

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. _____
OFFERED BY M. ____ . _____

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Permanent Trump Secure Border Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Severability.

TITLE I—ASYLUM REFORM AND BORDER PROTECTION

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

TITLE II—BORDER SAFETY AND MIGRANT PROTECTION

Sec. 201. Inspection of applicants for admission.

TITLE III—PROTECTION OF CHILDREN

Sec. 301. Repatriation of unaccompanied alien children.
Sec. 302. Special immigrant juvenile status for immigrants unable to reunite
with either parent.
Sec. 303. Rule of construction.

TITLE IV—ENSURING UNITED FAMILIES AT THE BORDER

Sec. 401. Clarification of standards for family detention.

TITLE V—VISA OVERSTAYS PENALTIES

Sec. 501. Expanded penalties for illegal entry or presence.

TITLE VI—IMMIGRATION PAROLE REFORM

Sec. 601. Immigration parole reform.

Sec. 602. Implementation.

1 **SEC. 2. SEVERABILITY.**

2 If any provision of this Act or any amendment by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance, is held to be uncon-
5 stitutional, the remainder of this Act and the application
6 of such provision or amendment to any other person or
7 circumstance shall not be affected.

8 **TITLE I—ASYLUM REFORM AND**
9 **BORDER PROTECTION**

10 **SEC. 101. SAFE THIRD COUNTRY.**

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

13 (1) by striking “if the Attorney General deter-
14 mines” and inserting “if the Attorney General or the
15 Secretary of Homeland Security determines—”;

16 (2) by striking “that the alien may be removed”
17 and inserting the following:

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

19 (3) by striking “, pursuant to a bilateral or
20 multilateral agreement, to” and inserting “to”;

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

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

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

4 “(ii) that the alien entered, attempted to enter,
5 or arrived in the United States after transiting
6 through at least one country outside the alien’s
7 country of citizenship, nationality, or last lawful ha-
8 bitual residence en route to the United States, un-
9 less—

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

18 “(II) the alien demonstrates that he or she
19 was a victim of a severe form of trafficking in
20 which a commercial sex act was induced by
21 force, fraud, or coercion, or in which the person
22 induced to perform such act was under the age
23 of 18 years; or in which the trafficking included
24 the recruitment, harboring, transportation, pro-
25 vision, or obtaining of a person for labor or

1 services through the use of force, fraud, or coer-
2 cion for the purpose of subjection to involuntary
3 servitude, peonage, debt bondage, or slavery,
4 and was unable to apply for protection from
5 persecution in each country through which the
6 alien transited en route to the United States as
7 a result of such severe form of trafficking; or

8 “(III) the only countries through which the
9 alien transited en route to the United States
10 were, at the time of the transit, not parties to
11 the 1951 United Nations Convention relating to
12 the Status of Refugees, the 1967 Protocol Re-
13 lating to the Status of Refugees, or the United
14 Nations Convention against Torture and Other
15 Cruel, Inhuman or Degrading Treatment or
16 Punishment.”.

17 **SEC. 102. CREDIBLE FEAR INTERVIEWS.**

18 Section 235(b)(1)(B)(v) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
20 striking “there is a significant possibility” and all that fol-
21 lows, and inserting “, taking into account the credibility
22 of the statements made by the alien in support of the
23 alien’s claim, as determined pursuant to section
24 208(b)(1)(B)(iii), and such other facts as are known to
25 the officer, the alien more likely than not could establish

1 eligibility for asylum under section 208, and it is more
2 likely than not that the statements made by, and on behalf
3 of, the alien in support of the alien's claim are true.”.

4 **SEC. 103. CLARIFICATION OF ASYLUM ELIGIBILITY.**

5 (a) IN GENERAL.—Section 208(b)(1)(A) of the Im-
6 migration and Nationality Act (8 U.S.C. 1158(b)(1)(A))
7 is amended by inserting after “section 101(a)(42)(A)” the
8 following: “(in accordance with the rules set forth in this
9 section), and is eligible to apply for asylum under sub-
10 section (a)”.

11 (b) PLACE OF ARRIVAL.—Section 208(a)(1) of the
12 Immigration and Nationality Act (8 U.S.C. 1158(a)(1))
13 is amended—

14 (1) by striking “or who arrives in the United
15 States (whether or not at a designated port of ar-
16 rival and including an alien who is brought to the
17 United States after having been interdicted in inter-
18 national or United States waters),”; and

19 (2) by inserting after “United States” the fol-
20 lowing: “and has arrived in the United States at a
21 port of entry (including an alien who is brought to
22 the United States after having been interdicted in
23 international or United States waters),”.

1 **SEC. 104. EXCEPTIONS.**

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

5 “(2) EXCEPTIONS.—

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

10 “(i) the alien ordered, incited, as-
11 sisted, or otherwise participated in the per-
12 secution of any person on account of race,
13 religion, nationality, membership in a par-
14 ticular social group, or political opinion;

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

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

21 “(I) the unlawful possession or
22 use of an identification document, au-
23 thentication feature, or false identi-
24 fication document (as those terms and
25 phrases are defined in the jurisdiction
26 where the conviction occurred), unless

1 the alien can establish that the convic-
2 tion resulted from circumstances
3 showing that—

4 “(aa) the document or fea-
5 ture was presented before board-
6 ing a common carrier;

7 “(bb) the document or fea-
8 ture related to the alien’s eligi-
9 bility to enter the United States;

10 “(cc) the alien used the doc-
11 ument or feature to depart a
12 country wherein the alien has
13 claimed a fear of persecution;
14 and

15 “(dd) the alien claimed a
16 fear of persecution without delay
17 upon presenting himself or her-
18 self to an immigration officer
19 upon arrival at a United States
20 port of entry;

21 “(II) the unlawful receipt of a
22 Federal public benefit (as defined in
23 section 401(c) of the Personal Re-
24 sponsibility and Work Opportunity
25 Reconciliation Act of 1996 (8 U.S.C.

