

S 955 IS

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S. 955

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

IN THE SENATE OF THE UNITED STATES

May 24, 2001

Mr. KENNEDY (for himself, Mr. GRAHAM, Mr. LEAHY, Mr. KERRY, Mr. WELLSTONE, Mr. DODD, Mr. INOUE, Mr. DURBIN, Mr. FEINGOLD, and Mr. AKAKA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) **SHORT TITLE-** This Act may be cited as the 'Immigrant Fairness Restoration Act of 2001'.

(b) **REFERENCES IN ACT-** Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or a repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(c) **TABLE OF CONTENTS-** The table of contents for this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

Sec. 2. Findings.

Sec. 3. Elimination of retroactivity.

Sec. 4. Restoration of proportionality to grounds of removal.

Sec. 5. Restoration of discretionary relief from removal.

Sec. 6. Cancellation of removal and adjustment of status for certain nonpermanent residents.

Sec. 7. Judicial review of certain orders and determinations.

Sec. 8. Detention.

Sec. 9. Right to counsel.

Sec. 10. Absences outside the control of the alien.

Sec. 11. Applicants for admission.

Sec. 12. Statutory construction.

Sec. 13. Repeals.

Sec. 14. Removal of aliens who are not permanent residents and who have no relief from removal.

Sec. 15. Repeal of ground of inadmissibility.

Sec. 16. Reopening of certain proceedings and parole of certain previously removed aliens.

Sec. 17. Statutory construction.

Sec. 18. Authority of the Attorney General.

Sec. 19. Treatment of aliens who have made false claims of citizenship or who have unlawfully voted.

SEC. 2. FINDINGS.

Congress makes the following findings:

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

(2) Current laws punish legal residents out of proportion to their crimes. Reform is needed to restore balance to our immigration system. Fundamental principles of fairness in the application of the laws, due process, and judicial review must apply to the foreign born and native born alike.

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

(4) Proportionality and discretion should be restored to our Nation's immigration laws. We must restore the discretion immigration judges previously had and responsibly exercised to evaluate cases on an individual basis and grant relief from deportation to deserving families.

(5) Detention of individuals is an extraordinary power that should only be used in extraordinary circumstances. The mandatory detention of immigrants who have paid their debt to society and pose no threat is anathema to the protections of the Constitution's Due Process Clause.

(6) Our judicial system is one of checks and balances and nowhere are these protections more imperative than in questions of deportation and incarceration which so fundamentally restrict individual liberties. Judicial review of immigration orders and determinations is necessary to ensure that these most weighty determinations are not made capriciously or erroneously. Immigrants deserve their day in court.

SEC. 3. ELIMINATION OF RETROACTIVITY.

(a) CANCELLATION OF REMOVAL- Section 240A (8 U.S.C. 1229b) is amended by adding at the end the following new subsection:

“(f) APPLICATION OF LAW- Notwithstanding any other provision of this section, an alien who committed an offense that was a ground for deportation or exclusion prior to April 1, 1997, shall have the law in effect at the time of the offense apply with respect to any application for relief from deportation or exclusion on that ground.”

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

(c) GROUNDS OF DEPORTABILITY- Section 237 (8 U.S.C. 1227) is amended by adding at the end the following new subsection:

“(d) Notwithstanding any other provision of this section, an alien is not deportable or removable by reason of committing any offense that was not a ground of deportability on the date the offense occurred.”

(d) GROUNDS OF INADMISSIBILITY- Section 212 (8 U.S.C. 1182) is amended--

(1) by redesignating subsection (p), as added by section 1505(f) of Public Law 106-386, as subsection (s); and

(2) by adding at the end the following new subsection:

“(t) Any alien who applied for admission to the United States or adjustment of status to that of an alien lawfully admitted for permanent residence prior to April 1, 1997, and was inadmissible under subsection (a)(6)(C)(i), shall be eligible for the relief available (including any waiver of inadmissibility) at the time the application was filed.”

(e) PROSPECTIVE EFFECTIVE DATES-

(1) ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT- Notwithstanding any other provision of law, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and the amendments made by that Act, shall apply only to persons seeking admission, or who became deportable, on or after April 1, 1997, as the case may be.

(2) ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996- Notwithstanding any other provision of law, title IV of the Antiterrorism and Effective Death Penalty Act of 1996, and the amendments made by that title, shall apply only to persons seeking admission, or who become deportable, on or after April 24, 1996.

(f) REINSTATEMENT OF REMOVAL ORDERS- Section 241(a)(5) (8 U.S.C. 1231(a)(5)) is repealed, and such repeal shall apply to all proceedings pending at any stage as of the date of enactment of this Act and to all cases brought on or after such date.

