
3 *U.S.–Cuba Joint Communiqué on Migration, done at*
4 *New York September 9, 1994, and reaffirmed in the*
5 *Cuba-United States: Joint Statement on Normaliza-*
6 *tion of Migration, Building on the Agreement of Sep-*
7 *tember 9, 1994, done at New York May 2, 1995.*

8 “(D) *The Secretary of Homeland Security may grant*
9 *parole to an alien who is returned to a contiguous country*
10 *under section 235(b)(3) to allow the alien to attend the*
11 *alien’s immigration hearing. The grant of parole shall not*
12 *exceed the time required for the alien to be escorted to, and*
13 *attend, the alien’s immigration hearing scheduled on the*
14 *same calendar day as the grant, and to immediately there-*
15 *after be escorted back to the contiguous country. A grant*
16 *of parole under this subparagraph shall not be considered*
17 *for purposes of determining whether the alien is inadmis-*
18 *sible under this Act.*

19 “(E) *For purposes of determining an alien’s eligibility*
20 *for parole under subparagraph (A), an urgent humani-*
21 *tarian reason shall be limited to circumstances in which*
22 *the alien establishes that—*

23 “(i)(I) *the alien has a medical emergency; and*

1 “(II)(aa) the alien cannot obtain necessary treat-
2 ment in the foreign state in which the alien is resid-
3 ing; or

4 “(bb) the medical emergency is life-threatening
5 and there is insufficient time for the alien to be ad-
6 mitted to the United States through the normal visa
7 process;

8 “(ii) the alien is the parent or legal guardian of
9 an alien described in clause (i) and the alien de-
10 scribed in clause (i) is a minor;

11 “(iii) the alien is needed in the United States in
12 order to donate an organ or other tissue for trans-
13 plant and there is insufficient time for the alien to
14 be admitted to the United States through the normal
15 visa process;

16 “(iv) the alien has a close family member in the
17 United States whose death is imminent and the alien
18 could not arrive in the United States in time to see
19 such family member alive if the alien were to be ad-
20 mitted to the United States through the normal visa
21 process;

22 “(v) the alien is seeking to attend the funeral of
23 a close family member and the alien could not arrive
24 in the United States in time to attend such funeral

1 *if the alien were to be admitted to the United States*
2 *through the normal visa process;*

3 *“(vi) the alien is an adopted child with an ur-*
4 *gent medical condition who is in the legal custody of*
5 *the petitioner for a final adoption-related visa and*
6 *whose medical treatment is required before the ex-*
7 *pected award of a final adoption-related visa; or*

8 *“(vii) the alien is a lawful applicant for adjust-*
9 *ment of status under section 245 and is returning to*
10 *the United States after temporary travel abroad.*

11 *“(F) For purposes of determining an alien’s eligibility*
12 *for parole under subparagraph (A), a significant public*
13 *benefit may be determined to result from the parole of an*
14 *alien only if—*

15 *“(i) the alien has assisted (or will assist, whether*
16 *knowingly or not) the United States Government in*
17 *a law enforcement matter;*

18 *“(ii) the alien’s presence is required by the Gov-*
19 *ernment in furtherance of such law enforcement mat-*
20 *ter; and*

21 *“(iii) the alien is inadmissible, does not satisfy*
22 *the eligibility requirements for admission as a non-*
23 *immigrant, or there is insufficient time for the alien*
24 *to be admitted to the United States through the nor-*
25 *mal visa process.*

1 “(G) For purposes of determining an alien’s eligibility
2 for parole under subparagraph (A), the term ‘case-by-case
3 basis’ means that the facts in each individual case are con-
4 sidered and parole is not granted based on membership in
5 a defined class of aliens to be granted parole. The fact that
6 aliens are considered for or granted parole one-by-one and
7 not as a group is not sufficient to establish that the parole
8 decision is made on a ‘case-by-case basis’.

9 “(H) The Secretary of Homeland Security may not
10 use the parole authority under this paragraph to parole an
11 alien into the United States for any reason or purpose other
12 than those described in subparagraphs (B), (C), (D), (E),
13 and (F).

14 “(I) An alien granted parole may not accept employ-
15 ment, except that an alien granted parole pursuant to sub-
16 paragraph (B) or (C) is authorized to accept employment
17 for the duration of the parole, as evidenced by an employ-
18 ment authorization document issued by the Secretary of
19 Homeland Security.

20 “(J) Parole granted after a departure from the United
21 States shall not be regarded as an admission of the alien.
22 An alien granted parole, whether as an initial grant of pa-
23 role or parole upon reentry into the United States, is not
24 eligible to adjust status to lawful permanent residence or
25 for any other immigration benefit if the immigration status

1 *the alien had at the time of departure did not authorize*
2 *the alien to adjust status or to be eligible for such benefit.*

3 “(K)(i) *Except as provided in clauses (ii) and (iii),*
4 *parole shall be granted to an alien under this paragraph*
5 *for the shorter of—*

6 “(I) *a period of sufficient length to accomplish*
7 *the activity described in subparagraph (D), (E), or*
8 *(F) for which the alien was granted parole; or*

9 “(II) *1 year.*

10 “(ii) *Grants of parole pursuant to subparagraph (A)*
11 *may be extended once, in the discretion of the Secretary,*
12 *for an additional period that is the shorter of—*

13 “(I) *the period that is necessary to accomplish*
14 *the activity described in subparagraph (E) or (F) for*
15 *which the alien was granted parole; or*

16 “(II) *1 year.*

17 “(iii) *Aliens who have a pending application to adjust*
18 *status to permanent residence under section 245 may re-*
19 *quest extensions of parole under this paragraph, in 1-year*
20 *increments, until the application for adjustment has been*
21 *adjudicated. Such parole shall terminate immediately upon*
22 *the denial of such adjustment application.*

23 “(L) *Not later than 90 days after the last day of each*
24 *fiscal year, the Secretary of Homeland Security shall sub-*
25 *mit to the Committee on the Judiciary of the Senate and*

1 *the Committee on the Judiciary of the House of Representa-*
2 *tives and make available to the public, a report—*

3 *“(i) identifying the total number of aliens pa-*
4 *roled into the United States under this paragraph*
5 *during the previous fiscal year; and*

6 *“(ii) containing information and data regarding*
7 *all aliens paroled during such fiscal year, includ-*
8 *ing—*

9 *“(I) the duration of parole;*

10 *“(II) the type of parole; and*

11 *“(III) the current status of the aliens so pa-*
12 *roled.”.*

13 **SEC. 603. IMPLEMENTATION.**

14 *(a) IN GENERAL.—Except as provided in subsection*
15 *(b), this Act and the amendments made by this Act shall*
16 *take effect on the date that is 30 days after the date of the*
17 *enactment of this Act.*

18 *(b) EXCEPTIONS.—Notwithstanding subsection (a),*
19 *each of the following exceptions apply:*

20 *(1) Any application for parole or advance parole*
21 *filed by an alien before the date of the enactment of*
22 *this Act shall be adjudicated under the law that was*
23 *in effect on the date on which the application was*
24 *properly filed and any approved advance parole shall*

1 *remain valid under the law that was in effect on the*
2 *date on which the advance parole was approved.*

3 *(2) Section 212(d)(5)(J) of the Immigration and*
4 *Nationality Act, as added by section 2, shall take ef-*
5 *fect on the date of the enactment of this Act.*

6 *(3) Aliens who were paroled into the United*
7 *States pursuant to section 212(d)(5)(A) of the Immi-*
8 *gration and Nationality Act (8 U.S.C. 1182(d)(5)(A))*
9 *before January 1, 2023, shall continue to be subject*
10 *to the terms of parole that were in effect on the date*
11 *on which their respective parole was approved.*

12 **SEC. 604. CAUSE OF ACTION.**

13 *Any person, State, or local government that experi-*
14 *ences financial harm in excess of \$1,000 due to a failure*
15 *of the Federal Government to lawfully apply the provisions*
16 *of this Act or the amendments made by this Act shall have*
17 *standing to bring a civil action against the Federal Govern-*
18 *ment in an appropriate district court of the United States*
19 *for appropriate relief.*

20 **SEC. 605. SEVERABILITY.**

21 *If any provision of this Act or any amendment by this*
22 *Act, or the application of such provision or amendment to*
23 *any person or circumstance, is held to be unconstitutional,*
24 *the remainder of this Act and the application of such provi-*

1 sion or amendment to any other person or circumstance
 2 shall not be affected.

3 **TITLE VII—LEGAL WORKFORCE**

4 **SEC. 701. SHORT TITLE.**

5 *This title may be cited as the “Legal Workforce Act”.*

6 **SEC. 702. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-** 7 **ESS.**

8 *(a) IN GENERAL.—Section 274A(b) of the Immigra-*
 9 *tion and Nationality Act (8 U.S.C. 1324a(b)) is amended*
 10 *to read as follows:*

11 *“(b) EMPLOYMENT ELIGIBILITY VERIFICATION PROC-*
 12 *ESS.—*

13 *“(1) NEW HIRES, RECRUITMENT, AND REFER-*
 14 *RAL.—The requirements referred to in paragraphs*
 15 *(1)(B) and (3) of subsection (a) are, in the case of a*
 16 *person or other entity hiring, recruiting, or referring*
 17 *an individual for employment in the United States,*
 18 *the following:*

19 *“(A) ATTESTATION AFTER EXAMINATION OF*
 20 *DOCUMENTATION.—*

21 *“(i) ATTESTATION.—During the*
 22 *verification period (as defined in subpara-*
 23 *graph (E)), the person or entity shall attest,*
 24 *under penalty of perjury and on a form, in-*
 25 *cluding electronic format, designated or es-*

1 *established by the Secretary by regulation not*
2 *later than 6 months after the date of the en-*
3 *actment of the Legal Workforce Act, that it*
4 *has verified that the individual is not an*
5 *unauthorized alien by—*

6 *“(I) obtaining from the individual*
7 *the individual’s social security account*
8 *number or United States passport*
9 *number and recording the number on*
10 *the form (if the individual claims to*
11 *have been issued such a number), and,*
12 *if the individual does not attest to*
13 *United States nationality under sub-*
14 *paragraph (B), obtaining such identi-*
15 *fication or authorization number estab-*
16 *lished by the Department of Homeland*
17 *Security for the alien as the Secretary*
18 *of Homeland Security may specify,*
19 *and recording such number on the*
20 *form; and*

21 *“(II) examining—*

22 *“(aa) a document relating to*
23 *the individual presenting it de-*
24 *scribed in clause (ii); or*

1 “(bb) a document relating to
2 the individual presenting it de-
3 scribed in clause (iii) and a docu-
4 ment relating to the individual
5 presenting it described in clause
6 (iv).