1 1611(c))), from a Federal entity, or
2 the unlawful receipt of similar public
3 benefits from a State, tribal, or local
4 entity; or

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

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

20 “(v) the alien has been convicted of a
21 Federal, State, tribal, or local crime that
22 the Attorney General or Secretary of
23 Homeland Security knows, or has reason
24 to believe, was committed in support, pro-
25 motion, or furtherance of the activity of a

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

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

18 “(vii) the alien has been convicted of
19 more than one offense for driving while in-
20 toxicated or impaired, as those terms are
21 defined under the law of the jurisdiction
22 where the conviction occurred (including a
23 conviction for driving while under the in-
24 fluence of or impaired by alcohol or drugs),
25 without regard to whether the conviction is

1 classified as a misdemeanor or felony
2 under Federal, State, tribal, or local law;

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

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

7 “(II) of child abuse, child ne-
8 glect, or child abandonment; or

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

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

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

21 “(cc) any crime based on
22 conduct in which the alien har-
23 assed, coerced, intimidated, vol-
24 untarily or recklessly used (or
25 threatened to use) force or vio-

1 lence against, or inflicted phys-
2 ical injury or physical pain, how-
3 ever slight, upon a person—

4 “(AA) who is a current
5 or former spouse of the
6 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
12 as 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 of-
18 fense 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
5 spouse 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
15 alien’s acts under the domestic or
16 family violence laws of the United
17 States or of any State, tribal govern-
18 ment, or unit 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
4 for regarding the alien as a danger to the
5 security of the United States;

6 “(xiii) the alien is described in sub-
7 clause (I), (II), (III), (IV), or (VI) of sec-
8 tion 212(a)(3)(B)(i) or section
9 237(a)(4)(B) (relating to terrorist activ-
10 ity), unless, in the case only of an alien in-
11 admissible under subclause (IV) of section
12 212(a)(3)(B)(i), the Secretary of Home-
13 land Security or the Attorney General de-
14 termines, in the Secretary’s or the Attor-
15 ney General’s discretion, that there are not
16 reasonable grounds for regarding the alien
17 as a danger to the security of the United
18 States;

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

22 “(xv) there are reasonable grounds for
23 concluding the alien could avoid persecu-
24 tion by relocating to another part of the
25 alien’s country of nationality or, in the

1 case of an alien having no nationality, an-
2 other part of the alien's country of last ha-
3 bitual residence.

4 “(B) SPECIAL RULES.—

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

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

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

16 “(bb) the type of sentence
17 imposed; or

18 “(cc) the circumstances and
19 underlying facts of the convic-
20 tion.

21 “(II) DETERMINATION.—In mak-
22 ing a determination under subclause
23 (I), the Attorney General or Secretary
24 of Homeland Security may consider
25 all reliable information and is not lim-

1 ited to facts found by the criminal
2 court or provided in the underlying
3 record of conviction.

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

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

20 “(ii) CRIMES AND EXCEPTIONS.—

21 “(I) DRIVING WHILE INTOXI-
22 CATED OR IMPAIRED.—A finding
23 under subparagraph (A)(vi) does not
24 require the Attorney General or Sec-
25 retary of Homeland Security to find

1 the first conviction for driving while
2 intoxicated or impaired (including a
3 conviction for driving while under the
4 influence of or impaired by alcohol or
5 drugs) as a predicate offense. The At-
6 torney General or Secretary of Home-
7 land Security need only make a fac-
8 tual determination that the alien pre-
9 viously was convicted for driving while
10 intoxicated or impaired as those terms
11 are defined under the jurisdiction
12 where the conviction occurred (includ-
13 ing a conviction for driving while
14 under the influence of or impaired by
15 alcohol or drugs).

16 “(II) STALKING AND OTHER
17 CRIMES.—In making a determination
18 under subparagraph (A)(viii), includ-
19 ing determining the existence of a do-
20 mestic relationship between the alien
21 and the victim, the underlying conduct
22 of the crime may be considered, and
23 the Attorney General or Secretary of
24 Homeland Security is not limited to
25 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 determina-
5 tion 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
11 or threatens to result in physical
12 or mental injury;

13 “(bb) psychological or sexual
14 abuse or exploitation, including
15 rape, molestation, incest, or
16 forced prostitution, shall be con-
17 sidered 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
24 OF DOMESTIC VIOLENCE.—An alien
25 who was convicted of an offense de-

1 scribed in clause (viii) or (ix) of sub-
2 paragraph (A) is not ineligible for
3 asylum on that basis if the alien satis-
4 fies the criteria under section
5 237(a)(7)(A).

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

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

16 “(ii) the applicant’s generalized dis-
17 approval of, disagreement with, or opposi-
18 tion to criminal, terrorist, gang, guerilla,
19 or other non-state organizations absent ex-
20 pressive behavior in furtherance of a dis-
21 crete cause against such organizations re-
22 lated to control of a State or expressive be-
23 havior that is antithetical to the State or
24 a legal unit of the State;

1 “(iii) the applicant’s resistance to re-
2 cruitment or coercion by guerrilla, crimi-
3 nal, gang, terrorist, or other non-state or-
4 ganizations;

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

9 “(v) the applicant’s criminal activity;
10 or

11 “(vi) the applicant’s perceived, past or
12 present, gang affiliation.

