

118TH CONGRESS
1ST SESSION

H. R. 2374

To reform the process for enforcing the immigration laws of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2023

Mr. GARCÍA of Illinois (for himself, Mr. CASAR, Ms. PRESSLEY, Mr. ESPAILLAT, Ms. SCHAKOWSKY, Mrs. WATSON COLEMAN, Ms. NORTON, Ms. OCASIO-CORTEZ, Ms. GARCIA of Texas, Ms. CLARKE of New York, Mr. MCGOVERN, Ms. OMAR, Mr. BLUMENAUER, Mr. CÁRDENAS, Mr. POCAN, Ms. TLAIB, Mr. VARGAS, Mr. BOWMAN, Ms. BUSH, Ms. WILLIAMS of Georgia, Ms. VELÁZQUEZ, Mrs. NAPOLITANO, Ms. CHU, Mr. GRIJALVA, Ms. BARRAGÁN, Mr. JOHNSON of Georgia, Ms. MENG, Mr. GOMEZ, Mrs. RAMIREZ, Ms. WILSON of Florida, and Mr. FROST) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To reform the process for enforcing the immigration laws of the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “New Way Forward
5 Act”.

1 **TITLE I—END MANDATORY DE-**
2 **TENTION AND REQUIRE**
3 **PROBABLE CAUSE FOR AR-**
4 **REST**

5 **SEC. 101. PHASE-OUT OF PRIVATE FOR-PROFIT DETENTION**
6 **FACILITIES AND USE OF JAILS.**

7 (a) **SECURE DETENTION FACILITIES.**—Beginning on
8 the date of the enactment of this Act, the Secretary of
9 Homeland Security may not enter into, or extend, any con-
10 tract with any public or private for-profit entity that owns
11 or operates a detention facility for use of that facility to
12 detain aliens in the custody of the Department of Home-
13 land Security, and shall terminate any such contract not
14 later than the date that is 3 years after the date of the
15 enactment of this Act. Beginning on the date that is 3
16 years after the date of the enactment of this Act, any facil-
17 ity at which aliens in the custody of the Department of
18 Homeland Security are detained shall be owned and oper-
19 ated by the Department of Homeland Security.

20 (b) **NON-SECURE DETENTION PROGRAMS.**—Begin-
21 ning on the date of the enactment of this Act, the Sec-
22 retary of Homeland Security may not enter into, or ex-
23 tend, any contract with any public or private for-profit en-
24 tity that owns or operates a program or facility that pro-
25 vides for non-residential detention-related activities for

1 aliens who are subject to monitoring by the Department
2 of Homeland Security, and shall terminate any such con-
3 tract not later than the date that is 3 years after the date
4 of the enactment of this Act. Beginning on the date that
5 is 3 years after the date of the enactment of this Act,
6 any such program or facility shall be owned and operated
7 by a nonprofit organization or by the Department of
8 Homeland Security.

9 (c) PUBLICATION OF PLAN.—Not later than 60 days
10 after the date of the enactment of this Act, the Secretary
11 shall develop, and make publicly available, a plan and
12 timeline for the implementation of this section.

13 **SEC. 102. PROCEDURES FOR DETAINING ALIENS.**

14 (a) CUSTODY AND BOND DETERMINATIONS.—Sec-
15 tion 236 of the Immigration and Nationality Act (8 U.S.C.
16 1226) is amended—

17 (1) by striking subsections (a) through (c) and
18 inserting the following:

19 “(a) ARREST, DETENTION, AND RELEASE.—

20 “(1) IN GENERAL.—On a warrant issued by an
21 immigration judge, or pursuant to section 287(a)(2),
22 the Secretary of Homeland Security may arrest an
23 alien and, in accordance with this section, may,
24 pending a decision on whether the alien is to be re-
25 moved from the United States—

1 “(A) detain the alien; or

2 “(B) release the alien—

3 “(i) on bond;

4 “(ii) subject to conditions; or

5 “(iii) on the alien’s own recognizance.

6 “(2) EXCEPTION.—This section shall not apply
7 to an unaccompanied alien child (as defined in sec-
8 tion 462(g)(2) of the Homeland Security Act of
9 2002 (6 U.S.C. 279(g)(2))). Such an alien shall be
10 transferred to the custody of the Secretary of Health
11 and Human Services pursuant to section 235(b)(3)
12 of the William Wilberforce Trafficking Victims Pro-
13 tection Reauthorization Act of 2008 (8 U.S.C.
14 1232(b)(3)).

