

Kennedy/Graham



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106TH CONGRESS  
1ST SESSION

S. \_\_\_\_\_

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IN THE SENATE OF THE UNITED STATES

Mr. KENNEDY (for himself and Mr. GRAHAM) introduced the following bill;  
which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Immigration and Nationality Act to modify  
restrictions added by the Illegal Immigration Reform and  
Immigrant Responsibility Act of 1996.

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; REFERENCES IN ACT.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Immigration Fairness Restoration Act of 1999”.

6 (b) REFERENCES IN ACT.—Except as otherwise spe-  
7 cifically provided in this Act, whenever in this Act an  
8 amendment or repeal is expressed as an amendment to  
9 or a repeal of a provision, the reference shall be deemed

1 to be made to the Immigration and Nationality Act (8  
2 U.S.C. 1101 et seq.).

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) The United States has a time-honored tra-  
6 dition as a Nation of immigrants and a Nation of  
7 just laws. Our immigration laws no longer reflect  
8 that tradition.

9 (2) Current laws punish legal residents out of  
10 proportion to their crimes. Reform is needed to re-  
11 store balance to our immigration system. Funda-  
12 mental principles of fairness in the application of the  
13 laws, due process, and judicial review must apply to  
14 the foreign born and native born alike.

15 (3) Laws should not be applied retroactively.  
16 Fairness and practicality dictate that changes in  
17 definitions of crimes that make aliens deportable  
18 should only apply to crimes committed after dates of  
19 enactment. Immigration policy should not change  
20 the rules in the middle of the game.

21 (4) Proportionality and discretion should be re-  
22 stored to our Nation's immigration laws. We must  
23 restore the discretion immigration judges previously  
24 had and responsibly exercised to evaluate cases on

1 an individual basis and grant relief from deportation  
2 to deserving families.

3 (5) Detention of individuals is an extraordinary  
4 power that should only be used in extraordinary cir-  
5 cumstances. The mandatory detention of immigrants  
6 who have paid their debt to society and pose no  
7 threat is anathema to the protections of the Con-  
8 stitution's Due Process Clause.

9 (6) Our judicial system is one of checks and  
10 balances and nowhere are these protections more im-  
11 perative than in questions of deportation and incar-  
12 ceration which so fundamentally restrict individual  
13 liberties. Judicial review of immigration orders and  
14 determinations is necessary to ensure that these  
15 most weighty determinations are not made capri-  
16 ciously or erroneously. Immigrants deserve their day  
17 in court.

18 **SEC. 3. ELIMINATION OF RETROACTIVITY.**

19 (a) CANCELLATION OF REMOVAL.—Section 240A (8  
20 U.S.C. 1229b) is amended by adding at the end the fol-  
21 lowing new subsection:

22 “(f) APPLICATION OF LAW.—Notwithstanding any  
23 other provision of this section, an alien who committed an  
24 offense that was a ground for deportation or exclusion  
25 prior to April 1, 1997, shall have the law in effect at the

1 time of the offense apply with respect to any application  
2 for relief from deportation or exclusion on that ground.  
3 For purposes of determining eligibility for such relief, such  
4 alien shall be credited with any periods of residency in the  
5 United States that the alien has accrued without regard  
6 to whether or not the residency occurred after the commis-  
7 sion of the offense or service of a notice to appear under  
8 section 239(a).”.

9 (b) APPLICATION OF AGGRAVATED FELONY DEFINI-  
10 TION.—The last sentence of section 101(a)(43) (8 U.S.C.  
11 1101(a)(43)) is amended to read as follows: “The term  
12 shall not apply to any offense that was not covered by  
13 the term on the date on which the offense occurred.”.

14 (c) GROUNDS OF DEPORTABILITY.—Section 237 (8  
15 U.S.C. 1227) is amended by adding at the end the fol-  
16 lowing new subsection:

17 “(d) Notwithstanding any other provision of this sec-  
18 tion, an alien is not deportable or removable by reason  
19 of committing any offense that was not a ground of de-  
20 portability on the date the offense occurred.”.

21 (d) GROUNDS OF INADMISSIBILITY.—Section 212 (8  
22 U.S.C. 1182) is amended by adding at the end the fol-  
23 lowing new subsection:

24 “(p)(1) Notwithstanding any other provision of this  
25 section, an alien is not inadmissible by reason of commit-

1 ting any offense that was not a ground of inadmissibility  
2 on the date the offense occurred.