13 “(D) DEFINITIONS AND CLARIFICA-
14 TIONS.—

15 “(i) DEFINITIONS.—For purposes of
16 this paragraph:

17 “(I) FELONY.—The term ‘felony’
18 means—

19 “(aa) any crime defined as a
20 felony by the relevant jurisdiction
21 (Federal, State, tribal, or local)
22 of conviction; or

23 “(bb) any crime punishable
24 by more than one year of impris-
25 onment.

1 “(II) MISDEMEANOR.—The term
2 ‘misdemeanor’ means—

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

7 “(bb) any crime not punish-
8 able by more than one year of
9 imprisonment.

10 “(ii) CLARIFICATIONS.—

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

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

1 “(III) EFFECT OF CERTAIN OR-
2 DERS.—

3 “(aa) IN GENERAL.—No
4 order vacating a conviction,
5 modifying a sentence, clarifying a
6 sentence, or otherwise altering a
7 conviction or sentence shall have
8 any effect under this paragraph
9 unless the Attorney General or
10 Secretary of Homeland Security
11 determines that—

12 “(AA) the court issuing
13 the order had jurisdiction
14 and authority to do so; and

15 “(BB) the order was
16 not entered for rehabilitative
17 purposes or for purposes of
18 ameliorating the immigra-
19 tion consequences of the
20 conviction or sentence.

21 “(bb) AMELIORATING IMMI-
22 GRATION CONSEQUENCES.—For
23 purposes of item (aa)(BB), the
24 order shall be presumed to be for

1 the purpose of ameliorating im-
2 migration consequences if—

3 “(AA) the order was
4 entered after the initiation
5 of any proceeding to remove
6 the alien from the United
7 States; or

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

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

1 the immigration judge determines
2 appropriate.

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

9 “(F) NO JUDICIAL REVIEW.—There shall
10 be no judicial review of a determination of the
11 Secretary of Homeland Security or the Attorney
12 General under subparagraph (A)(xiii).”.

13 **SEC. 105. EMPLOYMENT AUTHORIZATION.**

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

17 “(2) EMPLOYMENT AUTHORIZATION.—

18 “(A) AUTHORIZATION PERMITTED.—An
19 applicant for asylum is not entitled to employ-
20 ment authorization, but such authorization may
21 be provided under regulation by the Secretary
22 of Homeland Security. An applicant who is not
23 otherwise eligible for employment authorization
24 shall not be granted such authorization prior to

1 the date that is 180 days after the date of filing
2 of the application for asylum.

3 “(B) TERMINATION.—Each grant of em-
4 ployment authorization under subparagraph
5 (A), and any renewal or extension thereof, shall
6 be valid for a period of 6 months, except that
7 such authorization, renewal, or extension shall
8 terminate in accordance with section 100011(b)
9 of Public Law 119–21 (commonly referred to as
10 the “One Big Beautiful Bill Act”).

11 “(C) RENEWAL.—The Secretary of Home-
12 land Security may not grant, renew, or extend
13 employment authorization to an alien if the
14 alien was previously granted employment au-
15 thorization under subparagraph (A), and the
16 employment authorization was terminated in ac-
17 cordance with section 100011(b) of Public Law
18 119–21 (commonly referred to as the “One Big
19 Beautiful Bill Act”), unless a Federal court of
20 appeals remands the alien’s case to the Board
21 of Immigration Appeals.

22 “(D) INELIGIBILITY.—The Secretary of
23 Homeland Security may not grant employment
24 authorization to an alien under this paragraph
25 if the alien—

1 “(i) is ineligible for asylum under sub-
2 section (b)(2)(A); or
3 “(ii) entered or attempted to enter the
4 United States at a place and time other
5 than lawfully through a United States port
6 of entry.”.

7 **SEC. 106. RULES FOR DETERMINING ASYLUM ELIGIBILITY.**

8 Section 208 of the Immigration and Nationality Act
9 (8 U.S.C. 1158) is amended by adding at the end the fol-
10 lowing:

11 “(f) RULES FOR DETERMINING ASYLUM ELIGI-
12 BILITY.—In making a determination under subsection
13 (b)(1)(A) with respect to whether an alien is a refugee
14 within the meaning of section 101(a)(42)(A), the following
15 shall apply:

16 “(1) PARTICULAR SOCIAL GROUP.—The Sec-
17 retary of Homeland Security or the Attorney Gen-
18 eral shall not determine that an alien is a member
19 of a particular social group unless the alien articu-
20 lates on the record, or provides a basis on the record
21 for determining, the definition and boundaries of the
22 alleged particular social group, establishes that the
23 particular social group exists independently from the
24 alleged persecution, and establishes that the alien’s

1 claim of membership in a particular social group
2 does not involve—

3 “(A) past or present criminal activity or
4 association (including gang membership);

5 “(B) presence in a country with general-
6 ized violence or a high crime rate;

7 “(C) being the subject of a recruitment ef-
8 fort by criminal, terrorist, or persecutory
9 groups;

10 “(D) the targeting of the applicant for
11 criminal activity for financial gain based on per-
12 ceptions of wealth or affluence;

13 “(E) interpersonal disputes of which gov-
14 ernmental authorities in the relevant society or
15 region were unaware or uninvolved;

16 “(F) private criminal acts of which govern-
17 mental authorities in the relevant society or re-
18 gion were unaware or uninvolved;

19 “(G) past or present terrorist activity or
20 association;

21 “(H) past or present persecutory activity
22 or association; or

23 “(I) status as an alien returning from the
24 United States.