15 “(b) CUSTODY AND BOND DETERMINATIONS.—

16 “(1) INITIAL DETERMINATION.—Not later than
17 48 hours after taking an alien into custody, the Sec-
18 retary of Homeland Security shall make an initial
19 custody determination with regard to that alien, and
20 provide that determination in writing to the alien. If
21 the Secretary determines that the release without
22 conditions of an alien will not reasonably assure the
23 appearance of the alien as required or will endanger
24 the safety of any other person or the community, the
25 custody determination under this paragraph will im-

1 pose the least restrictive conditions, as described in
2 paragraph (4).

3 “(2) TIMING.—If an alien seeks to challenge
4 the initial custody determination under paragraph
5 (1), the alien shall be provided with the opportunity
6 for a hearing before an immigration judge to deter-
7 mine whether the alien should be detained, which
8 hearing shall occur not later than 72 hours after the
9 initial custody determination, except that an immi-
10 gration judge may grant a reasonable continuance
11 upon the alien’s request for additional time to pre-
12 pare for the hearing.

13 “(3) PRESUMPTION OF RELEASE.—In a hearing
14 under this subsection, there shall be a rebuttable
15 presumption that the alien should be released. The
16 Government shall have the duty of rebutting this
17 presumption by clear and convincing evidence based
18 on credible and individualized information that es-
19 tablishes that the use of alternatives to detention
20 will not reasonably assure the appearance of the
21 alien at removal proceedings, or that the alien is a
22 threat to another person or the community. The fact
23 that an alien has a prior conviction or a criminal
24 charge pending against the alien may not be the sole
25 factor to justify the continued detention of the alien.

1 “(4) LEAST RESTRICTIVE CONDITIONS RE-
2 QUIRED.—If an immigration judge determines pur-
3 suant to a hearing under this section that the re-
4 lease without conditions of an alien will not reason-
5 ably assure the appearance of the alien as required
6 or will endanger the safety of any other person or
7 the community, the immigration judge shall order
8 the least restrictive conditions, or combination of
9 conditions, that the judge determines will reasonably
10 assure the appearance of the alien as required and
11 the safety of any other person and the community,
12 which may include secured or unsecured release on
13 bond, or participation in a program described in
14 subsection (i). Any conditions assigned to an alien
15 pursuant to this paragraph shall be reviewed by the
16 immigration judge on a monthly basis.

17 “(5) BOND DETERMINATION.—In the case that
18 an immigration judge makes a determination to re-
19 lease an alien on bond under subsection (a)(1)(B)(i),
20 the immigration judge shall consider, for purposes of
21 setting the amount of the bond, the alien’s financial
22 resources and ability to pay the bond without impos-
23 ing financial hardship on the alien.

24 “(6) SPECIAL RULE FOR VULNERABLE PER-
25 SONS AND PRIMARY CAREGIVERS.—In a case in

1 which an alien who is the subject of a custody deter-
2 mination under this subsection is a vulnerable per-
3 son or a primary caregiver, the alien may not be de-
4 tained unless the Government shows, in addition to
5 the requirements under paragraph (3), that it is un-
6 reasonable or not practicable to place the individual
7 in a community-based supervision program.

8 “(7) DEFINITION.—In this subsection, the term
9 ‘vulnerable person’ means an individual who—

10 “(A) is under 21 years of age or over 60
11 years of age;

12 “(B) is pregnant;

13 “(C) identifies as lesbian, gay, bisexual,
14 transgender, or intersex;

15 “(D) is victim or witness of a crime;

16 “(E) has filed a nonfrivolous civil rights
17 claim in Federal or State court;

18 “(F) has a serious mental or physical ill-
19 ness or disability;

20 “(G) has been determined by an asylum of-
21 ficer in an interview conducted under section
22 235(b)(1)(B) to have a credible fear of persecu-
23 tion or a reasonable fear of persecution under
24 section 208.31 or 241.8(e) of title 8, Code of

1 Federal Regulations (as in effect on the date of
2 the enactment of the New Way Forward Act);

3 “(H) has limited English language pro-
4 ficiency and is not provided access to appro-
5 priate and meaningful language services in a
6 timely fashion; or

7 “(I) has been determined by an immigra-
8 tion judge or the Secretary of Homeland Secu-
9 rity to be experiencing severe trauma or to be
10 a survivor of torture or gender-based violence,
11 based on information obtained during intake,
12 from the alien’s attorney or legal service pro-
13 vider, or through credible self-reporting.