7 “(ii) *DOCUMENTS EVIDENCING EM-*
8 *PLOYMENT AUTHORIZATION AND ESTAB-*
9 *LISHING IDENTITY.*—A document described
10 in this subparagraph is an individual’s—

11 “(I) unexpired United States
12 passport or passport card;

13 “(II) unexpired permanent resi-
14 dent card that contains a photograph;

15 “(III) unexpired employment au-
16 thorization card that contains a photo-
17 graph;

18 “(IV) in the case of a non-
19 immigrant alien authorized to work for
20 a specific employer incident to status,
21 a foreign passport with Form I-94 or
22 Form I-94A, or other documentation
23 as designated by the Secretary speci-
24 fying the alien’s nonimmigrant status
25 as long as the period of status has not

1 *yet expired and the proposed employ-*
2 *ment is not in conflict with any re-*
3 *strictions or limitations identified in*
4 *the documentation;*

5 *“(V) passport from the Federated*
6 *States of Micronesia (FSM) or the Re-*
7 *public of the Marshall Islands (RMI)*
8 *with Form I-94 or Form I-94A, or*
9 *other documentation as designated by*
10 *the Secretary, indicating non-*
11 *immigrant admission under the Com-*
12 *pact of Free Association Between the*
13 *United States and the FSM or RMI; or*

14 *“(VI) other document designated*
15 *by the Secretary of Homeland Secu-*
16 *rity, if the document—*

17 *“(aa) contains a photograph*
18 *of the individual and biometric*
19 *identification data from the indi-*
20 *vidual and such other personal*
21 *identifying information relating*
22 *to the individual as the Secretary*
23 *of Homeland Security finds, by*
24 *regulation, sufficient for purposes*
25 *of this clause;*

1 “(bb) is evidence of author-
2 zation of employment in the
3 United States; and

4 “(cc) contains security fea-
5 tures to make it resistant to tam-
6 pering, counterfeiting, and fraud-
7 ulent use.

8 “(iii) *DOCUMENTS EVIDENCING EM-*
9 *PLOYMENT AUTHORIZATION.*—A document
10 described in this subparagraph is an indi-
11 vidual’s social security account number
12 card (other than such a card which specifies
13 on the face that the issuance of the card does
14 not authorize employment in the United
15 States).

16 “(iv) *DOCUMENTS ESTABLISHING*
17 *IDENTITY OF INDIVIDUAL.*—A document de-
18 scribed in this subparagraph is—

19 “(I) an individual’s unexpired
20 State issued driver’s license or identi-
21 fication card if it contains a photo-
22 graph and information such as name,
23 date of birth, gender, height, eye color,
24 and address;

1 “(II) *an individual’s unexpired*
2 *U.S. military identification card;*

3 “(III) *an individual’s unexpired*
4 *Native American tribal identification*
5 *document issued by a tribal entity rec-*
6 *ognized by the Bureau of Indian Af-*
7 *fairs; or*

8 “(IV) *in the case of an individual*
9 *under 18 years of age, a parent or*
10 *legal guardian’s attestation under pen-*
11 *alty of law as to the identity and age*
12 *of the individual.*

13 “(v) *AUTHORITY TO PROHIBIT USE OF*
14 *CERTAIN DOCUMENTS.—If the Secretary of*
15 *Homeland Security finds, by regulation,*
16 *that any document described in clause (i),*
17 *(ii), or (iii) as establishing employment au-*
18 *thorization or identity does not reliably es-*
19 *tablish such authorization or identity or is*
20 *being used fraudulently to an unacceptable*
21 *degree, the Secretary may prohibit or place*
22 *conditions on its use for purposes of this*
23 *paragraph.*

1 “(vi) *SIGNATURE.*—*Such attestation*
2 *may be manifested by either a handwritten*
3 *or electronic signature.*

4 “(B) *INDIVIDUAL ATTESTATION OF EMPLOY-*
5 *MENT AUTHORIZATION.*—*During the verification*
6 *period (as defined in subparagraph (E)), the in-*
7 *dividual shall attest, under penalty of perjury on*
8 *the form designated or established for purposes of*
9 *subparagraph (A), that the individual is a cit-*
10 *izen or national of the United States, an alien*
11 *lawfully admitted for permanent residence, or an*
12 *alien who is authorized under this Act or by the*
13 *Secretary of Homeland Security to be hired, re-*
14 *cruted, or referred for such employment. Such*
15 *attestation may be manifested by either a hand-*
16 *written or electronic signature. The individual*
17 *shall also provide that individual’s social secu-*
18 *rity account number or United States passport*
19 *number (if the individual claims to have been*
20 *issued such a number), and, if the individual*
21 *does not attest to United States nationality*
22 *under this subparagraph, such identification or*
23 *authorization number established by the Depart-*
24 *ment of Homeland Security for the alien as the*
25 *Secretary may specify.*

1 “(C) *RETENTION OF VERIFICATION FORM*
2 *AND VERIFICATION.*—

3 “(i) *IN GENERAL.*—*After completion of*
4 *such form in accordance with subpara-*
5 *graphs (A) and (B), the person or entity*
6 *shall—*

7 “(I) *retain a paper or electronic*
8 *version of the form and make it avail-*
9 *able for inspection by officers of the*
10 *Department of Homeland Security, the*
11 *Department of Justice, or the Depart-*
12 *ment of Labor during a period begin-*
13 *ning on the date of the recruiting or*
14 *referral of the individual, or, in the*
15 *case of the hiring of an individual, the*
16 *date on which the verification is com-*
17 *pleted, and ending—*

18 “(aa) *in the case of the re-*
19 *cruiting or referral of an indi-*
20 *vidual, 3 years after the date of*
21 *the recruiting or referral; and*

22 “(bb) *in the case of the hir-*
23 *ing of an individual, the later of*
24 *3 years after the date the verifica-*
25 *tion is completed or one year after*

1 the date the individual's employ-
2 ment is terminated; and

3 “(II) during the verification pe-
4 riod (as defined in subparagraph (E)),
5 make an inquiry, as provided in sub-
6 section (d), using the verification sys-
7 tem to seek verification of the identity
8 and employment eligibility of an indi-
9 vidual.

10 “(i) CONFIRMATION.—

11 “(I) CONFIRMATION RECEIVED.—
12 If the person or other entity receives an
13 appropriate confirmation of an indi-
14 vidual's identity and work eligibility
15 under the verification system within
16 the time period specified, the person or
17 entity shall record on the form an ap-
18 propriate code that is provided under
19 the system and that indicates a final
20 confirmation of such identity and work
21 eligibility of the individual.

22 “(II) TENTATIVE NONCONFIRMA-
23 TION RECEIVED.—If the person or
24 other entity receives a tentative non-
25 confirmation of an individual's iden-

1 *tity or work eligibility under the*
2 *verification system within the time pe-*
3 *riod specified, the person or entity*
4 *shall so inform the individual for*
5 *whom the verification is sought. If the*
6 *individual does not contest the noncon-*
7 *firmation within the time period speci-*
8 *fied, the nonconfirmation shall be con-*
9 *sidered final. The person or entity*
10 *shall then record on the form an ap-*
11 *propriate code which has been provided*
12 *under the system to indicate a final*
13 *nonconfirmation. If the individual does*
14 *contest the nonconfirmation, the indi-*
15 *vidual shall utilize the process for sec-*
16 *ondary verification provided under*
17 *subsection (d). The nonconfirmation*
18 *will remain tentative until a final con-*
19 *firmation or nonconfirmation is pro-*
20 *vided by the verification system within*
21 *the time period specified. In no case*
22 *shall an employer terminate employ-*
23 *ment of an individual because of a*
24 *failure of the individual to have iden-*
25 *tity and work eligibility confirmed*

1 *under this section until a noncon-*
2 *firmation becomes final. Nothing in*
3 *this clause shall apply to a termi-*
4 *nation of employment for any reason*
5 *other than because of such a failure. In*
6 *no case shall an employer rescind the*
7 *offer of employment to an individual*
8 *because of a failure of the individual to*
9 *have identity and work eligibility con-*
10 *firmed under this subsection until a*
11 *nonconfirmation becomes final. Noth-*
12 *ing in this subclause shall apply to a*
13 *recission of the offer of employment for*
14 *any reason other than because of such*
15 *a failure.*

16 “(III) *FINAL CONFIRMATION OR*
17 *NONCONFIRMATION RECEIVED.—If a*
18 *final confirmation or nonconfirmation*
19 *is provided by the verification system*
20 *regarding an individual, the person or*
21 *entity shall record on the form an ap-*
22 *propriate code that is provided under*
23 *the system and that indicates a con-*
24 *firmation or nonconfirmation of iden-*

1 *tity and work eligibility of the indi-*
2 *vidual.*

3 “(IV) *EXTENSION OF TIME.*—*If*
4 *the person or other entity in good faith*
5 *attempts to make an inquiry during*
6 *the time period specified and the*
7 *verification system has registered that*
8 *not all inquiries were received during*
9 *such time, the person or entity may*
10 *make an inquiry in the first subse-*
11 *quent working day in which the*
12 *verification system registers that it has*
13 *received all inquiries. If the*
14 *verification system cannot receive in-*
15 *quiries at all times during a day, the*
16 *person or entity merely has to assert*
17 *that the entity attempted to make the*
18 *inquiry on that day for the previous*
19 *sentence to apply to such an inquiry,*
20 *and does not have to provide any addi-*
21 *tional proof concerning such inquiry.*