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

(a) DEFINITION OF CRIMES INVOLVING MORAL TURPITUDE- Section 237(a)(2)(A)(i) (8 U.S.C. 1227(a)(2)(A)(i)) is amended to read as follows:

(i) CRIMES OF MORAL TURPITUDE- Any alien who is convicted of a crime involving moral turpitude (other than a purely political offense or an attempt to commit such a crime) committed within five years (or 10 years in the case of an alien provided lawful permanent residence status under section 245(j)) for which the alien is sentenced to confinement, or is confined in a prison or correctional institution, for one year or longer is deportable.'

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

(1) by adding at the end of section 101(a)(43) the following: 'No crime shall be deemed to be an aggravated felony if the underlying conviction is a misdemeanor or if the sentence imposed is not in excess of one year;

(2) in subparagraphs (F) and (G), by striking 'at least one year' each place it appears and inserting 'is at least five years';

(3) in subparagraphs (J), (R), and (S), by striking 'one year' each place it appears and inserting 'five years';

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

'(N) an offense described in section 274(a)(1) (relating to alien smuggling) for the purpose of commercial advantage.;

(5) in subparagraph (P)(ii) (8 U.S.C. 1101(a)(43)(P)(ii)), by striking 'child' and inserting 'son or daughter'; and

(6) in subparagraph (T), by striking '2 years' and inserting '5 years'.

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

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

(1) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) by striking '(48)(A) The term' and inserting '(48)(A)(i) Except as provided in clause (ii), the term'; and

(3) by adding at the end the following:

'(ii) For purposes of determinations under this Act, the term 'conviction' does not include any Federal, State, or foreign action to expunge, dismiss, cancel, vacate, discharge, or otherwise remove a guilty plea or other record of guilt or conviction, or any Federal, State, or foreign deferred adjudication, adjudication of guilt withheld, order of probation without entry of judgment, or similar disposition.'

(e) DEFINITION OF TERM OF IMPRISONMENT- Section 101(a)(48)(B) (8 U.S.C. 1101(a)(48)(B)) is amended to read as follows:

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

(f) CONFORMING AMENDMENTS-

(1) GROUND OF INADMISSIBILITY- Section 212(a)(6)(E) (8 U.S.C. 1182(a)(6)(E)) is amended--

(A) in clause (i), by inserting 'and for commercial advantage' after 'knowingly';

(B) by striking clause (ii); and

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

(2) GROUND OF DEPORTABILITY- Section 237(a)(1)(E) (8 U.S.C. 1227(a)(1)(E)) is amended--

(A) in clause (i), by inserting 'and for commercial advantage' after 'knowingly';

(B) by striking clause (ii); and

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

SEC. 5. RESTORATION OF DISCRETIONARY RELIEF FROM REMOVAL.

(a) CANCELLATION OF REMOVAL- Section 240A(a)(3) (8 U.S.C. 1229b(a)(3)) to read as follows:

'(3) has not been convicted of an aggravated felony for which the sentence imposed is five years or more.'

(b) REPEAL OF RULE FOR TERMINATION OF CONTINUOUS PERIOD-

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

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

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

(B) by inserting before the period at the end of paragraph (1) (as redesignated) the following: ', unless the alien's return was impeded by emergency or extenuating circumstances outside the control of the alien'.

(c) WAIVER- Section 212(h) (8 U.S.C. 1182(h)) is amended--

(1) in the text above paragraph (1) of the first sentence, by striking "'offense of simple possession of 30 grams or less of marijuana' and inserting 'controlled substance offense for which the alien was not incarcerated for a period exceeding one year'; and

(2) by striking the third and fourth sentences.

(d) RESTORATION OF ELIGIBILITY FOR WITHHOLDING OF REMOVAL- Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended--

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

'(ii) the alien--

'(I) has been convicted by final judgment of a particularly serious crime for which the sentence imposed was an aggregate term of imprisonment

of five years or more; and

'(II) is a danger to the United States.'; and

(2) by striking the third sentence and inserting at the end the following: 'Notwithstanding this subparagraph, an alien shall be eligible for relief under subparagraph (A) if the Attorney General determines the alien should not be removed for urgent humanitarian reasons.'

(e) WAIVER FOR PARENT, SON, OR DAUGHTER- Section 212(d)(12) (8 U.S.C. 1182(d)(12)) is amended by striking 'or child' and inserting ', parent, son, or daughter'.