14 “(c) SUBSEQUENT DETERMINATIONS.—An alien who
15 is detained under this section shall be provided with a de
16 novo custody determination hearing under this subsection
17 every 60 days, as well as upon showing of a change in
18 circumstances or good cause for a de novo custody deter-
19 mination hearing.”; and

20 (2) by striking subsection (e) and inserting the
21 following:

22 “(e) RELEASE UPON AN ORDER GRANTING RELIEF
23 FROM REMOVAL.—In the case of an alien with respect to
24 whom an immigration judge has entered an order termi-
25 nating removal proceedings or an order providing for relief

1 from removal, including an order granting asylum, or pro-
2 viding for withholding, deferral, or cancellation of removal,
3 which order is pending appeal, the Secretary of Homeland
4 Security shall immediately release the alien upon entry of
5 the order, and may impose only reasonable conditions on
6 the alien's release from custody.

7 “(f) COMMUNITY-BASED CASE MANAGEMENT PRO-
8 GRAM.—

9 “(1) IN GENERAL.—The Secretary of Homeland
10 Security shall establish, outside of the purview of
11 U.S. Immigration and Customs Enforcement, a com-
12 munity-based case management program that—

13 “(A) provides alternatives to detaining
14 aliens;

15 “(B) offers a continuum of community-
16 based support options and services, including—

17 “(i) case management; and

18 “(ii) access to—

19 “(I) social services;

20 “(II) medical and mental health
21 services;

22 “(III) housing;

23 “(IV) transportation; and

24 “(V) legal services; and

1 “(C) provides services in the appropriate
2 language.

3 “(2) PROHIBITION ON ELECTRONIC SURVEIL-
4 LANCE.—The program under paragraph (1) may not
5 include, as an alternative to detention, the provision
6 of ankle monitors or other forms of electronic sur-
7 veillance.

8 “(3) STUDY.—Within 180 days, the Secretary
9 shall undertake a study to examine best practices of
10 government-funded case management and related
11 services, including exploring the possibility of fund-
12 ing case management services out of the Depart-
13 ment.

14 “(4) CONTRACTS.—

15 “(A) IN GENERAL.—The Secretary may
16 enter into 1 or more contracts to operate the
17 case management program described in para-
18 graph (1).

19 “(B) PRIORITIZATION.—In entering into a
20 contract under subparagraph (A), the Secretary
21 shall give priority to direct contracts with quali-
22 fied nongovernmental community-based organi-
23 zations that have experience providing services
24 to immigrant, refugee, and asylum-seeking pop-
25 ulations.

1 “(5) INDIVIDUALIZED DETERMINATION RE-
2 QUIRED.—

3 “(A) IN GENERAL.—In determining wheth-
4 er to order an alien to participate in a program
5 under this subsection, the Secretary or the im-
6 migration judge, as appropriate, shall make an
7 individualized determination to determine the
8 appropriate level of supervision for the alien.

9 “(B) EXEMPTION.—Participation in a pro-
10 gram under this subsection may not be ordered
11 for an alien for whom it is determined that re-
12 lease on reasonable bond or recognizance will
13 reasonably ensure the appearance of the alien
14 as required and the safety of any other person
15 and the community.

16 “(6) PROHIBITION ON FEES FOR ALTER-
17 NATIVES TO DETENTION.—An alien who is required
18 to participate in a specific alternatives to detention
19 program or service may not be charged a fee for
20 such participation.

21 “(7) CASE MANAGEMENT REVIEW.—Not later
22 than 180 days after the date of the enactment of the
23 New Way Forward Act, the Secretary shall conduct
24 a review of—

1 “(A) best practices in federally funded case
2 management programs; and

3 “(B) the feasibility of transferring alter-
4 natives to detention case management programs
5 out of the purview of the Department of Home-
6 land Security.”.