3 “(2) Any alien who applied for admission to the  
4 United States or adjustment of status to that of an alien  
5 lawfully admitted for permanent residence prior to April  
6 1, 1997, and was inadmissible under subsection (a)(6)(C),  
7 shall be eligible for the relief available (including any waiv-  
8 er of inadmissibility) at the time the application was  
9 filed.”.

10 (e) PROSPECTIVE EFFECTIVE DATES.—

11 (1) ILLEGAL IMMIGRATION REFORM AND IMMI-  
12 GRANT RESPONSIBILITY ACT.—Notwithstanding any  
13 other provision of law, the Illegal Immigration Re-  
14 form and Immigrant Responsibility Act of 1996, and  
15 the amendments made by that Act, shall apply only  
16 to persons seeking admission, or who became remov-  
17 able, on or after April 1, 1997, as the case may be.

18 (2) ANTITERRORISM AND EFFECTIVE DEATH  
19 PENALTY ACT OF 1996.—Notwithstanding any other  
20 provision of law, title IV of the Antiterrorism and  
21 Effective Death Penalty Act of 1996, and the  
22 amendments made by that title, insofar as such pro-  
23 visions relate to the inadmissibility or deportability  
24 of aliens, shall not apply to grounds of inadmis-

1       sibility or deportability existing before April 24,  
2       1996.

3   **SEC. 4. RESTORATION OF PROPORTIONALITY TO GROUNDS**  
4       **OF REMOVAL.**

5       (a) DEFINITION OF CRIMES INVOLVING MORAL TUR-  
6   PITUDE.—Section     237(a)(2)(A)(i)     (8     U.S.C.  
7   1227(a)(2)(A)(i)) is amended to read as follows:

8               “(i) CRIMES OF MORAL TURPITUDE.—Any  
9       alien who is convicted of a crime involving  
10       moral turpitude (other than a purely political  
11       offense or an attempt to commit such a crime)  
12       committed within five years (or 10 years in the  
13       case of an alien provided lawful permanent resi-  
14       dence status under section 245(j)) for which the  
15       alien is confined in a prison or correctional in-  
16       stitution for more than one year, is deport-  
17       able.”.

18       (b) DEFINITION OF AGGRAVATED FELONY.—Section  
19   101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

20               (1) in subparagraphs (F), (G), (J), (R), and  
21       (S), by striking “one year” each place it appears  
22       and inserting “more than five years”;

23               (2) by amending subparagraph (N) (8 U.S.C.  
24   1101(a)(43)(N)) to read as follows:

1           “(N) an offense described in section 274(a)(1)  
2           (relating to alien smuggling) for the purpose of com-  
3           mercial advantage.”;

4           (3) in subparagraph (P)(ii) (8 U.S.C.  
5           1101(a)(43)(P)(ii)), by striking “child” and insert-  
6           ing “son or daughter”; and

7           (4) in subparagraph (T), by striking “two  
8           years” and inserting “five years”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10          subsection (b) shall apply to convictions entered before,  
11          on, or after the date of enactment of this Act.

12          (d) CONVICTION DEFINED.—Section 101(a)(48)(A)  
13          (8 U.S.C. 1101(a)(48)(A)) is amended—

14               (1) by redesignating clauses (i) and (ii) as sub-  
15               clauses (I) and (II), respectively;

16               (2) by striking “(48)(A) The term” and insert-  
17               ing “(48)(A)(i) Except as provided in clause (ii), the  
18               term”; and

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

20               “(ii) For purposes of determinations under this Act,  
21          the term ‘conviction’ does not include any Federal, State,  
22          or foreign action to expunge, dismiss, cancel, vacate, dis-  
23          charge, or otherwise remove a guilty plea or other record  
24          of guilt or conviction, or any Federal, State, or foreign  
25          deferred adjudication, adjudication of guilt withheld, order

1 of probation without entry of judgment, or similar disposi-  
2 tion.”.

3 (e) DEFINITION OF TERM OF IMPRISONMENT.—Sec-  
4 tion 101(a)(48)(B) (8 U.S.C. 1101(a)(48)(B)) is amended  
5 to read as follows:

6 “(B) Any reference to a term of imprisonment or a  
7 sentence with respect to an offense is deemed to include  
8 the period of incarceration or confinement ordered by a  
9 court of law excluding any period of the suspension of the  
10 imposition or execution of that imprisonment or sentence  
11 in whole or in part.”.