1 “(2) POLITICAL OPINION.—The Secretary of
2 Homeland Security or the Attorney General may not
3 determine that an alien holds a political opinion with
4 respect to which the alien is subject to persecution
5 if the political opinion is constituted solely by gener-
6 alized disapproval of, disagreement with, or opposi-
7 tion to criminal, terrorist, gang, guerilla, or other
8 non-state organizations and does not include expres-
9 sive behavior in furtherance of a cause against such
10 organizations related to efforts by the State to con-
11 trol such organizations or behavior that is antithet-
12 ical to or otherwise opposes the ruling legal entity of
13 the State or a unit thereof.

14 “(3) PERSECUTION.—The Secretary of Home-
15 land Security or the Attorney General may not de-
16 termine that an alien has been subject to persecution
17 or has a well-founded fear of persecution based only
18 on—

19 “(A) the existence of laws or government
20 policies that are unenforced or infrequently en-
21 forced, unless there is credible evidence that
22 such a law or policy has been or would be ap-
23 plied to the applicant personally; or

1 “(B) the conduct of rogue foreign govern-
2 ment officials acting outside the scope of their
3 official capacity.

4 “(4) DISCRETIONARY DETERMINATION.—

5 “(A) ADVERSE DISCRETIONARY FAC-
6 TORS.—The Secretary of Homeland Security or
7 the Attorney General may only grant asylum to
8 an alien if the alien establishes that he or she
9 warrants a favorable exercise of discretion. In
10 making such a determination, the Attorney
11 General or Secretary of Homeland Security
12 shall consider, if applicable, an alien’s use of
13 fraudulent documents to enter the United
14 States, unless the alien arrived in the United
15 States by air, sea, or land directly from the ap-
16 plicant’s home country without transiting
17 through any other country.

18 “(B) FAVORABLE EXERCISE OF DISCRE-
19 TION NOT PERMITTED.—Except as provided in
20 subparagraph (C), the Attorney General or Sec-
21 retary of Homeland Security shall not favorably
22 exercise discretion under this section for any
23 alien who—

24 “(i) has accrued more than one year
25 of unlawful presence in the United States,

1 as defined in sections 212(a)(9)(B)(ii) and
2 (iii), prior to filing an application for asy-
3 lum;

4 “(ii) at the time the asylum applica-
5 tion is filed with the immigration court or
6 is referred from the Department of Home-
7 land Security, has—

8 “(I) failed to timely file (or time-
9 ly file a request for an extension of
10 time to file) any required Federal,
11 State, or local income tax returns;

12 “(II) failed to satisfy any out-
13 standing Federal, State, or local tax
14 obligations; or

15 “(III) income that would result
16 in tax liability under section 1 of the
17 Internal Revenue Code of 1986 and
18 that was not reported to the Internal
19 Revenue Service;

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

22 “(iv) has withdrawn a prior asylum
23 application with prejudice or been found to
24 have abandoned a prior asylum application;

1 “(v) failed to attend an interview re-
2 garding his or her asylum application with
3 the Department of Homeland Security, un-
4 less the alien shows by a preponderance of
5 the evidence that—

6 “(I) exceptional circumstances
7 prevented the alien from attending the
8 interview; or

9 “(II) the interview notice was not
10 mailed to the last address provided by
11 the alien or the alien’s representative
12 and neither the alien nor the alien’s
13 representative received notice of the
14 interview; or

15 “(vi) was subject to a final order of
16 removal, deportation, or exclusion and did
17 not file a motion to reopen to seek asylum
18 based on changed country conditions with-
19 in one year of the change in country condi-
20 tions.

21 “(C) EXCEPTIONS.—If one or more of the
22 adverse discretionary factors set forth in sub-
23 paragraph (B) are present, the Attorney Gen-
24 eral or the Secretary, may, notwithstanding

1 such subparagraph (B), favorably exercise dis-
2 cretion under section 208—

3 “(i) in extraordinary circumstances,
4 such as those involving national security or
5 foreign policy considerations; or

6 “(ii) if the alien, by clear and con-
7 vincing evidence, demonstrates that the de-
8 nial of the application for asylum would re-
9 sult in exceptional and extremely unusual
10 hardship to the alien.

11 “(5) LIMITATION.—If the Secretary or the At-
12 torney General determines that an alien fails to sat-
13 isfy the requirement under paragraph (1), the alien
14 may not be granted asylum based on membership in
15 a particular social group, and may not appeal the
16 determination of the Secretary or Attorney General,
17 as applicable. A determination under this paragraph
18 shall not serve as the basis for any motion to reopen
19 or reconsider an application for asylum or with-
20 holding of removal for any reason, including a claim
21 of ineffective assistance of counsel, unless the alien
22 complies with the procedural requirements for such
23 a motion and demonstrates that counsel’s failure to
24 define, or provide a basis for defining, a formulation

1 of a particular social group was both not a strategic
2 choice and constituted egregious conduct.

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

12 “(7) DEFINITIONS.—In this section:

13 “(A) The term ‘membership in a particular
14 social group’ means membership in a group
15 that is—

16 “(i) composed of members who share
17 a common immutable characteristic;

18 “(ii) defined with particularity; and

19 “(iii) socially distinct within the soci-
20 ety in question.

21 “(B) The term ‘political opinion’ means an
22 ideal or conviction in support of the furtherance
23 of a discrete cause related to political control of
24 a state or a unit thereof.