7 (b) PROBABLE CAUSE HEARING.—Section 287(a) of
8 the Immigration and Nationality Act (8 U.S.C. 1357(a))
9 is amended by striking the matter preceding paragraph
10 (3) and inserting the following:

11 “(a) Any officer or employee of the Department of
12 Homeland Security authorized under regulations pre-
13 scribed by the Secretary of Homeland Security shall have
14 power without warrant—

15 “(1) to interrogate any alien or person believed
16 to be an alien as to the person’s right to be or to
17 remain in the United States, provided that such in-
18 terrogation is not based on the person’s race, eth-
19 nicity, national origin, religion, sexual orientation,
20 color, spoken language, or English language pro-
21 ficiency; and

22 “(2) to arrest any alien who in the officer or
23 employee’s presence or view is entering or attempt-
24 ing to enter the United States in violation of any law
25 or regulation made in pursuance of law regulating

1 the admission, exclusion, expulsion, or removal of
2 aliens, or to arrest any alien in the United States,
3 if—

4 “(A) the officer or employee has probable
5 cause to believe that the alien so arrested is in
6 the United States in violation of any such law
7 or regulation and is likely to escape before a
8 warrant can be obtained for his arrest;

9 “(B) the officer or employee has reason to
10 believe that the person would knowingly and
11 willfully fail to appear in immigration court in
12 response to a properly served notice to appear;
13 and

14 “(C) not later than 48 hours after being
15 taken into custody, the arrested alien is pro-
16 vided with a hearing before an immigration
17 judge to determine whether there is probable
18 cause as required by this section, including
19 probable cause to believe that the person would
20 have knowingly and willfully failed to appear as
21 required under subparagraph (B), which burden
22 to establish probable cause shall be on the Gov-
23 ernment.”.

1 (c) MANDATORY DETENTION REPEALED.—The Im-
2 migration and Nationality Act (8 U.S.C. 1101 et seq.) is
3 amended—

4 (1) in section 235(b)(1)(B)(ii)—

5 (A) by striking “shall” and inserting
6 “may”; and

7 (B) by inserting before the period at the
8 end the following: “pursuant to the custody re-
9 view procedures set forth in section 236”;

10 (2) by striking section 235(b)(1)(B)(iii)(IV);

11 (3) in section 235(b)(2)(A)—

12 (A) by striking “shall” and inserting
13 “may”; and

14 (B) by inserting before the period at the
15 end the following: “pursuant to the custody re-
16 view procedures set forth in section 236”;

17 (4) by striking section 236A;

18 (5) in section 238(a)(2), by striking “pursuant
19 to section 236(c)”;

20 (6) in section 506(a)(2)—

21 (A) by striking the paragraph heading and
22 inserting the following: “RELEASE HEARING
23 FOR ALIENS DETAINED”; and

24 (B) in subparagraph (A)—

1 (i) in the matter preceding clause (i),
2 by striking “lawfully admitted for perma-
3 nent residence”;

4 (ii) by striking clause (i); and

5 (iii) by redesignating clauses (ii) and
6 (iii) as clauses (i) and (ii), respectively.

7 (d) ALIENS ORDERED REMOVED.—Section 241(a) of
8 the Immigration and Nationality Act (8 U.S.C. 1231(a))
9 is amended—

10 (1) in paragraph (1), by striking “90 days”
11 each place it appears and inserting “60 days”;

12 (2) by striking paragraph (2) and inserting the
13 following:

14 “(2) INITIAL CUSTODY REDETERMINATION
15 HEARING.—

16 “(A) IN GENERAL.—Not later than 72
17 hours after the entry of a final administrative
18 order of removal, the alien ordered removed
19 shall be provided with a custody redetermina-
20 tion hearing before an immigration judge.

21 “(B) PRESUMPTION OF DETENTION.—For
22 purposes of the hearing under subparagraph
23 (A), the alien shall be detained during the re-
24 moval period unless the alien can show, by a
25 preponderance of the evidence, that the alien’s

1 removal is not reasonably foreseeable and that
2 the alien does not pose a risk to the safety of
3 any individual or to the community.”;

4 (3) in paragraph (3)—

5 (A) in the paragraph heading, by striking
6 “90-DAY” and inserting “60-DAY”; and

7 (B) in the matter preceding subparagraph
8 (A), by striking “the alien, pending removal,
9 shall be subject to supervision under” and in-
10 sserting the following: “except as provided in
11 paragraph (7), any alien who has been detained
12 during the removal period shall be released
13 from custody, pending removal, subject to indi-
14 vidualized supervision requirements in accord-
15 ance with”;

16 (4) by striking paragraph (6); and

17 (5) by striking paragraph (7) and inserting the
18 following:

19 “(7) SUBSEQUENT CUSTODY REDETERMINA-
20 TION HEARINGS.—

21 “(A) IN GENERAL.—The Government may
22 request a subsequent redetermination hearing
23 before an immigration judge seeking continued
24 detention for an alien ordered to be detained

1 pursuant to paragraph (2) who has not been re-
2 moved within the removal period.