12 (f) CONFORMING AMENDMENTS.—

13 (1) GROUND OF INADMISSIBILITY.—Section  
14 212(a)(6)(E) (8 U.S.C. 1182(a)(6)(E)) is  
15 amended—

16 (A) in clause (i), by inserting “and for  
17 commercial advantage” after “knowingly”;

18 (B) by striking clause (ii); and

19 (C) by redesignating clause (iii) as clause  
20 (ii).

21 (2) GROUND OF DEPORTABILITY.—Section  
22 237(a)(1)(E) (8 U.S.C. 1227(a)(1)(E)) is  
23 amended—

24 (A) in clause (i), by inserting “and for  
25 commercial advantage” after “knowingly”;

1 (B) by striking clause (ii); and  
2 (C) by redesignating clause (iii) as clause  
3 (ii).

4 **SEC. 5. RESTORATION OF DISCRETIONARY RELIEF FROM**  
5 **REMOVAL.**

6 (a) CANCELLATION OF REMOVAL.—Section 240A(a)  
7 (8 U.S.C. 1229b(a)) is amended—

8 (1) by redesignating paragraphs (1) through  
9 (3) as subparagraphs (A) through (C), respectively;  
10 and

11 (2) by amending subparagraph (C) (as so re-  
12 designated) to read as follows:

13 “(C) has not been convicted of an aggravated  
14 felony for which the sentence imposed is five years  
15 or more.”.

16 (b) REPEAL OF RULE FOR TERMINATION OF CON-  
17 TINUOUS PERIOD.—

18 (1) Section 240A(d)(1) (8 U.S.C. 1229b(d)(1))  
19 (8 U.S.C. 1229b(a)) is repealed.

20 (2) Section 240A(d) (8 U.S.C. 1229b) is  
21 amended—

22 (A) by redesignating paragraphs (2) and  
23 (3) as paragraphs (1) and (2), respectively; and

24 (B) by inserting before the period at the  
25 end of paragraph (1) (as redesignated) the fol-

1           lowing: “, unless the alien’s departure from the  
2           United States was due to a temporary trip  
3           abroad required by emergency or extenuating  
4           circumstances outside the control of the alien”.

5           (c) WAIVER.—Section 212(h) (8 U.S.C. 1182(h)) is  
6 amended by striking the third and fourth sentences.

7           (d) RESTORATION OF ELIGIBILITY FOR WITH-  
8 HOLDING OF REMOVAL.—Section 241(b)(3)(B) (8 U.S.C.  
9 1231(b)(3)(B)) is amended—

10           (1) by amending clause (ii) to read as follows:

11                   “(ii) the alien—

12                           “(I) has been convicted by final  
13                           judgment of a particularly serious  
14                           crime for which the sentence imposed  
15                           was an aggregate term of imprison-  
16                           ment of five years or more; and

17                           “(II) is a danger to the United  
18                           States.”; and

19           (2) by striking the second sentence and insert-  
20 ing the following: “Notwithstanding this subpara-  
21 graph, an alien shall be eligible for relief under sub-  
22 paragraph (A) if the Attorney General determines  
23 the alien should not be removed for urgent humani-  
24 tarian reasons.”.

1 (e) WAIVER FOR PARENT, SON, OR DAUGHTER.—  
2 Section 212(d)(12) (8 U.S.C. 1182(d)(12)) is amended by  
3 striking “or child” and inserting “, parent, son, or daugh-  
4 ter”.

5 (f) WAIVER OF INADMISSIBILITY UNDER SECTION  
6 212(i).—

7 (1) IN GENERAL.—Section 212(i) (8 U.S.C.  
8 1182(i)) is amended to read as follows:

9 “(i) The Attorney General may, in the discretion of  
10 the Attorney General, waive the application of subsection  
11 (a)(6) (A), (B), or (C) in the case of an immigrant who  
12 is the parent, spouse, son, or daughter of a United States  
13 citizen or of an alien lawfully admitted for permanent resi-  
14 dence if it is established to the satisfaction of the Attorney  
15 General that the refusal of admission to the United States  
16 of such immigrant alien would result in hardship to the  
17 alien or to the citizen or lawfully resident parent, spouse,  
18 son, or daughter of such an alien.”.

19 (2) CONFORMING AMENDMENT.—Section  
20 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended by add-  
21 ing at the end the following new subparagraph:

22 “(H) For provision authorizing waiver of  
23 certain subparagraphs of this paragraph, see  
24 subsection (i).”.

