

117TH CONGRESS  
1ST SESSION

# H. R. 1995

To amend the Immigration and Nationality Act with respect to aliens associated with criminal gangs, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2021

Mr. ZELDIN (for himself and Mr. BROOKS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act with respect to aliens associated with criminal gangs, 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 “Protecting Our Com-  
5 munities from Gang Violence Act of 2021”.

6 **SEC. 2. DEFINITION OF CRIMINAL GANG.**

7 Section 101(a) of the Immigration and Nationality  
8 Act (8 U.S.C. 1101(a)) is amended by adding at the end  
9 the following:

1           “(53) The term ‘criminal gang’ means an ongoing  
2           group, club, organization, or association of five  
3           or more persons that has as one of its primary purposes  
4           the commission of one or more of the following  
5           criminal offenses and the members of which engage,  
6           or have engaged within the past 5 years, in a continuing  
7           series of such offenses, or that has been designated  
8           as a criminal gang by the Secretary of Homeland Security,  
9           in consultation with the Attorney General, as meeting these  
10          criteria. The offenses described, whether in violation of  
11          Federal or State law or foreign law and regardless of whether  
12          the offenses occurred before, on, or after the date of the  
13          enactment of this paragraph, are the following:

15                 “(A) A ‘felony drug offense’ (as defined in  
16                 section 102 of the Controlled Substances Act  
17                 (21 U.S.C. 802)).

18                 “(B) An offense under section 274 (relating to  
19                 bringing in and harboring certain aliens), section 277  
20                 (relating to aiding or assisting certain aliens to enter  
21                 the United States), or section 278 (relating to  
22                 importation of alien for immoral purpose).

24                 “(C) A crime of violence (as defined in section  
25                 16 of title 18, United States Code).

1           “(D) A crime involving obstruction of jus-  
2           tice, tampering with or retaliating against a  
3           witness, victim, or informant, or burglary.

4           “(E) Any conduct punishable under sec-  
5           tions 1028 and 1029 of title 18, United States  
6           Code (relating to fraud and related activity in  
7           connection with identification documents or ac-  
8           cess devices), sections 1581 through 1594 of  
9           such title (relating to peonage, slavery, and  
10          trafficking in persons), section 1951 of such  
11          title (relating to interference with commerce by  
12          threats or violence), section 1952 of such title  
13          (relating to interstate and foreign travel or  
14          transportation in aid of racketeering enter-  
15          prises), section 1956 of such title (relating to  
16          the laundering of monetary instruments), sec-  
17          tion 1957 of such title (relating to engaging in  
18          monetary transactions in property derived from  
19          specified unlawful activity), or sections 2312  
20          through 2315 of such title (relating to inter-  
21          state transportation of stolen motor vehicles or  
22          stolen property).

23          “(F) A conspiracy to commit an offense  
24          described in subparagraphs (A) through (E).”.

1 **SEC. 3. GROUNDS OF INADMISSIBILITY AND DEPORT-**  
2 **ABILITY FOR ALIEN GANG MEMBERS.**

3 (a) INADMISSIBILITY.—Section 212(a)(2) of the Im-  
4 migration and Nationality Act (8 U.S.C. 1182(a)(2)) is  
5 amended by adding at the end the following:

6 “(J) ALIENS ASSOCIATED WITH CRIMINAL  
7 GANGS.—Any alien is inadmissible who a con-  
8 sular officer, the Secretary of Homeland Secu-  
9 rity, or the Attorney General knows or has rea-  
10 son to believe—

11 “(i) to be or to have been a member  
12 of a criminal gang (as defined in section  
13 101(a)(53)); or

14 “(ii) to have participated in the activi-  
15 ties of a criminal gang (as defined in sec-  
16 tion 101(a)(53)), knowing or having reason  
17 to know that such activities will promote,  
18 further, aid, or support the illegal activity  
19 of the criminal gang.”.

20 (b) DEPORTABILITY.—Section 237(a)(2) of the Im-  
21 migration and Nationality Act (8 U.S.C. 1227(a)(2)) is  
22 amended by adding at the end the following:

23 “(G) ALIENS ASSOCIATED WITH CRIMINAL  
24 GANGS.—Any alien is deportable who—

1           “(i) is or has been a member of a  
2           criminal gang (as defined in section  
3           101(a)(53)); or

4           “(ii) has participated in the activities  
5           of a criminal gang (as so defined), knowing  
6           or having reason to know that such activi-  
7           ties will promote, further, aid, or support  
8           the illegal activity of the criminal gang.”.