3 “(B) STANDARD.—An alien may only be
4 detained after the removal period upon a show-
5 ing by the Government that—

6 “(i) the alien’s removal is reasonably
7 foreseeable; and

8 “(ii) the alien poses a risk to the safe-
9 ty of an individual or the community,
10 which may only be established based on
11 credible and individualized information
12 that establishes objective risk factors, and
13 may not be established based only on the
14 fact that the alien has been charged with
15 or is suspected of a crime.

16 “(C) PERIOD OF DETENTION.—An alien
17 may not be detained pursuant to an order
18 under this paragraph for longer than a 60-day
19 period. The Government may seek subsequent
20 redetermination hearings under this paragraph
21 in order to continue detaining an alien beyond
22 each such 60-day period.”.

1 **TITLE II—STATUTE OF**
2 **LIMITATIONS**

3 **SEC. 201. TIME FOR COMMENCING REMOVAL PRO-**
4 **CEEDINGS.**

5 Section 239(d) of the Immigration and Nationality
6 Act (8 U.S.C. 1229(d)) is amended by adding at the end
7 the following:

8 “(3)(A) Notwithstanding paragraph (2), any removal
9 proceeding against an alien previously admitted to the
10 United States for being within a class of deportable aliens
11 described in section 237(a)(2), or within a class of inad-
12 missible aliens described in section 212(a)(2), shall not be
13 entertained unless commenced not later than the date that
14 is five years after the date on which the alien became de-
15 portable or inadmissible.

16 “(B) This paragraph shall apply to any removal pro-
17 ceeding resulting in an order of removal before the date
18 of the enactment of the New Way Forward Act as if in
19 effect on the date on which the removal proceeding was
20 commenced.”.

1 **TITLE III—LIMIT CRIMINAL-**
2 **SYSTEM-TO-REMOVAL PIPELINE**

3 **SEC. 301. CRIMINAL OFFENSES AND IMMIGRATION LAWS.**

4 (a) INADMISSIBILITY BASED ON CRIMINAL AND RE-
5 LATED GROUNDS.—Section 212(a)(2) of the Immigration
6 and Nationality Act (8 U.S.C. 1182(a)(2)) is amended—

7 (1) by striking subparagraph (A); and
8 (2) by redesignating subparagraphs (B)
9 through (I) as subparagraphs (A) through (H), re-
10 spectively.

11 (b) DEPORTABILITY BASED ON CRIMINAL OF-
12 FENSES.—Section 237(a)(2) of the Immigration and Na-
13 tionality Act (8 U.S.C. 1227(a)(2)) is amended—

14 (1) in subparagraph (A)—
15 (A) by striking clauses (i) and (ii);
16 (B) by redesignating clauses (iii) through
17 (vi) as clauses (i) through (iv), respectively; and
18 (C) in clause (iv), as so redesignated, by
19 striking “Clauses (i), (ii), and (iii)” and insert-
20 ing “Clauses (i) and (ii)”;
21 (2) by striking subparagraph (B); and
22 (3) by redesignating subparagraphs (C) through
23 (F) as subparagraphs (B) through (E), respectively.

1 **SEC. 302. DEFINITIONS.**

2 (a) AGGRAVATED FELONY.—Section 101(a)(43) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1101(a)(43)) is amended—

5 (1) in the matter preceding subparagraph (A),
6 by striking “means—” and inserting “means a fel-
7 ony, for which a term of imprisonment of not less
8 than 5 years was imposed, that is—”;

9 (2) in subparagraph (F), by striking “for which
10 the term of imprisonment at least one year”;

11 (3) in subparagraph (G), by striking “for
12 which” and all that follows through “year”;

13 (4) in subparagraph (J), by striking “, for
14 which a sentence of one year imprisonment or more
15 may be imposed”;

16 (5) in subparagraph (P)—

17 (A) by striking “(i)”;

18 (B) by striking “and (ii) for which the
19 term of imprisonment imposed (regardless of
20 any suspension of such imprisonment) is at
21 least 12 months”;

22 (6) in subparagraph (R), by striking “for which
23 the term of imprisonment is at least one year”;

24 (7) in subparagraph (S), by striking “, for
25 which the term of imprisonment is at least one
26 year”; and

1 (8) by striking the last sentence.