(f) WAIVER OF INADMISSIBILITY UNDER SECTION 212(i)-

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

'(i) The Attorney General may, in the discretion of the Attorney General, waive the application of subsection (a)(6) (A), (B), (C), or (G) in the case of an immigrant who is the parent, spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in hardship to the alien or to the citizen or lawfully resident parent, spouse, son, or daughter of such an alien.'

(2) CONFORMING AMENDMENT- Section 212(a)(6) (8 U.S.C. 1182(a)(6)) is amended by adding at the end the following new subparagraph:

'(H) For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (i).'

SEC. 6. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS FOR CERTAIN NONPERMANENT RESIDENTS.

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

'(1) IN GENERAL- The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien--

'(A) has been physically present in the United States for a continuous period of--

'(i) 7 years immediately preceding the date of application in the case of an alien--

'(I) who is removable on any ground other than a ground specified in clause (ii)(I); and

'(II) whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or the alien's spouse, parent, son, or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

'(ii) 10 years immediately preceding the date of application in the case of an alien--

'(I) who is removable for conviction of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3); and

'(II) whose deportation would, in the opinion of the Attorney General,

result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, son, or daughter, who is a citizen of the United States or an alien lawfully admitted for permanent residence'; and

'(B) has been a person of good moral character during such period.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 7. JUDICIAL REVIEW OF CERTAIN ORDERS AND DETERMINATIONS.

(a) REPEALS- The following provisions of the Act are hereby repealed and such repeal shall apply to all cases pending at any stage in any court as of the date of enactment of this Act and to all cases brought on or after such date:

- (1) Section 242(a)(2) (8 U.S.C. 1252(a)(2)).
- (2) Section 242(a)(3) (8 U.S.C. 1252(a)(3)).
- (3) Section 242(b)(4) (8 U.S.C. 1252(b)(4)).
- (4) Section 242(b)(7) (8 U.S.C. 1252(b)(7)).
- (5) Subsections (e), (f), and (g) of section 242 (8 U.S.C. 1252).
- (6) Section 240(b)(5)(D) (8 U.S.C. 1229a(b)(5)(D)).
- (7) Section 240B(f) (8 U.S.C. 1229c(f)).
- (8) Section 208(a)(3) (8 U.S.C. 1158(a)(3)).
- (9) Section 208(b)(2)(D) (8 U.S.C. 1158(b)(2)(D)).
- (10) Section 208(d)(7) (8 U.S.C. 1158(d)(7)).

(b) AMENDMENTS RELATING TO JUDICIAL REVIEW-

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

(i) by striking '(other than an order of removal without a hearing pursuant to section 235(b)(1))'; and

(ii) by striking 'and except that the court may not order the taking of additional evidence under section 2347(c) of such title'.

(B) Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended in the first sentence by striking 'judge completed the proceedings' and inserting 'proceedings were conducted in whole or in part, or in the judicial circuit in which lies the residence of the

petitioner as defined in this Act, but not in more than one judicial circuit'.

(C) Section 242(b)(3)(B) (8 U.S.C. 1252(b)(3)(B)) is amended--

(i) by striking 'does not' and inserting 'shall'; and

(ii) by striking ', unless the court orders otherwise'.

(D) Section 242(b)(9) (8 U.S.C. 1252(b)(9)) is amended by striking 'any action taken or proceeding brought to remove an alien from the United States' and inserting 'a challenge to a final administrative order of removal'.

(E) Sections 212(d)(12) (8 U.S.C. 1182(d)(12)), 212(h) (8 U.S.C. 1182(h)), 237(a)(3)(C)(ii) (8 U.S.C. 1227(a)(3)(C)(ii)), and 240B(e) (8 U.S.C. 1229c(e)) are amended by striking the last sentence of each.

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

(i) by striking 'brought by the United States that arise under' and inserting 'arising under any'; and

(ii) by striking the last sentence.

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

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

(c) REPEALS OF TRANSITIONAL CHANGES IN JUDICIAL REVIEW- Subparagraphs (B), (E), (F), and (G) of section 309(c)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104-208) are hereby repealed, and such repeal shall apply to all cases pending at any stage in any court as of the date of enactment of this Act and to all cases brought on or after such date.

(d) REPEALS OF OTHER CHANGES IN JUDICIAL REVIEW- (1) Section 245A(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1255a(f)(4)) is amended by striking subparagraph (C).

(2) The amendment made by paragraph (1) shall be effective as if included in the enactment of section 201 of the Immigration Reform and Control Act of 1986 (Public Law 99-603; 100 Stat. 3394) and shall apply to all cases pending at any stage in any court as of the date of enactment of this Act.