22 “(V) *CONSEQUENCES OF NONCON-*
23 *FIRMATION.*—

24 “(aa) *TERMINATION OR NO-*
25 *TIFICATION OF CONTINUED EM-*

1 *PLOYMENT.—If the person or*
2 *other entity has received a final*
3 *nonconfirmation regarding an in-*
4 *dividual, the person or entity may*
5 *terminate employment of the indi-*
6 *vidual (or decline to recruit or*
7 *refer the individual). If the person*
8 *or entity does not terminate em-*
9 *ployment of the individual or pro-*
10 *ceeds to recruit or refer the indi-*
11 *vidual, the person or entity shall*
12 *notify the Secretary of Homeland*
13 *Security of such fact through the*
14 *verification system or in such*
15 *other manner as the Secretary*
16 *may specify.*

17 *“(bb) FAILURE TO NOTIFY.—*
18 *If the person or entity fails to*
19 *provide notice with respect to an*
20 *individual as required under item*
21 *(aa), the failure is deemed to con-*
22 *stitute a violation of subsection*
23 *(a)(1)(A) with respect to that in-*
24 *dividual.*

1 “(VI) *CONTINUED EMPLOYMENT*
2 *AFTER FINAL NONCONFIRMATION.*—*If*
3 *the person or other entity continues to*
4 *employ (or to recruit or refer) an indi-*
5 *vidual after receiving final noncon-*
6 *firmation, a rebuttable presumption is*
7 *created that the person or entity has*
8 *violated subsection (a)(1)(A).*

9 “(D) *EFFECTIVE DATES OF NEW PROCE-*
10 *DURES.*—

11 “(i) *HIRING.*—*Except as provided in*
12 *clause (iii), the provisions of this paragraph*
13 *shall apply to a person or other entity hir-*
14 *ing an individual for employment in the*
15 *United States as follows:*

16 “(I) *With respect to employers*
17 *having 10,000 or more employees in*
18 *the United States on the date of the en-*
19 *actment of the Legal Workforce Act, on*
20 *the date that is 6 months after the date*
21 *of the enactment of such Act.*

22 “(II) *With respect to employers*
23 *having 500 or more employees in the*
24 *United States, but less than 10,000 em-*
25 *ployees in the United States, on the*

1 *date of the enactment of the Legal*
2 *Workforce Act, on the date that is 12*
3 *months after the date of the enactment*
4 *of such Act.*

5 “(III) *With respect to employers*
6 *having 20 or more employees in the*
7 *United States, but less than 500 em-*
8 *ployees in the United States, on the*
9 *date of the enactment of the Legal*
10 *Workforce Act, on the date that is 18*
11 *months after the date of the enactment*
12 *of such Act.*

13 “(IV) *With respect to employers*
14 *having one or more employees in the*
15 *United States, but less than 20 em-*
16 *ployees in the United States, on the*
17 *date of the enactment of the Legal*
18 *Workforce Act, on the date that is 24*
19 *months after the date of the enactment*
20 *of such Act.*

21 “(ii) *RECRUITING AND REFERRING.—*
22 *Except as provided in clause (iii), the pro-*
23 *visions of this paragraph shall apply to a*
24 *person or other entity recruiting or refer-*
25 *ring an individual for employment in the*

1 *United States on the date that is 12 months*
2 *after the date of the enactment of the Legal*
3 *Workforce Act.*

4 “(iii) *AGRICULTURAL LABOR OR SERV-*
5 *ICES.—With respect to an employee per-*
6 *forming agricultural labor or services, this*
7 *paragraph shall not apply with respect to*
8 *the verification of the employee until the*
9 *date that is 36 months after the date of the*
10 *enactment of the Legal Workforce Act. For*
11 *purposes of the preceding sentence, the term*
12 *‘agricultural labor or services’ has the*
13 *meaning given such term by the Secretary*
14 *of Agriculture in regulations and includes*
15 *agricultural labor as defined in section*
16 *3121(g) of the Internal Revenue Code of*
17 *1986, agriculture as defined in section 3(f)*
18 *of the Fair Labor Standards Act of 1938*
19 *(29 U.S.C. 203(f)), the handling, planting,*
20 *drying, packing, packaging, processing,*
21 *freezing, or grading prior to delivery for*
22 *storage of any agricultural or horticultural*
23 *commodity in its unmanufactured state, all*
24 *activities required for the preparation, proc-*
25 *essing or manufacturing of a product of ag-*

1 *riculture (as such term is defined in such*
2 *section 3(f)) for further distribution, and*
3 *activities similar to all the foregoing as they*
4 *relate to fish or shellfish facilities. An em-*
5 *ployee described in this clause shall not be*
6 *counted for purposes of clause (i).*

7 *“(iv) EXTENSIONS.—*

8 *“(I) ON REQUEST.—Upon request*
9 *by an employer having 50 or fewer em-*
10 *ployees, the Secretary shall allow a*
11 *one-time 6-month extension of the effec-*
12 *tive date set out in this subparagraph*
13 *applicable to such employer. Such re-*
14 *quest shall be made to the Secretary*
15 *and shall be made prior to such effec-*
16 *tive date.*

17 *“(II) FOLLOWING REPORT.—If the*
18 *study under section 715 of the Legal*
19 *Workforce Act has been submitted in*
20 *accordance with such section, the Sec-*
21 *retary of Homeland Security may ex-*
22 *tend the effective date set out in clause*
23 *(iii) on a one-time basis for 12 months.*

24 *“(v) TRANSITION RULE.—Subject to*
25 *paragraph (4), the following shall apply to*

1 a person or other entity hiring, recruiting,
2 or referring an individual for employment
3 in the United States until the effective date
4 or dates applicable under clauses (i)
5 through (iii):

6 “(I) This subsection, as in effect
7 before the enactment of the Legal Work-
8 force Act.

9 “(II) Subtitle A of title IV of the
10 Illegal Immigration Reform and Im-
11 migrant Responsibility Act of 1996 (8
12 U.S.C. 1324a note), as in effect before
13 the effective date in section 707(c) of
14 the Legal Workforce Act.

15 “(III) Any other provision of Fed-
16 eral law requiring the person or entity
17 to participate in the E-Verify Program
18 described in section 403(a) of the Ille-
19 gal Immigration Reform and Immi-
20 grant Responsibility Act of 1996 (8
21 U.S.C. 1324a note), as in effect before
22 the effective date in section 707(c) of
23 the Legal Workforce Act, including Ex-
24 ecutive Order 13465 (8 U.S.C. 1324a

1 *note; relating to Government procure-*
2 *ment).*

3 “(E) *VERIFICATION PERIOD DEFINED.*—

4 “(i) *IN GENERAL.*—*For purposes of*
5 *this paragraph:*

6 “(I) *In the case of recruitment or*
7 *referral, the term ‘verification period’*
8 *means the period ending on the date*
9 *recruiting or referring commences.*

10 “(II) *In the case of hiring, the*
11 *term ‘verification period’ means the*
12 *period beginning on the date on which*
13 *an offer of employment is extended and*
14 *ending on the date that is three busi-*
15 *ness days after the date of hire, except*
16 *as provided in clause (iii). The offer of*
17 *employment may be conditioned in ac-*
18 *cordance with clause (ii).*

19 “(ii) *JOB OFFER MAY BE CONDI-*
20 *TIONAL.*—*A person or other entity may*
21 *offer a prospective employee an employment*
22 *position that is conditioned on final*
23 *verification of the identity and employment*
24 *eligibility of the employee using the proce-*
25 *dures established under this paragraph.*

1 “(iii) *SPECIAL RULE.*—*Notwithstanding*
2 *ing clause (i)(II), in the case of an alien*
3 *who is authorized for employment and who*
4 *provides evidence from the Social Security*
5 *Administration that the alien has applied*
6 *for a social security account number, the*
7 *verification period ends three business days*
8 *after the alien receives the social security*
9 *account number.*

10 “(2) *REVERIFICATION FOR INDIVIDUALS WITH*
11 *LIMITED WORK AUTHORIZATION.*—

12 “(A) *IN GENERAL.*—*Except as provided in*
13 *subparagraph (B), a person or entity shall make*
14 *an inquiry, as provided in subsection (d), using*
15 *the verification system to seek reverification of*
16 *the identity and employment eligibility of all in-*
17 *dividuals with a limited period of work author-*
18 *ization employed by the person or entity during*
19 *the three business days after the date on which*
20 *the employee’s work authorization expires as fol-*
21 *lows:*

22 “(i) *With respect to employers having*
23 *10,000 or more employees in the United*
24 *States on the date of the enactment of the*
25 *Legal Workforce Act, beginning on the date*

1 *that is 6 months after the date of the enact-*
2 *ment of such Act.*

3 “(ii) *With respect to employers having*
4 *500 or more employees in the United States,*
5 *but less than 10,000 employees in the*
6 *United States, on the date of the enactment*
7 *of the Legal Workforce Act, beginning on the*
8 *date that is 12 months after the date of the*
9 *enactment of such Act.*

10 “(iii) *With respect to employers having*
11 *20 or more employees in the United States,*
12 *but less than 500 employees in the United*
13 *States, on the date of the enactment of the*
14 *Legal Workforce Act, beginning on the date*
15 *that is 18 months after the date of the en-*
16 *actment of such Act.*

17 “(iv) *With respect to employers having*
18 *one or more employees in the United States,*
19 *but less than 20 employees in the United*
20 *States, on the date of the enactment of the*
21 *Legal Workforce Act, beginning on the date*
22 *that is 24 months after the date of the en-*
23 *actment of such Act.*

24 “(B) *AGRICULTURAL LABOR OR SERV-*
25 *ICES.—With respect to an employee performing*

