

Editorial Notes

REFERENCES IN TEXT

Section 1 of the Classified Information Procedures Act, referred to in pars. (2) and (3), is section 1 of Pub. L. 96-456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1996—Par. (1). Pub. L. 104-208, §308(g)(1), substituted “section 1227(a)(4)(B)” for “section 1251(a)(4)(B)”.

Par. (7). Pub. L. 104-208, §354(a)(5), added par. (7).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(g)(1) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

Amendment by section 354(a)(5) of Pub. L. 104-208 effective as if included in the enactment of subtitle A of title IV of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, see section 358 of Pub. L. 104-208, set out as a note under section 1182 of this title.

EFFECTIVE DATE

Subchapter effective Apr. 24, 1996, and applicable to all aliens without regard to date of entry or attempted entry into United States, see section 401(f) of Pub. L. 104-132, set out as an Effective Date of 1996 Amendment note under section 1326 of this title.

§ 1532. Establishment of removal court**(a) Designation of judges**

The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court that shall have jurisdiction to conduct all removal proceedings. The Chief Justice may, in the Chief Justice’s discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

(b) Terms

Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that of the members first designated—

(1) 1 member shall serve for a term of 1 year;

(2) 1 member shall serve for a term of 2 years;

(3) 1 member shall serve for a term of 3 years; and

(4) 1 member shall serve for a term of 4 years.

(c) Chief judge**(1) Designation**

The Chief Justice shall publicly designate one of the judges of the removal court to be the chief judge of the removal court.

(2) Responsibilities

The chief judge shall—

(A) promulgate rules to facilitate the functioning of the removal court; and

(B) assign the consideration of cases to the various judges on the removal court.

(d) Expeditious and confidential nature of proceedings

The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to removal proceedings in the same manner as they apply to proceedings under that Act [50 U.S.C. 1801 et seq.].

(e) Establishment of panel of special attorneys

The removal court shall provide for the designation of a panel of attorneys each of whom—

(1) has a security clearance which affords the attorney access to classified information, and

(2) has agreed to represent permanent resident aliens with respect to classified information under section 1534(e)(3) of this title in accordance with (and subject to the penalties under) this subchapter.

(June 27, 1952, ch. 477, title V, §502, as added Pub. L. 104-132, title IV, §401(a), Apr. 24, 1996, 110 Stat. 1259; amended Pub. L. 104-208, div. C, title III, §354(a)(4), Sept. 30, 1996, 110 Stat. 3009-643.)

Editorial Notes

REFERENCES IN TEXT

The Foreign Intelligence Surveillance Act of 1978, referred to in subsec. (d), is Pub. L. 95-511, Oct. 25, 1978, 92 Stat. 1783, as amended, which is classified principally to chapter 36 (§1801 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of Title 50 and Tables.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-208 added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective as if included in the enactment of subtitle A of title IV of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104-132, see section 358 of Pub. L. 104-208, set out as a note under section 1182 of this title.

§ 1533. Removal court procedure**(a) Application****(1) In general**

In any case in which the Attorney General has classified information that an alien is an alien terrorist, the Attorney General may seek removal of the alien under this subchapter by filing an application with the removal court that contains—

(A) the identity of the attorney in the Department of Justice making the application;

(B) a certification by the Attorney General or the Deputy Attorney General that the application satisfies the criteria and requirements of this section;

(C) the identity of the alien for whom authorization for the removal proceeding is sought; and

(D) a statement of the facts and circumstances relied on by the Department of Justice to establish probable cause that—

(i) the alien is an alien terrorist;

(ii) the alien is physically present in the United States; and

(iii) with respect to such alien, removal under subchapter II would pose a risk to the national security of the United States.

(2) Filing

An application under this section shall be submitted ex parte and in camera, and shall be filed under seal with the removal court.

(b) Right to dismiss

The Attorney General may dismiss a removal action under this subchapter at any stage of the proceeding.

(c) Consideration of application

(1) Basis for decision

In determining whether to grant an application under this section, a single judge of the removal court may consider, ex parte and in camera, in addition to the information contained in the application—

(A) other information, including classified information, presented under oath or affirmation; and

(B) testimony received in any hearing on the application, of which a verbatim record shall be kept.

(2) Approval of order

The judge shall issue an order granting the application, if the judge finds that there is probable cause to believe that—

(A) the alien who is the subject of the application has been correctly identified and is an alien terrorist present in the United States; and

(B) removal under subchapter II would pose a risk to the national security of the United States.

(3) Denial of order

If the judge denies the order requested in the application, the judge shall prepare a written statement of the reasons for the denial, taking all necessary precautions not to disclose any classified information contained in the Government's application.

(d) Exclusive provisions

If an order is issued under this section granting an application, the rights of the alien regarding removal and expulsion shall be governed solely by this subchapter, and except as they are specifically referenced in this subchapter, no other provisions of this chapter shall be applicable.

(June 27, 1952, ch. 477, title V, § 503, as added Pub. L. 104-132, title IV, § 401(a), Apr. 24, 1996, 110 Stat. 1259.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (d), was in the original, "this Act", meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

Statutory Notes and Related Subsidiaries

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1534. Removal hearing

(a) In general

(1) Expeditious hearing

In any case in which an application for an order is approved under section 1533(c)(2) of this title, a removal hearing shall be conducted under this section as expeditiously as practicable for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist.

(2) Public hearing

The removal hearing shall be open to the public.

(b) Notice

An alien who is the subject of a removal hearing under this subchapter shall be given reasonable notice of—

(1) the nature of the charges against the alien, including a general account of the basis for the charges; and

(2) the time and place at which the hearing will be held.

(c) Rights in hearing

(1) Right of counsel

The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted, as provided for in section 3006A of title 18. All provisions of that section shall apply and, for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged.

(2) Introduction of evidence

Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to introduce evidence on the alien's own behalf.

(3) Examination of witnesses

Subject to the limitations in subsection (e), the alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

(4) Record

A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

(5) Removal decision based on evidence at hearing

The decision of the judge regarding removal shall be based only on that evidence introduced at the removal hearing.