1 “(C) The term ‘persecution’ means the in-
2 fliction of a severe level of harm constituting an
3 exigent threat by the government of a country
4 or by persons or an organization that the gov-
5 ernment was unable or unwilling to control.
6 Such term does not include—

7 “(i) generalized harm or violence that
8 arises out of civil, criminal, or military
9 strife in a country;

10 “(ii) all treatment that the United
11 States regards as unfair, offensive, unjust,
12 unlawful, or unconstitutional;

13 “(iii) intermittent harassment, includ-
14 ing brief detentions;

15 “(iv) threats with no actual effort to
16 carry out the threats, except that particu-
17 larized threats of severe harm of an imme-
18 diate and menacing nature made by an
19 identified entity may constitute persecu-
20 tion; or

21 “(v) non-severe economic harm or
22 property damage.”.

1 **SEC. 107. FIRM RESETTLEMENT.**

2 Section 208 of the Immigration and Nationality Act
3 (8 U.S.C. 1158), as amended by this Act, is further
4 amended by adding at the end the following:

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

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

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

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

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

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

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

12 “(C) the alien is a citizen of a country
13 other than the country in which the alien al-
14 leges a fear of persecution, or was a citizen of
15 such a country in the case of an alien who re-
16 nounces such citizenship, and the alien was
17 present in that country after departing his
18 country of nationality or last habitual residence
19 and prior to arrival in or entry into the United
20 States.

21 “(2) BURDEN OF PROOF.—If an immigration
22 judge determines that an alien has firmly resettled
23 in another country under paragraph (1), the alien
24 shall bear the burden of proving the bar does not
25 apply.

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

14 **SEC. 108. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
15 **PLICATIONS.**

16 (a) IN GENERAL.—Section 208(d)(4) of the Immigration
17 and Nationality Act (8 U.S.C. 1158(d)(4)) is
18 amended—

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

22 (2) in subparagraph (A), by striking “and of
23 the consequences, under paragraph (6), of knowingly
24 filing a frivolous application for asylum; and” and
25 inserting a semicolon;

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

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

4 “(C) ensure that a written warning ap-
5 pears on the asylum application advising the
6 alien of the consequences of filing a frivolous
7 application and serving as notice to the alien of
8 the consequence of filing a frivolous applica-
9 tion.”.

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

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

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

1 the Attorney General determines that the appli-
2 cation—

3 “(i) is premised on any material ele-
4 ments that are knowingly fabricated; or

5 “(ii) is so insufficient in substance
6 that it is clear that the applicant know-
7 ingly filed the application solely or in part
8 to delay removal from the United States,
9 to seek employment authorization as an
10 applicant for asylum pursuant to regula-
11 tions issued pursuant to paragraph (2), or
12 to seek issuance of a Notice to Appear to
13 pursue Cancellation of Removal under sec-
14 tion 240A(b).

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 implau-
21 sible aspects of the claim.

22 “(D) WITHHOLDING OF REMOVAL NOT
23 PRECLUDED.—A finding under this section that
24 an alien filed a frivolous asylum application
25 shall not preclude the alien from seeking with-

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

4 **SEC. 109. 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
9 “Secretary of Homeland Security or the” before
10 “Attorney General”; and

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

14 (2) in subsection (c)—

15 (A) in paragraph (1), by striking “Attor-
16 ney General” each place such term appears and
17 inserting “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
21 “Attorney General”; and

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

25 (3) in subsection (d)—

1 (A) in paragraph (1), by inserting “Sec-
2 retary of Homeland Security or the” before
3 “Attorney General” each place such term ap-
4 pears; 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. 110. 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
16 shall establish procedures to expedite the adjudication of
17 asylum applications for aliens—

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

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

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

1 shall apply only to an asylum application filed by an alien
2 who is a national of a Western Hemisphere country sub-
3 ject to 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.
11 12747; declaring a national emergency with respect
12 to the 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. INSPECTION OF APPLICANTS FOR ADMISSION.**

19 Section 235 of the Immigration and Nationality Act
20 (8 U.S.C. 1225) is amended—

21 (1) in subsection (b)—

22 (A) in paragraph (1)—

23 (i) in subparagraph (A)—

24 (I) in clauses (i) and (ii), by
25 striking “section 212(a)(6)(C)” in-

1 serting “subparagraph (A) or (C) of
2 section 212(a)(6)”; and

3 (II) by adding at the end the fol-
4 lowing:

5 “(iv) INELIGIBILITY FOR PAROLE.—
6 An alien described in clause (i) or (ii) shall
7 not be eligible for parole except as ex-
8 pressly authorized pursuant to section
9 212(d)(5), or for parole or release pursu-
10 ant to section 236(a).”; and

11 (ii) in subparagraph (B)—

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

21 (II) in clause (iii)(IV)—

22 (aa) in the header by strik-
23 ing “DETENTION” and inserting
24 “DETENTION, RETURN, OR RE-
25 MOVAL”; and

1 (bb) by adding at the end
2 the following: “The alien shall
3 not be released (including pursu-
4 ant to parole or release pursuant
5 to section 236(a) but excluding
6 as expressly authorized pursuant
7 to section 212(d)(5)) other than
8 to be removed or returned to a
9 country as described in para-
10 graph (3).”;

11 (B) in paragraph (2)—

12 (i) in subparagraph (A)—

13 (I) by striking “Subject to sub-
14 paragraphs (B) and (C),” and insert-
15 ing “Subject to subparagraph (B) and
16 paragraph (3),”; and