1 *agricultural labor or services, or an employee re-*
2 *cruted or referred by a farm labor contractor (as*
3 *defined in section 3 of the Migrant and Seasonal*
4 *Agricultural Worker Protection Act (29 U.S.C.*
5 *1801)), subparagraph (A) shall not apply with*
6 *respect to the reverification of the employee until*
7 *the date that is 36 months after the date of the*
8 *enactment of the Legal Workforce Act. For pur-*
9 *poses of the preceding sentence, the term ‘agricul-*
10 *tural labor or services’ has the meaning given*
11 *such term by the Secretary of Agriculture in reg-*
12 *ulations and includes agricultural labor as de-*
13 *finied in section 3121(g) of the Internal Revenue*
14 *Code of 1986, agriculture as defined in section*
15 *3(f) of the Fair Labor Standards Act of 1938 (29*
16 *U.S.C. 203(f)), the handling, planting, drying,*
17 *packing, packaging, processing, freezing, or grad-*
18 *ing prior to delivery for storage of any agricul-*
19 *tural or horticultural commodity in its unmanu-*
20 *factured state, all activities required for the*
21 *preparation, processing, or manufacturing of a*
22 *product of agriculture (as such term is defined*
23 *in such section 3(f)) for further distribution, and*
24 *activities similar to all the foregoing as they re-*
25 *late to fish or shellfish facilities. An employee de-*

1 *scribed in this subparagraph shall not be counted*
2 *for purposes of subparagraph (A).*

3 “(C) *REVERIFICATION.—Paragraph*
4 *(1)(C)(ii) shall apply to reverifications pursuant*
5 *to this paragraph on the same basis as it applies*
6 *to verifications pursuant to paragraph (1), ex-*
7 *cept that employers shall—*

8 “(i) *use a form designated or estab-*
9 *lished by the Secretary by regulation for*
10 *purposes of this paragraph; and*

11 “(ii) *retain a paper or electronic*
12 *version of the form and make it available*
13 *for inspection by officers of the Department*
14 *of Homeland Security, the Department of*
15 *Justice, or the Department of Labor during*
16 *the period beginning on the date the*
17 *reverification commences and ending on the*
18 *date that is the later of 3 years after the*
19 *date of such reverification or 1 year after*
20 *the date the individual’s employment is ter-*
21 *minated.*

22 “(3) *PREVIOUSLY HIRED INDIVIDUALS.—*

23 “(A) *ON A MANDATORY BASIS FOR CERTAIN*
24 *EMPLOYEES.—*

1 “(i) *IN GENERAL.*—Not later than the
2 date that is 6 months after the date of the
3 enactment of the *Legal Workforce Act*, an
4 employer shall make an inquiry, as pro-
5 vided in subsection (d), using the
6 verification system to seek verification of the
7 identity and employment eligibility of any
8 individual described in clause (ii) employed
9 by the employer whose employment eligi-
10 bility has not been verified under the *E-*
11 *Verify Program* described in section 403(a)
12 of the *Illegal Immigration Reform and Im-*
13 *migrant Responsibility Act of 1996* (8
14 *U.S.C. 1324a note*).

15 “(ii) *INDIVIDUALS DESCRIBED.*—An
16 individual described in this clause is any of
17 the following:

18 “(I) An employee of any unit of a
19 *Federal, State, or local government.*

20 “(II) An employee who requires a
21 *Federal security clearance working in*
22 *a Federal, State, or local government*
23 *building, a military base, a nuclear*
24 *energy site, a weapons site, or an air-*
25 *port or other facility that requires*

1 *workers to carry a Transportation*
2 *Worker Identification Credential*
3 *(TWIC).*

4 “(III) *An employee assigned to*
5 *perform work in the United States*
6 *under a Federal contract, except that*
7 *this subclause—*

8 “(aa) *is not applicable to in-*
9 *dividuals who have a clearance*
10 *under Homeland Security Presi-*
11 *dential Directive 12 (HSPD 12*
12 *clearance), are administrative or*
13 *overhead personnel, or are work-*
14 *ing solely on contracts that pro-*
15 *vide Commercial Off The Shelf*
16 *goods or services as set forth by*
17 *the Federal Acquisition Regu-*
18 *latory Council, unless they are*
19 *subject to verification under sub-*
20 *clause (II); and*

21 “(bb) *only applies to con-*
22 *tracts over the simple acquisition*
23 *threshold as defined in section*
24 *2.101 of title 48, Code of Federal*
25 *Regulations.*

1 “(B) ON A MANDATORY BASIS FOR MUL-
2 TIPLE USERS OF SAME SOCIAL SECURITY AC-
3 COUNT NUMBER.—*In the case of an employer*
4 *who is required by this subsection to use the*
5 *verification system described in subsection (d), or*
6 *has elected voluntarily to use such system, the*
7 *employer shall make inquiries to the system in*
8 *accordance with the following:*

9 “(i) *The Commissioner of Social Secu-*
10 *rity shall notify annually employees (at the*
11 *employee address listed on the Wage and*
12 *Tax Statement) who submit a social secu-*
13 *rity account number to which more than*
14 *one employer reports income and for which*
15 *there is a pattern of unusual multiple use.*
16 *The notification letter shall identify the*
17 *number of employers to which income is*
18 *being reported as well as sufficient informa-*
19 *tion notifying the employee of the process to*
20 *contact the Social Security Administration*
21 *Fraud Hotline if the employee believes the*
22 *employee’s identity may have been stolen.*
23 *The notice shall not share information pro-*
24 *ected as private, in order to avoid any re-*
25 *cipient of the notice from being in the posi-*

1 *tion to further commit or begin committing*
2 *identity theft.*

3 *“(ii) If the person to whom the social*
4 *security account number was issued by the*
5 *Social Security Administration has been*
6 *identified and confirmed by the Commis-*
7 *sioner, and indicates that the social security*
8 *account number was used without their*
9 *knowledge, the Secretary and the Commis-*
10 *sioner shall lock the social security account*
11 *number for employment eligibility*
12 *verification purposes and shall notify the*
13 *employers of the individuals who wrongfully*
14 *submitted the social security account num-*
15 *ber that the employee may not be work eli-*
16 *gible.*

17 *“(iii) Each employer receiving such*
18 *notification of an incorrect social security*
19 *account number under clause (ii) shall use*
20 *the verification system described in sub-*
21 *section (d) to check the work eligibility sta-*
22 *tus of the applicable employee within 10*
23 *business days of receipt of the notification.*

24 *“(C) ON A VOLUNTARY BASIS.—Subject to*
25 *paragraph (2), and subparagraphs (A) through*

1 (C) of this paragraph, beginning on the date that
2 is 30 days after the date of the enactment of the
3 Legal Workforce Act, an employer may make an
4 inquiry, as provided in subsection (d), using the
5 verification system to seek verification of the
6 identity and employment eligibility of any indi-
7 vidual employed by the employer. If an employer
8 chooses voluntarily to seek verification of any in-
9 dividual employed by the employer, the employer
10 shall seek verification of all individuals em-
11 ployed at the same geographic location or, at the
12 option of the employer, all individuals employed
13 within the same job category, as the employee
14 with respect to whom the employer seeks volun-
15 tarily to use the verification system. An employ-
16 er's decision about whether or not voluntarily to
17 seek verification of its current workforce under
18 this subparagraph may not be considered by any
19 government agency in any proceeding, investiga-
20 tion, or review provided for in this Act.

21 “(D) VERIFICATION.—Paragraph (1)(C)(ii)
22 shall apply to verifications pursuant to this
23 paragraph on the same basis as it applies to
24 verifications pursuant to paragraph (1), except
25 that employers shall—

1 “(i) use a form designated or estab-
2 lished by the Secretary by regulation for
3 purposes of this paragraph; and

4 “(ii) retain a paper or electronic
5 version of the form and make it available
6 for inspection by officers of the Department
7 of Homeland Security, the Department of
8 Justice, or the Department of Labor during
9 the period beginning on the date the
10 verification commences and ending on the
11 date that is the later of 3 years after the
12 date of such verification or 1 year after the
13 date the individual’s employment is termi-
14 nated.

15 “(4) *EARLY COMPLIANCE.*—

16 “(A) *FORMER E-VERIFY REQUIRED USERS,*
17 *INCLUDING FEDERAL CONTRACTORS.*—*Notwith-*
18 *standing the deadlines in paragraphs (1) and*
19 *(2), beginning on the date of the enactment of the*
20 *Legal Workforce Act, the Secretary is authorized*
21 *to commence requiring employers required to*
22 *participate in the E-Verify Program described in*
23 *section 403(a) of the Illegal Immigration Reform*
24 *and Immigrant Responsibility Act of 1996 (8*
25 *U.S.C. 1324a note), including employers re-*

1 *quired to participate in such program by reason*
2 *of Federal acquisition laws (and regulations pro-*
3 *mulgated under those laws, including the Federal*
4 *Acquisition Regulation), to commence compli-*
5 *ance with the requirements of this subsection*
6 *(and any additional requirements of such Fed-*
7 *eral acquisition laws and regulation) in lieu of*
8 *any requirement to participate in the E-Verify*
9 *Program.*

10 “(B) *FORMER E-VERIFY VOLUNTARY USERS*
11 *AND OTHERS DESIRING EARLY COMPLIANCE.—*
12 *Notwithstanding the deadlines in paragraphs (1)*
13 *and (2), beginning on the date of the enactment*
14 *of the Legal Workforce Act, the Secretary shall*
15 *provide for the voluntary compliance with the re-*
16 *quirements of this subsection by employers volun-*
17 *tarily electing to participate in the E-Verify*
18 *Program described in section 403(a) of the Ille-*
19 *gal Immigration Reform and Immigrant Re-*
20 *sponsibility Act of 1996 (8 U.S.C. 1324a note)*
21 *before such date, as well as by other employers*
22 *seeking voluntary early compliance.*

23 “(5) *COPYING OF DOCUMENTATION PER-*
24 *MITTED.—Notwithstanding any other provision of*
25 *law, the person or entity may copy a document pre-*

1 *mented by an individual pursuant to this subsection*
2 *and may retain the copy, but only (except as other-*
3 *wise permitted under law) for the purpose of com-*
4 *plying with the requirements of this subsection.*

5 “(6) *LIMITATION ON USE OF FORMS.—A form*
6 *designated or established by the Secretary of Home-*
7 *land Security under this subsection and any informa-*
8 *tion contained in or appended to such form, may not*
9 *be used for purposes other than for enforcement of this*
10 *Act and any other provision of Federal criminal law.*