(e) INSPECTION DETERMINATIONS- Section 235(b)(1) (8 U.S.C. 1225(b)(1)) is amended in subparagraphs (A)(i) and (B)(iii) by striking 'without further hearing or review' each place it appears.

(f) CONFORMING AMENDMENTS-

(1) The section heading of section 242 (8 U.S.C. 1252) is amended by striking 'OF ORDERS OF REMOVAL'.

(2) The table of contents of the Act is amended by striking the item relating to section 242 and inserting the following:

'Sec. 242. Judicial review.'

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

'(10) JURISDICTION TO REVIEW OTHER THAN A FINAL ADMINISTRATIVE REMOVAL ORDER- The district courts shall have jurisdiction by habeas corpus or otherwise to review all matters not encompassed within a final administrative order of removal reviewable by petition for review under this section.

(11) IN-CUSTODY HABEAS CORPUS- Any alien held in custody pursuant to an order of removal may obtain judicial review by habeas corpus proceedings--

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

(B) if the remedy provided by petition for review pursuant to this section was inadequate.'.

SEC. 8. DETENTION.

(a) DETENTION- Section 236(c) (8 U.S.C. 1226(c)) is amended--

(1) in paragraph (1), by striking 'Attorney General shall' and inserting 'Attorney General may'; and

(2) by amending paragraph (2) to read as follows:

(2) RELEASE- The Attorney General shall release any alien described in paragraph (1) if the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. All custody, bond, and parole determinations shall be reviewable by an immigration judge and subject to administrative appeal.'

(b) HABEAS CORPUS REVIEW OF DETENTION- Section 236(e) (8 U.S.C. 1226(e)) is amended to read as follows:

(e) HABEAS CORPUS CHALLENGE TO DETENTION DETERMINATIONS- Any person may challenge by a writ of habeas corpus his detention by the Attorney General, including any determination regarding the grant, revocation, denial, or condition of bond or parole.'

(c) DETENTION OF ALIENS NOT SUBJECT TO IMMEDIATE REMOVAL- Section 241(a) (8 U.S.C. 1231(a)) is amended--

(1) by redesignating paragraph (6) as paragraph (6)(A);

(2) in paragraph (6)(A) (as redesignated), by inserting 'for a reasonable period of time, not to exceed 9 months following the removal period, to allow for ongoing negotiations to effect such removal' after 'removal period'; and

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

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

(C) Determinations under this subparagraph shall be subject to de novo review by an immigration judge and administrative appeal. In such review, it shall be the Attorney General's burden to prove that

continued detention is authorized under subsection (a).'

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

(j) LIMITATION- Notwithstanding any other provision of this section, including subsection (a)(2), the Attorney General may not detain an alien who is able to demonstrate to the Attorney General that--

`(1) the alien is not a risk to the community and is likely to comply with the order of removal; and

`(2) removal of the alien cannot be effectuated within the period specified in subsection (a)(6)(A).

The determination by the Attorney General shall be subject to de novo review by an immigration judge and administrative appeal.'

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

SEC. 9. RIGHT TO COUNSEL.

Section 292 (8 U.S.C. 1362) is amended to read as follows:

'SEC. 292. In any bond, custody, detention, or removal proceedings before the Attorney General and in any appeal proceedings before the Attorney General from any such proceedings, the person concerned shall have the privilege of being represented by such counsel, authorized to practice in such proceedings, as he shall choose. With consent of their clients, counsel may enter appearances limited to bond, custody, or other specific proceedings.'

SEC. 10. ABSENCES OUTSIDE THE CONTROL OF THE ALIEN.

Section 101(a)(13)(C) (8 U.S.C. 1101(a)(13)(C)) is amended--

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

'(ii) has been absent from the United States for a continuous period in excess of one year unless the alien's return was impeded by emergency or extenuating circumstances outside the control of the alien;'

(2) by inserting 'or' at the end of clause (iii);

(3) by striking clauses (iv) and (v); and

(4) by redesignating clause (vi) as clause (iv).

SEC. 11. APPLICANTS FOR ADMISSION.

(a) INSPECTIONS GENERALLY- Section 235(a) (8 U.S.C. 1225(a)) is amended--

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

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

SEC. 12. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed to make any alien ineligible for any relief from removal or other benefit

under this Act to which he or she was eligible before enactment of this Act.

SEC. 13. REPEALS.

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

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

SEC. 14. REMOVAL OF ALIENS WHO ARE NOT PERMANENT RESIDENTS AND WHO HAVE NO RELIEF FROM REMOVAL.