9           (c) DESIGNATION.—

10           (1) IN GENERAL.—Chapter 2 of title II of the  
11           Immigration and Nationality Act (8 U.S.C. 1182) is  
12           amended by inserting after section 219 the fol-  
13           lowing:

14                   “DESIGNATION OF CRIMINAL GANG

15           “SEC. 220. (a) DESIGNATION.—

16           “(1) IN GENERAL.—The Secretary of Homeland Se-  
17           curity, in consultation with the Attorney General, may  
18           designate a group, club, organization, or association of 5  
19           or more persons as a criminal gang if the Secretary finds  
20           that their conduct is described in section 101(a)(53).

21           “(2) PROCEDURE.—

22                   “(A) NOTIFICATION.—Seven days before mak-  
23           ing a designation under this subsection, the Sec-  
24           retary shall, by classified communication, notify the  
25           Speaker and minority leader of the House of Rep-  
26           resentatives, the President pro tempore, majority

1 leader, and minority leader of the Senate, and the  
2 members of the relevant committees of the House of  
3 Representatives and the Senate, in writing, of the  
4 intent to designate a group, club, organization, or  
5 association of 5 or more persons under this sub-  
6 section and the factual basis therefor.

7 “(B) PUBLICATION IN THE FEDERAL REG-  
8 ISTER.—The Secretary shall publish the designation  
9 in the Federal Register seven days after providing  
10 the notification under subparagraph (A).

11 “(3) RECORD.—

12 “(A) IN GENERAL.—In making a designation  
13 under this subsection, the Secretary shall create an  
14 administrative record.

15 “(B) CLASSIFIED INFORMATION.—The Sec-  
16 retary may consider classified information in making  
17 a designation under this subsection. Classified infor-  
18 mation shall not be subject to disclosure for such  
19 time as it remains classified, except that such infor-  
20 mation may be disclosed to a court ex parte and in  
21 camera for purposes of judicial review under sub-  
22 section (c).

23 “(4) PERIOD OF DESIGNATION.—

24 “(A) IN GENERAL.—A designation under this  
25 subsection shall be effective for all purposes until re-

1 voked under paragraph (5) or (6) or set aside pursu-  
2 ant to subsection (c).

3 “(B) REVIEW OF DESIGNATION UPON PETI-  
4 TION.—

5 “(i) IN GENERAL.—The Secretary shall re-  
6 view the designation of a criminal gang under  
7 the procedures set forth in clauses (iii) and (iv)  
8 if the designated group, club, organization, or  
9 association of 5 or more persons files a petition  
10 for revocation within the petition period de-  
11 scribed in clause (ii).

12 “(ii) PETITION PERIOD.—For purposes of  
13 clause (i)—

14 “(I) if the designated group, club, or-  
15 ganization, or association of 5 or more per-  
16 sons has not previously filed a petition for  
17 revocation under this subparagraph, the  
18 petition period begins 2 years after the  
19 date on which the designation was made;  
20 or

21 “(II) if the designated group, club, or-  
22 ganization, or association of 5 or more per-  
23 sons has previously filed a petition for rev-  
24 ocation under this subparagraph, the peti-  
25 tion period begins 2 years after the date of

1           the determination made under clause (iv)  
2           on that petition.

3           “(iii) PROCEDURES.—Any group, club, or-  
4           ganization, or association of 5 or more persons  
5           that submits a petition for revocation under  
6           this subparagraph of its designation as a crimi-  
7           nal gang must provide evidence in that petition  
8           that it is not described in section 101(a)(53).

9           “(iv) DETERMINATION.—

10           “(I) IN GENERAL.—Not later than  
11           180 days after receiving a petition for rev-  
12           ocation submitted under this subpara-  
13           graph, the Secretary shall make a deter-  
14           mination as to such revocation.

15           “(II) CLASSIFIED INFORMATION.—  
16           The Secretary may consider classified in-  
17           formation in making a determination in re-  
18           sponse to a petition for revocation. Classi-  
19           fied information shall not be subject to dis-  
20           closure for such time as it remains classi-  
21           fied, except that such information may be  
22           disclosed to a court ex parte and in camera  
23           for purposes of judicial review under sub-  
24           section (c).