11 “(7) *GOOD FAITH COMPLIANCE.—*

12 “(A) *IN GENERAL.—Except as otherwise*
13 *provided in this subsection, a person or entity is*
14 *considered to have complied with a requirement*
15 *of this subsection notwithstanding a technical or*
16 *procedural failure to meet such requirement if*
17 *there was a good faith attempt to comply with*
18 *the requirement.*

19 “(B) *EXCEPTION IF FAILURE TO CORRECT*
20 *AFTER NOTICE.—Subparagraph (A) shall not*
21 *apply if—*

22 “(i) *the failure is not de minimus;*

23 “(ii) *the Secretary of Homeland Secu-*
24 *rity has explained to the person or entity*

1 *the basis for the failure and why it is not*
2 *de minimus;*

3 “(iii) *the person or entity has been*
4 *provided a period of not less than 30 cal-*
5 *endar days (beginning after the date of the*
6 *explanation) within which to correct the*
7 *failure; and*

8 “(iv) *the person or entity has not cor-*
9 *rected the failure voluntarily within such*
10 *period.*

11 “(C) *EXCEPTION FOR PATTERN OR PRAC-*
12 *TICE VIOLATORS.—Subparagraph (A) shall not*
13 *apply to a person or entity that has engaged or*
14 *is engaging in a pattern or practice of violations*
15 *of subsection (a)(1)(A) or (a)(2).*

16 “(8) *SINGLE EXTENSION OF DEADLINES UPON*
17 *CERTIFICATION.—In a case in which the Secretary of*
18 *Homeland Security has certified to the Congress that*
19 *the employment eligibility verification system re-*
20 *quired under subsection (d) will not be fully oper-*
21 *ational by the date that is 6 months after the date of*
22 *the enactment of the Legal Workforce Act, each dead-*
23 *line established under this section for an employer to*
24 *make an inquiry using such system shall be extended*
25 *by 6 months. No other extension of such a deadline*

1 *shall be made except as authorized under paragraph*
 2 *(1)(D)(iv).”.*

3 **(b) DATE OF HIRE.**—*Section 274A(h) of the Immigra-*
 4 *tion and Nationality Act (8 U.S.C. 1324a(h)) is amended*
 5 *by adding at the end the following:*

6 **“(4) DEFINITION OF DATE OF HIRE.**—*As used in*
 7 *this section, the term ‘date of hire’ means the date of*
 8 *actual commencement of employment for wages or*
 9 *other remuneration, unless otherwise specified.”.*

10 **SEC. 703. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
 11 **TEM.**

12 *Section 274A(d) of the Immigration and Nationality*
 13 *Act (8 U.S.C. 1324a(d)) is amended to read as follows:*

14 **“(d) EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
 15 **TEM.**—

16 **“(1) IN GENERAL.**—*Patterned on the employ-*
 17 *ment eligibility confirmation system established under*
 18 *section 404 of the Illegal Immigration Reform and*
 19 *Immigrant Responsibility Act of 1996 (8 U.S.C.*
 20 *1324a note), the Secretary of Homeland Security*
 21 *shall establish and administer a verification system*
 22 *through which the Secretary (or a designee of the Sec-*
 23 *retary, which may be a nongovernmental entity)—*

24 **“(A) responds to inquiries made by persons**
 25 *at any time through a toll-free electronic media*

1 *concerning an individual's identity and whether*
2 *the individual is authorized to be employed; and*

3 “(B) *maintains records of the inquiries that*
4 *were made, of verifications provided (or not pro-*
5 *vided), and of the codes provided to inquirers as*
6 *evidence of their compliance with their obliga-*
7 *tions under this section.*

8 “(2) *INITIAL RESPONSE.—The verification sys-*
9 *tem shall provide confirmation or a tentative noncon-*
10 *firmation of an individual's identity and employment*
11 *eligibility within 3 working days of the initial in-*
12 *quiry. If providing confirmation or tentative noncon-*
13 *firmation, the verification system shall provide an*
14 *appropriate code indicating such confirmation or*
15 *such nonconfirmation.*

16 “(3) *SECONDARY CONFIRMATION PROCESS IN*
17 *CASE OF TENTATIVE NONCONFIRMATION.—In cases of*
18 *tentative nonconfirmation, the Secretary shall specify,*
19 *in consultation with the Commissioner of Social Se-*
20 *curity, an available secondary verification process to*
21 *confirm the validity of information provided and to*
22 *provide a final confirmation or nonconfirmation not*
23 *later than 10 working days after the date on which*
24 *the notice of the tentative nonconfirmation is received*
25 *by the employee. The Secretary, in consultation with*

1 *the Commissioner, may extend this deadline once on*
2 *a case-by-case basis for a period of 10 working days,*
3 *and if the time is extended, shall document such ex-*
4 *ension within the verification system. The Secretary,*
5 *in consultation with the Commissioner, shall notify*
6 *the employee and employer of such extension. The*
7 *Secretary, in consultation with the Commissioner,*
8 *shall create a standard process of such extension and*
9 *notification and shall make a description of such*
10 *process available to the public. When final confirma-*
11 *tion or nonconfirmation is provided, the verification*
12 *system shall provide an appropriate code indicating*
13 *such confirmation or nonconfirmation.*

14 “(4) *DESIGN AND OPERATION OF SYSTEM.—The*
15 *verification system shall be designed and operated—*

16 “(A) *to maximize its reliability and ease of*
17 *use by persons and other entities consistent with*
18 *insulating and protecting the privacy and secu-*
19 *rity of the underlying information;*

20 “(B) *to respond to all inquiries made by*
21 *such persons and entities on whether individuals*
22 *are authorized to be employed and to register all*
23 *times when such inquiries are not received;*

1 “(C) with appropriate administrative, tech-
2 nical, and physical safeguards to prevent unau-
3 thorized disclosure of personal information;

4 “(D) to have reasonable safeguards against
5 the system’s resulting in unlawful discrimina-
6 tory practices based on national origin or citi-
7 zenship status, including—

8 “(i) the selective or unauthorized use of
9 the system to verify eligibility; or

10 “(ii) the exclusion of certain individ-
11 uals from consideration for employment as
12 a result of a perceived likelihood that addi-
13 tional verification will be required, beyond
14 what is required for most job applicants;

15 “(E) to maximize the prevention of identity
16 theft use in the system; and

17 “(F) to limit the subjects of verification to
18 the following individuals:

19 “(i) Individuals hired, referred, or re-
20 cruited, in accordance with paragraph (1)
21 or (4) of subsection (b).

22 “(ii) Employees and prospective em-
23 ployees, in accordance with paragraph (1),
24 (2), (3), or (4) of subsection (b).

1 “(iii) *Individuals seeking to confirm*
2 *their own employment eligibility on a vol-*
3 *untary basis.*

4 “(5) *RESPONSIBILITIES OF COMMISSIONER OF*
5 *SOCIAL SECURITY.—As part of the verification sys-*
6 *tem, the Commissioner of Social Security, in con-*
7 *sultation with the Secretary of Homeland Security*
8 *(and any designee of the Secretary selected to estab-*
9 *lish and administer the verification system), shall es-*
10 *tablish a reliable, secure method, which, within the*
11 *time periods specified under paragraphs (2) and (3),*
12 *compares the name and social security account num-*
13 *ber provided in an inquiry against such information*
14 *maintained by the Commissioner in order to validate*
15 *(or not validate) the information provided regarding*
16 *an individual whose identity and employment eligi-*
17 *bility must be confirmed, the correspondence of the*
18 *name and number, and whether the individual has*
19 *presented a social security account number that is not*
20 *valid for employment. The Commissioner shall not*
21 *disclose or release social security information (other*
22 *than such confirmation or nonconfirmation) under*
23 *the verification system except as provided for in this*
24 *section or section 205(c)(2)(I) of the Social Security*
25 *Act.*

1 “(6) *RESPONSIBILITIES OF SECRETARY OF*
2 *HOMELAND SECURITY.*—*As part of the verification*
3 *system, the Secretary of Homeland Security (in con-*
4 *sultation with any designee of the Secretary selected*
5 *to establish and administer the verification system),*
6 *shall establish a reliable, secure method, which, within*
7 *the time periods specified under paragraphs (2) and*
8 *(3), compares the name and alien identification or*
9 *authorization number (or any other information as*
10 *determined relevant by the Secretary) which are pro-*
11 *vided in an inquiry against such information main-*
12 *tained or accessed by the Secretary in order to vali-*
13 *date (or not validate) the information provided, the*
14 *correspondence of the name and number, whether the*
15 *alien is authorized to be employed in the United*
16 *States, or to the extent that the Secretary determines*
17 *to be feasible and appropriate, whether the records*
18 *available to the Secretary verify the identity or status*
19 *of a national of the United States.*

20 “(7) *UPDATING INFORMATION.*—*The Commis-*
21 *sioner of Social Security and the Secretary of Home-*
22 *land Security shall update their information in a*
23 *manner that promotes the maximum accuracy and*
24 *shall provide a process for the prompt correction of*
25 *erroneous information, including instances in which*

1 *it is brought to their attention in the secondary*
2 *verification process described in paragraph (3).*

3 “(8) *LIMITATION ON USE OF THE VERIFICATION*
4 *SYSTEM AND ANY RELATED SYSTEMS.—*

5 “(A) *NO NATIONAL IDENTIFICATION*
6 *CARD.—Nothing in this section shall be con-*
7 *strued to authorize, directly or indirectly, the*
8 *issuance or use of national identification cards*
9 *or the establishment of a national identification*
10 *card.*

11 “(B) *CRITICAL INFRASTRUCTURE.—The*
12 *Secretary may authorize or direct any person or*
13 *entity responsible for granting access to, pro-*
14 *tecting, securing, operating, administering, or*
15 *regulating part of the critical infrastructure (as*
16 *defined in section 1016(e) of the Critical Infra-*
17 *structure Protection Act of 2001 (42 U.S.C.*
18 *5195c(e))) to use the verification system to the*
19 *extent the Secretary determines that such use*
20 *will assist in the protection of the critical infra-*
21 *structure.*