2 (b) CONVICTION.—Section 101(a)(48) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1101(a)(48)) is
4 amended—

5 (1) in subparagraph (A), by striking “court”
6 and all that follows through “to be imposed.” and
7 inserting the following: “court. However, any such
8 adjudication or judgment of guilt that has been dis-
9 missed, expunged, sealed, deferred, annulled, invali-
10 dated, withheld, or vacated by any court or entity
11 shall not be considered a conviction for purposes of
12 this Act. Any such adjudication or judgment of guilt
13 where a court has issued a judicial recommendation
14 against removal shall not be considered a conviction
15 for purposes of this Act. Any disposition that is an
16 order of probation without entry of judgment or any
17 similar disposition, or where the President of the
18 United States, the governor of a State or territory,
19 or any body authorized by a state legislature or gov-
20 ernor has issued a pardon, shall not be considered
21 a conviction for purposes of this Act. Any such adju-
22 dication or judgment on direct appeal or within the
23 time to file direct appeal shall not be considered a
24 ‘conviction’ for the purposes of this Act.”; and

25 (2) in subparagraph (B)—

1 (A) by inserting “only” after “deemed to
2 include”; and

3 (B) by striking “or confinement” and all
4 that follows through the period at the end and
5 inserting “ordered by a court of law. Any such
6 reference shall not include any term of impris-
7 onment or any sentence that has been subject
8 to any suspension of imposition or execution in
9 whole or in part, or that has been commuted or
10 in any way modified or changed by the Presi-
11 dent of the United States, the governor of a
12 State or territory, or any body authorized by a
13 State legislature or governor to commute, mod-
14 ify, or in any way change a sentence.”.

15 (c) PARTICULARLY SERIOUS CRIME.—Section
16 208(b)(2)(B)(i) of the Immigration and Nationality Act
17 (8 U.S.C. 1158(b)(2)(B)(i)) is amended to read as follows:

18 “(i) CONVICTION OF AGGRAVATED
19 FELONY.—For purposes of clause (ii) of
20 subparagraph (A), section 241(b)(3)(B), or
21 any other provision of this Act, only an
22 alien who has been convicted of an aggra-
23 vated felony for which a term of imprison-
24 ment of not less than five years was im-

1 posed shall be considered to have been con-
2 victed of a particularly serious crime.”.

3 (d) **APPLICABILITY.**—The amendments made by this
4 section shall apply to—

5 (1) admissions and conduct occurring before,
6 on, or after the date of the enactment of this Act;
7 and

8 (2) convictions and sentences entered before,
9 on, or after the date of the enactment of this Act.

10 **TITLE IV—RESTORE JUDICIAL**
11 **DISCRETION AND END RE-**
12 **MOVAL WITHOUT DUE PROC-**
13 **ESS**

14 **SEC. 401. IMMIGRATION PROCEDURAL CHANGES.**

15 (a) **DECISION AND BURDEN OF PROOF.**—Section
16 240(c)(1)(A) of the Immigration and Nationality Act (8
17 U.S.C. 1229(c)(1)(A)) is amended by inserting after the
18 period at the end the following: “Notwithstanding any
19 other provision of law, an immigration judge may grant
20 any relief or deferral from removal, including withholding
21 of removal, to any individual who is otherwise eligible for
22 such relief but for a prior criminal conviction, or the com-
23 mission of or a finding of the commission of other conduct
24 described in section 212(a)(2), 237(a)(2), or 237(a)(3), if
25 the immigration judge finds such an exercise of discretion

1 appropriate in pursuit of humanitarian purposes, to as-
2 sure family unity, or when it is otherwise in the public
3 interest.”.

4 (b) REMOVAL OF ALIENS WHO ARE NOT PERMA-
5 NENT RESIDENTS.—Section 238 of the Immigration and
6 Nationality Act (8 U.S.C. 1228) is amended—

7 (1) by striking subsection (b); and

8 (2) by redesignating the first subsection (c) as
9 subsection (b).