17 (II) by adding at the end the fol-
18 lowing: “The alien shall not be re-
19 leased (including pursuant to parole
20 or release pursuant to section 236(a)
21 but excluding as expressly authorized
22 pursuant to section 212(d)(5)) other
23 than to be removed or returned to a
24 country as described in paragraph
25 (3).”; and

1 (ii) by striking subparagraph (C);
2 (C) by redesignating paragraph (3) and
3 (4) as paragraphs (4) and (5), respectively; and
4 (D) by inserting after paragraph (2) the
5 following:

6 “(3) RETURN TO FOREIGN TERRITORY CONTIG-
7 UOUS TO THE UNITED STATES.—

8 “(A) IN GENERAL.—The Secretary of
9 Homeland Security may return to a foreign ter-
10 ritory contiguous to the United States any alien
11 arriving on land from that territory (whether or
12 not at a designated port of entry) pending a
13 proceeding under section 240 or review of a de-
14 termination under subsection (b)(1)(B)(iii)(III).

15 “(B) MANDATORY RETURN.—If at any
16 time the Secretary of Homeland Security can-
17 not—

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

22 “(ii) remove an alien to a country de-
23 scribed in section 208(a)(2)(A),
24 the Secretary of Homeland Security shall, with-
25 out exception, including pursuant to parole or

1 release pursuant to section 236(a) but exclud-
2 ing as expressly authorized pursuant to section
3 212(d)(5), return to a foreign territory contig-
4 uous to the United States any alien arriving on
5 land from that territory (whether or not at a
6 designated port of entry) pending a proceeding
7 under section 240 or review of a determination
8 under subsection (b)(1)(B)(iii)(III).”; and

9 (E) in paragraph (4), as redesignated—

10 (i) by striking “detention and re-
11 moval” and inserting “detention, removal,
12 and return”; and

13 (ii) by striking “(1) or (2)” and in-
14 serting “(1), (2), or (3)”; and

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

16 “(e) AUTHORITY TO PROHIBIT INTRODUCTION OF
17 CERTAIN ALIENS.—If the Secretary of Homeland Security
18 determines, in his discretion, that the prohibition of the
19 introduction of aliens who are inadmissible under subpara-
20 graph (A) or (C) of section 212(a)(6) or under section
21 212(a)(7) at an international land or maritime border of
22 the United States is necessary to achieve operational con-
23 trol (as defined in section 2 of the Secure Fence Act of
24 2006 (8 U.S.C. 1701 note)) of such border, the Secretary
25 may prohibit, in whole or in part, the introduction of such

1 aliens at such border for such period of time as the Sec-
2 retary determines is necessary for such purpose.”.

3 **TITLE III—PROTECTION OF**
4 **CHILDREN**

5 **SEC. 301. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
6 **DREN.**

7 (a) IN GENERAL.—Section 235 of the William Wil-
8 berforce Trafficking Victims Protection Reauthorization
9 Act of 2008 (8 U.S.C. 1232) is amended—

10 (1) in subsection (a)—

11 (A) in paragraph (2)—

12 (i) by amending the heading to read
13 as follows: “RULES FOR UNACCOMPANIED
14 ALIEN CHILDREN.—”;

15 (ii) in subparagraph (A)—

16 (I) in the matter preceding clause
17 (i), by striking “who is a national or
18 habitual resident of a country that is
19 contiguous with the United States”;

20 (II) in clause (i), by inserting
21 “and” at the end;

22 (III) in clause (ii), by striking “;
23 and” and inserting a period; and

24 (IV) by striking clause (iii);

25 (iii) in subparagraph (B)—

1 (I) in the matter preceding clause
2 (i), by striking “(8 U.S.C. 1101 et
3 seq.) may—” and inserting “(8
4 U.S.C. 1101 et seq.)—”;

5 (II) in clause (i), by inserting be-
6 fore “permit such child to withdraw”
7 the following: “may”; and

8 (III) in clause (ii), by inserting
9 before “return such child” the fol-
10 lowing: “shall”; and
11 (iv) in subparagraph (C)—

12 (I) by amending the heading to
13 read as follows: “AGREEMENTS WITH
14 FOREIGN COUNTRIES.—”; and

15 (II) in the matter preceding
16 clause (i), by striking “The Secretary
17 of State shall negotiate agreements
18 between the United States and coun-
19 tries contiguous to the United States”
20 and inserting “The Secretary of State
21 may negotiate agreements between the
22 United States and any foreign country
23 that the Secretary determines appro-
24 priate”; 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: “be-
16 lieved not to meet the criteria listed in sub-
17 section (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)—

16 (i) by inserting at the end the fol-
17 lowing:

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

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

1 will be placed and all adult residents of
2 such individual's household, information
3 on—

4 “(I) the name of the individual;

5 “(II) the social security number
6 of the individual;

7 “(III) the date of birth of the in-
8 dividual;

9 “(IV) the location of the individ-
10 ual's residence where the child will be
11 placed;

12 “(V) the immigration status of
13 the individual, if known; and

14 “(VI) contact information for the
15 individual.

16 “(ii) ACTIVITIES OF THE SECRETARY
17 OF HOMELAND SECURITY.—Not later than
18 30 days after receiving the information
19 listed in clause (i), the Secretary of Home-
20 land Security, upon determining that an
21 individual with whom a child is placed is
22 unlawfully present in the United States
23 and not in removal proceedings pursuant
24 to chapter 4 of title II of the Immigration
25 and Nationality Act (8 U.S.C. 1221 et

1 seq.), shall initiate such removal pro-
2 ceedings.”; and

3 (B) in paragraph (5)—

4 (i) by inserting after “to the greatest
5 extent practicable” the following: “(at no
6 expense to the Government)”; and

7 (ii) by striking “have counsel to rep-
8 resent them” and inserting “have access to
9 counsel to represent them”.