22 “(9) *REMEDIES.—If an individual alleges that*
23 *the individual would not have been dismissed from a*
24 *job or would have been hired for a job but for an error*
25 *of the verification mechanism, the individual may*

1 *seek compensation only through the mechanism of the*
 2 *Federal Tort Claims Act, and injunctive relief to cor-*
 3 *rect such error. No class action may be brought under*
 4 *this paragraph.”.*

5 **SEC. 704. RECRUITMENT, REFERRAL, AND CONTINUATION**
 6 **OF EMPLOYMENT.**

7 *(a) ADDITIONAL CHANGES TO RULES FOR RECRUIT-*
 8 *MENT, REFERRAL, AND CONTINUATION OF EMPLOYMENT.—*
 9 *Section 274A(a) of the Immigration and Nationality Act*
 10 *(8 U.S.C. 1324a(a)) is amended—*

11 *(1) in paragraph (1)(A), by striking “for a fee”;*

12 *(2) in paragraph (1), by amending subpara-*
 13 *graph (B) to read as follows:*

14 *“(B) to hire, continue to employ, or to re-*
 15 *cruit or refer for employment in the United*
 16 *States an individual without complying with the*
 17 *requirements of subsection (b).”;* and

18 *(3) in paragraph (2), by striking “after hiring*
 19 *an alien for employment in accordance with para-*
 20 *graph (1),” and inserting “after complying with*
 21 *paragraph (1),”.*

22 *(b) DEFINITION.—Section 274A(h) of the Immigration*
 23 *and Nationality Act (8 U.S.C. 1324a(h)), as amended by*
 24 *section 2(b) of this Act, is further amended by adding at*
 25 *the end the following:*

1 “(5) *DEFINITION OF RECRUIT OR REFER.*—As
2 *used in this section, the term ‘refer’ means the act of*
3 *sending or directing a person who is in the United*
4 *States or transmitting documentation or information*
5 *to another, directly or indirectly, with the intent of*
6 *obtaining employment in the United States for such*
7 *person. Only persons or entities referring for remun-*
8 *eration (whether on a retainer or contingency basis)*
9 *are included in the definition, except that union hir-*
10 *ing halls that refer union members or nonunion indi-*
11 *viduals who pay union membership dues are included*
12 *in the definition whether or not they receive remun-*
13 *eration, as are labor service entities or labor service*
14 *agencies, whether public, private, for-profit, or non-*
15 *profit, that refer, dispatch, or otherwise facilitate the*
16 *hiring of laborers for any period of time by a third*
17 *party. As used in this section, the term ‘recruit’*
18 *means the act of soliciting a person who is in the*
19 *United States, directly or indirectly, and referring the*
20 *person to another with the intent of obtaining em-*
21 *ployment for that person. Only persons or entities re-*
22 *ferred for remuneration (whether on a retainer or*
23 *contingency basis) are included in the definition, ex-*
24 *cept that union hiring halls that refer union members*
25 *or nonunion individuals who pay union membership*

1 *dues are included in this definition whether or not*
 2 *they receive remuneration, as are labor service entities*
 3 *or labor service agencies, whether public, private, for-*
 4 *profit, or nonprofit that recruit, dispatch, or other-*
 5 *wise facilitate the hiring of laborers for any period of*
 6 *time by a third party.”.*

7 *(c) EFFECTIVE DATE.—The amendments made by this*
 8 *section shall take effect on the date that is 1 year after the*
 9 *date of the enactment of this Act, except that the amend-*
 10 *ments made by subsection (a) shall take effect 6 months*
 11 *after the date of the enactment of this Act insofar as such*
 12 *amendments relate to continuation of employment.*

13 **SEC. 705. GOOD FAITH DEFENSE.**

14 *Section 274A(a)(3) of the Immigration and Nation-*
 15 *ality Act (8 U.S.C. 1324a(a)(3)) is amended to read as fol-*
 16 *lows:*

17 *“(3) GOOD FAITH DEFENSE.—*

18 *“(A) DEFENSE.—An employer (or person or*
 19 *entity that hires, employs, recruits, or refers (as*
 20 *defined in subsection (h)(5)), or is otherwise obli-*
 21 *gated to comply with this section) who estab-*
 22 *lishes that it has complied in good faith with the*
 23 *requirements of subsection (b)—*

24 *“(i) shall not be liable to a job appli-*
 25 *cant, an employee, the Federal Government,*

1 or a State or local government, under Fed-
2 eral, State, or local criminal or civil law for
3 any employment-related action taken with
4 respect to a job applicant or employee in
5 good-faith reliance on information provided
6 through the system established under sub-
7 section (d); and

8 “(i) has established compliance with
9 its obligations under subparagraphs (A)
10 and (B) of paragraph (1) and subsection (b)
11 absent a showing by the Secretary of Home-
12 land Security, by clear and convincing evi-
13 dence, that the employer had knowledge that
14 an employee is an unauthorized alien.

15 “(B) *MITIGATION ELEMENT.*—For purposes
16 of subparagraph (A)(i), if an employer proves by
17 a preponderance of the evidence that the em-
18 ployer uses a reasonable, secure, and established
19 technology to authenticate the identity of the new
20 employee, that fact shall be taken into account
21 for purposes of determining good faith use of the
22 system established under subsection (d).

23 “(C) *FAILURE TO SEEK AND OBTAIN*
24 *VERIFICATION.*—Subject to the effective dates and
25 other deadlines applicable under subsection (b),

1 *in the case of a person or entity in the United*
2 *States that hires, or continues to employ, an in-*
3 *dividual, or recruits or refers an individual for*
4 *employment, the following requirements apply:*

5 “(i) *FAILURE TO SEEK*
6 *VERIFICATION.—*

7 “(I) *IN GENERAL.—If the person*
8 *or entity has not made an inquiry,*
9 *under the mechanism established under*
10 *subsection (d) and in accordance with*
11 *the timeframes established under sub-*
12 *section (b), seeking verification of the*
13 *identity and work eligibility of the in-*
14 *dividual, the defense under subpara-*
15 *graph (A) shall not be considered to*
16 *apply with respect to any employment,*
17 *except as provided in subclause (II).*

18 “(II) *SPECIAL RULE FOR FAILURE*
19 *OF VERIFICATION MECHANISM.—If such*
20 *a person or entity in good faith at-*
21 *tempts to make an inquiry in order to*
22 *qualify for the defense under subpara-*
23 *graph (A) and the verification mecha-*
24 *nism has registered that not all inquir-*
25 *ies were responded to during the rel-*

1 *evant time, the person or entity can*
2 *make an inquiry until the end of the*
3 *first subsequent working day in which*
4 *the verification mechanism registers no*
5 *nonresponses and qualify for such de-*
6 *fense.*

7 “(ii) *FAILURE TO OBTAIN*
8 *VERIFICATION.—If the person or entity has*
9 *made the inquiry described in clause (i)(I)*
10 *but has not received an appropriate*
11 *verification of such identity and work eligi-*
12 *bility under such mechanism within the*
13 *time period specified under subsection*
14 *(d)(2) after the time the verification inquiry*
15 *was received, the defense under subpara-*
16 *graph (A) shall not be considered to apply*
17 *with respect to any employment after the*
18 *end of such time period.”.*

19 **SEC. 706. PREEMPTION AND STATES’ RIGHTS.**

20 *Section 274A(h)(2) of the Immigration and Nation-*
21 *ality Act (8 U.S.C. 1324a(h)(2)) is amended to read as fol-*
22 *lows:*

23 “(2) *PREEMPTION.—*

24 “(A) *SINGLE, NATIONAL POLICY.—The pro-*
25 *visions of this section preempt any State or local*

1 *law, ordinance, policy, or rule, including any*
2 *criminal or civil fine or penalty structure, inso-*
3 *far as they may now or hereafter relate to the*
4 *hiring, continued employment, or status*
5 *verification for employment eligibility purposes,*
6 *of unauthorized aliens.*

7 “(B) *STATE ENFORCEMENT OF FEDERAL*
8 *LAW.—*

9 “(i) *BUSINESS LICENSING.—A State,*
10 *locality, municipality, or political subdivi-*
11 *sion may exercise its authority over busi-*
12 *ness licensing and similar laws as a pen-*
13 *alty for failure to use the verification sys-*
14 *tem described in subsection (d) to verify em-*
15 *ployment eligibility when and as required*
16 *under subsection (b).*

17 “(ii) *GENERAL RULES.—A State, at its*
18 *own cost, may enforce the provisions of this*
19 *section, but only insofar as such State fol-*
20 *lows the Federal regulations implementing*
21 *this section, applies the Federal penalty*
22 *structure set out in this section, and com-*
23 *plies with all Federal rules and guidance*
24 *concerning implementation of this section.*
25 *Such State may collect any fines assessed*

1 *under this section. An employer may not be*
2 *subject to enforcement, including audit and*
3 *investigation, by both a Federal agency and*
4 *a State for the same violation under this*
5 *section. Whichever entity, the Federal agen-*
6 *cy or the State, is first to initiate the en-*
7 *forcement action, has the right of first re-*
8 *fusals to proceed with the enforcement ac-*
9 *tion. The Secretary must provide copies of*
10 *all guidance, training, and field instruc-*
11 *tions provided to Federal officials imple-*
12 *menting the provisions of this section to*
13 *each State.”.*

14 **SEC. 707. REPEAL.**

15 *(a) IN GENERAL.—Subtitle A of title IV of the Illegal*
16 *Immigration Reform and Immigrant Responsibility Act of*
17 *1996 (8 U.S.C. 1324a note) is repealed.*

18 *(b) REFERENCES.—Any reference in any Federal law,*
19 *Executive order, rule, regulation, or delegation of authority,*
20 *or any document of, or pertaining to, the Department of*
21 *Homeland Security, Department of Justice, or the Social*
22 *Security Administration, to the employment eligibility con-*
23 *firms system established under section 404 of the Illegal*
24 *Immigration Reform and Immigrant Responsibility Act of*
25 *1996 (8 U.S.C. 1324a note) is deemed to refer to the employ-*