1                   “(III) PUBLICATION OF DETERMINA-  
2                   TION.—A determination made by the Sec-  
3                   retary under this clause shall be published  
4                   in the Federal Register.

5                   “(IV) PROCEDURES.—Any revocation  
6                   by the Secretary shall be made in accord-  
7                   ance with paragraph (6).

8                   “(C) OTHER REVIEW OF DESIGNATION.—

9                   “(i) IN GENERAL.—If in a 5-year period no  
10                  review has taken place under subparagraph (B),  
11                  the Secretary shall review the designation of the  
12                  criminal gang in order to determine whether  
13                  such designation should be revoked pursuant to  
14                  paragraph (6).

15                  “(ii) PROCEDURES.—If a review does not  
16                  take place pursuant to subparagraph (B) in re-  
17                  sponse to a petition for revocation that is filed  
18                  in accordance with that subparagraph, then the  
19                  review shall be conducted pursuant to proce-  
20                  dures established by the Secretary. The results  
21                  of such review and the applicable procedures  
22                  shall not be reviewable in any court.

23                  “(iii) PUBLICATION OF RESULTS OF RE-  
24                  VIEW.—The Secretary shall publish any deter-

1           mination made pursuant to this subparagraph  
2           in the Federal Register.

3           “(5) REVOCATION BY ACT OF CONGRESS.—The Con-  
4 gress, by an Act of Congress, may block or revoke a des-  
5 ignation made under paragraph (1).

6           “(6) REVOCATION BASED ON CHANGE IN CIR-  
7 CUMSTANCES.—

8           “(A) IN GENERAL.—The Secretary may revoke  
9 a designation made under paragraph (1) at any  
10 time, and shall revoke a designation upon completion  
11 of a review conducted pursuant to subparagraphs  
12 (B) and (C) of paragraph (4) if the Secretary finds  
13 that—

14           “(i) the group, club, organization, or asso-  
15 ciation of 5 or more persons that has been des-  
16 ignated as a criminal gang is no longer de-  
17 scribed in section 101(a)(53); or

18           “(ii) the national security or the law en-  
19 forcement interests of the United States war-  
20 rants a revocation.

21           “(B) PROCEDURE.—The procedural require-  
22 ments of paragraphs (2) and (3) shall apply to a  
23 revocation under this paragraph. Any revocation  
24 shall take effect on the date specified in the revoca-

1       tion or upon publication in the Federal Register if  
2       no effective date is specified.

3       “(7) EFFECT OF REVOCATION.—The revocation of a  
4       designation under paragraph (5) or (6) shall not affect  
5       any action or proceeding based on conduct committed  
6       prior to the effective date of such revocation.

7       “(8) USE OF DESIGNATION IN TRIAL OR HEAR-  
8       ING.—If a designation under this subsection has become  
9       effective under paragraph (2) an alien in a removal pro-  
10      ceeding shall not be permitted to raise any question con-  
11      cerning the validity of the issuance of such designation  
12      as a defense or an objection.

13      “(b) AMENDMENTS TO A DESIGNATION.—

14           “(1) IN GENERAL.—The Secretary may amend  
15      a designation under this subsection if the Secretary  
16      finds that the group, club, organization, or associa-  
17      tion of 5 or more persons has changed its name,  
18      adopted a new alias, dissolved and then reconsti-  
19      tuted itself under a different name or names, or  
20      merged with another group, club, organization, or  
21      association of 5 or more persons.

22           “(2) PROCEDURE.—Amendments made to a  
23      designation in accordance with paragraph (1) shall  
24      be effective upon publication in the Federal Register.  
25      Paragraphs (2), (4), (5), (6), (7), and (8) of sub-

1 section (a) shall also apply to an amended designa-  
2 tion.

3 “(3) ADMINISTRATIVE RECORD.—The adminis-  
4 trative record shall be corrected to include the  
5 amendments as well as any additional relevant infor-  
6 mation that supports those amendments.

7 “(4) CLASSIFIED INFORMATION.—The Sec-  
8 retary may consider classified information in amend-  
9 ing a designation in accordance with this subsection.  
10 Classified information shall not be subject to disclo-  
11 sure for such time as it remains classified, except  
12 that such information may be disclosed to a court ex  
13 parte and in camera for purposes of judicial review  
14 under subsection (c) of this section.