10 (b) **EFFECTIVE DATE.**—The amendments made by
11 this section shall apply to any unaccompanied alien child
12 (as such term is defined in section 462(g) of the Home-
13 land Security Act of 2002 (6 U.S.C. 279(g))) apprehended
14 on or after the date that is 30 days after the date of the
15 enactment of this Act.

16 **SEC. 302. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
17 **MIGRANTS UNABLE TO REUNITE WITH EI-**
18 **THER PARENT.**

19 Section 101(a)(27)(J) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

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

25 (2) in clause (iii)—

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

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

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

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

13 **SEC. 303. RULE OF CONSTRUCTION.**

14 Nothing in this title shall be construed to limit the
15 following procedures or practices relating to an unaccom-
16 panied alien child (as defined in section 462(g)(2) of the
17 Homeland Security Act of 2002 (6 U.S.C. 279(g)(2))):

18 (1) Screening of such a child for a credible fear
19 of return to his or her country of origin.

20 (2) Screening of such a child to determine
21 whether he or she was a victim of trafficking.

22 (3) Department of Health and Human Services
23 policy in effect on the date of the enactment of this
24 Act requiring a home study for such a child if he or
25 she is under 12 years of age.

1 **TITLE IV—ENSURING UNITED**
2 **FAMILIES AT THE BORDER**

3 **SEC. 401. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
4 **TENTION.**

5 (a) IN GENERAL.—Section 235 of the William Wil-
6 berforce Trafficking Victims Protection Reauthorization
7 Act of 2008 (8 U.S.C. 1232) is amended by adding at
8 the end the following:

9 “(j) CONSTRUCTION.—

10 “(1) IN GENERAL.—Notwithstanding any other
11 provision of law, judicial determination, consent de-
12 cree, or settlement agreement, the detention of any
13 alien child who is not an unaccompanied alien child
14 shall be governed by sections 217, 235, 236, and
15 241 of the Immigration and Nationality Act (8
16 U.S.C. 1187, 1225, 1226, and 1231). There is no
17 presumption that an alien child who is not an unac-
18 companied alien child should not be detained.

19 “(2) USE OF FAMILY RESIDENTIAL CENTERS.—

20 The Secretary of Homeland Security may detain
21 family units of aliens at family residential centers
22 pending a decision on whether the aliens are to be
23 removed from the United States and, if such aliens
24 are ordered removed from the United States, until
25 such aliens are removed.

1 “(3) 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
9 the Immigration and Nationality Act (8
10 U.S.C. 1325(a)); and

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

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

15 “(4) FAMILY RESIDENTIAL CENTER DE-
16 FINED.— In this section, the term ‘family residential
17 center’ means a facility used by the Secretary of
18 Homeland Security to detain family units of aliens
19 (including alien children who are not unaccompanied
20 alien children) who are encountered or apprehended
21 by the Secretary.”.

22 (b) SENSE OF CONGRESS.—It is the sense of Con-
23 gress that the amendments in this section to section 235
24 of the William Wilberforce Trafficking Victims Protection
25 Reauthorization Act of 2008 (8 U.S.C. 1232) are intended

1 to satisfy the requirements of the Settlement Agreement
2 in Flores v. Meese, No. 85–4544 (C.D. Cal), as approved
3 by the court on January 28, 1997, with respect to its in-
4 terpretation in Flores v. Johnson, 212 F. Supp. 3d 864
5 (C.D. Cal. 2015), that the agreement applies to accom-
6 panied minors.

7 (c) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall take effect on the date of the enact-
9 ment of this Act and shall apply to all actions that occur
10 before, on, or after such date.

11 (d) PREEMPTION OF STATE LICENSING REQUIRE-
12 MENTS.—Notwithstanding any other provision of law, ju-
13 dicial determination, consent decree, or settlement agree-
14 ment, no State may require that an immigration detention
15 facility used to detain children who have not attained 18
16 years of age, or families consisting of one or more of such
17 children and the parents or legal guardians of such chil-
18 dren, that is located in that State, be licensed by the State
19 or any political subdivision thereof.

20 **TITLE V—VISA OVERSTAYS**

21 **PENALTIES**

22 **SEC. 501. EXPANDED PENALTIES FOR ILLEGAL ENTRY OR**

23 **PRESENCE.**

24 Section 275 of the Immigration and Nationality Act
25 (8 U.S.C. 1325) is amended—

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

5 (2) in subsection (b)—

6 (A) in paragraph (1), by striking “at least
7 \$50 and not more than \$250” and inserting
8 “not less than \$500 and not more than
9 \$1,000”; and

10 (B) in paragraph (2), by inserting after
11 “in the case of an alien who has been previously
12 subject to a civil penalty under this subsection”
13 the following: “or subsection (e)(2)(B)”;

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

15 “(e) VISA OVERSTAYS.—

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

20 “(A) to maintain the nonimmigrant status
21 in which the alien was admitted, or to which it
22 was changed under section 248, including com-
23 plying with the period of stay authorized by the
24 Secretary of Homeland Security in connection
25 with such status; or

1 “(B) to comply otherwise with the condi-
2 tions of such nonimmigrant status.

3 “(2) PENALTIES.—An alien who has violated
4 paragraph (1)—

5 “(A) shall—

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

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

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

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

22 “(ii) twice the amount specified in
23 clause (i), in the case of an alien who has
24 been previously subject to a civil penalty

1 under this subparagraph or subsection
2 (b).”.