1 *ment eligibility confirmation system established under sec-*
2 *tion 274A(d) of the Immigration and Nationality Act, as*
3 *amended by section 3 of this Act.*

4 (c) *EFFECTIVE DATE.*—*This section shall take effect*
5 *on the date that is 30 months after the date of the enactment*
6 *of this Act.*

7 (d) *CLERICAL AMENDMENT.*—*The table of sections, in*
8 *section 1(d) of the Illegal Immigration Reform and Immi-*
9 *grant Responsibility Act of 1996, is amended by striking*
10 *the items relating to subtitle A of title IV.*

11 **SEC. 708. PENALTIES.**

12 *Section 274A of the Immigration and Nationality Act*
13 *(8 U.S.C. 1324a) is amended—*

14 (1) *in subsection (e)(1)—*

15 (A) *by striking “Attorney General” each*
16 *place such term appears and inserting “Sec-*
17 *retary of Homeland Security”; and*

18 (B) *in subparagraph (D), by striking*
19 *“Service” and inserting “Department of Home-*
20 *land Security”;*

21 (2) *in subsection (e)(4)—*

22 (A) *in subparagraph (A), in the matter be-*
23 *fore clause (i), by inserting “, subject to para-*
24 *graph (10),” after “in an amount”;*

1 (B) in subparagraph (A)(i), by striking
2 “not less than \$250 and not more than \$2,000”
3 and inserting “not less than \$2,500 and not
4 more than \$5,000”;

5 (C) in subparagraph (A)(ii), by striking
6 “not less than \$2,000 and not more than \$5,000”
7 and inserting “not less than \$5,000 and not
8 more than \$10,000”;

9 (D) in subparagraph (A)(iii), by striking
10 “not less than \$3,000 and not more than
11 \$10,000” and inserting “not less than \$10,000
12 and not more than \$25,000”; and

13 (E) by moving the margin of the continu-
14 ation text following subparagraph (B) two ems
15 to the left and by amending subparagraph (B) to
16 read as follows:

17 “(B) may require the person or entity to
18 take such other remedial action as is appro-
19 priate.”;

20 (3) in subsection (e)(5)—

21 (A) in the paragraph heading, strike “PA-
22 PERWORK”;

23 (B) by inserting “, subject to paragraphs
24 (10) through (12),” after “in an amount”;

1 (C) by striking “\$100” and inserting
2 “\$1,000”;

3 (D) by striking “\$1,000” and inserting
4 “\$25,000”; and

5 (E) by adding at the end the following:
6 “Failure by a person or entity to utilize the em-
7 ployment eligibility verification system as re-
8 quired by law, or providing information to the
9 system that the person or entity knows or reason-
10 ably believes to be false, shall be treated as a vio-
11 lation of subsection (a)(1)(A).”;

12 (4) by adding at the end of subsection (e) the fol-
13 lowing:

14 “(10) *EXEMPTION FROM PENALTY FOR GOOD*
15 *FAITH VIOLATION.*—In the case of imposition of a
16 civil penalty under paragraph (4)(A) with respect to
17 a violation of subsection (a)(1)(A) or (a)(2) for hiring
18 or continuation of employment or recruitment or re-
19 ferral by person or entity and in the case of imposi-
20 tion of a civil penalty under paragraph (5) for a vio-
21 lation of subsection (a)(1)(B) for hiring or recruit-
22 ment or referral by a person or entity, the penalty
23 otherwise imposed may be waived or reduced if the vi-
24 olator establishes that the violator acted in good faith.

1 “(11) *MITIGATION ELEMENT.*—*For purposes of*
2 *paragraph (4), the size of the business shall be taken*
3 *into account when assessing the level of civil money*
4 *penalty.*

5 “(12) *AUTHORITY TO DEBAR EMPLOYERS FOR*
6 *CERTAIN VIOLATIONS.*—

7 “(A) *IN GENERAL.*—*If a person or entity is*
8 *determined by the Secretary of Homeland Secu-*
9 *rity to be a repeat violator of paragraph (1)(A)*
10 *or (2) of subsection (a), or is convicted of a*
11 *crime under this section, such person or entity*
12 *may be considered for debarment from the re-*
13 *ceipt of Federal contracts, grants, or cooperative*
14 *agreements in accordance with the debarment*
15 *standards and pursuant to the debarment proce-*
16 *dures set forth in the Federal Acquisition Regu-*
17 *lation.*

18 “(B) *DOES NOT HAVE CONTRACT, GRANT,*
19 *AGREEMENT.*—*If the Secretary of Homeland Se-*
20 *curity or the Attorney General wishes to have a*
21 *person or entity considered for debarment in ac-*
22 *cordance with this paragraph, and such a person*
23 *or entity does not hold a Federal contract, grant,*
24 *or cooperative agreement, the Secretary or Attor-*
25 *ney General shall refer the matter to the Admin-*

1 *istrator of General Services to determine whether*
2 *to list the person or entity on the List of Parties*
3 *Excluded from Federal Procurement, and if so,*
4 *for what duration and under what scope.*

5 “(C) *HAS CONTRACT, GRANT, AGREE-*
6 *MENT.—If the Secretary of Homeland Security*
7 *or the Attorney General wishes to have a person*
8 *or entity considered for debarment in accordance*
9 *with this paragraph, and such person or entity*
10 *holds a Federal contract, grant, or cooperative*
11 *agreement, the Secretary or Attorney General*
12 *shall advise all agencies or departments holding*
13 *a contract, grant, or cooperative agreement with*
14 *the person or entity of the Government’s interest*
15 *in having the person or entity considered for de-*
16 *barment, and after soliciting and considering the*
17 *views of all such agencies and departments, the*
18 *Secretary or Attorney General may refer the*
19 *matter to any appropriate lead agency to deter-*
20 *mine whether to list the person or entity on the*
21 *List of Parties Excluded from Federal Procure-*
22 *ment, and if so, for what duration and under*
23 *what scope.*

24 “(D) *REVIEW.—Any decision to debar a*
25 *person or entity in accordance with this para-*

1 *graph shall be reviewable pursuant to part 9.4 of*
2 *the Federal Acquisition Regulation.*

3 “(13) *OFFICE FOR STATE AND LOCAL GOVERN-*
4 *MENT COMPLAINTS.—The Secretary of Homeland Se-*
5 *curity shall establish an office—*

6 “(A) *to which State and local government*
7 *agencies may submit information indicating po-*
8 *tential violations of subsection (a), (b), or (g)(1)*
9 *that were generated in the normal course of law*
10 *enforcement or the normal course of other official*
11 *activities in the State or locality;*

12 “(B) *that is required to indicate to the com-*
13 *plaining State or local agency within five busi-*
14 *ness days of the filing of such a complaint by*
15 *identifying whether the Secretary will further in-*
16 *vestigate the information provided;*

17 “(C) *that is required to investigate those*
18 *complaints filed by State or local government*
19 *agencies that, on their face, have a substantial*
20 *probability of validity;*

21 “(D) *that is required to notify the com-*
22 *plaining State or local agency of the results of*
23 *any such investigation conducted; and*

24 “(E) *that is required to report to the Con-*
25 *gress annually the number of complaints received*

1 *under this paragraph, the States and localities*
2 *that filed such complaints, and the resolution of*
3 *the complaints investigated by the Secretary.”;*
4 *and*

5 *(5) by amending paragraph (1) of subsection (f)*
6 *to read as follows:*

7 “(1) *CRIMINAL PENALTY.—Any person or entity*
8 *which engages in a pattern or practice of violations*
9 *of subsection (a) (1) or (2) shall be fined not more*
10 *than \$5,000 for each unauthorized alien with respect*
11 *to which such a violation occurs, imprisoned for not*
12 *more than 18 months, or both, notwithstanding the*
13 *provisions of any other Federal law relating to fine*
14 *levels.”.*

15 **SEC. 709. FRAUD AND MISUSE OF DOCUMENTS.**

16 *Section 1546(b) of title 18, United States Code, is*
17 *amended—*

18 *(1) in paragraph (1), by striking “identification*
19 *document,” and inserting “identification document or*
20 *document meant to establish work authorization (in-*
21 *cluding the documents described in section 274A(b) of*
22 *the Immigration and Nationality Act),”;* and

23 *(2) in paragraph (2), by striking “identification*
24 *document” and inserting “identification document or*
25 *document meant to establish work authorization (in-*

1 *cluding the documents described in section 274A(b) of*
2 *the Immigration and Nationality Act),”.*

3 **SEC. 710. PROTECTION OF SOCIAL SECURITY ADMINISTRA-**
4 **TION PROGRAMS.**

5 *(a) FUNDING UNDER AGREEMENT.—Effective for fis-*
6 *cal years beginning on or after October 1, 2023, the Com-*
7 *missioner of Social Security and the Secretary of Homeland*
8 *Security shall enter into and maintain an agreement which*
9 *shall—*

10 *(1) provide funds to the Commissioner for the*
11 *full costs of the responsibilities of the Commissioner*
12 *under section 274A(d) of the Immigration and Na-*
13 *tionality Act (8 U.S.C. 1324a(d)), as amended by sec-*
14 *tion 3 of this Act, including (but not limited to)—*

15 *(A) acquiring, installing, and maintaining*
16 *technological equipment and systems necessary*
17 *for the fulfillment of the responsibilities of the*
18 *Commissioner under such section 274A(d), but*
19 *only that portion of such costs that are attrib-*
20 *utable exclusively to such responsibilities; and*

21 *(B) responding to individuals who contest a*
22 *tentative nonconfirmation provided by the em-*
23 *ployment eligibility verification system estab-*
24 *lished under such section;*

1 (2) *provide such funds annually in advance of*
2 *the applicable quarter based on estimating method-*
3 *ology agreed to by the Commissioner and the Sec-*
4 *retary (except in such instances where the delayed en-*
5 *actment of an annual appropriation may preclude*
6 *such quarterly payments); and*