15 “(c) JUDICIAL REVIEW OF DESIGNATION.—

16 “(1) IN GENERAL.—Not later than 30 days  
17 after publication in the Federal Register of a des-  
18 ignation, an amended designation, or a determina-  
19 tion in response to a petition for revocation, the des-  
20 ignated group, club, organization, or association of 5  
21 or more persons may seek judicial review in the  
22 United States Court of Appeals for the District of  
23 Columbia Circuit.

24 “(2) BASIS OF REVIEW.—Review under this  
25 subsection shall be based solely upon the administra-

1       tive record, except that the Government may submit,  
2       for ex parte and in camera review, classified infor-  
3       mation used in making the designation, amended  
4       designation, or determination in response to a peti-  
5       tion for revocation.

6               “(3) SCOPE OF REVIEW.—The Court shall hold  
7       unlawful and set aside a designation, amended des-  
8       ignation, or determination in response to a petition  
9       for revocation the court finds to be—

10               “(A) arbitrary, capricious, an abuse of dis-  
11       cretion, or otherwise not in accordance with  
12       law;

13               “(B) contrary to constitutional right,  
14       power, privilege, or immunity;

15               “(C) in excess of statutory jurisdiction, au-  
16       thority, or limitation, or short of statutory  
17       right;

18               “(D) lacking substantial support in the ad-  
19       ministrative record taken as a whole or in clas-  
20       sified information submitted to the court under  
21       paragraph (2); or

22               “(E) not in accord with the procedures re-  
23       quired by law.

24               “(4) JUDICIAL REVIEW INVOKED.—The pend-  
25       ency of an action for judicial review of a designation,

1 amended designation, or determination in response  
2 to a petition for revocation shall not affect the appli-  
3 cation of this section, unless the court issues a final  
4 order setting aside the designation, amended des-  
5 ignation, or determination in response to a petition  
6 for revocation.

7 “(d) DEFINITIONS.—As used in this section—

8 “(1) the term ‘classified information’ has the  
9 meaning given that term in section 1(a) of the Clas-  
10 sified Information Procedures Act (18 U.S.C. App.);

11 “(2) the term ‘national security’ means the na-  
12 tional defense, foreign relations, or economic inter-  
13 ests of the United States;

14 “(3) the term ‘relevant committees’ means the  
15 Committees on the Judiciary of the Senate and of  
16 the House of Representatives; and

17 “(4) the term ‘Secretary’ means the Secretary  
18 of Homeland Security, in consultation with the At-  
19 torney General.”.

20 (2) CLERICAL AMENDMENT.—The table of con-  
21 tents for such Act is amended by inserting after the  
22 item relating to section 219 the following:

“Sec. 220. Designation.”.

23 (d) MANDATORY DETENTION OF CRIMINAL GANG  
24 MEMBERS.—

1           (1) IN GENERAL.—Section 236(c)(1) of the Im-  
2 migration and Nationality Act (8 U.S.C. 1226(c)(1))  
3 is amended—

4           (A) in subparagraph (C), by striking “or”  
5 at the end;

6           (B) in subparagraph (D), by inserting  
7 “or” at the end; and

8           (C) by inserting after subparagraph (D)  
9 the following:

10           “(E) is inadmissible under section  
11 212(a)(2)(J) or deportable under section  
12 217(a)(2)(G),”.

13           (2) ANNUAL REPORT.—Not later than March 1  
14 of each year (beginning 1 year after the date of the  
15 enactment of this Act), the Secretary of Homeland  
16 Security, after consultation with the appropriate  
17 Federal agencies, shall submit a report to the Com-  
18 mittees on the Judiciary of the House of Represent-  
19 atives and of the Senate on the number of aliens de-  
20 tained under the amendments made by paragraph  
21 (1).

22           (e) ASYLUM CLAIMS BASED ON GANG AFFILI-  
23 ATION.—

24           (1) INAPPLICABILITY OF RESTRICTION ON RE-  
25 MOVAL TO CERTAIN COUNTRIES.—Section

1       241(b)(3)(B) of the Immigration and Nationality  
2       Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the  
3       matter preceding clause (i), by inserting “who is de-  
4       scribed in section 212(a)(2)(J)(i) or section  
5       237(a)(2)(G)(i) or who is” after “to an alien”.

6               (2) INELIGIBILITY FOR ASYLUM.—Section  
7       208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))  
8       (as amended by section 201 of this Act) is further  
9       amended—

10               (A) in clause (v), by striking “or” at the  
11       end;

12               (B) by redesignating clause (vi) as clause  
13       (vii); and

14               (C) by inserting after clause (v) the fol-  
15       lowing:

16                       “(vi) the alien is described in section  
17                       212(a)(2)(J)(i) or section 237(a)(2)(G)(i);  
18                       or”.

