

IMMIGRATION ACCOUNTABILITY ACT

Section 1. Enforcement Accountability.—

(a) Whoever, being

- (1) an officer or agent authorized to arrest or detain aliens for violations of the Immigration and Nationality Act or related statutes, or
- (2) an attorney engaged in the civil prosecution of aliens for violations of said Act, or
- (3) a supervisor, manager or director with authority over such officers or attorneys,

knowingly or negligently fails to take into custody, or to maintain custody, or releases, or who files a motion without statutory basis to dismiss the case of an alien subject to mandatory detention under said Act, or who orders the release or dismissal of charges against such an alien, shall be subject to disciplinary action up to and including removal from office, depending on the facts, circumstances, and severity of the case.

(b) The provisions of subsection (a) of this section shall not apply to releases based on

- (1) the guidelines set forth by the Supreme Court in the case of *Zadvydas v. Davis*, or
- (2) an order by a tribunal or court of competent jurisdiction.

Section 2. Adjudications Accountability.—

(a) Officers and Employees.—

- (1) Beginning six months after enactment of this Act, every officer or employee authorized to examine and adjudicate applications or petitions for benefits under the Immigration and Nationality Act or related statutes shall certify in writing that a check of all systems and lists that maintain information about the admissibility or excludability of an alien has been made and that there is no basis under any system or list for the exclusion of said alien prior to the approval of any benefit.
- (2) Any officer or employee authorized to examine and adjudicate applications or petitions for benefits under the Immigration and Nationality Act or related statutes who knowingly or negligently fails to prepare the certification required in paragraph (a)(1) of this section shall be subject to disciplinary action up to and including removal from office, depending on the facts, circumstances, and severity of the case
- (3) The provisions of paragraph (a)(2) of this section shall not apply to adjudication of applications seeking a statutorily authorized waiver of inadmissibility, or subsequent applications or petitions in those cases where a waiver has been granted *provided* that the certification required in subsection (a) of this section shall still be prepared and

maintained in the record stating that all systems and lists have been checked and annotating specifically the applicable waiver of inadmissibility that has been granted.

(b) Supervisors, Managers, and Directors.—

(1) Whoever, being a supervisor, manager, or director with authority over any officer or employee authorized to examine and adjudicate applications or petitions for benefits under the Immigration and Nationality Act or related statutes, supersedes or orders reversal of a denial of a benefit by such an officer or employee, or who interferes in the adjudicatory process by directing such officer or employee not to deny a benefit, shall be subject to disciplinary action up to and including removal from office, depending on the facts, circumstances, and severity of the case.

(2) The provisions of paragraph (b)(1) of this section shall not apply to

(A) superseded decisions or reversals of denials based on clear cases of statutory error, which shall be thoroughly documented and certified in writing for the record by the supervisor, manager, or director who supersedes the denial or orders the reversal; or

(B) superseded decisions or reversals of denials based on review by an established administrative appeals unit; or

(C) an order by a tribunal or court of competent jurisdiction.

Section 3. Investigation.—

Allegations that an officer, agent, attorney, supervisor, manager, or director has violated any of the provisions of Sections 1 or 2 of this Act shall be investigated by the Office of Inspector General, which shall not delegate responsibility for such investigation to the internal affairs component of any agency.

Section 4. Reporting.—

The Office of Inspector General shall yearly provide a report to the [name committees here] of the Senate and House of Representatives outlining the details of all such cases investigated, and their outcomes. The Department of Homeland Security shall also yearly provide to the committees reports that provide the details of discipline meted out in each such case.