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

(b) REQUIREMENTS FOR DETERMINATIONS OF DEPORTABILITY AND ORDERS OF REMOVAL- Section 238(b)(2) (8 U.S.C. 1228(b)(2)) is amended--

(1) by striking 'or' at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting '; or'; and

(3) by adding at the end the following new subparagraph:

'(C) is not eligible for any relief from removal.'

SEC. 15. REPEAL OF GROUND OF INADMISSIBILITY.

Section 212(a)(9)(B) (8 U.S.C. 1182(a)(9)(B)) is repealed.

SEC. 16. REOPENING OF CERTAIN PROCEEDINGS AND PAROLE OF CERTAIN PREVIOUSLY REMOVED ALIENS.

(a) IN GENERAL- The Attorney General shall establish a process by which an alien described in subsection (b) may apply for reopening a proceeding so as to seek relief from exclusion, deportation, or removal under section 212(c), as such section was in effect prior to the enactment of the Antiterrorism and Effective Death Penalty Act, or section 240A, as amended by this Act.

(b) ALIEN DESCRIBED- An alien referred to in subsection (a) is an alien who received a final order of exclusion, deportation, or removal, or a decision on a petition for review or petition for habeas corpus on or after the effective date of the Antiterrorism and Effective Death Penalty Act and who would have been eligible for relief from exclusion, deportation, or removal under the amendments made by this Act.

(c) PAROLE- The Attorney General may exercise the parole authority under section 212(d)(5)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)(A)) for the purpose of permitting aliens excluded, deported, or removed from the United States to participate in the process established under subsection (a), if the alien establishes prima facie eligibility for the relief.

(d) JUDICIAL REVIEW- A judgment regarding the granting or denial of relief under this section shall be subject to judicial review in accordance with the appropriate section of the Immigration

and Nationality Act.

SEC. 17. STATUTORY CONSTRUCTION.

In the case of an alien who is eligible for relief under section 212(c) of the Immigration and Nationality Act (as in effect before the enactment of section 440(d) of the

Antiterrorism and Effective Death Penalty Act of 1996) (Public Law 104-132; 110 Stat. 1277), nothing in this Act shall be construed to modify such eligibility.

SEC. 18. AUTHORITY OF THE ATTORNEY GENERAL.

Notwithstanding any other provision of law, nothing in this Act shall be construed to diminish the authority of the Attorney General to exercise discretion in appropriate cases involving urgent humanitarian reasons, a significant public benefit (including ensuring family unity), or other sufficiently compelling reasons.

SEC. 19. TREATMENT OF ALIENS WHO HAVE MADE FALSE CLAIMS OF CITIZENSHIP OR WHO HAVE UNLAWFULLY VOTED.

(a) KNOWLEDGE REQUIREMENT-

(1) MISREPRESENTATIONS- Sections 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)) and 237(a)(3)(D)(i) (8 U.S.C. 1227(a)(3)(D)(i)) are amended--

(A) by inserting 'knowingly' after 'alien who' each place it appears; and

(B) by inserting 'knowingly' after 'has' each place it appears.

(2) UNLAWFUL VOTERS- Sections 212(a)(10)(D)(i) (8 U.S.C. 1182(a)(10)(D)(i)) and 237(a)(6)(A) (8 U.S.C. 1227(a)(6)(A)) are amended by striking 'has voted' each place it appears and inserting 'has knowingly voted'.

(b) WAIVERS-

(1) ADMISSIBILITY OF ALIEN UNLAWFUL VOTERS- Section 212(a)(10)(D) (8 U.S.C. 1182(a)(10)(D)) is amended by adding at the end the following:

'(iii) WAIVER- The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the refusal of admission to the United States of such immigrant alien would result in hardship to the alien or to the citizen or lawfully resident parent, spouse, son, or daughter of such an alien.'

(2) DEPORTABILITY OF ALIENS FALSELY CLAIMING CITIZENSHIP- Section 237(a)(3)(D) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(3)(D)) is amended by adding at the end the following:

'(iii) WAIVER- The Attorney General may, in the discretion of the Attorney General, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the removal from the United States of such immigrant alien would result in hardship to the alien or to the citizen or

lawfully resident parent, spouse, son, or daughter of such an alien.'.

(3) DEPORTABILITY OF ALIEN UNLAWFUL VOTERS- Section 237(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(6)) is amended by adding at the end the following:

(C) WAIVER- The Attorney General may, in the discretion of the Attorney General, waive the application of subparagraph (A) in the case of an immigrant who is the parent, spouse, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence if it is established to the satisfaction of the Attorney General that the removal from the United States of such immigrant alien would result in hardship to the alien or to the citizen or lawfully resident parent, spouse, son, or daughter of such an alien.'.

END