19               (f) TEMPORARY PROTECTED STATUS.—Section 244  
20       of such Act (8 U.S.C. 1254a) is amended—

21               (1) by striking “Attorney General” each place  
22       it appears and inserting “Secretary of Homeland Se-  
23       curity”;

24               (2) in subparagraph (c)(2)(B)—



1 (A) in clause (i), by striking “or” at the  
2 end;

3 (B) in clause (ii), by striking the period  
4 and inserting “; or”; and

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

6 “(iii) the alien is, or at any time has  
7 been, described in section 212(a)(2)(J) or  
8 section 237(a)(2)(G).”; and

9 (3) in subsection (d)—

10 (A) by striking paragraph (3); and

11 (B) in paragraph (4), by adding at the end  
12 the following: “The Secretary of Homeland Se-  
13 curity may detain an alien provided temporary  
14 protected status under this section whenever  
15 appropriate under any other provision of law.”.

16 (g) SPECIAL IMMIGRANT JUVENILE VISAS.—Section  
17 101(a)(27)(J)(iii) of the Immigration and Nationality Act  
18 (8 U.S.C. 1101(a)(27)(J)(iii)) is amended—

19 (1) in subclause (I), by striking “and”;

20 (2) in subclause (II), by adding “and” at the  
21 end; and

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

23 “(III) no alien who is, or at any  
24 time has been, described in section  
25 212(a)(2)(J) or section 237(a)(2)(G)

1 shall be eligible for any immigration  
2 benefit under this subparagraph;”.

3 (h) PAROLE.—An alien described in section  
4 212(a)(2)(J) of the Immigration and Nationality Act, as  
5 added by subsection (b), shall not be eligible for parole  
6 under section 212(d)(5)(A) of such Act unless—

7 (1) the alien is assisting or has assisted the  
8 United States Government in a law enforcement  
9 matter, including a criminal investigation; and

10 (2) the alien’s presence in the United States is  
11 required by the Government with respect to such as-  
12 sistance.

13 **SEC. 4. CRIMINAL GANG MEMBERS AND SUPPORTERS DIS-**  
14 **QUALIFIED FROM GOOD MORAL CHARACTER**  
15 **PROVISION.**

16 Section 101(f) of the Immigration and Nationality  
17 Act (8 U.S.C. 1101(f)) is amended—

18 (1) in paragraph (8), by striking “or” at the  
19 end;

20 (2) in paragraph (9), by striking the period at  
21 the end and inserting “; or”;

22 (3) by inserting after paragraph (9), the fol-  
23 lowing:

24 “(10) one whom the Secretary of Homeland Se-  
25 curity or the Attorney General determines, in the

1 unreviewable discretion of the Secretary of Home-  
2 land Security or the Attorney General, to be an alien  
3 who—

4 “(A) is or has ever been a member, asso-  
5 ciate or affiliate of, or who has ever provided  
6 material support to, a criminal gang;

7 “(B) is or has ever been a member, asso-  
8 ciate or affiliate of, or who has ever provided  
9 material support to, a criminal street gang (as  
10 defined in section 520 of title 18, United States  
11 Code); or

12 “(C) has been convicted of or has admitted  
13 committing the essential elements of the fol-  
14 lowing offenses—

15 “(i) a felony drug offense (as defined  
16 in section 102 of the Controlled Sub-  
17 stances Act (21 U.S.C. 802)); or

18 “(ii) has engaged in conduct punish-  
19 able under section 274, 277, or 278; or

20 “(iii) committed a crime of violence  
21 (as defined in section 16 of title 18, United  
22 States Code); or

23 “(iv) committed a crime involving ob-  
24 struction of justice, tampering with or re-

1           talianting against a witness, victim, or in-  
2           formant, or burglary; or

3           ““(v) engaged in conduct punishable  
4           under section 1028 or 1029, and sections  
5           1541 through 1546 of title 18, United  
6           States Code; or

7           ““(vi) engaged in conduct punishable  
8           under sections 1581 through 1594 of title  
9           18, United States Code; or

10          ““(vii) engaged in conduct punishable  
11          under sections 1951, 1952, 1956, and  
12          1957 of title 18, United States Code; or