1 **SEC. 6. JUDICIAL REVIEW OF CERTAIN ORDERS AND DE-**  
2 **TERMINATIONS.**

3 (a) **REPEALS.**—The following provisions of the Act  
4 are hereby repealed and such repeal shall apply to all cases  
5 pending at any stage in any court as of the date of enact-  
6 ment of this Act and to all cases brought on or after such  
7 date:

8 (1) Section 242(a)(2) (8 U.S.C. 1252(a)(2)).

9 (2) Section 242(a)(3) (8 U.S.C. 1252(a)(3)).

10 (3) Section 242(b)(4) (8 U.S.C. 1252(b)(4)).

11 (4) Section 242(b)(7) (8 U.S.C. 1252(b)(7)).

12 (5) Subsections (e), (f), and (g) of section 242  
13 (8 U.S.C. 1252).

14 (6) Section 241(a)(5) (8 U.S.C. 1231(a)(5)).

15 (7) Section 236(e) (8 U.S.C. 1226(e)).

16 (8) Section 240(b)(5)(D) (8 U.S.C.  
17 1229a(b)(5)(D)).

18 (9) Section 240B(f) (8 U.S.C. 1229c(f)).

19 (10) Section 208(a)(3) (8 U.S.C. 1158(a)(3)).

20 (11) Section 208(b)(2)(D) (8 U.S.C.  
21 1158(b)(2)(D)).

22 (12) Section 208(d)(7) (8 U.S.C. 1158(d)(7)).

23 (13) Section 212(i)(2) (8 U.S.C. 1182(i)(2)).

24 (b) **AMENDMENTS RELATING TO JUDICIAL RE-**  
25 **VIEW.**—

1 (1) IN GENERAL.—(A) Section 242(a)(1) (8  
2 U.S.C. 1252(a)(1)) is amended—

3 (i) by striking “(other than an order of re-  
4 moval without a hearing pursuant to)”; and

5 (ii) by striking “and except that the court  
6 may not order the taking of additional evidence  
7 under section 237(c)”.

8 (B) Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is  
9 amended in the first sentence by striking “judge  
10 completed the proceedings” and inserting “pro-  
11 ceedings were conducted in whole or in part, or in  
12 the judicial circuit in which lies the residence of the  
13 petitioner as defined in this Act, but not in more  
14 than one judicial circuit”.

15 (C) Section 242(b)(3)(B) (8 U.S.C.  
16 1252(b)(3)(B)) is amended by striking “does not”  
17 and inserting “shall”.

18 (D) Section 242(b)(9) (8 U.S.C. 1252(b)(9)) is  
19 amended by striking “any action taken or pro-  
20 ceeding brought to remove an alien from the United  
21 States” and inserting “a challenge to a final admin-  
22 istrative order of removal”.

23 (E) Sections 212(d)(12)(B) (8 U.S.C.  
24 1182(d)(12)(B)), 212(h) (8 U.S.C. 1182(h)),  
25 237(a)(3)(C)(ii) (8 U.S.C. 1227(a)(3)(C)(ii)), and

1       240B(e) (8 U.S.C. 1229c(e)) are amended by strik-  
2       ing the last sentence of each.

3       (F) Section 279 (8 U.S.C. 1329) is amended—

4               (i) by striking “brought by the United  
5       States that arise under” and inserting “arising  
6       under any of”; and

7               (ii) by striking the last sentence.

8       (G) Section 245A(f)(4)(A) (8 U.S.C.  
9       1255a(f)(4)(A)) is amended by striking “106” and  
10       inserting “242”.

11       (2) APPLICATION OF THE AMENDMENTS.—The  
12       amendments made by paragraph (1) shall apply to  
13       all cases pending at any stage in any court as of the  
14       date of enactment.

15       (c) REPEALS OF TRANSITIONAL CHANGES IN JUDI-  
16       CIAL REVIEW.—Subparagraphs (B), (E), (F), and (G) of  
17       section 309(c)(4) of the Illegal Immigration Reform and  
18       Immigrant Responsibility Act of 1996 (Division C of Pub-  
19       lic Law 104–208) are hereby repealed, and such repeal  
20       shall apply to all cases pending at any stage in any court  
21       as of the date of enactment of this Act and to all cases  
22       brought on or after such date.