10 (c) REINSTATEMENT OF REMOVAL ORDERS AGAINST
11 ALIENS ILLEGALLY REENTERING.—Section 241(a) of the
12 Immigration and Nationality Act (8 U.S.C. 1231(a)) is
13 amended—

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

15 (2) by redesignating paragraphs (6) and (7) as
16 paragraphs (5) and (6), respectively.

17 (d) SPECIAL RULES RELATING TO CONTINUOUS
18 RESIDENCE OR PHYSICAL PRESENCE.—Section 240A(d)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1229b(d)) is amended—

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

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

1 (e) JUDICIAL REVIEW OF ORDERS OF REMOVAL.—
2 Section 242 of the Immigration and Nationality Act (8
3 U.S.C. 1252) is amended by striking subsection (a)(2)(C).

4 **TITLE V—PROHIBITION AGAINST**
5 **PERFORMANCE OF IMMIGRA-**
6 **TION OFFICER FUNCTIONS BY**
7 **STATE AND LOCAL OFFICERS**
8 **AND EMPLOYEES**

9 **SEC. 501. LOCAL ENFORCEMENT.**

10 (a) IN GENERAL.—Section 287(g) of the Immigra-
11 tion and Nationality Act (8 U.S.C. 1357(g)) is amended
12 to read as follows:

13 “(g)(1) The officers and employees of any State, or
14 any political subdivision of a State, are prohibited from
15 performing the function of an immigration officer in rela-
16 tion to the investigation, apprehension, transport, or de-
17 tention of aliens in the United States or otherwise assist
18 in the performance of such functions.

19 “(2) Civil immigration warrants shall not be made
20 available to the officers or employees of any State, or any
21 political subdivision of a State, through the National
22 Crime Information Center database or its incorporated
23 criminal history databases. Federal, State, and local law
24 enforcement officials are prohibited from entering into the
25 National Crime Information Center database or its incor-

1 porated criminal history databases information that re-
2 lates to an alien’s immigration status, the existence of a
3 prior removal, deportation, or voluntary departure order
4 entered against an alien, or any allegations of civil viola-
5 tions of the immigration laws. Any information described
6 in this paragraph that is in the National Crime Informa-
7 tion Center database shall be removed from such database
8 not later than 90 days after the enactment of the New
9 Way Forward Act.”.

10 (b) PROHIBITING COORDINATION FOR ENFORCE-
11 MENT OF IMMIGRATION LAWS.—

12 (1) PROHIBITING STATE AND LOCAL LAW EN-
13 FORCEMENT ARREST AND DETENTION OF ALIENS.—
14 Section 439 of the Antiterrorism and Effective
15 Death Penalty Act of 1996 (8 U.S.C. 1252c) is re-
16 pealed.

17 (2) COMMUNICATION.—Section 434 of the Per-
18 sonal Responsibility and Work Opportunity Rec-
19 onciliation Act of 1996 (8 U.S.C. 1644) is repealed.

20 (c) COMMUNICATION AND ENFORCEMENT.—Section
21 642 of the Illegal Immigration Reform and Immigrant Re-
22 sponsibility Act of 1996 (8 U.S.C. 1373) is repealed.

23 **SEC. 502. NATIONAL CRIME INFORMATION CENTER.**

24 Section 534(f) of title 28, United States Code, is
25 amended—

1 (1) by redesignating paragraph (3) as para-
2 graph (4); and

3 (2) by inserting after paragraph (2) the fol-
4 lowing:

5 “(3) Civil immigration warrants shall not be
6 made available to the officers or employees of any
7 State, or any political subdivision of a State,
8 through the National Crime Information Center
9 database or its incorporated criminal history data-
10 bases. Federal, State, and local law enforcement of-
11 ficials are prohibited from entering into the National
12 Crime Information Center database or its incor-
13 porated criminal history databases information that
14 relates to an alien’s immigration status, the exist-
15 ence of a prior removal, deportation, or voluntary
16 departure order entered against an alien, or any al-
17 legations of civil violations of the immigration laws.
18 Any information described in this paragraph that is
19 in the National Crime Information Center database
20 shall be removed from such database not later than
21 90 days after the enactment of the New Way For-
22 ward Act.”.