13          ““(viii) engaged in conduct punishable  
14          under sections 2312 through 2315 of title  
15          18, United States Code; or

16          ““(ix) attempted to engage in an of-  
17          fense described in paragraphs (1) through  
18          (8) above, or engaged in conduct punish-  
19          able under sections 2 through 4, and sec-  
20          tions 371 through 373 of title 18, United  
21          States Code, in furtherance of such an of-  
22          fense.”; and

23               (4) by adding at the end, at the end of the mat-  
24               ter following paragraph (10) (as inserted in this sec-  
25               tion), the following: “An alien shall be deemed to

1 have ‘admitted the essential elements of an offense’  
2 upon an oral or written statement to such effect, or  
3 upon a conviction or formal finding by a competent  
4 Federal, State or local court, tribunal or military  
5 proceeding that said person has engaged in unlawful  
6 conduct whose essential elements include those that  
7 would be required for conviction of a disqualifying  
8 offense. A determination by the Secretary of Home-  
9 land Security or Attorney General that an alien does  
10 not exhibit good moral character based on gang  
11 membership, association, affiliation, or provision of  
12 material support, may be based upon any relevant  
13 information or evidence, including classified, law en-  
14 forcement sensitive, or national security information  
15 and shall be binding upon any court regardless of  
16 the applicable standard of review.”.

17 **SEC. 5. PROHIBITION AGAINST FILING.**

18 (a) IN GENERAL.—No person who—

19 (1) is or has ever been a member, associate or  
20 affiliate of, or who has ever provided material sup-  
21 port to, a criminal gang (as defined in section 101  
22 of the Immigration and Nationality Act (8 U.S.C.  
23 1101));

24 (2) is or has ever been a member, associate or  
25 affiliate of, or who has ever provided material sup-

1 port to, a criminal street gang (as defined in section  
2 520 of title 18, United States Code); or

3 (3) has been convicted of or has admitted the  
4 essential elements of an offense as specified in sub-  
5 section (b),

6 shall be permitted to file an application or petition, or sub-  
7 mit an affidavit of support, on behalf of an alien under  
8 any provision of the immigration laws, nor shall such per-  
9 son be permitted to assume custodial care for an unaccom-  
10 panied alien minor.

11 (b) DISQUALIFYING OFFENSES.—Offenses which dis-  
12 qualify a person under subsection (a) are—

13 (1) a felony drug offense (as defined in section  
14 102 of the Controlled Substances Act (21 U.S.C.  
15 802));

16 (2) conduct punishable under section 274, 277,  
17 or 278 of the Immigration and Nationality Act (8  
18 U.S.C. 1324; 1327; 1328);

19 (3) a crime of violence (as defined in section 16  
20 of title 18, United States Code);

21 (4) a crime involving obstruction of justice,  
22 tampering with or retaliating against a witness, vic-  
23 tim, or informant, or burglary;

1           (5) conduct punishable under section 1028 or  
2           1029, and sections 1541 through 1546 of title 18,  
3           United States Code;

4           (6) conduct punishable under sections 1581  
5           through 1594 of title 18, United States Code;

6           (7) sections 1951, 1952, 1956, and 1957 of  
7           title 18, United States Code;

8           (8) sections 2312 through 2315 of title 18 of  
9           the United States Code; or

10          (9) any attempt to engage in an offense de-  
11          scribed in paragraphs (1) through (8) above, or con-  
12          duct punishable under sections 2 through 4, and sec-  
13          tions 371 through 373 of title 18, United States  
14          Code in furtherance of such an offense.

15          (c) ADMISSION OF ESSENTIAL ELEMENTS OF AN OF-  
16 FENSE.—A person shall be deemed to have admitted the  
17 essential elements of an offense within the meaning of sub-  
18 section (a)(3) upon an oral or written statement to such  
19 effect, or upon a conviction or formal finding by a com-  
20 petent Federal, State or local court, tribunal or military  
21 proceeding that said person has engaged in unlawful con-  
22 duct whose essential elements include those that would be  
23 required for conviction of a disqualifying offense as de-  
24 scribed in subsection (b).