23       (d) REPEALS OF OTHER CHANGES IN JUDICIAL RE-  
24       VIEW.—(1)(A) Section 245A(f)(4) of the Immigration and

1 Nationality Act (8 U.S.C. 1255a(f)(4)) is amended by  
2 striking subparagraph (C).

3 (2) The amendment made by subsection (a) shall be  
4 effective as if included in the enactment of section 201  
5 of the Immigration Reform and Control Act of 1986 (Pub-  
6 lic Law 99-603; 100 Stat. 3394) and shall apply to all  
7 cases pending at any stage in any court as of the date  
8 of enactment of this Act.

9 (e) INSPECTION DETERMINATIONS.—Section  
10 235(b)(1) (8 U.S.C. 1225(b)(1)) is amended by striking  
11 “without further hearing or review” each of the two places  
12 it appears.

13 (f) CONFORMING AMENDMENTS.—

14 (1) The section heading of section 242 (8  
15 U.S.C. 1252) is amended by striking “OF ORDERS  
16 OF REMOVAL”.

17 (2) The table of contents of the Act is amended  
18 by striking the item relating to section 242 and in-  
19 serting the following:

“Sec. 242. Judicial review.”

20 (g) CLARIFICATION OF JUDICIAL REVIEW.—Section  
21 242(b) (8 U.S.C. 1252(b)) is amended by adding at the  
22 end the following new paragraphs:

23 “(10) JURISDICTION TO REVIEW OTHER THAN  
24 A FINAL ADMINISTRATIVE REMOVAL ORDER.—The  
25 district courts shall have jurisdiction by habeas cor-

1       pus or otherwise to review all matters not encom-  
2       passed within a final administrative order of removal  
3       reviewable by petition for review under this section.

4               “(11) IN-CUSTODY HABEAS CORPUS.—Any alien  
5       held in custody pursuant to an order of removal may  
6       obtain judicial review by habeas corpus  
7       proceedings—

8               “(A) of any matter that was not required  
9       to have been or could not have been brought by  
10      petition for review pursuant to this section; or

11              “(B) if the remedy provided by petition for  
12      review pursuant to this section was inad-  
13      equate.”.

14   **SEC. 7. DETENTION.**

15      (a) DETENTION.—Section 236(c) (8 U.S.C. 1226(c))  
16   is amended—

17          (1) in paragraph (1), by striking “Attorney  
18      General shall” and inserting “Attorney General  
19      may”; and

20          (2) by amending paragraph (2) to read as fol-  
21      lows:

22              “(2) RELEASE.—The Attorney General shall re-  
23      lease any alien described in paragraph (1) if the  
24      alien satisfies the Attorney General that the alien  
25      will not pose a danger to the safety of other persons

1 or of property and is likely to appear for any sched-  
2 uled proceeding. All custody, bond, and parole deter-  
3 minations shall be reviewable by an immigration  
4 judge and subject to administrative appeal.”.

5 (b) HABEAS CORPUS REVIEW OF DETENTION.—Sec-  
6 tion 236(e) (8 U.S.C. 1226(e)) is amended to read as fol-  
7 lows:

8 “(e) HABEAS CORPUS CHALLENGE TO DETENTION  
9 DETERMINATIONS.—Any person may challenge by a writ  
10 of habeas corpus his detention by the Attorney General,  
11 including any unlawful or arbitrary determination regard-  
12 ing the grant, revocation, denial, or condition of bond or  
13 parole.”.

14 (c) DETENTION OF ALIENS NOT SUBJECT TO IMME-  
15 DIATE REMOVAL.—Section 241(a) (8 U.S.C. 1231(a)) is  
16 amended—

17 (1) by redesignating paragraph (6) as para-  
18 graph (6)(A);

19 (2) in paragraph (6)(A) (as redesignated), by  
20 inserting “for a reasonable period of time, not to ex-  
21 ceed 9 months following the removal period, to allow  
22 for ongoing negotiations to effect such removal”  
23 after “removal period”; and

24 (3) by adding at the end of paragraph (6)(A)  
25 (as redesignated) the following:

1           “(B) Upon conclusion of the removal period  
2           and every 90 days thereafter, the Attorney General  
3           shall review whether continued detention of the alien  
4           is authorized under subsection (a).

5           “(C) Determinations under this subparagraph  
6           shall be subject to de nova review by an immigration  
7           judge and administrative appeal. In such review, it  
8           shall be the Attorney General’s burden to prove that  
9           continued detention is authorized under subsection  
10          (a).”.

11          (d) LIMITATION.—Section 241 (8 U.S.C. 1231) is  
12          amended by adding at the end the following:

13          “(j) Notwithstanding any other provision of this sec-  
14          tion, including subsection (a)(2), the Attorney General  
15          may not detain an alien who is able to demonstrate to  
16          the Attorney General that—

17                 “(1) the alien is not a risk to the community  
18                 and is likely to comply with the order of removal;  
19                 and

20                 “(2) removal of the alien cannot be effectuated  
21                 within the period specified in section 241(a)(6)(A).  
22          The determination by the Attorney General shall be sub-  
23          ject to de nova review by an immigration judge and admin-  
24          istrative appeal.”.

1 (e) ORDERS OF SUPERVISION.—Section 241(a)(3) (8  
2 U.S.C. 1231(a)(3)) is amended by adding at the end the  
3 following new sentence: “Such determinations and orders  
4 of supervision shall be subject to de nova review by an  
5 immigration judge and administrative appeal.”.

6 **SEC. 8. RIGHT TO COUNSEL.**

7 Section 292 (8 U.S.C. 1362) is amended to read as  
8 follows: “In any bond, custody, detention, or removal pro-  
9 ceedings before the Attorney General and in any appeal  
10 proceedings before the Attorney General from any such  
11 proceedings, the person concerned shall have the privilege  
12 of being represented by such counsel, authorized to prac-  
13 tice in such proceedings, as he shall choose. With consent  
14 of their clients, counsel may enter appearances limited to  
15 bond, custody, or other specific proceedings.”.

16 **SEC. 9. ABSENCES OUTSIDE THE CONTROL OF THE ALIEN.**

17 Section 101(a)(13)(C) (8 U.S.C. 1101(a)(13)(C)) is  
18 amended—

19 (1) by amending clause (ii) to read as follows:

20 “(ii) has been absent from the United  
21 States for a continuous period in excess of  
22 one year unless the alien’s return was im-  
23 peded by emergency or extenuating cir-  
24 cumstances outside the control of the  
25 alien,”; and

1 (2) by striking clauses (iv) and (v).

2 **SEC. 10. APPLICANTS FOR ADMISSION.**

3 (a) INSPECTIONS GENERALLY.—Section 235(a) (8  
4 U.S.C. 1225(a)) is amended—

5 (1) by striking paragraph (1); and

6 (2) by redesignating paragraphs (2), (3), (4),  
7 and (5) as paragraphs (1), (2), (3), and (4), respec-  
8 tively.

9 (b) SCREENINGS.—Section 235(b)(1)(A) (8 U.S.C.  
10 1225(b)(1)(A)) is amended by striking clause (iii).

11 **SEC. 11. STATUTORY CONSTRUCTION.**

12 Nothing in this Act may be construed to make any  
13 alien ineligible for any relief from removal or other benefit  
14 under this Act to which he or she was eligible before enact-  
15 ment of this Act.

16 **SEC. 12. REPEALS.**

17 (a) CHALLENGES TO DEPORTATION ORDERS.—Sec-  
18 tion 276(d) (8 U.S.C. 1326(d)) is repealed and such repeal  
19 shall apply to all cases pending at any stage in any court  
20 as of the date of enactment of this Act and to all cases  
21 brought on or after such date.

22 (b) COLLATERAL ATTACKS.—Section 235(b)(1)(D) is  
23 repealed, and such repeal shall apply to all cases pending  
24 at any stage in any court as of the date of enactment of  
25 this Act and to all cases brought on or after such date.

1 **SEC. 13. REMOVAL OF ALIENS WHO ARE NOT PERMANENT**  
2 **RESIDENTS AND WHO HAVE NO RELIEF FROM**  
3 **REMOVAL.**

4 (a) **ELIGIBILITY FOR RELIEF FROM REMOVAL.**—Sec-  
5 tion 238(b)(5) (8 U.S.C. 1228(b)(5)) is repealed, and such  
6 repeal shall apply to all cases pending at any stage in any  
7 court as of the date of enactment of this Act and to all  
8 cases brought on or after such date.

9 (b) **REQUIREMENTS FOR DETERMINATIONS OF DE-**  
10 **PORTABILITY AND ORDERS OF REMOVAL.**—Section  
11 238(b)(2) (8 U.S.C. 1228(b)(2)) is amended—

12 (1) by striking “or” at the end of subparagraph

13 (A);

14 (2) by striking the period at the end of sub-  
15 paragraph (B) and inserting “; or”; and

16 (3) by adding at the end the following new sub-  
17 paragraph:

18 “(C) is not eligible for any relief from re-  
19 moval.”.

20 **SEC. 14. REMOVAL OF CERTAIN LIMITATIONS ON ELIGI-**  
21 **BILITY FOR ADJUSTMENT OF STATUS UNDER**  
22 **SECTION 245(i).**

23 (a) **ELIGIBILITY FOR ADJUSTMENT OF STATUS.**—  
24 Section 245(i)(1) (8 U.S.C. 1255(i)(1)) is amended by  
25 striking the first sentence and inserting the following:  
26 “Notwithstanding the provisions of subsections (a) and (c)

1 of this section, an alien physically present in the United  
2 States who—

3 “(A) entered the United States without in-  
4 spection; or

5 “(B) is within one of the classes enumer-  
6 ated in subsection (c) of this section,  
7 may apply to the Attorney General for the adjust-  
8 ment of his or her status to that of an alien lawfully  
9 admitted for permanent residence.”.

10 (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall be effective as if included in the enact-  
12 ment of the Departments of Commerce, Justice and State,  
13 the Judiciary and Related Agencies Appropriations Act,  
14 1998 (Public Law 105–119; 11 Stat. 2440).

15 **SEC. 15. ADJUSTMENT OF STATUS FOR FAMILY-BASED IM-**  
16 **MIGRANTS.**

17 Section 245(k) (8 U.S.C. 1255(k)) is amended by in-  
18 serting “section 203(a) or” after “under”.

19 **SEC. 16. REPEAL OF GROUND OF INADMISSIBILITY.**

20 Section 212(a)(9)(B) (8 U.S.C. 1182(a)(9)(B)) is re-  
21 pealed.

22 **SEC. 17. VOLUNTARY DEPARTURE.**

23 Section 240B (8 U.S.C. 1255) is amended—

24 (1) by redesignating subsection (f) as sub-  
25 section (g); and

1           (2) by inserting after subsection (e) the fol-  
2       lowing:

3       “(f) Notwithstanding subsections (a), (b), (d), and  
4       (e), the Attorney General may, in the discretion of the At-  
5       torney General, make successive grants of voluntary de-  
6       parture for humanitarian reasons.”.

7       **SEC. 18. CANCELLATION OF REMOVAL AND ADJUSTMENT**  
8                       **OF STATUS FOR CERTAIN NONPERMANENT**  
9                       **RESIDENTS.**

10       (a) IN GENERAL.—Section 240A(b)(1) (8 U.S.C.  
11       1229b(b)(1)) is amended to read as follows:

12           “(1) IN GENERAL.—The Attorney General may  
13       cancel removal in the case of an alien who is inad-  
14       missible or deportable from the United States if the  
15       alien—

16           “(A) has been physically present in the  
17       United States for a continuous period of—

18           “(i) 7 years immediately preceding the  
19       date of application in the case of an  
20       alien—

21           “(I) who is removable on any  
22       ground other than a ground specified  
23       in clause (ii)(I); and

24           “(II) whose deportation would, in  
25       the opinion of the Attorney General,

1 result in extreme hardship to the alien  
2 or the alien's spouse, parent, son, or  
3 daughter, who is a citizen of the  
4 United States or an alien lawfully ad-  
5 mitted for permanent residence; or

6 “(ii) 10 years immediately preceding  
7 the date of application in the case of an  
8 alien—

9 “(I) who is removable for convic-  
10 tion of an offense under section  
11 212(a)(2), 237(a)(2), or 237(a)(3);  
12 and

13 “(II) whose deportation would, in  
14 the opinion of the Attorney General,  
15 result in exceptional and extremely  
16 unusual hardship to the alien or the  
17 alien's spouse, parent, son, or daugh-  
18 ter, who is a citizen of the United  
19 States or an alien lawfully admitted  
20 for permanent residence”; and

21 “(B) has been a person of good moral  
22 character during such period.”.

23 (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall take effect as if included in the enact-

1 ment of the Illegal Immigration Reform and Immigrant  
2 Responsibility Act of 1996.