7 (3) *require an annual accounting and reconcili-*
8 *ation of the actual costs incurred and the funds pro-*
9 *vided under the agreement, which shall be reviewed by*
10 *the Inspectors General of the Social Security Admin-*
11 *istration and the Department of Homeland Security.*

12 (b) *CONTINUATION OF EMPLOYMENT VERIFICATION IN*
13 *ABSENCE OF TIMELY AGREEMENT.—In any case in which*
14 *the agreement required under subsection (a) for any fiscal*
15 *year beginning on or after October 1, 2023, has not been*
16 *reached as of October 1 of such fiscal year, the latest agree-*
17 *ment between the Commissioner and the Secretary of Home-*
18 *land Security providing for funding to cover the costs of*
19 *the responsibilities of the Commissioner under section*
20 *274A(d) of the Immigration and Nationality Act (8 U.S.C.*
21 *1324a(d)) shall be deemed in effect on an interim basis for*
22 *such fiscal year until such time as an agreement required*
23 *under subsection (a) is subsequently reached, except that the*
24 *terms of such interim agreement shall be modified by the*
25 *Director of the Office of Management and Budget to adjust*

1 *for inflation and any increase or decrease in the volume*
2 *of requests under the employment eligibility verification*
3 *system. In any case in which an interim agreement applies*
4 *for any fiscal year under this subsection, the Commissioner*
5 *and the Secretary shall, not later than October 1 of such*
6 *fiscal year, notify the Committee on Ways and Means, the*
7 *Committee on the Judiciary, and the Committee on Appro-*
8 *priations of the House of Representatives and the Com-*
9 *mittee on Finance, the Committee on the Judiciary, and*
10 *the Committee on Appropriations of the Senate of the fail-*
11 *ure to reach the agreement required under subsection (a)*
12 *for such fiscal year. Until such time as the agreement re-*
13 *quired under subsection (a) has been reached for such fiscal*
14 *year, the Commissioner and the Secretary shall, not later*
15 *than the end of each 90-day period after October 1 of such*
16 *fiscal year, notify such Committees of the status of negotia-*
17 *tions between the Commissioner and the Secretary in order*
18 *to reach such an agreement.*

19 **SEC. 711. FRAUD PREVENTION.**

20 (a) **BLOCKING MISUSED SOCIAL SECURITY ACCOUNT**
21 **NUMBERS.**—*The Secretary of Homeland Security, in con-*
22 *sultation with the Commissioner of Social Security, shall*
23 *establish a program in which social security account num-*
24 *bers that have been identified to be subject to unusual mul-*
25 *tiple use in the employment eligibility verification system*

1 *established under section 274A(d) of the Immigration and*
2 *Nationality Act (8 U.S.C. 1324a(d)), as amended by section*
3 *3 of this Act, or that are otherwise suspected or determined*
4 *to have been compromised by identity fraud or other misuse,*
5 *shall be blocked from use for such system purposes unless*
6 *the individual using such number is able to establish,*
7 *through secure and fair additional security procedures, that*
8 *the individual is the legitimate holder of the number.*

9 **(b) ALLOWING SUSPENSION OF USE OF CERTAIN SO-**
10 **CIAL SECURITY ACCOUNT NUMBERS.**—*The Secretary of*
11 *Homeland Security, in consultation with the Commissioner*
12 *of Social Security, shall establish a program which shall*
13 *provide a reliable, secure method by which victims of iden-*
14 *tity fraud and other individuals may suspend or limit the*
15 *use of their social security account number or other identi-*
16 *fying information for purposes of the employment eligibility*
17 *verification system established under section 274A(d) of the*
18 *Immigration and Nationality Act (8 U.S.C. 1324a(d)), as*
19 *amended by section 3 of this Act. The Secretary may imple-*
20 *ment the program on a limited pilot program basis before*
21 *making it fully available to all individuals.*

22 **(c) ALLOWING PARENTS TO PREVENT THEFT OF**
23 **THEIR CHILD’S IDENTITY.**—*The Secretary of Homeland*
24 *Security, in consultation with the Commissioner of Social*
25 *Security, shall establish a program which shall provide a*

1 *reliable, secure method by which parents or legal guardians*
2 *may suspend or limit the use of the social security account*
3 *number or other identifying information of a minor under*
4 *their care for the purposes of the employment eligibility*
5 *verification system established under 274A(d) of the Immi-*
6 *gration and Nationality Act (8 U.S.C. 1324a(d)), as*
7 *amended by section 3 of this Act. The Secretary may imple-*
8 *ment the program on a limited pilot program basis before*
9 *making it fully available to all individuals.*

10 **SEC. 712. USE OF EMPLOYMENT ELIGIBILITY VERIFICATION**

11 **PHOTO TOOL.**

12 *An employer who uses the photo matching tool used*
13 *as part of the E-Verify System shall match the photo tool*
14 *photograph to both the photograph on the identity or em-*
15 *ployment eligibility document provided by the employee*
16 *and to the face of the employee submitting the document*
17 *for employment verification purposes.*

18 **SEC. 713. IDENTITY AUTHENTICATION EMPLOYMENT ELIGI-**

19 **BILITY VERIFICATION PILOT PROGRAMS.**

20 *Not later than 24 months after the date of the enact-*
21 *ment of this Act, the Secretary of Homeland Security, after*
22 *consultation with the Commissioner of Social Security and*
23 *the Director of the National Institute of Standards and*
24 *Technology, shall establish by regulation not less than 2*
25 *Identity Authentication Employment Eligibility*

1 *Verification pilot programs, each using a separate and dis-*
2 *tinct technology (the “Authentication Pilots”). The purpose*
3 *of the Authentication Pilots shall be to provide for identity*
4 *authentication and employment eligibility verification with*
5 *respect to enrolled new employees which shall be available*
6 *to any employer that elects to participate in either of the*
7 *Authentication Pilots. Any participating employer may*
8 *cancel the employer’s participation in the Authentication*
9 *Pilot after one year after electing to participate without*
10 *prejudice to future participation. The Secretary shall report*
11 *to the Committee on the Judiciary of the House of Rep-*
12 *resentatives and the Committee on the Judiciary of the Sen-*
13 *ate the Secretary’s findings on the Authentication Pilots,*
14 *including the authentication technologies chosen, not later*
15 *than 12 months after commencement of the Authentication*
16 *Pilots.*

17 **SEC. 714. INSPECTOR GENERAL AUDITS.**

18 (a) *IN GENERAL.*—*Not later than 1 year after the date*
19 *of the enactment of this Act, the Inspector General of the*
20 *Social Security Administration shall complete audits of the*
21 *following categories in order to uncover evidence of individ-*
22 *uals who are not authorized to work in the United States:*

23 (1) *Workers who dispute wages reported on their*
24 *social security account number when they believe*

1 *someone else has used such number and name to re-*
2 *port wages.*

3 (2) *Children’s social security account numbers*
4 *used for work purposes.*

5 (3) *Employers whose workers present significant*
6 *numbers of mismatched social security account num-*
7 *bers or names for wage reporting.*

8 (b) *SUBMISSION.—The Inspector General of the Social*
9 *Security Administration shall submit the audits completed*
10 *under subsection (a) to the Committee on Ways and Means*
11 *of the House of Representatives and the Committee on Fi-*
12 *nance of the Senate for review of the evidence of individuals*
13 *who are not authorized to work in the United States. The*
14 *Chairmen of those Committees shall then determine infor-*
15 *mation to be shared with the Secretary of Homeland Secu-*
16 *rity so that such Secretary can investigate the unauthorized*
17 *employment demonstrated by such evidence.*

18 **SEC. 715. AGRICULTURE WORKFORCE STUDY.**

19 *Not later than 36 months after the date of enactment,*
20 *the Secretary of the Department of Homeland Security, in*
21 *consultation with the Secretary of the Department of Agri-*
22 *culture, shall submit to the Committee on the Judiciary of*
23 *the House of Representatives and the Committee on the Ju-*
24 *diciary of the Senate, a report that includes the following:*

1 (1) *The number of individuals in the agricul-*
2 *tural workforce.*

3 (2) *The number of U.S. citizens in the agricul-*
4 *tural workforce.*

5 (3) *The number of aliens in the agricultural*
6 *workforce who are authorized to work in the United*
7 *States.*

8 (4) *The number of aliens in the agricultural*
9 *workforce who are not authorized to work in the*
10 *United States.*

11 (5) *Wage growth in each of the previous ten*
12 *years, disaggregated by agricultural sector.*

13 (6) *The percentage of total agricultural industry*
14 *costs represented by agricultural labor during each of*
15 *the last ten years.*

16 (7) *The percentage of agricultural costs invested*
17 *in mechanization during each of the last ten years.*

18 (8) *Recommendations, other than a path to legal*
19 *status for aliens not authorized to work in the United*
20 *States, for ensuring U.S. agricultural employers have*
21 *a workforce sufficient to cover industry needs, includ-*
22 *ing recommendations to—*

23 (A) *increase investments in mechanization;*

24 (B) *increase the domestic workforce; and*

25 (C) *reform the H-2A program.*

1 **SEC. 716. REPEALING REGULATIONS.**

2 *The rules relating to “Temporary Agricultural Em-*
3 *ployment of H-2A Nonimmigrants in the United States”*
4 *(87 Fed. Reg. 61660 (Oct. 12, 2022)) and to “Adverse Effect*
5 *Wage Rate Methodology for the Temporary Employment of*
6 *H-2A Nonimmigrants in Non-Range Occupations in the*
7 *United States” (88 Fed. Reg. 12760 (Feb. 28, 2023)) shall*
8 *have no force or effect, may not be reissued in substantially*
9 *the same form, and any new rules that are substantially*
10 *the same as such rules may not be issued.*

Union Calendar No. 31

118TH CONGRESS
1ST Session

H. R. 2640

[Report No. 118-47, Part I]

A BILL

To provide for reform of the asylum system and protection of the border.

MAY 5, 2023

Reported from the Committee on the Judiciary with an amendment

MAY 5, 2023

Committees on Ways and Means, Education and the Workforce, and Homeland Security discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed