

(9) ALIENS PREVIOUSLY REMOVED OR PREVIOUSLY UNLAWFULLY PRESENT -

(A) Certain aliens previously removed.-

- (i) Arriving aliens.-Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal if the alien was at least age 18 at the time of the first removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible. A Class A Waiver under subsection (i)(1)(A) is available for this clause.
- (ii) Other aliens.-Any alien not described in clause (i) who –
  - (I) has been ordered removed under section 240 or any other provision of law, or
  - (II) departed the United States while an order of removal was outstanding, and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal if the alien was at least age 18 at the time of the first removal or at any time in the case of an alien convicted of an aggravated felony)is inadmissible. A Class C Waiver under subsection (i)(1)(C) is available for this clause.
- (iii) Exception.-Clauses (i) and (ii) shall not apply to an alien who
  - (I) departed the United States prior to the order for removal and has not since entered unlawfully nor attempted to enter unlawfully, or
  - (II) was under age 18 at the time the removal was originally ordered.

(B) ALIENS UNLAWFULLY PRESENT.-

- (i) In general.-Any alien (other than an alien lawfully admitted for permanent residence) is inadmissible who-
  - (I) was unlawfully present in the United States for a period of more than 90 days but less than 1 year, pursuant to a lawful entry, did not engage in unlawful employment, voluntarily departed the United States and again seeks admission within 1 year of the date of such alien's departure or removal, unless the alien pays a fine in the amount of \$1000 prior to entering the United States,
  - (II) other than an alien described in subclause (I), was unlawfully present in the United States for a period of more than 90 days but less than 1 year, voluntarily departed the United States and again seeks admission within 3 years of the date of such alien's departure or removal, unless the alien pays a fine in the amount of \$5000 prior to entering the United States,
  - (III) has been unlawfully present in the United States for one year or more, voluntarily departed prior to the commencement of proceedings under section 235(b)(1) or section 240 , and who again seeks admission within 5 years of the date of such alien's departure or removal from the United States, unless the alien departs or files an advanced application for determination of inadmissibility under subsection (i)(3)(A) prior to six months after the date this subsection is enacted into law and the alien pays a fine in the amount of \$5000, or
  - (IV) has been unlawfully present in the United States for one year or more, voluntarily departed subsequent to the commencement of proceedings under

section 235(b)(1) or section 240 , and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States.

A Class A Waiver under subsection (i)(1)(A) is available for subclauses (I) and (II). A Class B Waiver under subsection (i)(1)(B) is available for subclause (III). A Class C Waiver under subsection (i)(1)(C) is available for subclause (IV).

- (ii) Construction of unlawful presence.-For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States when not in a period of stay authorized by the Secretary of Homeland Security.
- (iii) Exceptions.-
  - (I) Minors.-No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).
  - (II) Entered as a young minor - No time in which is the alien is age 21 or less, if the alien last entered the US before reaching the age of 14, shall be taken into account in determining the period of unlawful presence in the United States under clause (i).
  - (III) Asylees.-No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.
  - (IV) Family unity.-No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).
  - (V) Battered women and children.-Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if "violation of the terms of the alien's nonimmigrant visa" were substituted for "unlawful entry into the United States" in subclause (III) of that paragraph.
  - (VI) VICTIMS OF A SEVERE FORM OF TRAFFICKING IN PERSONS- Clause (i) shall not apply to an alien who demonstrates that the severe form of trafficking (as that term is defined in section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)) was at least one central reason for the alien's unlawful presence in the United States.
  - (VII) IN CUSTODY – No period of time in which the alien is detained or is otherwise in the custody of the Department of Homeland Security shall be taken into account in determining the period of unlawful presence in the United States under clause (i).
- (iv) Tolling for good cause.-In the case of an alien who-
  - (I) has been lawfully admitted or paroled into the United States,
  - (II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and
  - (III) has not been employed without authorization in the United States before or during the pendency of such application, the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application.

(C) Aliens unlawfully present after previous immigration violations.-

- (i) In general.-Any alien who-

- (I) is inadmissible under subparagraph (B),
  - (II) is inadmissible under subparagraph (A)(i), or
  - (III) is inadmissible under subparagraph (A)(ii), and
- who enters or attempts to reenter the United States without inspection is inadmissible for a period of ten years from the date the alien entered or attempted to enter without inspection while inadmissible under subparagraph (B) or (A), unless the alien departs or files an advanced application for determination of inadmissibility under subsection (i)(3)(A) prior to six months after the date this subsection is enacted into law and the alien pays a fine in the amount of \$5000. A Class C Waiver under subsection (i)(1)(C) is available for subclauses (I) and (II).
- (ii) Exceptions: Clause (i) shall not apply to an immigrant who
- (I) is a VAWA self-petitioner if there is a connection between—
    - a. the alien's battering or subjection to extreme cruelty; and
    - b. the alien's removal, departure from the United States, reentry or reentries into the United States; or attempted reentry into the United States, or
  - (II) has only one violation under this paragraph and departed the United States to attend to the alien's gravely ill parent, sibling, spouse or child or attend the funeral of the alien's parent, sibling, spouse or child and re-entered without inspection or attempted to re-enter without inspection in order to resume caring for the alien's minor US citizen child.