3 **SEC. 19. ADJUDICATION APPROVAL DATES.**

4 (a) IN GENERAL.—Applications and petitions filed  
5 pursuant to sections 101(a)(27)(J) (relating to special im-  
6 migrant religious workers), 203 (relating to immigrant  
7 visa petitions), 204 (relating to immediate relative peti-  
8 tions), 245 (relating to applications for lawful permanent  
9 residence), 334 (relating to naturalization applications;  
10 declarations of intent), and 335 (relating to naturalization  
11 applications; examinations) of the Immigration and Na-  
12 tionality Act that are approved by the Attorney General  
13 shall be considered approved as of the receipt date indi-  
14 cated on the application fee receipt.

15 (b) NONIMMIGRANT PETITIONS AND CHANGES OF  
16 STATUS.—Applications or petitions filed under section  
17 214 or 248 (relating to nonimmigrant petitions and  
18 changes of status) of the Immigration and Nationality Act  
19 that are approved by the Attorney General shall be consid-  
20 ered approved as of the date requested on the petition or  
21 application, even if approval occurs after that date.

1 **SEC. 20. REOPENING OF CERTAIN PROCEEDINGS AND PA-**  
2 **ROLE OF CERTAIN PREVIOUSLY REMOVED**  
3 **ALIENS.**

4 (a) IN GENERAL.—The Attorney General shall estab-  
5 lish a process by which an alien described in subsection  
6 (b) may apply for reopening a proceeding so as to seek  
7 relief from exclusion, deportation, or removal under sec-  
8 tion 212(c), as such section was in effect prior to the en-  
9 actment of the Antiterrorism and Effective Death Penalty  
10 Act, or section 240A, as amended by this Act.

11 (b) ALIEN DESCRIBED.—An alien referred to in sub-  
12 section (a) is an alien who received a final order of exclu-  
13 sion, deportation, or removal, or a decision on a petition  
14 for review or petition for habeas corpus on or after the  
15 effective date of the Antiterrorism and Effective Death  
16 Penalty Act and who would have been eligible for relief  
17 from exclusion, deportation, or removal under the amend-  
18 ments made by this Act.

19 (c) PAROLE.—The Attorney General may exercise the  
20 parole authority under section 212(d)(5)(A) of the Immi-  
21 gration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) for  
22 the purpose of permitting aliens excluded, deported, or re-  
23 moved from the United States to participate in the process  
24 established under subsection (a), if the alien establishes  
25 prima facie eligibility for the relief.

1       (d) JUDICIAL REVIEW.—A judgment regarding the  
2   granting or denial of relief under this section shall be sub-  
3   ject to judicial review in accordance with the appropriate  
4   section of the Immigration and Nationality Act.

5   **SEC. 21. STATUTORY CONSTRUCTION.**

6       In the case of an alien who is eligible for relief under  
7   section 212(c) of the Immigration and Nationality Act (as  
8   in effect before the enactment of section 440(d) of the  
9   Antiterrorism and Effective Death Penalty Act of 1996)  
10   (Public Law 104–132; 110 Stat. 1277), nothing in this  
11   Act shall be construed to modify such eligibility.

12   **SEC. 22. AUTHORITY OF THE ATTORNEY GENERAL.**

13       Notwithstanding any other provision of law, nothing  
14   in this Act shall be construed to diminish the authority  
15   of the Attorney General to exercise discretion in appro-  
16   priate cases involving urgent humanitarian reasons, a sig-  
17   nificant public benefit (including ensuring family unity),  
18   or other sufficiently compelling reasons.

## DRAFT LETTER FROM PRESIDENT RE: CENSUS 2000

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Dear \_\_\_\_\_:

We as a nation are participating now in the largest peacetime mobilization in our history. I refer to Census 2000, the twenty-first census we have conducted in this country.

The decennial census is mandated by the U.S. Constitution, and responding to it is a civic responsibility for everyone living in this country. It is the only truly universal activity that we can participate in, and full participation is important to the success and progress of every community.

The data collected will determine how more than \$185 billion annually in public funds are shared fairly among the nation's communities. The data provide the basis for planning and implementing thousands of laws and programs at every level of government. The census numbers also are used to decide how many seats each state is allocated in the House of Representatives and to equitably draw voting districts at the state and local level.

Census 2000 is an event that offers us an opportunity to engage the spirit of civic participation that is so important to our representative democracy. It is in this spirit that I urge everyone to complete his or her census form.

The census is important to you and your family. It is important to your community. It is important to our nation.

It's our future. Don't leave it blank.

Sincerely,

William Jefferson Clinton

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