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

5 **SEC. 601. IMMIGRATION PAROLE REFORM.**

6 Section 212(d)(5) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:
8 “(5)(A) Except as provided in subparagraphs (B)
9 and (C) and section 214(f), the Secretary of Homeland
10 Security, in the discretion of the Secretary, may tempo-
11 rarily parole into the United States any alien applying for
12 admission to the United States who is not present in the
13 United States, under such conditions as the Secretary may
14 prescribe, on a case-by-case basis, and not according to
15 eligibility criteria describing an entire class of potential
16 parole recipients, for urgent humanitarian reasons or sig-
17 nificant public benefit. Parole granted under this subpara-
18 graph may not be regarded as an admission of the alien.
19 When the purposes of such parole have been served in the
20 opinion of the Secretary, the alien shall immediately re-
21 turn or be returned to the custody from which the alien
22 was paroled. After such return, the case of the alien shall
23 be dealt with in the same manner as the case of any other
24 applicant for admission to the United States.

1 “(B) The Secretary of Homeland Security may grant
2 parole to any alien who—

3 “(i) is present in the United States without
4 lawful immigration status;

5 “(ii) is the beneficiary of an approved petition
6 under section 203(a);

7 “(iii) is not otherwise inadmissible or remov-
8 able; and

9 “(iv) is the spouse or child of a member of the
10 Armed Forces serving on active duty.

11 “(C) The Secretary of Homeland Security may grant
12 parole to any alien—

13 “(i) who is a national of the Republic of Cuba
14 and is living in the Republic of Cuba;

15 “(ii) who is the beneficiary of an approved peti-
16 tion under section 203(a);

17 “(iii) for whom an immigrant visa is not imme-
18 diately available;

19 “(iv) who meets all eligibility requirements for
20 an immigrant visa;

21 “(v) who is not otherwise inadmissible; and

22 “(vi) who is receiving a grant of parole in fur-
23 therance of the commitment of the United States to
24 the minimum level of annual legal migration of
25 Cuban nationals to the United States specified in

1 the U.S.-Cuba Joint Communiqué on Migration,
2 done at New York September 9, 1994, and re-
3 affirmed in the Cuba-United States: Joint Statement
4 on Normalization of Migration, Building on the
5 Agreement of September 9, 1994, done at New York
6 May 2, 1995.

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

18 “(E) For purposes of determining an alien’s eligi-
19 bility for parole under subparagraph (A), an urgent hu-
20 manitarian reason shall be limited to circumstances in
21 which the alien establishes that—

22 “(i)(I) the alien has a medical emergency; and
23 “(II)(aa) the alien cannot obtain necessary
24 treatment in the foreign state in which the alien is
25 residing; or

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

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

8 “(iii) the alien is needed in the United States
9 in order to donate an organ or other tissue for
10 transplant and there is insufficient time for the alien
11 to be admitted to the United States through the nor-
12 mal visa process;

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

19 “(v) the alien is seeking to attend the funeral
20 of a close family member and the alien could not ar-
21 rive in the United States in time to attend such fu-
22 neral if the alien were to be admitted to the United
23 States through the normal visa process;

24 “(vi) the alien is an adopted child with an ur-
25 gent medical condition who is in the legal custody of

1 the petitioner for a final adoption-related visa and
2 whose medical treatment is required before the ex-
3 pected award of a final adoption-related visa; or

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

7 “(F) For purposes of determining an alien’s eligi-
8 bility for parole under subparagraph (A), a significant
9 public benefit may be determined to result from the parole
10 of an alien only if—

11 “(i) the alien has assisted (or will assist, wheth-
12 er knowingly or not) the United States Government
13 in a law enforcement matter;

14 “(ii) the alien’s presence is required by the Gov-
15 ernment in furtherance of such law enforcement
16 matter; and

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

22 “(G) For purposes of determining an alien’s eligi-
23 bility for parole under subparagraph (A), the term ‘case-
24 by-case basis’ means that the facts in each individual case
25 are considered and parole is not granted based on mem-

1 bership in a defined class of aliens to be granted parole.
2 The fact that aliens are considered for or granted parole
3 one-by-one and not as a group is not sufficient to establish
4 that the parole decision is made on a ‘case-by-case basis’.

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

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

16 “(J) Parole granted after a departure from the
17 United States shall not be regarded as an admission of
18 the alien. An alien granted parole, whether as an initial
19 grant of parole or parole upon reentry into the United
20 States, is not eligible to adjust status to lawful permanent
21 residence or for any other immigration benefit if the immi-
22 gration status the alien had at the time of departure did
23 not authorize the alien to adjust status or to be eligible
24 for such benefit.

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

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

7 “(II) 1 year.

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

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

14 “(II) 1 year.

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

21 “(L) Not later than 90 days after the last day of each
22 fiscal year, the Secretary of Homeland Security shall sub-
23 mit to the Committee on the Judiciary of the Senate and
24 the Committee on the Judiciary of the House of Rep-
25 resentatives and make available to the public, a report—

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

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

7 “(I) the duration of parole;

8 “(II) the type of parole; and

9 “(III) the current status of the aliens so
10 paroled.”.

11 **SEC. 602. IMPLEMENTATION.**

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

16 (b) EXCEPTIONS.—Notwithstanding subsection (a),
17 each of the following exceptions apply:

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

1 (2) Section 212(d)(5)(J) of the Immigration
2 and Nationality Act, as added by this Act, shall take
3 effect on the date of the enactment of this title.

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