1 **TITLE VI—DECRIMINALIZE**
2 **MIGRATION**

3 **SEC. 601. REPEALING MIGRATION CRIMINAL LAWS.**

4 (a) CRIMINAL PENALTIES FOR ENTRY AT IMPROPER
5 TIME OR PLACE.—Section 275 of the Immigration and
6 Nationality Act (8 U.S.C. 1325) is repealed.

7 (b) CRIMINAL PENALTIES FOR REENTRY.—Section
8 276 of the Immigration and Nationality Act (8 U.S.C.
9 1326) is repealed.

10 **TITLE VII—RIGHT TO COME**
11 **HOME**

12 **SEC. 701. RECONSIDERING AND REOPENING IMMIGRATION**
13 **CASES.**

14 (a) IN GENERAL.—Notwithstanding any other provi-
15 sion of law, the Attorney General—

16 (1) shall grant a motion to reconsider or reopen
17 proceedings pursuant to paragraph (6) or (7) of sec-
18 tion 240(c) of the Immigration and Nationality Act
19 (8 U.S.C. 1229a(c)) with respect to any alien who—

20 (A) on or after April 24, 1996—

21 (i) was ordered removed, deported, or
22 excluded; or

23 (ii) departed the United States pursu-
24 ant to a grant of voluntary departure
25 under section 240B of the Immigration

1 and Nationality Act (8 U.S.C. 1229c) (re-
2 gardless of whether or not the alien was
3 ordered removed, deported, or excluded);
4 and

5 (B) demonstrates that the alien—

6 (i) would not have been considered in-
7 admissible, excludable, or deportable under
8 the immigration laws (as defined in section
9 101(a)(17) of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101(a)(17))) if this
11 Act, and the amendments made by this
12 Act, had been in effect on the date on
13 which such order was issued or the vol-
14 untary departure took place; or

15 (ii) would have been eligible to apply
16 for relief from removal, deportation, or ex-
17 clusion under such laws if this Act, and
18 the amendments made by this Act, had
19 been in effect on the date on which such
20 order was issued or the voluntary depar-
21 ture took place; and

22 (2) shall deem an alien who makes the dem-
23 onstration under paragraph (1)(B) as not having
24 been removed, deported, excluded, or departed, and
25 as not having failed to depart under a voluntary de-

1 parture order, for all purposes under the Immigra-
2 tion and Nationality Act (8 U.S.C. 1101 et seq.).

3 (b) PREVIOUSLY FILED APPLICATION; PREVIOUS
4 MOTIONS TO REOPEN OR RECONSIDER.—The Attorney
5 General may not reject or deny a motion to reconsider or
6 reopen under subsection (a) because—

7 (1) the alien did not include a copy of any pre-
8 viously filed application for relief; or

9 (2) the alien had previously filed a motion to
10 reopen or reconsider.

11 (c) DEADLINE.—The deadline described in para-
12 graphs (6)(B) and (7)(C)(i) of section 240(c) of the Immi-
13 grations and Nationality Act (8 U.S.C. 1229a(c)) shall not
14 apply to a motion to reopen or reconsider under this sec-
15 tion.

16 (d) TRANSPORTATION.—The Secretary of Homeland
17 Security shall provide transportation for aliens eligible for
18 reopening or reconsideration of their proceedings under
19 this section, at Government expense, to return to the
20 United States for further immigration proceedings and
21 shall admit or parole the alien into the United States.

22 (e) PHYSICAL PRESENCE REQUIREMENT.—For the
23 purpose of applications filed subsequent to reopening
24 under this section pursuant to section 240A of the Immi-
25 gration and Nationality Act (8 U.S.C. 1229b), or any

1 other application for relief under the immigration laws (as
2 defined in section 101(a)(17) of the Immigration and Na-
3 tionality Act (8 U.S.C. 1101(a)(17))), removal, deporta-
4 tion, exclusion, or voluntary departure shall not be consid-
5 ered to toll any physical presence requirement.

6 (f) JUDICIAL REVIEW.—Notwithstanding any other
7 provision of the Immigration and Nationality Act (8
8 U.S.C. 1101 et seq.), any denial of a motion to reopen
9 or reconsider submitted pursuant to this section is subject
10 to de novo judicial review in a Federal district court hav-
11 ing jurisdiction over the applicant’s residence or, in the
12 case of an applicant who was removed from the United
13 States, the last known residential address of the applicant
14 in the United States.

○