1 **SEC. 6. DENATURALIZATION OF CRIMINAL GANG MEMBERS**  
2 **AND SUPPORTERS.**

3 Section 340 of the Immigration and Nationality Act  
4 (8 U.S.C. 1451) is amended by striking subsection (c) and  
5 inserting the following language:

6 “(c) MEMBERSHIP IN CERTAIN ORGANIZATIONS;  
7 PRIMA FACIE EVIDENCE.—

8 “(1) IN GENERAL.—If a person who shall have  
9 been naturalized after December 24, 1952, shall  
10 within 10 years following such naturalization become  
11 a member of or affiliated with any organization,  
12 membership in or affiliation with which at the time  
13 of naturalization would have precluded such person  
14 from naturalization under the provisions of section  
15 313, it shall be considered prima facie evidence that  
16 such person was not attached to the principles of the  
17 Constitution of the United States and was not well  
18 disposed to the good order and happiness of the  
19 United States at the time of naturalization, and, in  
20 the absence of countervailing evidence, it shall be  
21 sufficient in the proper proceeding to authorize the  
22 revocation and setting aside of the order admitting  
23 such person to citizenship and the cancellation of the  
24 certificate of naturalization as having been obtained  
25 by concealment of a material fact or by willful mis-  
26 representation, and such revocation and setting



1       aside of the order admitting such person to citizen-  
2       ship and such canceling of certificate of naturaliza-  
3       tion shall be effective as of the original date of the  
4       order and certificate, respectively.

5               “(2) ORGANIZATION, MEMBERSHIP IN OR AF-  
6       FILIATION WITH WHICH AT THE TIME OF NATU-  
7       RALIZATION WOULD HAVE PRECLUDED SUCH PER-  
8       SON FROM NATURALIZATION.—The phrase ‘any or-  
9       ganization, membership in or affiliation with which  
10      at the time of naturalization would have precluded  
11      such person from naturalization’ shall be deemed to  
12      include an alien who—

13               “(A) is or has ever been a member, asso-  
14      ciate or affiliate of, or who has ever provided  
15      material support to, a criminal gang;

16               “(B) is or has ever been a member, asso-  
17      ciate or affiliate of, or who has ever provided  
18      material support to, a criminal street gang as  
19      defined in section 520 of title 18 of the United  
20      States Code; or

21               “(C) has been convicted of or has admitted  
22      committing the essential elements of the fol-  
23      lowing offenses—

1           “(i) a felony drug offense (as defined  
2 in section 102 of the Controlled Sub-  
3 stances Act (21 U.S.C. 802));

4           “(ii) has engaged in conduct punish-  
5 able under section 274, 277, or 278;

6           “(iii) committed a crime of violence  
7 (as defined in section 16 of title 18, United  
8 States Code);

9           “(iv) committed a crime involving ob-  
10 struction of justice, tampering with or re-  
11 taliating against a witness, victim, or in-  
12 formant, or burglary;

13           “(v) engaged in conduct punishable  
14 under section 1028 or 1029, and sections  
15 1541 through 1546 of title 18, United  
16 States Code;

17           “(vi) engaged in conduct punishable  
18 under sections 1581 through 1594 of title  
19 18, United States Code; or engaged in con-  
20 duct punishable under sections 1951,  
21 1952, 1956, and 1957 of title 18, United  
22 States Code;

23           “(vii) engaged in conduct punishable  
24 under sections 2312 through 2315 of title  
25 18, United States Code; or

1                   “(viii) attempted to engage in an of-  
2                   fense described in clauses (i) through (viii)  
3                   above, or engaged in conduct punishable  
4                   under sections 2 through 4, and sections  
5                   371 through 373 of title 18, United States  
6                   Code in furtherance of such an offense.

7                   “(3) DEEMED TO HAVE ADMITTED.—An alien  
8                   shall be deemed to have admitted the essential ele-  
9                   ments of an offense within the meaning of para-  
10                  graph (2)(C) upon an oral or written statement to  
11                  such effect, or upon a conviction or formal finding  
12                  by a competent Federal, State or local court, tri-  
13                  bunal or military proceeding that said person has  
14                  engaged in unlawful conduct whose essential ele-  
15                  ments include those that would be required for con-  
16                  viction of a disqualifying offense.”.

17 **SEC. 7. EFFECTIVE DATE AND APPLICATION.**

18                  The amendments made by this Act shall take effect  
19                  on the date of the enactment of this Act, shall apply to  
20                  any act that occurred before, on, or after such date, and  
21                  shall apply to any application for naturalization or any  
22                  other benefit or relief, or any other case or matter under  
23                  the immigration laws, pending on, or filed after, such date.

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